



# County Compliance Program

*Quality. Integrity. Transparency.*

Policy and Implementation Guidelines

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## TOMPKINS COUNTY VISION STATEMENT (Adopted January 1997)

*The vision of the Tompkins County Legislature is a County where our residents' social and economic well-being flourish in an environment that is physically safe and supportive.*

We see a community where all people are physically safe, financially secure, and able to enjoy physical, social, and mental well-being,

- where residents of all ages are valued and included and feel that way;
- where families of all kinds are considered important and strengthened;
- where those most vulnerable are cared for respectfully and fairly;
- where all people appreciate diverse cultures and opinions, take personal responsibility for their actions and treat each other with civility;
- where freedom of expression and privacy are respected and protected;
- where individual learning and growth opportunities abound and full participation in civic life is fostered;
- where arts and cultural resources are supported as important community assets.

We see a community where diverse economic enterprises prosper and are in harmony with the natural and built environment,

- where everyone can learn job skills and have employment opportunities;
- where all residents share equitably in the wealth of the community and support the community in accordance with their ability to pay;
- where all residents can support themselves, their families, and their community from generation to generation.

We see a community where all people respect the land, and historic and cultural sites, and act as wise stewards of our finite resources and the beauty of the landscape,

- where land-use decisions reflect this stewardship;
- where our historic and cultural heritage are respected and protected by all;
- where people, goods, and information travel easily and safely on networks that are well-integrated into the environment.

We see a community where local governments, educational institutions, churches, businesses, and community organizations work together to provide high-quality, cost-effective services easily available to all.

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## TOMPKINS COUNTY MISSION STATEMENT (Adopted January 1997)

The mission of the Tompkins County Legislature is to collectively meet the needs of our residents and communities and to realize the Legislature's articulated vision. County government will perform those functions not provided as well by individuals, the private sector, other levels of government, or the not-for-profit sector. County activities will be designed to protect and enhance the lives of the County's diverse residents and communities in ways that are compassionate, ethical, and creative within the limits of what residents financially support.

To this end we will:

- Allocate fiscal resources consistent with our vision, goals, policies, and community needs
- Foster open and honest communication among governments and County residents and employees. County government will initiate dialogue on the community needs, the appropriate role of County government, and satisfaction with the County's direction, initiatives, and services
- Create and implement policies that:
  - enhance the economic opportunity and well-being of all County residents
  - safeguard the health, safety, and rights of our residents and employees
  - protect the natural environment for future generations and maintain the built environment
  - prevent the need for more costly future services
- Encourage and support programs that:
  - achieve the County's goals;
  - deliver needed services
  - serve vulnerable populations
  - strengthen families and communities
  - enhance our quality of life
- Operate a well-run organization by:
  - using a well-trained, diverse work force of employees, qualified contractors, and volunteers
  - providing adequate personnel, financial, facility, and informational support to approved programs
  - producing a balanced budget that supports the County's vision, mission, and goals with appropriate reserves for future uncertainties
  - carrying out the mandates of State and Federal governments
  - acting as a resource and partner for other Local governments
  - responding flexibly and responsibly to emerging needs and changing mandates

## I. COMPLIANCE PROGRAM OVERVIEW

A formal corporate compliance program affirms an organization’s principles, practices, and structure to ensure compliance with all applicable laws, rules, and regulations. It also specifies the processes used to prevent and detect any violations. This ongoing, proactive agenda demonstrates how the organization will operate in a fully legal and ethical manner, and how its code of ethics will be applied to address specific organizational risks.

Tompkins County has a long tradition of established policies and procedures that underscore the importance of fair standards and stewardship in governmental operations. In February 2011, the County Legislature approved the steps necessary to develop a formal compliance program, desiring a plan that integrates legal and internal compliance efforts throughout County government to mitigate risk, assure quality, and improve the performance of internal monitoring systems. The *County Compliance Program* was developed and successfully set in place within six (6) months of the legislative order. The program was formally adopted by resolution in August 2011 (see Exhibit 1).

### Eight Elements of an Effective Tompkins County Compliance Program

1. Assigned County Compliance Officer and Compliance Committee
2. Written Policies and Procedures
3. Documented Disciplinary Procedures
4. Training for Staff and Governing Boards
5. Routine Identification of Compliance Risk Areas
6. Systems & Steps for Monitoring and Corrective Action
7. Whistleblower/Non-Retaliation Protections
8. Confidential Reporting

The *County Compliance Program*, in response to demands by regulatory authorities, expands accountability for fraud, waste and abuse, calling on County staff to look more closely at compliance requirements and to expect the same from vendors and grant sub-recipients. This *Compliance Program Document (CPD)* addresses program oversight, related policies, education and training, assessing risk, steps for corrective action, and routine reporting.

### A. Policy

It is the policy of Tompkins County to comply with all applicable Federal, State, and Local laws and regulations and payor requirements. It is also the County’s policy to adhere to its adopted Code of Ethics, which is the County’s code of conduct.

### B. Code of Ethics

The County believes that rules of ethical conduct are essential to ensure that public officers and employees observe a high degree of moral conduct. Accordingly, the County adopted a Code of Ethics (amended by Local Law No. 2 of 2013 – July 16, 2013), which sets forth specific rules of ethical conduct that all County officers and employees are required to follow. The County also has an Ethics Advisory Board that provides ethics advice, reviews ethics complaints against County officers and employees, and oversees compliance with the Code of Ethics. Additionally, the County has established a *Personal Conduct* policy (*The Administrative Manual: The Policies and Procedures of Tompkins County Government, Policy 08-29*).

### Political Activity in the Workplace

County employees are prohibited from:

- Using public time or resources to engage in partisan political activity;
- Using one’s official authority or influence to interfere with an election;
- Engaging in political activity while on County business;
- Coercing, directly or indirectly, contributions from a subordinate in support of a political party or candidate.

These activities are also prohibited by Federal law for employees whose job is in connection with an activity financed in whole or in part by Federal funds.

Read more about the Hatch Act at <http://www.archives.gov/legal/ethics/hatch-act.html>.

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**C. Commitment**

We have always been and remain committed to our responsibility to conduct our business affairs with integrity based on sound ethical and moral standards. We hold our employees and agents to these same standards. We are committed to maintaining and routinely measuring the performance and effectiveness of our compliance program, using internal and external expertise, as needed.

**D. Responsibility**

Each employee and agent will acknowledge their responsibility to report any suspected or known instances of non-compliance to their immediate supervisor, the County Compliance Officer, or via the confidential Compliance & Breach HelpLine (see Section II). Reports may be made anonymously without fear of retaliation or retribution. Failure to report known non-compliance or making reports that are not in good faith will be grounds for disciplinary action, up to and including termination.

**E. Policies and Procedures**

The County will communicate its compliance standards and policies through required training for all employees and agents and the ongoing maintenance of a comprehensive Administrative Policy Manual. The County will also maintain a website that includes pertinent information about the Compliance Program. Further, the County will demonstrate its commitment to these efforts through periodic update and distribution of this CPD, which serves as the County's compliance policy, and adherence to the County Code of Ethics.

**F. Detection, Enforcement and Response**

Detected non-compliance, through any mechanism, (e.g., compliance review procedures, confidential reporting, etc.) will receive an expedient response. The County is dedicated to the resolution of such matters and will take all reasonable steps to prevent further similar violations, including any necessary modifications to the program. This approach will be enforced consistently through appropriate disciplinary mechanisms including, if appropriate, discipline of responsible individuals for failure to detect and/or report non-compliance.

**G. Due Diligence**

The County will, at all times, exercise due diligence in regard to exclusion screenings (*The Administrative Manual: The Policies and Procedures of Tompkins County Government, Policy 11-46*), background checks, and professional license investigations for all prospective employees, agents, and members of the Legislature. Any employee or prospective employee who holds, or intends to hold, a position for Tompkins County is required to disclose any name changes and any involvement in non-compliant activities, including health care-related crimes. In addition, the County performs reasonable inquiries into the background of such applicants, agents, and members of the Legislature.<sup>1</sup>

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<sup>1</sup> The Department of Health and Human Services' Office of Inspector General (HHS OIG) has been given the authority to exclude from participation in Medicare, Medicaid, and other Federal health-care programs individuals and entities who have engaged in fraud or abuse.

**EXHIBIT I**

**Tompkins County Legislature**  
Governor Daniel D. Tompkins Building  
Ithaca, NY 14850

Meeting: 08/02/11 05:00 PM  
Department: County Administration  
Category: Administrative  
Functional Category:

**ADOPTED**

DOC ID: 2778

**RESOLUTION NO.**  
**2011-122**

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## **Adopting the County Compliance Program for Tompkins County Government**

WHEREAS, the policy of Tompkins County Government has been always to conduct its business in compliance with applicable federal, state, and local laws and regulations, and to adhere to the highest ethical standards, and

WHEREAS, the federal and state agencies responsible for enforcement of Medicare and Medicaid laws and regulations applicable to healthcare providers recently have encouraged the development and implementation of formal corporate compliance programs, and

WHEREAS, the County Legislature believes that establishing a formal compliance program, applied on a countywide basis, is consistent with the organization's efforts to improve quality and performance, and further reflects the organization's long-standing commitment to conduct its business transparently and in compliance with applicable and constitutional laws, and

WHEREAS, in February of this year by Resolution No. 2011-11, the Legislature approved the steps necessary for the development of a formal compliance program for Tompkins County government, desiring a program that integrates legal and internal compliance efforts throughout county government to mitigate risk, assure quality, and improve internal controls and monitoring systems, as needed, and

WHEREAS, the Department of County Administration has sufficiently satisfied the charge by the Legislature to design and develop a county compliance program, now therefore be it

RESOLVED, on recommendation of the Government Operations Committee That the newly developed County Compliance Program is hereby adopted,

RESOLVED, further, That the County Administrator have responsible oversight of the Program, and that he designate the current Deputy County Administrator, Paula E.F. Younger, as the County's Corporate Compliance Officer to direct all aspects of the Program, ensuring ongoing effective implementation.

**SEQR ACTION: TYPE II-20**

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## II. COMPLIANCE PROGRAM OVERSIGHT

### A. The Role of the Compliance Officer

The County Administrator, with the approval of the County Legislature, designates a Compliance Officer. The Compliance Officer is directly obligated to serve the best interests of the County organization, consumers, and employees. Responsibilities of the Compliance Officer include, but are not limited to:

- Serving as Chair of the County Compliance Committee.
- Overseeing and monitoring implementation of the compliance program, including assisting with the development and implementation of County policies and procedures.
- Directing County internal reviews established to monitor effectiveness of compliance standards.
- Providing guidance to management, medical/clinical program personnel, and individual departments regarding policies and procedures and governmental laws, rules, and regulations.
- Periodically updating the compliance program and Compliance Program Document as changes occur in County operations, policies, law and regulations, or by governmental and third-party payers.
- Overseeing efforts to communicate awareness of the existence and contents of the compliance program.
- Coordinating, developing, and participating in the educational and training program.
- Ensuring employees and agents are aware of the requirements of the County's Compliance Program.
- Seeking up-to-date material and releases regarding regulatory compliance.
- Maintaining a reporting system, including a dedicated and confidential Compliance & Breach HelpLine, and responding to concerns, complaints, and questions related to the program.
- Acting as a resource for regulatory compliance issues.
- Coordinating internal investigations and implementing corrective action on issues related to non-compliance or compliance-related risk.
- Reporting quarterly to the County Administrator and annually to the full County Legislature on program activities and any areas of concern.

All employees are required to fully cooperate with the County Compliance Officer in administering the County Compliance Program. All supervisory employees are responsible for ensuring that their subordinates cooperate, are aware of and understand the tenets of the compliance program, and comply with the program and the Code of Ethics.

### B. The Structure, Duties, and Role of the Compliance Committee

Compliance Committee members are appointed by the County Administrator and approved by the Legislature. Compliance issues are reported by the Compliance Committee to the County



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Administrator, and to the Legislature where appropriate. The role of the Compliance Committee is to advise and assist the Compliance Officer with implementation of the County Compliance Program.

The County Compliance Committee membership includes:

- County Compliance Officer
- County Attorney
- County Finance Director
- Commissioner of Human Resources
- Commissioner of Social Services
- Commissioner of Mental Health
- Director of Public Health
- Director of Information Technology Services
- Information Security Compliance Officer
- Compliance Program Coordinator

The roles of the Compliance Committee include:

- Analyzing the environment where the County does business, including legal requirements with which it must comply.
- Reviewing and assessing existing policies and procedures that address these risk areas for possible incorporation into the compliance program.
- Working with departments to develop standards, policies, and procedures that address specific risk areas and encourage compliance according to legal and ethical requirements.
- Advising and monitoring appropriate departments related to compliance matters.
- Developing internal systems and controls to carry out compliance standards and policies.
- Monitoring internal and external reviews to identify potential non-compliant issues.
- Implementing corrective and preventive action plans.
- Developing a process to solicit, evaluate, and respond to complaints and problems.

### III. EDUCATION AND TRAINING

#### A. Expectations

Education and training are critical elements of the County Compliance Program. Every employee and agent is expected to be familiar with and knowledgeable about the program and have a solid working knowledge of their responsibilities under the program. Compliance policies and standards will be communicated to all employees and designated agents through required participation in annual training programs. Department Heads are responsible for ensuring employees receive appropriate, timely training. As part of new hire orientation, each new employee (or agent) shall receive a written copy of the CPD, policies, and specific standards of conduct affecting the employee's position or will be directed to a place where these documents can be accessed.

