



**STATE OF NEW HAMPSHIRE**  
**OFFICE OF THE GOVERNOR**

CHRISTOPHER T. SUNUNU  
Governor

May 18, 2020

Victoria Sheehan  
Commissioner  
7 Hazen Dr.  
Concord, N.H. 03302

Dear Commissioner Sheehan,

Pursuant to my authority under Executive Order 2020-04, as extended by Executive Orders 2020-05 and 2020-08, and Emergency Order #37 I have approved your written request, in attachment, to take the following actions related to Executive Branch hiring:

1. Hiring of Program Specialist IV (Position# 20007) with the current cost allocations being 50% Highway Funds and 50% Federal Funds.

The Department of Administrative Services is authorized to take the actions necessary to effectuate this authorization.

Sincerely,

A handwritten signature in blue ink that reads "Christopher T. Sununu".

Christopher T. Sununu  
Governor

CC Charles Arlinghaus, Commissioner, Department of Administrative Services



**POSITION WAIVER**

Date May 11, 2020

His Excellency, Governor Christopher T. Sununu  
 State House  
 Concord, NH 03301

Dear Governor Christopher T. Sununu:

**REQUESTED ACTION**

Approval is requested for a waiver of Emergency Order # 37 in order to fill the following position within the:

<b>Agency:</b>	Transportation Dept		(2)	
<b>Reason Code:</b>	Full Time Position		(3)	
<b>Position #:</b>	20007		(4)	
<