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**B. Attendance**

All education and training relating to the program will be verified by attendance records and signed acknowledgement of receipt of program documents. Attendance at compliance training sessions is mandatory and a condition of continued employment.

## IV. EFFECTIVE CONFIDENTIAL COMMUNICATION

**A. Expectations**

Open lines of communication between the Compliance Officer and every employee and agent subject to this program are essential to the success of our compliance program.

Every employee has an obligation to refuse to participate in any wrongful course of action and to report the actions according to the procedure listed below.

**B. Reporting**

If an employee or agent witnesses, learns of, or is asked to participate in any activities that are potentially in violation of County policy or procedure, or State or Federal law, they must contact their immediate supervisor, the County Compliance Officer, or the confidential Compliance & Breach HelpLine. . Similarly, a member of the public may also confidentially disclose information they reasonably believe is a violation of law; an abuse of authority or regulation; a substantial and specific danger to public safety; or a gross mismanagement or gross waste of County funds. Reports may be made in person, by calling the Compliance & Breach HelpLine dedicated for the purpose of receiving such notification [877-348-1396], or by mailing information to the Tompkins County Compliance Officer, 125 East Court Street, 3<sup>rd</sup> Floor, Ithaca, New York 14850.

**C. Protections**

The identity of reporters will be safeguarded to the fullest extent possible and reporters will be protected against retribution. Reporting of any suspected violation of County policy or procedure, or State or Federal law by following the requirements of this policy shall not result in any retribution. Any threat of reprisal against a person who acts in good faith pursuant to their responsibilities under the program is acting against the County's compliance policy. Discipline, up to and including termination of employment will result if such reprisal is proven.

**D. Guidance**

Any employee and agent may seek guidance from the County Compliance Committee (see Committee list in Section II.B) with respect to the program or standards of conduct at any time by following the reporting mechanisms outlined above.

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## V. ENFORCEMENT OF COMPLIANCE STANDARDS

### A. Background Investigations

For all employees who have authority to make decisions that may involve compliance issues, the County will conduct a reasonable and prudent background investigation, including a reference check, as part of every employment application.

### B. Disciplinary Action (General)

Employees who fail to comply with County policy or procedure, State or Federal law, or who have engaged in conduct with the potential to impair the County's status as a reliable, honest, and trustworthy service provider, will be subject to disciplinary action, up to and including termination. Any disciplinary action will be appropriately documented in the employee's personnel file, along with a written statement of reason(s) for imposing such action. The Compliance Officer shall maintain a record of all disciplinary actions involving the program and report at least quarterly a summary of these actions to the County Administrator.

### C. Disciplinary Action (Supervisory)

Supervisors will be sanctioned for failure to adequately instruct their employees or for failure to detect non-compliance with applicable policies and legal requirements where reasonable diligence on the part of the manager or supervisor would have led to the earlier discovery of any problems or violations and would have provided the County with the opportunity to correct them.

## VI. REVIEWING AND MONITORING OF COMPLIANCE ACTIVITIES

Ongoing assessment is critical to raising awareness of potential vulnerability and risks and detecting non-compliance. Engaging employees in proactive assessment activities also helps to ensure the success of County's Compliance Program as an integrated part of overall County operations. Ongoing review and monitoring will be done using internal and external resources implemented by the County Compliance Committee and in consultation with the County Administrator. At a minimum, County Department Heads will be expected to routinely review department-specific internal quality controls that address the following:

1. Efficiency of communications for routing information throughout the department about new or updated laws, regulations, and policies.
2. Sufficient information management protocols that guide appropriate access to and maintenance and distribution of sensitive or confidential information, including private information (PI) and protected health information (PHI).
3. Consistency of internal controls, paper-based and electronic, particularly related to financial transactions, to safeguard against waste, fraud, and abuse, and procedures for reporting and mitigation.
4. Routine training and information exchange that address quality assurance issues and high-risk situations as these relate to daily department operations.
5. Annual employee training on professional conduct (ethics) and overall compliance.

Adopting these simple steps will help departments determine if existing measures are adequate and help identify opportunities for improvement.

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## VII. DETECTION AND RESPONSE

### A. Violation Detection

The Compliance Officer, in consultation with the County Administrator, County Attorney, and Compliance Committee will review whether any basis exists to suspect that a violation of the compliance program has occurred. Should a violation or potential violation appear to have occurred, the Compliance Officer, with input from the County Administrator and Compliance Committee, shall conduct a more detailed investigation.

### B. Reporting

At the conclusion of an investigation, the County Attorney may be asked by the Compliance Officer or the County Administrator to prepare a written report summarizing the findings and providing recommendations, which may include rendering an opinion regarding whether a violation of the law has occurred.

### C. Rectification

If the County identifies that an overpayment was received from any third-party payer, the overpayment will be returned with proper documentation. If required, regulatory (funder) and/or prosecutorial (attorney general/police) authorities will be appropriately notified with the advice and assistance of the County Attorney. In instances where it appears an affirmative fraud may have occurred, appropriate amounts shall be returned after consultation and approval by involved regulatory and/or prosecutorial authorities. Systems shall also be put in place to prevent such overpayments in the future.

### D. Record Keeping

Regardless of whether a report is made to a governmental agency, the Compliance Officer shall maintain a record of the investigation, including copies of all pertinent documentation. This record will be considered confidential and privileged and will not be released without the approval of the County Administrator or the County Attorney.

## VIII. WHISTLEBLOWER PROVISIONS AND PROTECTIONS

### A. Provisions

The Federal False Claims Act of 1863 (revised in 1986) provides protection to qui tam<sup>2</sup> relators who are discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of their employment as a result of their furtherance of an action under the False Claims Act.

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<sup>2</sup> *Qui tam* is a provision of the **Federal Civil False Claims Act** that allows private citizens to file a lawsuit in the name of the U.S. Government charging fraud by government contractors and others who receive or use government funds, and to share in any money recovered.

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The County will not take any retaliatory action against an employee if the employee discloses information about the County's policies, practices or activities to a regulatory, law enforcement, or other similar agency or public official.

## **B. Protections**

The employee's disclosure is protected only if the employee first brought up the matter with a supervisor or the County Compliance Officer and gave the employer a reasonable opportunity to correct the alleged violation, unless the danger is imminent to the public or a patient and the employee believes in good-faith that reporting to a supervisor would not result in corrective action. The County will protect qui tam relators in accordance with the *Whistleblower Provisions and False Claims Acts* policy (*The Administrative Manual: The Policies and Procedures of Tompkins County Government, Policy 11-45*). This policy is intended to support the reporting of illegal activities and to protect officers and employees from retaliation who, in good-faith, have reported a concern of improper governmental action. This policy implements New York State Labor Law §740 and Civil Service Law §75-b.

Any officer or employee of the County who becomes aware of improper governmental action by an officer or employee of the County must report such conduct. No officer or employee of the County shall take retaliatory action against an employee because the employee makes a good-faith report of any information regarding fraud, waste, abuse, misconduct, or any alleged prohibited or illegal activity in violation of any law, rule, or regulation governing officers and employees of the County of Tompkins. Reports of concerns will be kept confidential to the extent possible, consistent with the need to conduct a complete and fair investigation.

## **C. Procedures for the Receipt, Retention, and Treatment of Complaints**

The following procedures apply to all Whistleblower complaints received by the County Compliance Officer:

1. The Compliance Officer (or other responsible officer) shall log the complaint into the Whistleblower Complaints Log electronic database (the "log").
2. The Compliance Officer shall determine if it is a complaint that is appropriate for investigation, i.e. one that alleges a violation of law or regulations.
3. The Compliance Officer will notify the County Administrator, who in consultation with the County Attorney and/or other officials as appropriate, will determine the most appropriate individual or group to conduct the investigation.
4. The selected investigator(s) shall perform the investigation, which may include interviews, reviews of documents, and other appropriate methods of gathering evidence.
5. The investigator shall document conclusions of the investigation.
6. The County Administrator or other appropriate officials shall determine what actions to take as a result of the investigation.
7. The most appropriate County official will notify the complainant if appropriate and any other appropriate individuals or parties, including law enforcement, State or Federal agencies.
8. The Compliance Officer shall note in the log that the investigation is complete and the actions taken.

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## IX. EXCLUSION SCREENING

Tompkins County government and its related entities are committed to maintaining high-quality service and integrity in its financial and business operations. Therefore, all necessary steps will be taken to ensure that healthcare-related employees, providers, contractors, prescribing/authorizing physicians, etc., who provide and/or perform services for or on behalf of the County have not been the subject of adverse governmental actions and/or excluded from the Federal healthcare programs.

The exclusion screening policy demonstrates the County's intent to comply with Federal and State mandates to screen employees, independent contractors, business vendors, key providers, and governing board members to verify that they have not been involved in adverse governmental actions related to fraud, patient abuse, licensing-board sanctions, license revocation/suspension/surrender, or have defaulted on Health Education Assistance Loans and are therefore on a Federal (or State) Excluded Parties List.<sup>3</sup>

The County will conduct monthly exclusion screening of all employees, potential vendors, and governing Board members (initially, the County Legislature, Community Mental Health Services Board, and Board of Health) that have authority to grant appropriations or that contribute to the development or execution of policy as these actions relate to the use of Medicaid or Medicare funds. In addition, for employees that require specific medical/healthcare license/certification in order to perform their duties, these credentials will be verified with appropriate licensing and disciplining authorities.

The County will conduct exclusion checks of the following sources to determine if the individual or entity's name appears on any exclusion lists, including but not limited to the following:

- Exclusion file maintained by General Services Administration (GSA);
- List of Excluded Individuals/Entities (LEIE) maintained by the United States Department of Health and Human Service's Office of Inspector General;
- Specially Designated Nationals (SDN) File maintained by the United States Department of the Treasury; and
- Various state exclusion files that are made available to the public, such as the NYS Medicaid Fraud Database currently available from the NYS Department of Health.

Individuals and entities excluded from Federal healthcare programs will be prohibited from holding a position, or conducting business with the County, in any area that is directly or indirectly funded by a State or Federal program that bars participation by such excluded individuals and entities.

For details on *Exclusion Screening* policy implementation, please refer to *The Administrative Manual: The Policies and Procedures of Tompkins County Government, Policy #11-46*.

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<sup>3</sup> The Excluded Parties List System (EPLS), hosted on the System for Award Management (SAM) website, is an electronic, Web-based system that identifies those parties excluded from receiving federal contracts, certain subcontracts, and certain types of federal financial and non-financial assistance and benefits. EPLS keeps the user community aware of administrative and statutory exclusions across the entire government. See: <https://www.sam.gov>

## X. BREACH OF CONFIDENTIALITY

In 2013, the U.S. Department of Health and Human Services moved to strengthen the privacy and security protections for health information established under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The HIPAA Privacy and Security Rules have focused on health care providers, health plans and other entities that process health insurance claims. In 2013, the HIPAA Omnibus Rule was created to expand many of the requirements to business associates of these entities that receive protected health information, such as municipalities, contractors and subcontractors; this includes Tompkins County. The rule also increases penalties for non-compliance and strengthens the Health Information Technology for Economic and Clinical Health (HITECH) Breach Notification requirements by clarifying when breaches of unsecured health information must be reported to HHS.

### What is Personal Information (PI) and Personal Health Information (PHI)?

PI and PHI are types of information that can be used on their own or with other information to identify, contact, or locate a single person, or to identify an individual in context.

Examples of Personal Information (PI):

- Credit card number
- Social security number
- Birthdate
- Name and Address

Examples of Personal Health Information (PHI):

- Health background information
- Medical records
- Lab test results and X-rays
- Medical diagnoses

In compliance with the demands by Federal regulatory authorities, Tompkins County is committed to safeguarding Personal Health Information (PHI) and all other forms of Personal Information (PI). To this end, the County has adopted *Administrative Policy 11-47: Breach-Incident Response* as well as the "Tompkins County Breach Incident Procedure," which provides a common standard for all staff regarding the processes and procedures for reporting a known or suspected information breach. Any member of the Tompkins County workforce who becomes aware of a situation that may put confidential or private information at risk must report the discovery as a potential breach via the "Tompkins County Breach Incident Procedure" provided in *Appendix A*.

## XI. TITLE VI PROGRAM

### A. Provisions

Title VI of the Civil Rights Act of 1964 states that no person shall, on the ground 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. In addition to its obligations under Title VI, Tompkins County is committed to equally serving all persons in all County programs or services without discrimination on the basis of race, color, sex, gender identity and expression, sexual orientation, religion, age, national origin, alienage, disability, medical condition, military status, familial status, ex-offender status, or any other characteristic protected by law.

### B. Protections

Tompkins County has a Title VI Program which ensures that all County government services and activities are conducted and administered fairly and without discrimination. See the full Title VI Program Plan in Appendix B. Also see *Administrative Policy 11-39: Commitment to Serving the Public Without Discrimination*.

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The Title VI Program includes the following components:

- **Limited English Proficiency (LEP) Plan:** Ensures access for persons with limited English proficiency (see Appendix C)
- **ADA Program Plan:** Ensures reasonable accessibility for individuals with disabilities
- **Public Participation Plan:** Guidelines for engaging Tompkins County residents

### **C. Complaint Procedure**

Any person who believes he or she has been aggrieved by an unlawful discriminatory practice on the basis of race, color, or national origin has the right to file a formal complaint with the County. Any such complaint must be in writing and filed with the County Compliance Officer within 180 days following the date of the alleged discriminatory occurrence. Title VI Discrimination Complaint Forms may be obtained online or in-person from the Department of County Administration.

These procedures cover all complaints filed under Title VI and ADA relating to any program or activity administered by Tompkins County as well as its subrecipients, consultants, and contractors. Tompkins County will make every effort to obtain early resolution of complaints at the lowest level possible.

### **D. Oversight**

The County Compliance Officer has executive oversight of Title VI Program implementation and ensures that all County departments comply with the Title VI Program Plan. The County has a designated a County Compliance Program Coordinator that assists the County Compliance Officer in providing training to personnel, collecting and analyzing data on beneficiaries, and monitoring and self-assessment.



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## **APPENDIX A.**

### **Tompkins County Breach Incident Procedure**

What happens when you witness or commit an act that compromises another person's confidentiality? What would you do if you accidentally left private information, including individual DOBs and SSNs, on the TCAT bus during your trip home? Who would you turn to if you saw papers with confidential information left out on somebody's desk? Is there a risk of retaliation if you report a known or suspected breach of private information? This document provides a County-wide protocol for responding to and documenting any breach of confidentiality. Through following this protocol, Tompkins County employees ensure a safer and more secure workplace every day.

Several situations, such as those listed above, indicate a potential breach of private or confidential information. Any workforce member who becomes aware of a situation that may put private or confidential information at risk must report the discovery as a potential breach and fulfill their responsibilities as outlined in this procedure. Any workforce member who fails to fulfill any applicable responsibility from this procedure will not only face disciplinary action up to and including termination but may also be subject to severe monetary penalties and incarceration by Health Insurance Portability and Accountability Act (HIPAA) Enforcement entities (Federal Office of Civil Rights and New York State Attorney General).

#### **I. General Responsibilities**

##### **A. Workforce Member**

All Tompkins County workforce members, including employees, legislators, independent contractors, trainees, volunteers and other persons whose conduct in the performance of work is under the control of the County, must fulfill the following workforce member responsibilities:

- Complete all required trainings related to preventing and responding to breach incidents.
- Immediately after discovery (and in no case later than end of business day) report any possible breach of Tompkins County private or confidential information to the Information Security Compliance Officer, by completing the online Breach Incident Investigation Form, or via the anonymous Compliance & Breach HelpLine 1-877-348-1396.
- At minimum, include in the report the Tompkins County department or Business Associate name, names of people involved, and a brief description of the situation/incident.
- As much as possible, take steps to reduce harm to the affected individual(s).

##### **B. Information Security Compliance Officer/ Back-up**

- Respond to reports by contacting the affected Department Head or Business Associate without unreasonable delay and in no case later than 24-hours after any report.
- Take the steps in Section VI below for Business Associate incidents or fulfill the remaining responsibilities in this section for internal incidents.
- Work with affected Department Head to complete the Tompkins County Breach Incident Investigation Form without unreasonable delay.
- Determine likelihood and extent of breach according to the breach risk assessment included on the Tompkins County Breach Incident Investigation Form.
- Guide Department Head in notifying affected individual(s) according to legal requirements.

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- Work with Department Head to mitigate harm to affected individual(s) and recommend procedural changes to prevent future similar incidents.
  - Review high-risk assessments with Breach Incident Team.
  - Review all breach incidents at least semi-annually with the Tompkins County Compliance Committee.
  - Deliver a status report to the County Legislature at least annually.
  - Report breaches to the Secretary of Health and Human Services and/or State Agencies as required by law.
  - Log breaches and document process.

### **C. Director of ITS/Designee and/or Public Health Administrator**

- Serve as back-up when the Information Security Compliance Officer is absent for one (1) or more business day(s).

### **D. Department Head**

- Oversee implementation and training for this policy within the department, ensuring that all department workforce members who have access to PI or PHI are fully trained in their responsibilities detailed in this procedure.
- Maintain Business Associate Agreements with HIPAA-compliant PHI incident procedures, including breach procedures.
- Work with the Information Security Compliance Officer to complete the Tompkins County Breach Incident Investigation Form without unreasonable delay.
- With guidance from the Information Security Compliance Officer and/or the Breach Incident Team, follow all steps detailed in this procedure to notify affected individuals of breach according to legal requirements.
- Work with the Information Security Compliance Officer to mitigate harm to individual(s).
- Make procedural changes recommended by the Information Security Compliance Officer and/or the Breach Incident Team to prevent future similar incidents.
- Participate on the Breach Incident Team for breaches affecting the department.

### **E. Breach Incident Team**

- As requested by the Information Security Compliance Officer, oversee breach incident response for high-risk breach incidents through the following:
  - Review breach risk assessments.
  - Provide guidance for notifying affected individuals of breach.
  - Review and recommend harm mitigation steps.
  - Recommend procedural changes to prevent future similar incidents.
  - Notify media of breaches as required by law and as detailed in this procedure.

## **II. For a Potential Breach of ANY Client Information**

1. Immediately after discovery (and in no case later than end of business day) any Tompkins County workforce member must report any potential breach of Tompkins County client information to the Information Security Compliance Officer, by completing the online Breach

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Incident Investigation Form, or via the anonymous Compliance & Breach HelpLine on 1-877-348-1396. To allow investigation, a breach report must include at least the following:

- The Tompkins County department or Business Associate organization where the incident occurred;
  - The names of people involved; and
  - A brief description of the situation/incident, including when it happened.
2. The Information Security Compliance Officer will check every scheduled workday for breach reports.
  3. In the event that a workforce member other than the Information Security Compliance Officer receives a breach report, the workforce member must forward the report to the Information Security Compliance Officer without unreasonable delay (in no case later than the end of business day).
  4. When the Information Security Compliance Officer is absent or unable to check messages for more than one (1) business day, the Director of ITS/Designee and/or the Public Health Administrator will act as back-up.
  5. Without unreasonable delay and in no case later than 24-hours after receiving a report, the Information Security Compliance Officer must contact the affected Department Head to begin the incident investigation.
  6. Without unreasonable delay, the affected Department Head will assist the Information Security Compliance Officer in completing the Tompkins County Breach Incident Investigation Form with guidance from the Information Technology Services Department as needed.
  7. If PHI may have been compromised, the Information Security Compliance Officer will provide as detailed information as possible in the following required four (4) PHI risk factors in the Risk Assessment section of the Tompkins County Breach Incident Investigation Form, explaining the assessment as clearly as possible:
    - The nature and the extent of the PHI involved, including types of identifiers and likelihood of re-identification;
    - The unauthorized person who impermissibly used the PHI or to whom the impermissible disclosure was made;
    - Whether the PHI was actually acquired or viewed, or if only the opportunity existed for the information to be acquired or viewed; and
    - The extent to which the risk to the PHI has been mitigated.
  8. The Information Security Compliance Officer will request Breach Incident Team involvement in the incident response process for high-risk incidents (e.g. breaches involving multiple client's information, criminal penalties, monetary penalties or employment sanctions).
  9. The Information Security Compliance Officer will determine, based on breach definitions in the applicable laws and the results of the Breach Risk Assessment section of the Tompkins County Breach Incident Investigation Form, the likelihood and extent of the breach. The Officer will detail the decision reasoning on the Tompkins County Breach Incident Investigation Form.

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### III. If Investigation and Risk Assessment Rule Out Breach of ANY Client Information

1. If the investigation and risk assessment rule out breach of client PI and show a low probability that PHI was compromised, the Information Security Compliance Officer will log the incident as a non-breach incident on the Information Incident Log and will keep all related documentation for six (6) years.
2. The Department Head, with assistance from the Information Security Compliance Officer and/or Breach Incident Team, will make necessary procedural changes to prevent future similar incidents.
3. If an affected individual is aware that their information may have been breached, the Department Head will send a letter summarizing investigative steps and notifying them that no breach occurred.

### IV. If Investigation Shows That a Breach of Client Private Information (PI) Has Occurred

1. If the investigation shows with a high degree of certainty a breach of Private Information (PI) has occurred, the Information Security Compliance Officer will notify the Director of ITS/Designee as needed, and ITS staff will consult the New York State ITS Enterprise Information Security Office (NYS ITS EISO) regarding the scope of the breach and restoration measures as deemed appropriate.
2. The Information Security Compliance Officer (and Breach Incident Team, if involved) will work with the Department Head to determine and take steps to reduce harm to the affected individual(s). The Department Head will provide to the Information Security Compliance Officer written documentation of harm mitigation steps taken.
3. The Information Security Compliance Officer and/or Breach Incident Team will guide the Department Head in notifying all affected individual(s) "in the most expedient time possible and without reasonable delay, allowing for any necessary law enforcement delay", as required in New York State law. Notification will be directly provided to all affected individuals by one (1) of the following methods:
  - written notice
  - electronic notice (only at affected individual's request)
  - telephone notice (log must be kept)
  - substitute notice by **all** of the following (allowed only when cost of other methods would exceed \$250,000 or there are more than 500,000 affected individuals):
    - e-mail (if e-mail address known)
    - conspicuous website posting
    - notification to major statewide media

Notice must include a description of the information breached and contact information of the Tompkins County Information Security Compliance Officer.

4. The Information Security Compliance Officer will complete the NYS Security Breach Reporting Form, with guidance from the Director of ITS/Designee and/or Breach Incident Team as needed and send it to the three (3) New York agencies required and attach a copy of the form to the breach investigation report. If more than 5,000 NYS residents are affected by the breach, the Information Security Compliance Officer will also notify consumer reporting agencies. Reporting to NYS agencies must not delay notification of individuals.
5. After review of the incident, the Information Security Compliance Officer (and the Breach Incident Team, if involved) will evaluate whether harm has been mitigated as much as possible and will recommend to the Department Head further mitigation steps as necessary. The Department Head will provide to the Information Security Compliance Officer written documentation of harm mitigation steps taken.
6. The Information Security Compliance Officer and/or Breach Incident Team will work with the Department Head to evaluate procedures. The Department Head will make procedural changes recommended to prevent future similar incidents and will provide written documentation of changes to the Information Security Compliance Officer.
7. The Information Security Compliance Officer will log the incident in the Information Incident Log as a "PI Breach" and will keep all related documentation for six (6) years.

## **V. If Investigation Shows That a Breach of Protected Health Information (PHI) Has Occurred**

If review of the Tompkins County Breach Incident Investigation Form Breach Risk Assessment by the Information Security Compliance Officer (and Breach Incident Team if involved) determines that there is more than a low probability that PHI was compromised, then a PHI breach has occurred. The following steps must be taken:

1. **Notify Affected Individuals.** Without unreasonable delay and in no case later than sixty (60) calendar days after the incident, the Information Security Compliance Officer (or Breach Incident Team if involved) will guide the Department Head in notifying affected individual(s) by first class mail that their PHI has been compromised. The notification may be provided in one (1) or more mailings as information is available. When there is insufficient or out-of-date contact information that precludes written notification to the individual, the substitute notice will be provided according to the following rules:
  - a) In the case in which there is insufficient or out-of-date contact information for fewer than ten (10) individuals, then such substitute notice may be provided by an alternative form of written notice, telephone, or other means.
  - b) For (ten) 10 or more individuals, substitute notice will:
    - Be in the form of either a conspicuous ninety (90) day posting on the Tompkins County web site, or conspicuous notice in the major print or broadcast media in geographic areas where the individuals affected by the breach likely reside; and
    - Include a toll-free phone number that remains active for at least ninety (90) days where an individual can learn whether their unsecured protected health information may be included in the breach.

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- c) If the individual is deceased, notice will be sent by first class mail to the next of kin or personal representative if the address is known. Substitute notice will not be provided.
  - d) In an urgent situation in which misuse of the compromised information could be imminent, the Department Head may contact individuals by telephone or other means, as appropriate, in addition to the required written notice.
  - e) The notification will be written in plain language and will include, to the extent possible:
    - A brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known;
    - A description of the types of unsecured protected health information that were involved in the breach;
    - Any steps individuals should take to protect themselves from potential harm resulting from the breach;
    - A brief description of what Tompkins County is doing to investigate the breach, to mitigate harm to individuals, and to protect against any further breaches; and
    - Contact procedures for individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, website, or postal address.
2. Concurrently with notification, the Department Head, with guidance from the Information Security Compliance Officer (or Breach Incident Team if involved), will take all possible steps to mitigate harm to the affected individual(s) and make necessary changes to department procedure to prevent future breaches. The Department Head will provide written documentation of steps taken and changes made to the Information Security Compliance Officer.
  3. If the breach affects fewer than 500 individuals, the Information Security Compliance Officer will report the breach to NYS agencies as required in step IV.4 above and will notify the Secretary of Health and Human Services no later than sixty (60) days after the end of the calendar year, in the manner specified on the Health and Human Services Web site.
  4. If the breach affects 500 or more individuals, in addition to individually notifying the affected person, the following steps will be taken:
    - If the 500 individuals are in the same State or jurisdiction, the Breach Incident Team will provide notice with all elements in V.1e above to prominent media outlets serving the State or jurisdiction without unreasonable delay and in no case later than sixty (60) days after the incident.
    - The Information Security Compliance Officer will report the breach to the Secretary of Health and Human Services, without unreasonable delay and in no case later than sixty (60) days after the incident, in the manner specified on the Health and Human Services web site.
    - The Information Security Compliance Officer, in consultation with the Breach Incident Team, will report the breach to NYS agencies according to step IV.4 above.
  5. To reduce harm to individuals and prevent future breaches, the Information Security Compliance Officer (and Breach Incident Team if involved) may review the incident after notifications are complete and may recommend additional needed harm mitigation and/or procedural changes to the Department Head. The Department Head will provide written documentation of any steps taken or changes made to the Information Security Compliance Officer.

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6. The Information Security Compliance Officer will log the incident as a "PHI Breach" on the Information Incident Log and will keep all related documentation for six (6) years.

## **VI. Business Associate Breach Incidents**

1. Written Contracts/Agreements with Business Associates will state that PHI Incidents must be reported to Tompkins County immediately upon discovery.
2. All Tompkins County Workforce Members must report any known Business Associate PHI Breach to the Information Security Compliance Officer as required in step II.1.
3. After receiving a Business Associate breach report, the Information Security Compliance Officer, will report the breach to the Breach Incident Team.
4. The Information Security Compliance Officer, with oversight from the Breach Incident Team, will take the following steps:
  - Contact the Business Associate to review details of the breach incident that were not provided in the report but are required for HIPAA notification.
  - Review the harm mitigation steps taken by the Business Associate and recommend additional steps if necessary.
  - Notify the affected individual(s) as required under HIPAA and detailed in V.1 above.
  - Notify the Secretary of Health and Human Services as required under HIPAA and as detailed in V.3 or V.4 above.
  - Review the Business Associate's safeguards for HIPAA Compliance and recommend changes to prevent future similar incidents.

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## ***Appendix B.***

### **Tompkins County Title VI Program Plan**

#### **Section I. Policy Statement**

Tompkins County is committed to promoting peace and good order, and the elimination of prejudice and discrimination. Social, recreational, and support services to County residents will be provided and made available in a coordinated, customer-friendly, and culturally sensitive manner.

In addition to its obligations under Title VI, Tompkins County is committed to equally serving all persons in all county programs or activities without discrimination on the basis of race, color, sex, gender identity and expression, sexual orientation, religion, age, national origin, alienage, disability, medical condition, military status, familial status, ex-offender status, or any other status or category protected by law (Federal, State, or Tompkins County Local law).

#### **Section II. Overview**

##### **1. Brief Introduction**

*What is the basis of authority of Title VI?*

Title VI, a Federal statute enacted by Congress, provides that no person 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 funding/assistance.<sup>4</sup> Most agencies receiving federal funding/assistance also have their own regulations that effectuate or implement Title VI.

*To whom does Title VI apply?*

Title VI applies to recipients and subrecipients of Federal funding/assistance. As a recipient of Federal funding, Tompkins County is required to have a Title VI Program. Although contractors and subcontractors are not required to have their own Title VI Programs, they are responsible for complying with the Title VI Program of the recipient with whom they are contracting. Recipients are also responsible for ensuring that subrecipients, contractors, and sub-contractors follow the recipient's Title VI Program and comply with Title VI.

*What are the consequences if a recipient violates Title VI?*

The Federal agency that provides funding/assistance to the violator must either initiate fund termination proceedings or refer the matter to the Department of Justice for appropriate legal action. Furthermore, aggrieved individuals may file administrative complaints with the Federal agency that provided funding/assistance to the violator, or file suit for appropriate relief in Federal court.

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<sup>4</sup> 42 U.S.C. § 2000d



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## 2. Legal Authority

### a. Primary Statutory Authority

#### **Title VI of the Civil Rights Act of 1964**

Title VI states: "No person in the United States shall, on the ground 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."

Furthermore, the Civil Rights Restoration Act of 1987 clarified the broad, institution-wide application of Title VI to recipients of Federal funding/assistance. Title VI covers all of the operations and programs of federal funding recipients regardless of which specific programs or activities of the recipient receive Federal funding/assistance.

### b. Related Legal Authority

#### **Executive Order 13166 (2000): Limited English Proficiency (LEP)**

Executive Order 13166 requires agencies receiving Federal funding/assistance to identify and develop services to ensure that persons with limited English proficiency have adequate access to the agency's programs and services.

#### **Executive Order 12898 (1994): Environmental Justice (EJ)**

Executive Order 12898 provides for intergovernmental review of Federally funded or assisted projects to ensure that they do not inadvertently interfere with State and Local plans and priorities. This order requires every agency to incorporate environmental justice goals by identifying and addressing disproportionately adverse human health or environmental effects on minority and low-income populations.

#### **Title VI Regulation 49 C.F.R. § 21 (1970), Department of Transportation**

The U.S. Department of Transportation adopted 49 C.F.R. § 21 to effectuate the provisions of Title VI for any program or activity receiving Federal funding/assistance from the Department of Transportation.

#### **Title VI Circular 4702.1B (2012), Federal Transit Administration**

Circular 4702.1B provides recipients of Federal Transit Administration funding/assistance with guidance and instructions necessary to effectuate 49 C.F.R. § 21 and to integrate into funded programs and activities considerations expressed in Department of Transportation's Policy Guidance 70 FR 74087 on responsibilities toward limited English proficiency (LEP) persons.

#### **Americans with Disabilities Act of 1990 (ADA)**

The Americans with Disabilities Act provides that no qualified individual with a disability shall, by reason of their disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination by a department, agency, special purpose district, or other instrumentality of a State or Local government.

#### **Section 504 of the Rehabilitation Act of 1973**

Section 504 provides that no qualified individual with a disability shall, solely by reason of their disability, be excluded from participation in, be denied the benefits of, or be subjected

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to discrimination under any program or activity that receives or benefits from Federal financial assistance.

### 3. Title VI Program Requirements

The following is a Quick Checklist of the Program elements:

- a. Title VI Notice to the Public that indicates the County's compliance with Title VI and informs members of the public of the protections against discrimination afforded to them by Title VI. The notice shall be posted in all public reception areas and public meeting areas.

Tompkins County's Title VI Notice to the Public can be found within this document: [Section V: Notice to the Public](#).

- b. Instructions to the public regarding how to file a Title VI discrimination complaint, including a copy of the Complaint Form.

Members of the public who feel discriminated against by Tompkins County under Title VI may exercise their right to file a complaint with the County Compliance Officer by following the County's complaint procedure. The complaint procedure is described within this document: [Section VII: Identification and Elimination of Discrimination](#).

- c. A list of any Title VI complaints, investigations, or lawsuits filed with the County to date. The list will be organized by case number and will include, but not be limited to, the following information: (1) date complaint was filed; (2) name and contact information of complainant; (3) protected category; (4) summary of allegation; (5) status of complaint as either active, completed, or pending; (6) actions taken; (7) disposition/Letter of Finding; and (8) name of investigator.
- d. Public Participation Plans for engaging minority populations, including persons with disabilities, and limited English proficiency (LEP) populations. The plan will include a summary of annual outreach efforts.

This document's [Section VI: Public Participation](#) and [Section IX: Limited English Proficiency \(LEP\) Plan](#) describe Tompkins County's active outreach to promote public participation in County programs and services.

- e. Limited English Proficiency (LEP) plan for providing language assistance.

Tompkins County's LEP Plan is described in [Section IX: Limited English Proficiency \(LEP\) Plan](#) and is published online at: [Tompkins County Limited English Proficiency \(LEP\) Plan](#).

- f. Description of efforts used by the County to ensure that subrecipients are complying with Title VI, as well as a schedule of subrecipients' Title VI program submissions.

Tompkins County actively monitors its subrecipients' compliance with Title VI requirements. [See Section X: Interaction with Subrecipients, Contractors, and Sub-Contractors](#).

- g. If the County has constructed a facility, such as a vehicle storage facility, maintenance facility, operation center, etc., or has made renovations to an existing facility, including infrastructure, entrance ways, and other access points, the County shall include a copy of the Title II accessibility analysis conducted during the planning stage.

**Title II of the Americans with Disabilities Act (ADA) of 1990** covers programs, activities, and services of public entities. Title II provides protections to individuals with disabilities that are at least equal to those provided by the nondiscrimination provisions of Title VI. Title II provides that public entities must identify and evaluate all programs, activities, and services and review all policies, practices, and procedures that govern administration of the entity's programs, activities, and services, including barriers to accessibility.

### **Section III. Organization and Responsibilities**

#### **1. Title VI Oversight**

There shall be a County Compliance Officer who shall be appointed by the County Administrator. The County Compliance Officer shall have executive oversight of Title VI Program implementation. It is the responsibility of all County departments to demonstrate Title VI compliance; however, the County Compliance Officer will provide the following assistance:

- a. Provide guidance to departments on general Title VI matters, ensuring overall compliance;
- b. Develop monitoring procedures and initiate monitoring activities for:
  - i. timely processing and resolution of Title VI complaints;
  - ii. identification of potential Title VI-related barriers that may negatively impact beneficiaries of County services (such as review of the ADA Transition Plan);
  - iii. identification and elimination of deficiencies in the County's implementation of its Title VI Program;
  - iv. routine review of subrecipients, contractors, and sub-contractors' compliance with Title VI requirements, as required;
- c. Where required by law, work with County departments to collect data on the race, color, national origin, sex, age, income, and disability status of beneficiaries of the County's programs and services; provide a comprehensive analysis of such data in accordance with [Section IV: Data Collection and Analysis](#);
- d. Conduct an annual Title VI review of each department within the county as well as a review of subrecipients, contractors, and subcontractors; create an annual report of the County's Title VI accomplishments and upcoming goals; where applicable, update the County's Title VI Program to reflect organizational, policy, or implementation changes;
- e. Ensure that Title VI requirements are included in the County's policy directives and that those directives are sensitive to Title VI requirements;
- f. Coordinate ongoing development and implementation of the County's training program for Title VI and related law;

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- g. Where appropriate, assist with the development of Title VI information for public dissemination in languages other than English.

## **2. County Compliance Program Coordinator**

The Compliance Program Coordinator shall work in concert with and have direct access to the County Compliance Officer. The duties of the Compliance Program Coordinator includes, but are not limited to, the following:

- a. Assist the County Compliance Officer in providing training for relevant personnel;
- b. Assist the County Compliance Officer in ascertaining subrecipients, contractors, and sub-contractors' Title VI compliance; and ensure that Title VI provisions are included in contractual agreements with all subrecipients, contractors, and sub-contractors;
- c. Assist the County Compliance Officer in collecting and analyzing statistical data on race, color, national origin, sex, age, income, and disability status of beneficiaries of County services and programs in accordance with [Section IV: Data Collection and Analysis](#);
- d. Use collected data to complete an annual summary of the progress, achievements, and applicable deficiencies of each department's implementation and compliance with the County's Title VI Program in accordance with [Section IV: Data Collection and Analysis](#); departmental reports will be incorporated into the County's comprehensive analysis.

## **Section IV. Data Collection and Analysis**

### **1. Overview**

Tompkins County shall collect and review relevant data and information in order to assess its implementation of and compliance with its Title VI Program. The County shall also provide data and information to Federal agencies as required by Federal regulations.

### **2. Agency Access to Data and Information**

As requested, the County shall provide agencies from which it receives Federal funding/ assistance access to data and information necessary to ascertain its Title VI compliance, including access to pertinent books, records, accounts, facilities, and other sources of information.

The County shall also provide data and information as required by 28 C.F.R. § 42.406 as requested in conjunction with a new application for Federal funding, an application for continuance or renewal of funding with specific projects or significant changes, and at other times appropriate under the regulation.

### **3. County Program Participant and Beneficiary Data**

The County shall reasonably gather, analyze, and retain statistical data on the race, color, national origin, sex, age, income, and disability status of beneficiaries of its services and programs. The County shall identify the programs and services most appropriate for analysis.

The County shall analyze the data to determine whether benefits from County services are fairly distributed, especially among minority and low-income populations.

To assist the County in analyzing fair distribution of benefits and burdens, each department within the County shall maintain relevant data on identified programs appropriate for analysis. Additionally, if the County extends Federal funding/assistance to a subrecipient, the subrecipient shall collect, retain, and submit such data to the County in order to enable the County to carry out its civil rights compliance obligations. Data submitted by subrecipients shall also be incorporated into the County's comprehensive analysis.

*Self-Identification.* From time to time, the County may find it necessary to request voluntary identification of racial, ethnic, or other relevant information from those who participate in its public events or utilize its services. This information will assist the County in improving its targeted outreach and measures of effectiveness. Self-identification of personal information to the County will always be voluntary and anonymous. Moreover, the County will not release or otherwise use these data in any manner inconsistent with federal and state regulations.

*Race and Ethnicity Codes.* Self-identification surveys shall include the following race and ethnicity codes, in the combined format as structured by the Federal Office of Management and Budget:

- American Indian or Alaska Native
- Asian or Pacific Islander
- Black or African American
- Hispanic or Latino
- Multiracial or Other
- Native Hawaiian or other Pacific Islander
- White (not of Hispanic origin)

All surveys shall note that participants may include multiple responses.

## **Section V. Notice to the Public**

### **1. Introduction**

Tompkins County must inform the public of their rights under Title VI, including that the County operates without discrimination on the basis of race, color, or national origin; that the public may request information about the County's Title VI obligations; and procedures that may be taken if a person believes they have been discriminated against.

### **2. Public Notice - Preferred Language**

The paragraph below shall be inserted into all significant publications distributed to the public, and shall also be available on the County's website:

*Under Title VI of the Civil Rights Act of 1964, any person who believes he or she has been aggrieved by an unlawful discriminatory practice on the basis of race, color, or national origin has the right to file a formal complaint with the County. Any such complaint must be in writing and filed with the County Compliance Officer within 180 days following the date of the alleged discriminatory occurrence. Title VI Discrimination Complaint Forms may be obtained online at*

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<http://www.tompkinscountyny.gov/tccp> or from the Department of County Administration, 125 East Court Street, 3rd Floor, Ithaca NY 14850.

*In addition to its obligations under Title VI, Tompkins County is committed to equally serving all persons in all county programs or activities without discrimination on the basis of race, color, sex, gender identity and expression, sexual orientation, religion, age, national origin, alienage, disability, medical condition, military status, familial status, ex-offender status or any other status or category protected by law (federal, state, or Tompkins County local law).*

### **3. Short Notice – Alternative Text**

*Tompkins County in all programs and services complies with all non-discrimination laws including Title VI of the Civil Right Act of 1964 and related statutes and regulations. For more information or to obtain a Title VI Discrimination Complaint Form, please visit our website at <http://www.tompkinscountyny.gov/tccp> or our offices at the Department of County Administration, 125 East Court Street, 3rd Floor, Ithaca NY 14850.*

### **4. Notice Posting**

Title VI notices shall be included in all applicable County or project documents and public meeting materials. Notices shall also be posted in all languages necessary to follow County LEP guidance in [Section IX: Limited English Proficiency \(LEP\) Plan](#). Additional translations shall be made available upon request.

Tompkins County shall disseminate information regarding its Title VI obligations to the general public by posting the above Public Notice (*see* Section V.2) in public areas, including but not limited to County offices, bulletin boards, and transit buses. The Short Notice version may be used where space is limited or in publications where cost is an issue.

Additionally, Tompkins County shall have its Title VI Program Plan available for public access on the County website at <http://www.tompkinscountyny.gov/tccp/titleVI>. Upon request, hard copies of the Title VI Program Plan may be mailed to individual members of the public.

## **Section VI. Public Participation**

### **1. Introduction**

Title VI seeks to ensure the full and fair participation of all community members potentially affected by public decision-making processes. In addition to notifying the public of their Title VI rights, it is the responsibility of the County to actively engage the public, especially minority and low-income populations, in planning projects that affect them.

Tompkins County shall seek out and consider the viewpoints of minority, low-income, and LEP populations in the course of conducting public outreach and involvement activities.

### **2. Methods of Ensuring Public Participation**

a. Category 1 - Continuous Public Participation:

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The public should always be able to contact government officials to ask questions or express concerns and ideas for consideration. The County shall provide the public an opportunity for public comment, both online and via written suggestion cards.

b. Category 2 - Public Participation Preceding Major Public Decisions:

Major public decisions are proposed actions that may have a profound impact on the general public, for example, consolidation or discontinuation of a long-standing program. A change that has a profound impact on only a select group of individuals is still considered a major decision. The importance of the topic, and to what length it will be addressed, will determine the number of meetings required and the amount of promotion required for such meetings.

Public meetings shall be held in locations accessible to mobility-impaired individuals and those with disabilities. Public meeting notices shall include text that clearly expresses compliance with this requirement. Additionally, individuals planning to attend the meeting shall have the opportunity to request special accommodation so that they may fully participate.

When selecting a meeting location, preference shall be given to locations near public transit routes. If a public meeting is focused on a specific geographic area or jurisdiction, the meeting shall be held within that geographic area or jurisdiction.

When setting times and dates for public meetings, staff will review when other major community meetings and events are scheduled in order to minimize conflicts and accommodate the maximum number of potential participants.

In addition to public meetings, the County may promote public participation through direct mailings; feedback surveys; coordinated efforts with educational and faith-based organizations; radio, television, or newspaper advertisements, including those media channels that serve LEP, low-income, or minority populations; non-written public comment procedures, such as personal interviews; or any other method deemed appropriate under the circumstances.

### 3. Stakeholder Outreach

The County shall develop and maintain a list of stakeholders, consisting of interested and affected parties. This list will be used to inform individuals, groups, and agencies about the development of a plan or program and to notify them about specific opportunities for public involvement.

The list of stakeholders shall include, but not be limited to:

- a. Business representatives
- b. Educational institutions (public and private schools and universities)
- c. Directly and indirectly impacted members of the general public
- d. Government partners (local, state, and federal officials)
- e. Human service and non-profit agencies
- f. Individuals and interest groups
- g. Local media outlets

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- h. Neighborhood associations
  - i. Transit and taxi operators
  - j. Special interest transit users (bicyclists, disabled users, etc.)

## **Section VII. Identification and Elimination of Discrimination**

### **1. Proving Discriminatory Conduct**

There are two (2) ways to prove illegal discrimination prohibited under Title VI and related statutes.

One way is to prove “disparate treatment,” which focuses on the discriminatory intent of a challenged action. Disparate treatment is defined as treating similarly situated persons or groups differently because of their protected status or category.

The second way is to prove “disparate impact.” Disparate impact discrimination occurs when a “neutral procedure or practice” results in fewer services or benefits, or inferior services or benefits, to members of a protected group. Disparate impact analysis focuses on the consequences of a decision, policy, or practice rather than discriminatory intent.

The County’s efforts to prevent such discrimination must address, but not be limited to, a program’s impacts, access, benefits, participation, treatment, services, contracting opportunities, training, investigation of complaints, allocation of funds, prioritization of projects, as well as the overarching functions of research and planning, project development and delivery, right-of-way, and construction. Tompkins County has developed this Title VI Program to assure its services, programs, and activities are offered, conducted, and administered fairly without regard to race, color, or national origin, in the context of the County’s broader commitment to serving the public without discrimination.

### **2. Title VI Complaints**

Tompkins County shall inform the public of their rights under Title VI consistent with [Section V. Notice to the Public](#), including (1) that the County operates without discrimination on the basis of race, color, and national origin; (2) that the public can request additional information about the obligations of the County; and (3) that there are procedures that can be taken if a person feels they have been discriminated against.

**Any person who believes they have faced unequal treatment or discrimination concerning the receipt of benefits and/or services has the right to file a written complaint in accordance with the complaint procedures listed below (see Section VII.3).**

These procedures cover all complaints filed under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Civil Rights Restoration Act of 1987, and the Americans with Disabilities Act of 1990, relating to any program or activity administered by the County as well as by subrecipients, consultants, and contractors. Intimidation or retaliation of any kind is prohibited by law.

The procedures do not deny the right of the complainant to file formal complaints with other State or Federal agencies or to seek private counsel for complaints alleging discrimination. Every effort will be made to obtain early resolution of complaints at the lowest level possible. The



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option of informal mediation involving the affected parties and the County may be utilized to seek resolution of such complaints.

### 3. Complaint Procedures

- a. Any person who believes that they (individually or as a representative of any specific group or class, or in connection with any minority-owned or women-owned business enterprise) have been subjected to discrimination prohibited by Title VI of the Civil Rights Act of 1964, as amended, may file a complaint with Tompkins County (see [Appendix A: Title VI Complaint Form](#)). A complaint may also be filed by a lawful representative on behalf of such a person. All complaints will be referred to the Tompkins County Compliance Officer for review and action. **Complaints must be filed within 180 days of the alleged discrimination.** If the complainant could not reasonably be expected to know within the 180 day period that the act was discriminatory, they will have sixty (60) additional days after becoming aware of the illegal discrimination to file the complaint.
- b. Complaints shall be in writing and signed by the complainant. Complaints shall set forth as fully as possible the facts and circumstances surrounding the discrimination claim. If necessary, the Tompkins County Compliance Officer will assist the complainant in drafting the complaint and will submit the written draft of the complaint to the person for signature. The complaint shall then be handled in the usual manner.
- c. Within ten (10) working days, the Tompkins County Compliance Officer will acknowledge receipt of the complaint, inform the complainant of action taken or proposed action to process the complaint, and advise the complainant of other avenues of redress available.
- d. The following information will be obtained for processing and investigation of all complaints:
  - i. Name(s), address(es), and phone number(s) of the complainant(s);
  - ii. Name(s), address(es) of alleged discriminating official(s);
  - iii. Basis of complaint (e.g., race, color, or national origin);
  - iv. Date of alleged discriminatory act(s);
  - v. Date the complaint was received by the County Compliance Officer;
  - vi. A statement of the complaint;
  - vii. Other agencies (State, Local, or Federal) where the complaint has been filed;
  - viii. An explanation of actions the County may have already taken or already proposed to resolve the issue raised in the complaint;
- e. Within sixty (60) working days of receipt of the complaint, the Tompkins County Compliance Officer will conduct an investigation and, based on the information obtained, will render a recommendation for action in a Report of Findings. The complaint will be resolved by informal means whenever possible. Such informal attempts and their results will be summarized in the report findings.

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- f. Within ninety (90) working days of receipt of the complaint, the Tompkins County Compliance Officer will notify the complainant in writing of the final decision reached, including proposed disposition of the matter.

### **Section VIII. Title VI Training**

The County will cover Title VI Compliance as a part of its annual compliance training given to department heads, administrators, managers, and employees. The training program shall be informed by the *Title VI Legal Manual* published by the Department of Justice. The manual provides an overview of the legal principles governing Title VI. The goals of the training are to enable participants to understand the key requirements of Title VI, be familiar with the County's Title VI Program, recognize the roles and responsibilities for implementation, discuss the data that the County collects for Title VI purposes, and articulate thoughts and strategies for preventing discrimination.

The County's training program shall include, but not be limited to, the following topics:

1. What generally constitutes prejudice and discrimination;
2. Background, purpose, and legislative authority of Title VI;
3. Requirements of and prohibited practices under Title VI;
4. Overview of the County's Title VI Program;
5. Overview of purpose and requirements under Executive Order 13166 (LEP).

Title VI training materials will also be provided to subrecipients, contractors, and sub-contractors of Tompkins County. Furthermore, while each subrecipient shall develop its own customized Title VI program, it may use the County's Title VI Program as a model. For further information on monitoring of subrecipients, see [Section X: Interaction with Subrecipients, Contractors, and Sub-Contractors](#).

### **Section IX. Limited English Proficiency (LEP) Plan**

As defined by Executive Order 13166, limited English proficiency (LEP) individuals are persons who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English. This plan also covers interpreter services to deaf and hard of hearing persons under the Americans with Disabilities Act and New York State law.

Tompkins County strives to provide accurate and effective communication with members of the public, regardless of their level of English proficiency. It is Tompkins County's policy to take reasonable steps to overcome language barriers regarding access to Tompkins County programs or activities, at no cost to the LEP individual. The County's [LEP 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.

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**Section X. Interaction with Subrecipients, Contractors, and Sub-Contractors****1. Monitoring of Subrecipients, Contractors, and Sub-Contractors**

Tompkins County shall monitor and ensure that its subrecipients, contractors, and sub-contractors comply with all Title VI Requirements. All subrecipients, contractors, and sub-contractors must submit to the County, upon request, the following documents:

- a. **Assurance of Compliance:** A written assurance that the relevant program, service, or facility will be conducted or operated in compliance with Title VI requirements;
- b. **Notice to Beneficiaries:** Title VI notice to the public that indicates the subrecipient both complies with Title VI requirements and informs the public of the protections against discrimination that Title VI affords. Subrecipients are also required to submit a list of locations where the notice is posted;
- c. **Title VI Discrimination Complaint Instructions:** A copy of the subrecipient's instructions to the public regarding how to file a Title VI discrimination complaint, and a copy of the blank complaint form;
- d. **List of any related Title VI investigations, complaints, or lawsuits filed:** The list should include investigations, complaints, or lawsuits that pertain to allegations of discrimination on the basis of race, color, and national origin in programs or services related to the purpose for which the subrecipient received federal funding/assistance. Subrecipients shall, upon request, submit an annual report of Title VI complaints;
- e. **Public Participation Plan:** Subrecipients are required to submit annually a description of the public outreach planned to engage minority and limited English proficiency populations. A subrecipient's outreach plan can also be part of its larger efforts extending to other traditionally underrepresented populations, such as persons with disabilities or low-income individuals;
- f. **Limited English Proficiency (LEP) Plan:** Subrecipients are required to submit a description of a plan to provide language assistance to persons with limited English proficiency.
- g. **Table depicting racial breakdown of committees, advisory councils or similar bodies:** Subrecipients that have planning boards, advisory councils or advisory committees, or other similar bodies, the membership of which is selected by the subrecipient, must provide a table depicting the racial breakdown of the membership of those bodies, and a description of efforts made to encourage the participation of minorities in the activities of such bodies.

**Section XI: Title VI Complaint Form**



Tompkins County, New York  
**TITLE VI COMPLAINT FORM**

Notice: If you are unable to use this complaint form, please contact the Department of County Administration at 607-274-5551 to arrange an alternate means of filing a complaint.

Complaint Forms must be filed within 180 days of the alleged discrimination to:  
Tompkins County Compliance Officer  
Department of County Administration  
125 East Court Street, Old Jail Building, 3<sup>rd</sup> Floor  
Ithaca, New York 14850

**I. INFORMATION ABOUT THE COMPLAINANT**

Name: \_\_\_\_\_ Date: \_\_\_\_\_  
(Please print First Name and Last Name)

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

Home Phone: \_\_\_\_\_ Work Phone: \_\_\_\_\_ Email Address: \_\_\_\_\_

Designated Person to contact if you cannot be reached:

Name \_\_\_\_\_ Relationship \_\_\_\_\_ Phone: \_\_\_\_\_

**II. INFORMATION ABOUT THE COMPLAINT**

(Please provide the following information about the alleged County staff person/department you believe discriminated against you.)

Name (of County staff person): \_\_\_\_\_ Title: \_\_\_\_\_

County Department: \_\_\_\_\_ Date of alleged discriminatory act(s): \_\_\_\_\_

Basis of complaint (e.g., race, color, national origin, disability, etc.):

\_\_\_\_\_

Please explain as clearly as possible what happened and why you believe you were discriminated against:

\_\_\_\_\_

Please indicate other agencies (Local, State, or Federal) where this same complaint has been filed:

\_\_\_\_\_

Please indicate a suggested remedy you propose or an explanation of the actions the County has taken or proposed to resolve the issue raised in the complaint:

\_\_\_\_\_

Completed by: \_\_\_\_\_  
(Complainant Signature or Signature of Complainant's Representative)

**III. ROUTING AND PROCESSING (OFFICE USE ONLY)**

Complaint submitted:  In Person  USPS Mail  Fax  Email  Online (via County website)

Compliant Form received by: \_\_\_\_\_ Date: \_\_\_\_\_  
(Please print both First and Last Name of County Representative)

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## *Appendix C.*

### **Tompkins County Limited English Proficiency Plan**

#### **A. Introduction**

Most individuals in Tompkins County read, write, speak and understand English. However, there are many individuals whose primary language is not English. Individuals who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English can be limited English proficient, or “LEP.” This language barrier may prevent individuals from accessing Tompkins County services and benefits.

There are three (3) pieces of legislation that provide the foundation for the development of an LAP: (1) Title VI of the Civil Rights Act of 1964, (2) Executive Order 13166, and (3) Resolution of the Tompkins County Legislature. In some circumstances, failure to ensure that LEP persons can effectively participate in Federally-assisted programs may constitute discrimination based on national origin under Title VI.

In order to comply with Title VI, Tompkins County shall take reasonable actions for competent language assistance. Executive Order 13166 clarifies requirements for LEP persons under Title VI. As a recipient of Federal funds, the Executive Order requires Tompkins County to examine the services it provides and develop and implement a system by which LEP persons can meaningfully access those services.

Hence, this LAP serves as a model to show Tompkins County’s commitment to provide meaningful access to all individuals accessing any of Tompkins County programs, activities, and services.

Tompkins County pledges that individuals will be informed of the availability of free interpreter and translator services when it appears that the individual is not able to communicate effectively in English. Such services are provided during all normal business hours and when an emergency has been determined to exist during non-business hours. Notice of availability of free interpreter and translator services also occurs in signage at primary points of contact for County departments’ reception areas.

#### **B. Four-Factor Analysis**

Tompkins County is a recipient of Federal funds. These sources of funds include, but are not limited to, the following Federal departments: Housing and Urban Development; Transportation; Agriculture; Homeland Security; and Health and Human Services.

As a recipient of Federal funds, there are four factors the County considers when assessing language needs and determining what steps it should take to ensure access for LEP persons:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by a County program, activity, or service;
2. The frequency with which LEP individuals come in contact with County programs, activities, or services;

- 3. The nature and importance of the County program, activity, or service to people’s lives; and
- 4. Level of resources available to the County for LAP-related costs.

A brief description of the County's self-assessment undertaken in each of these areas follows.

**1. The number or proportion of LEP persons eligible to be served or likely to be encountered by a County program, activity, or service —**

The following charts illustrate the presence of LEP persons (over the age of 5 years) in Tompkins County, including both language-based and disability-based populations.

**a.) Language-Based LEP Populations in Tompkins County<sup>6</sup>**

Population Age 5 Years and Over	Language Spoken at Home is Other Than English	Speaking English "Less Than Very Well"
100,022	13,827 (13.8%)	3,419 (3.4%)

**b.) Top spoken languages other than English within Tompkins County are the following<sup>5</sup>:**

Language Spoken at Home	Population (percent)
Chinese (incl. Mandarin, Formosan)	4,114 (4.1%)
Spanish or Spanish Creole	2,274 (2.3%)
French (incl. Patois, Cajun)	693 (0.07%)
Other Asian Languages	600 (0.06%)
German	576 (0.05%)
Hindi	419 (0.04%)

**c.) There are:**

3.4 percent (3,419 persons) that speak English "less than very well"



**d.) In the category of speaking English "less than very well" include the following<sup>5</sup>:**

Language Spoken at Home	Population (percent) <sup>5</sup>	Safe Harbor (Y/N)
Chinese (incl. Mandarin, Formosan)	1,446 (1.45%)	Y
Spanish or Spanish Creole	286 (0.29%)	N
Korean	266 (0.27%)	N
French (incl. Patois, Cajun)	129 (0.13%)	N
Japanese	95 (0.10%)	N
Other LEP Language Speakers	1,079 (1.08%)	N/A

<sup>5</sup> American Community Survey, 2011-2015 and <sup>6</sup> American Community Survey 2013-2017 Data Sets.

For the purposes of assessing the needs of LEP populations in Tompkins County, persons who identify as “Speaking a language at home other than English” according to the 5-year American Community Survey 2013-2017 will be used as the standard and persons who identify as “Speaking English less than very well” according to the 5- year American Community Survey 2011-2015 will be used as the standard for demonstrating a language group’s proficiency and the need for interpretation and translation services.

**e.) Disability-Based Populations in Tompkins County<sup>5</sup>**

	<b>Tompkins County</b>
Total civilian non-institutionalized population	103,532
Population w/disability status	9,150 (8.8 %)
<b>Population w/hearing difficulty</b>	<b>2,550 (2.5%)</b>
Population w/vision difficulty	1,232 (1.2%)
Population w/cognitive difficulty	3,905 (3.9%)
Population w/ambulatory difficulty	4,051 (4.1%)
Population w/self-care difficulty	2,131 (2.1%)
Population w/independent living difficulty	3,604 (4.1%)

**f.) Interpretation Services**

In order to provide LEP individuals with the most effective access to language interpretation services, the County will follow §C, “Components of the LAP,” described below.

**g.) Translation Services – “Safe Harbor” Thresholds**

In order to provide LEP individuals with the most effective access to language translation services, the County will adhere to the “safe harbor” threshold rule. The U.S. Department of Justice has determined that a “safe harbor” threshold is met when an eligible LEP language group constitutes five (5) percent or one-thousand (1,000), whichever is less, of the population of persons in the County that are eligible to be served or likely to be affected or encountered. Once any particular language in the County reaches the designated threshold, the County is required to make a best practice effort to provide free translation services of vital documents and notices to LEP persons.

Written translation for other languages may be provided upon request, but a competent oral translation must be promptly provided if requested. In cases where the five (5) percent rule is met, but there are fewer than fifty (50) persons, then a covered agency does not have to provide vital documents in a written translation but must provide written notice in the most commonly spoken language of a

<sup>5</sup> American Community Survey, 2011-2015 and <sup>6</sup> American Community Survey 2013-2017 Data Sets.

language group that such written translation is not available, but that there is competent oral interpretation free of cost. “Safe harbor” thresholds apply only to the need for translation services. No threshold is allowable for meeting the oral language (interpretation) needs of LEP individuals.

Based on the County’s “safe harbor” analysis, it has determined that the number of LEP applicants or beneficiaries speaking Chinese (Mandarin, Cantonese, Formosan) in the County continue to be within “safe harbor” levels. Therefore, County departments have been directed to reasonably provide vital documents and notices in Mandarin which represents the more commonly spoken Chinese language among LEP persons.

## **2. The frequency with which LEP individuals come in contact with County programs**

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Tompkins County shall assess the frequency at which staff has or could possibly have contact with LEP persons. This includes annually examining external data sources (U.S. Census, ACS, DOE, etc.) and internal data sources (e.g., phone inquiries, requests for interpretation and document translation services, LEP tracking forms, staff and LEP client feedback.

## **3. The nature and importance of programs, activities, and services provided by the County to people’s lives —**

The County’s health & human services and public transportation (TCAT) programs are vital to many people’s lives. According to the Department of Transportation’s Policy Guidance Concerning Recipient’s Responsibilities to Limited English Proficient (LEP) Persons, “Providing public transportation access to LEP persons is crucial. An LEP person’s inability to utilize effectively public transportation may adversely affect his or her ability to obtain health care, or education, or access to employment.”

Furthermore, according to the U.S. Census Bureau, 2013-2017 American Community Survey, 35.8 percent of all public transit riders traveling to work (over 16 years old), speak a language other than English at home, and 5.3 percent speak English less than very well, further illustrating the need to provide LEP persons with meaningful access to County services.

## **4. Resources Available to the County Departments and LEP-Related Costs —**

Centralized resources are used to subsidize costs related to interpretation and translation services. On an annual basis, County Administration will provide an estimate for these services based on the proposed number of LEP persons served. The County uses this information to estimate the County-wide cost for providing LEP services. This helps to eliminate duplication of requests for resources and eliminate administrative burdens associated with these activities.



Tompkins County shall assess available resources that could be used to provide language assistance. This includes identifying bilingual staff, reviewing existing contracts for professional translation services, determining which documents should be translated, and deciding what level of staff training is needed.

After analyzing the four (4) factors outlined above, Tompkins County developed the following LAP for providing language assistance to LEP persons.

### **C. Components of the Plan**

There are five (5) areas that comprise Tompkins County's LEP plan:

1. Identifying LEP Individuals Who Need Language Assistance
2. Language Assistance Services
3. Training Staff
4. Providing Notice to LEP Persons
5. Monitoring and Updating the LEP Plan

#### **1. Identifying LEP Individuals Who Need Language Assistance**

There are several measures that the County may take to identify individual persons who require language assistance:

- Service-site inquiry and identification process, using LEP Tracking Forms A, B, and C. *See Appendices E3, E4, and E5.*
- When County activities and public meetings are held, set up a sign-in table, and have a staff member greet and briefly speak to each attendee, in order to informally gauge an attendee's ability to speak and understand English.
- Have Language Identification Flashcards at various County activities and public meetings. While staff may not be able to provide translation assistance at the time, the cards are an excellent tool to identify language needs for future activities/meetings. *See Appendix E5.*
- Post a notice of available language assistance at County activities and public meetings to encourage LEP persons to self-identify.
- Reach out to local organizations and not-for-profit service agencies for assistance in identifying LEP persons for the purpose of notifying them about the County's LEP plan.

#### **2. Language Assistance Measures**

The two (2) types of language services are interpretation and translation. Interpretation is the immediate rendering of oral language from the source language into the target language. Translation is the rendering of a written text from one language (source language) into another language (target language).

##### *Offer of Assistance*

Where interpretation/translation is necessary to provide meaningful access to County programs, activities, and services, LEP persons will be advised that the County will provide a

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competent interpreter/translator at the County's expense, or they may secure the assistance of an interpreter/translator of their choice at their own expense. The provision of this notice and the LEP person's election will be documented in writing. *See Appendices E3, E4, and E5.*

#### *Quality*

The County will take reasonable steps to ensure that it provides high-quality interpretation and translation services through individuals who are competent to provide those services at a level of fluency, comprehension, and confidentiality appropriate to the specific nature, type, and purpose of the information at issue.

#### *Competency of Bilingual Services*

The County will monitor, document, and report whether bilingual staff or contractors performing language services possess the required levels of bilingual proficiency and interpretation and translation skills.

#### *Unacceptable Practices*

County staff should not use family members or friends to interpret or translate for LEP persons. If the LEP person insists upon using a family member or friend, this should be allowed only after the staff person has offered free language services and such offer has been refused in writing. *See Appendix E4.* Minor children should *never* be used to provide language services, except in emergencies.

#### *Translation of Vital Documents*

In addition to oral language services, written language services will be made available for free. Vital documents that meet the "safe harbor" threshold will be translated into the most spoken language of the language group and any other language upon request. Vital documents are defined as those documents without which a person would be unable to access services.

Based on the County's "safe harbor" analysis, it has determined that the number of LEP applicants or beneficiaries speaking Chinese (Mandarin, Cantonese, Formosan) in the County continue to be within "safe harbor" levels. Therefore, County departments have been directed to reasonably provide vital documents and notices in Mandarin which represents the more commonly spoken Chinese language among LEP persons.

#### *Language Assistance Services Contracts*

Since January 13, 2015, Tompkins County Administration has centralized the reimbursement for language interpretation and translation services.

The language services providers are (1) LanguageLine Services and (2) Empire Interpreting Services. Based on the executed agreements, the vendors conduct on-site trainings so staff can become more proficient in accessing and interfacing with language service technology.

#### *Over-the-Phone Interpretation Services*

Language Line Services; Tel.: 1-866-874-3972; Website: [www.LanguageLine.com](http://www.LanguageLine.com).

#### *Written Translation and On-Site American Sign Language Interpretation Services*

Empire Interpreting Service, 220 S. Warren Street, Suite 1001, Syracuse, NY, 13202; Tel.: 315-

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472-1383; Fax: 315-472-8032; Website: [www.empireinterpreting.com](http://www.empireinterpreting.com).

#### *Documentation of use of Language Assistance Services*

In order to ensure proper documentation and accurate reporting of the use of language assistance services, staff must complete LEP Tracking Form A, found *in Appendix E3* of this Plan, and provide it to the County Compliance Program Coordinator at County Administration within thirty (30) days of use of the assistance service.

#### *Language Assistance Volunteers*

The County has in the past utilized the language assistance services of bilingual staff members, “Language Assistance Volunteers”, on a voluntary basis. Bilingual staff are under no obligation to provide language assistance services, unless it is specifically included in job duties. Bilingual

staff may volunteer to provide language assistance to the extent that they are comfortable to do so and may also use the contracted language assistance services (LanguageLine, Empire Interpreting Service) if they do not wish to volunteer language assistance services. Language Assistance Volunteers already will be familiar with the agency's technical terms and specific programs. Performing language services will be a collateral duty for these volunteers and is subject to supervisory approval and workload constraints.

#### *Access to Public Meetings*

Meetings held by the Legislature, its sub-committees, and boards are open to the public pursuant to the Open Meetings Law. These public meetings focus on topics of varying levels of interest to the public.

The County has had limited interactions with LEP persons at its Legislature, sub-committee, and board meetings, and County staff have not been aware of requests for language services to date. Regardless of a limited need in the past, however, the County remains committed to providing meaningful access to County meetings, such as an oral interpreter present at a public meeting or written translation services for the various background or supporting documents associated with the public meeting, including a summary of a presentation or the transcript.

As it might be difficult to acquire language services in advance of a public meeting for every request, staff will arrange for ways LEP persons can access relevant information after the meeting. For example, staff can display a sign, translated into the five most commonly spoken languages in Tompkins County, asking whether LEP persons want to request translated information and then make the appropriate arrangements.

### **3. Training Staff**

County department heads, directors, and managers are crucial in implementing LEP policy. Copies of the LEP plan shall be distributed to all department heads, directors, and managers annually and it is their responsibility to disseminate LEP plan information to appropriate staff. Department heads should ensure that staff understand Title VI responsibilities. A summary of the LEP plan shall be included as part of mandatory compliance training.

It is also important that staff members, especially those having contact with the public, know

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their obligation to provide meaningful access to information and services for LEP persons. Even staff members who do not interact regularly with LEP persons should be aware of and understand the LEP plan. Properly training staff is a key element in the effective implementation of the LEP plan.

For this purpose, the County will disseminate LEP instructional materials to department heads and all other County employees expected to implement the language assistance services set out in the County's LEP Plan. Instructional materials shall include informational materials about: a) LEP Program, b) LEP regulations and how to comply with requirements, c) the nature and scope of language assistance services and resources available to them and d) the procedures through which they may access those services to assist in the discharge of their respective duties.

#### **4. Providing Notice to LEP Persons**

County offices must provide reasonable notification to eligible LEP person in a way that they will understand that language services are available. An LEP person's awareness of their rights or the services available to them contributes to meaningful access. Effective outreach to the public is essential to provide reasonable notice to LEP persons. To achieve effective outreach, County offices:

- Must consider the appropriate mix of print, radio, and/or television notices in mainstream and ethnic media outlets; and
- Should continue to make contact with community organizations, who can help advise on the nature of the local population and the most effective measures to provide reasonable notice to them.

As the County continues to target outreach efforts on local communities and LEP populations, it is anticipated that it will encounter more eligible LEP populations and will have to reassess their needs.

#### **5. Monitoring and Updating the LEP Plan**

This plan is designed to be flexible and should be viewed as a work in progress. The County will evaluate and monitor its implementation on an annual basis to ensure that the scope and nature of the language services provided under the Plan reflect updated information on relevant LEP populations, their language assistance needs, and the experience of County staff, and is consistent with the objectives of the LEP Program. An annual report on the previous year will be provided by the County Compliance Officer and County Compliance Program Coordinator to the County Administrator and shared with Department Heads. The Annual Report will include usage by language and department, identify barriers to providing adequate services to LEP persons, complaints from LEP persons, and any recommended updates to the Plan. *See Appendix E2.*

The County Administrator will meet with Department Heads on an annual basis to identify barriers to language access, consult with stakeholders, and formulate strategies and responses to overcome the barriers to meaningful language access. The group will also discuss LEP encounters and feedback from LEP persons served and share best practices in language

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assistance and public outreach regarding each department's LEP efforts. Feedback from the LEP community will be sought through community outreach events and presentations to determine the effectiveness of the plan in reaching LEP persons.

In evaluating the plan, it is important to consider whether new documents and services need to be made accessible for LEP persons, and also to monitor changes in demographics and types of services, and to update the LEP plan when appropriate. After consulting with the Department Heads, and reviewing the Annual Report, County Administration will make any necessary updates to this Plan.

Each update should examine the following:

- How many LEP persons were encountered?
- Is the existing language assistance meeting the needs of LEP persons?
- What is the current LEP population in Tompkins County?
  - Has there been a change in the types of languages where services are needed?
  - Have available resources, such as technology, staff and finances changed?
  - Were any Title VI or LEP complaints received?
  - Do new staff members understand the LEP plan policies and procedures?

#### **D. Dissemination of the Limited English Proficiency Plan**

The County will post the [LEP Plan](#) on its website. Copies of the plan will be provided to any person or agency requesting a copy. LEP persons may obtain copies/translations of the plan upon request.

Any complaints, questions or comments regarding this plan should be directed to:

County Compliance Officer or Compliance Program Coordinator  
Tompkins County Administration  
125 E. Court St., 3<sup>rd</sup> Floor Ithaca, New York  
14850  
Tel. (607)274-5551 / Fax (607)274-5558

# Appendix E1

## Resolution of Tompkins County Legislature



**Tompkins County Legislature**  
Governor Daniel D. Tompkins Building  
Ithaca, NY 14850

Meeting: 12/02/14 05:30 PM  
Department: County Administration  
Category: Administrative  
Functional Category: Human Rights

**SCHEDULED**

**RESOLUTION NO. *q* DOC ID: 5182**

1     **In Support of Providing Interpretation and Translation Services to**  
2     **Limited English Proficient (LEP) Residents Seeking or Requiring**  
3     **Access to County Programs, Activities, Services, and Benefits**

4             WHEREAS, with the enactment of the Civil Rights Act of 1964 (signed by President L.B. Johnson on July 2)  
5     discrimination based on race, color, religion, sex, or national origin; unequal application of voter registration  
6     requirements; and racial segregation in schools, at the workplace, and in places of public accommodation were all  
7     outlawed, and  
8

9             WHEREAS, Title VI of the Act similarly prohibits discrimination in programs and activities that receive  
10     federal financial assistance, and  
11

12             WHEREAS, Tompkins County is a recipient of federal funding assistance from such departments as Housing  
13     and Urban Development, Transportation, Agriculture, Homeland Security, and Health and Human Services, and  
14

15             WHEREAS, although most persons in Tompkins County read, write, speak, and understand English, there are  
16     certainly individuals whose primary language is not English and who may have limited English proficiency (LEP), and  
17

18             WHEREAS, on August 11, 2000, President W.J. Clinton signed Executive Order 13166 to “improve access  
19     programs to federally conducted and federally assisted programs and activities for persons who, as a result of national  
20     origins, are limited in their English proficiency”, noting that this goal “reinforces its equally important commitment to  
21     promoting programs and activities designed to help individuals learn English” and that each Federal agency “shall  
22     examine the services it provides and develop and implement a system by which LEP persons can meaningfully access  
23     those services consistent with, and without unduly burdening, the fundamental mission of the agency”, and  
24

25             WHEREAS in 1983 Literacy Volunteers of Tompkins County was established to provide tutoring services free  
26     of charge to local residents who need help reading, writing, or speaking English, and in October 2003 this agency  
27     became Tompkins Learning Partners, an independent not-for-profit that uses volunteer trained tutors to help  
28     immigrants (nowadays mainly from southeast Asia) learn English free of charge, and receives financial support from  
29     Tompkins County, and  
30

31             WHEREAS, Tompkins County is and has been committed to providing meaningful access to all individuals  
32     wishing to access any of Tompkins County programs, activities, and services, including on occasion providing a free  
33     interpreter or translator, and  
34

35             WHEREAS, although this commitment has been in place for many years, the Legislature believes it important  
36     at this time to develop data to better inform how best to help LEP individuals benefit from that commitment, now  
37     therefore be it  
38

39             RESOLVED, on recommendation of the Government Operations Committee, That the Tompkins County  
40     Legislature is committed to providing meaningful access to all individuals with LEP seeking or requiring access to  
41     County programs, activities, services, and benefits; and that it expects to provide individuals with free interpreter and  
42     translation services when it appears that the individual’s inability to communicate effectively in English may adversely  
43     affect such access to needed County services and that it expects all County personnel and sub-contractors to act in  
44     accordance with the County's LEP Plan.

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## Appendix E2

### Duties Associated with LEP Plan Implementation and Compliance

#### County Administrator Duties

- Propose LEP-related resolution for Legislature;
- Communicate with department heads on an annual basis the value of a County-wide LEP plan and the need to formulate strategies for overcoming barriers to meaningful language access; and
- Procure funds for County-wide language assistance contracted services, including translation services for vital documents.

#### County Compliance Officer/Compliance Program Coordinator Duties

- Update and analyze internal/external LEP population and service-usage data (Factors 1, 2 & 3);
- Document LEP-related resources and costs (Factor 4);
- Coordinate LEP-related training for designated County staff;
- Design and distribute LEP tracking forms to County departments;
- Collect and analyze departmental and County-wide LEP data;
- Disseminate LEP Plan to County workforce;
- Update LEP Plan on an annual basis; and
- Submit annual LEP Plan report to County Administrator.

**Appendix E3**

**LEP Tracking Form A: Use of Free Interpreter/Translator Services**

All Limited English Proficiency clients must be informed of their right to free language assistance including interpreter services and translated documents. This form can be kept in the client’s records for future reference. County staff should never encourage, suggest, or require a Limited English Proficiency client to use friends or family as interpreters. At no time will anyone 18 years of age or younger be utilized to provide interpreter services, except in an emergency.

Use **THIS FORM** when language assistance services are used with a client. If the client does not need language assistance because they have brought their own interpreter or feel they do not need one, please have them fill out **Form B - Waiver of Right to Free Interpreter Services**.

<b>Department:</b>	<b>Name of Staff Person Requesting Service:</b>
<b>Name of Client(s):</b>	<b>Date:</b>
<b>Reason for Visit:</b>	<b>In which town/village/city does the client live?</b> <input type="checkbox"/> City of Ithaca <input type="checkbox"/> T/Ithaca <input type="checkbox"/> V/Cayuga Hgts <input type="checkbox"/> T/Caroline <input type="checkbox"/> T/Danby <input type="checkbox"/> T/Dryden <input type="checkbox"/> V/Dryden <input type="checkbox"/> V/Freeville <input type="checkbox"/> T/Enfield <input type="checkbox"/> T/Groton <input type="checkbox"/> V/Groton <input type="checkbox"/> T/Lansing <input type="checkbox"/> V/Lansing <input type="checkbox"/> T/Newfield <input type="checkbox"/> T/Ulysses <input type="checkbox"/> V/Trumansburg <input type="checkbox"/> Other _____

Language assistance needed (check):

- Spanish     Arabic     French     Chinese     Korean     Japanese  
 American Sign     Russian     Hindi     Burmese     Vietnamese     Other \_\_\_\_\_

Who provided language assistance services? (check one):

- LanguageLine     Empire Interpreting Service     Bilingual Staff Member  
 Other \_\_\_\_\_

Was the service provided over the phone, or in person? (check one):  Phone  In person (Justify below)  
 Please explain why phone services could not be used: \_\_\_\_\_

<b>Name of Interpreter used:</b> <b>ID Number:</b>
<b>Duration of Interpreted Session:</b>

**This form must be filled out and provided to the County Compliance Program Coordinator within 30 days of using language assistance services.**  
**Mail to: Tompkins County Administration**  
**Attn: Compliance Program Coordinator 125 E. Court St. 3<sup>rd</sup> Floor Ithaca, NY 14850**



**Appendix E4**

**LEP Tracking Form B: Waiver of Right to Free Interpreter/Translator Services**

All Limited English Proficiency clients must be informed of their right to free language assistance including interpreter services and translated documents. This form can be kept in the client’s records for future reference. County staff should never encourage, suggest, or require a Limited English Proficiency client to use friends or family as interpreters. At no time will anyone 18 years of age or younger be utilized to provide interpreter services, except in an emergency.

Use **THIS FORM** if the client does not need language assistance because they have brought their own interpreter or feel they do not need one. If they would like to use the provided language assistance services, use **Form A – Use of Free Interpreter/Translator Services**.

I, \_\_\_\_\_ (Client’s Name) have been informed of my right to receive free interpretive services from \_\_\_\_\_ (Department Name). I understand that I am entitled to these services at no cost to myself or other family members.

I am choosing to provide my own interpreter at this time. \_\_\_\_\_ (Name of Person Acting as Interpreter) will act as my interpreter from \_\_\_/\_\_\_/\_\_\_ (Start Date) to \_\_\_/\_\_\_/\_\_\_ (End Date). I understand I can withdraw this waiver at any time and request the services of an interpreter, which will be paid for by Tompkins County. To the best of my knowledge, the person I am using to act as my own interpreter is not 18 years of age or younger.

I also understand that this waiver pertains to interpreter services only and does not entitle my interpreter to act as my Authorized Representative.

This form was translated to me orally by the interpreter indicated below:

Signature	Date
Name of Interpreter (print)	
Signature of Interpreter	Date
Signature of Staff Person	Date

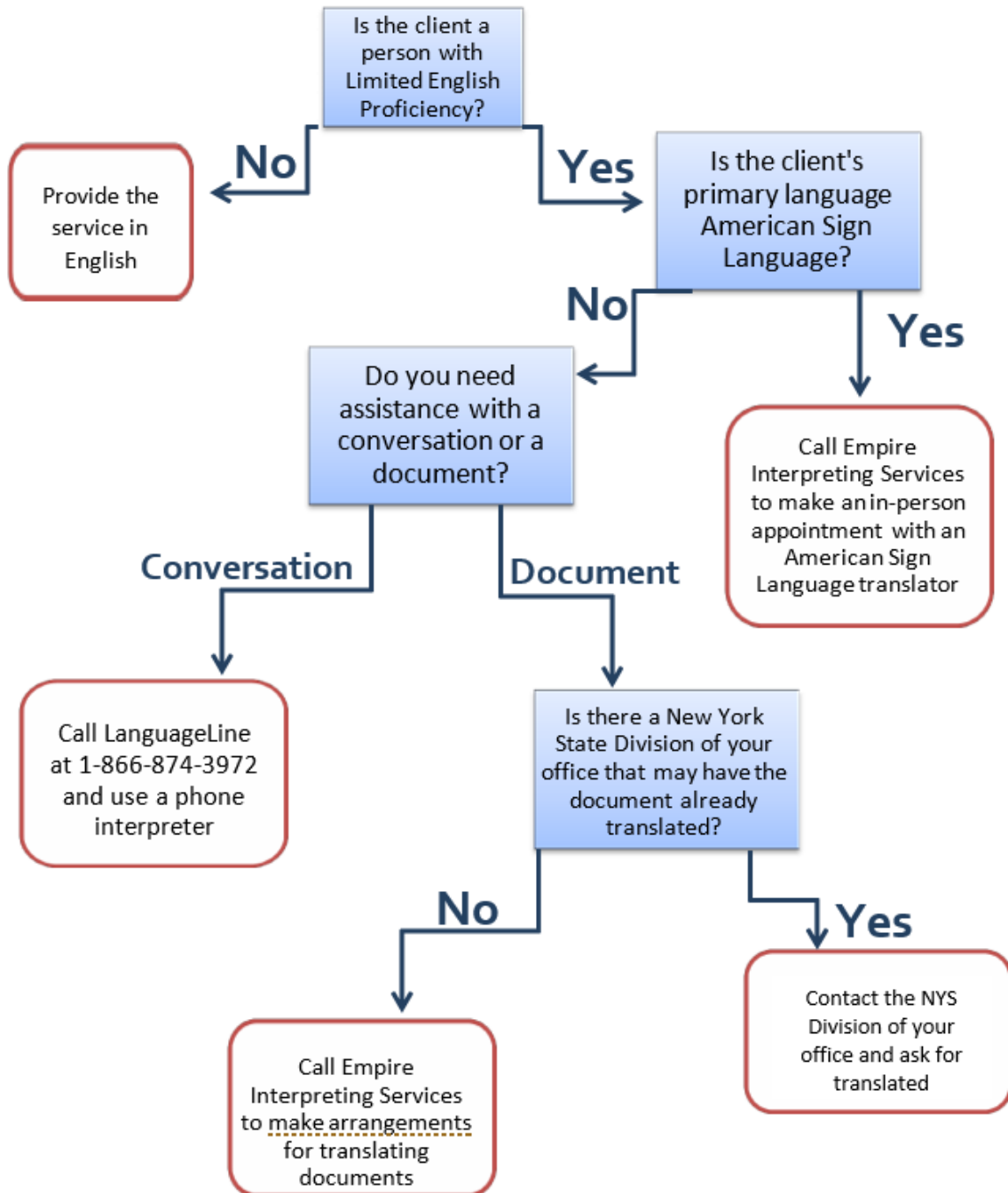
**This form must be filled out and provided to the County Compliance Program Coordinator within 30 days of using language assistance services.**

**Mail to: Tompkins County Administration**

**Attn: Compliance Program Coordinator 125 E. Court St. 3<sup>rd</sup> Floor Ithaca, NY 14850**



**Appendix E6**  
**LEP Tracking Form D: How to Select Language Assistance Services**



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## Glossary of Terms

**Abuse.** Actions that do not involve intentional misrepresentations of fact, but nevertheless are inconsistent with sound financial, business, or healthcare practices and create significant risk to the integrity of the organization such as 1) unnecessary cost to the programs, 2) reimbursement for services that are not medically necessary, or 3) reimbursement for services that fail to meet professionally recognized standards of care.

**Affected Individual.** The person(s) whose information, in the case of an information breach, may have been compromised.

**Affected Department Head.** The County Department Head within whose department a breach incident has occurred.

**Agents.** Any person or business that acts as a representative of or has the authority to act for or on behalf of Tompkins County.

**Anti-kickback Statute.** The Federal statute, as it relates to healthcare, which prohibits anyone from knowingly and willfully soliciting, receiving, offering, or paying any remuneration directly or indirectly, in cash or in kind, in exchange for services or purchases for which payment may be made by Medicare and/or Medicaid.

**Breach of Private Information (PI).** Unauthorized acquisition of computerized data which compromises the security, confidentiality or integrity of personal information maintained by a state entity. Good-faith acquisition of personal information by an employee or agent of a state entity for the purposes of the agency is not a breach, provided that the private information is not used or subject to unauthorized disclosure. In determining whether information has been acquired, or is reasonably believed to have been acquired by an unauthorized person, such state entity may consider the following factors, among others:

1. Indications that the information is in the physical possession and control of an unauthorized person, such as a lost or stolen computer or other device containing information; or
2. Indications that the information has been downloaded or copied; or
3. Indications that the information was used by an unauthorized person, such as fraudulent accounts opened or instances of identity theft reported.

**Breach of Protected Health Information (PHI).** Any PHI access, use or disclosure impermissible under the Privacy Rule is presumed to be a breach unless a risk assessment of at least the following factors show a low probability that the information was compromised:

1. The nature and extent of the protected health information involved, including the types of identifiers and the likelihood of re-identification;
2. The unauthorized person who used the protected health information or to whom the disclosure was made;

- 
3. Whether the protected health information was actually acquired or viewed; and
  4. The extent to which the risk to the protected health information has been mitigated.

**Breach Incident Team.** County Administrator, County Attorney, County Compliance Officer, Information Security Compliance Officer, Affected Department Head and IT staff as needed. Oversee breach response for high-risk breaches as requested by the Information Security Compliance Officer.

**Business Associate.** A person or organization that has access to the Protected Health Information of Tompkins County clients through the provision of a service to Tompkins County.

**Business Associate Agreement.** The written agreement required between a covered entity under HIPAA and its Business Associate detailing how the Business Associate will comply with HIPAA.

**Client.** Any individual served by Tompkins County and/or serving for Tompkins County.

**Compliance Committee.** A group of people designated and chaired by the Compliance Officer to oversee and help administer this Compliance Program.

**Complaint, Privacy.** A report from an individual that their privacy rights have been violated, in the context of an information breach.

**Complaint, Title VI.** A report from an individual that they have been subjected to disparate impact or treatment on the basis of race, color, national origin, or disability by a County department.

**Compliance Officer.** A person within the County organization who is assigned the responsibility of maintaining and overseeing an effective County Compliance Program.

**Compliance Program.** This Program establishes the standards of conduct for Tompkins County designed to promote honest and ethical behavior, and also provides a structure for educating and communicating those standards to employees, with the overall objective to prevent, detect, and report significant noncompliance.

**Discovery.** Under HIPAA, a breach is considered discovered on the first day on which such breach is known or, by exercising reasonable diligence would have been known.

**Discrimination.** In the context of civil rights law, discrimination refers to the unjust or prejudicial treatment of a person or group because of appearance, race, ethnicity, national origin, religion, age, gender, marital status, veteran status, sexual orientation, or disability.

**Exclusion Screening.** An inspection process conducted pre- and post-hire of employees, independent contractors, business vendors, key providers, and governing-board members to verify that they have not been involved in adverse governmental actions related to fraud, patient abuse, licensing-board sanctions, license revocation/suspension/surrender, or have defaulted on Health Education Assistance Loans and are therefore on a Federal (or State) Excluded Parties List. The screening process demonstrates intent to comply with Federal and State mandates.

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**Federal False Claims Act.** A Federal law that imposes liability on any person who submits a claim to the federal government that he or she knows (or should know) is false. The False Claims Act also imposes liability on an individual who may knowingly submit a false record in order to obtain payment from the government. The third area of liability includes those instances in which someone may obtain money from the federal government to which he or she may not be entitled, and then uses false statements or records in order to retain the money. The Act provides that private parties may bring an action on behalf of the United States. These private parties are known as "qui tam relators."

**Federal Program.** Medicare, Medicaid, and any other programs funded by the Federal government.

**Fraud.** Intentional misrepresentation designed to induce reliance by another person to obtain an unauthorized benefit.

**Governmental Agencies.** Agencies involved in healthcare investigations include, but are not limited to, the U.S. Department of Health and Human Services' Office of Inspector General, U.S. Department of Justice, Federal Bureau of Investigation, Centers for Medicaid and Medicare Services, New York State Department of Health, Office of the Medicaid Inspector General, New York State Medicaid Fraud Control Units, and New York State Office for People with Developmental Disabilities.

**HIPAA.** A Federal law titled "Health Insurance Portability and Accountability Act". Regulations issued under HIPAA protect the privacy of health information and identifying information for all Americans. HIPAA went into effect on April 14, 2003.

**Incident, Breach.** Any potential violation of confidentiality law; any privacy complain or any potential breach. In the context of an information breach.

**Independent Practitioner.** Any vendor, physician, dentist, therapist, psychologist, social worker, nursing staff member, dietician, volunteer, agent or other person who is empowered by contract or otherwise to provide health-related services for or on behalf of Tompkins County.

**Knowingly.** To act "knowingly" is to act with actual knowledge, deliberate ignorance, or a reckless disregard for the truth or the falsity of information.

**Limited English Proficiency (LEP) Individuals.** Persons who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English.

**Minority- and Women-Owned Business Enterprise (MWBE).** A business enterprise, including a sole proprietorship, partnership, or corporation, that has been certified as minority-owned or women-owned by the Empire State Development's Division of Minority and Women-Owned Business Development.

**Misconduct.** Any action, behavior, or failure to act that is not in conformity with Tompkins County's standards, guidelines, or procedures or that is a violation of any Federal, State or Local law or regulation.

**Negligent.** Exhibiting lack of due care or concern.

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**New York State False Claims Act.** Closely tracks the Federal False Claims Act (FCA). It imposes penalties and fines on individuals and entities that file false or fraudulent claims for payment from any state or local government, including healthcare programs such as Medicaid.

**Non-compliance.** Failure or refusal to act in accordance with this Compliance Program, or other standards or procedures, or with federal, state or local laws or regulations.

**Omnibus.** A 2013 ruling that strengthened HIPAA Privacy and Security protections.

**Private Information (PI).** Private information in combination with any one or more of the following data elements, when either the personal information or the data element is not encrypted or encrypted with an encryption key that has also been acquired:

1. Social security number;
2. Driver's license number or non-driver identification card number;
3. Account number, credit or debit card number, in combination with any required security code, access code, or password which would permit access to an individual's financial account.

**Protected Health Information (PHI).** Any information that relates to the health of an individual, the provision of care to an individual, or the payment for the provision of health care to an individual that identifies the individual and is transmitted or maintained.

**Private Payor Programs.** Any payor of healthcare services other than Medicare or Medicaid, including but not limited to private individuals and insurance plans.

**Public Participation.** The process of informing, obtaining input, and collaborating on decisions or projects that affect the public, particularly minority, low-income, and LEP populations.

**Qui Tam Relator.** Individuals who bring an action on behalf of the United States under the Federal False Claims Act (FCA) or on behalf of New York State under the New York State False Claims Act. Qui Tam Relators may share in a percentage of the proceeds from an FCA action or settlement. Also known as "whistleblowers."

**Removable Media.** Any type of device that can store data and can be removed from a computer while the system is running. Examples include CD, DVD, portable hard drive, flash/ USB drive, smartphone, memory card, digital camera, printer.

**Regulatory Violation.** Any action that constitutes fraud, abuse, or a violation of a Federal, State or Local law or regulation.

**State Program.** Medicaid or any other program funded in whole or part by New York State.

**Subrecipient.** A non-Federal entity that receives funding/assistance from a pass-through entity to carry out a project. A subrecipient relationship exists when funding/assistance from a pass-through entity is provided to perform a portion of the scope of work or objectives of the pass-through entity's award agreement with the awarding agency.

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**Title VI of the Civil Rights Act of 1964.** Federal statute that states: "No person in the United States shall, on the ground 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."

**Waste.** Unnecessary expenditures or to use carelessly.

**Whistleblower.** See Qui Tam Relator.

**Whistleblower Protection.** Protection provided under the federal law and the State False Claims Act to whistleblowers or qui tam relators who are discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of their employment as a result of their furtherance of an action under the Federal law or the State False Claims Act.

**Workforce Member.** Legislators, employees, independent contractors, trainees, volunteers and other persons whose conduct in the performance of work is under control of the County.

**Violation.** Activity or inactivity that breaks any health information confidentiality law, in the context of an information breach.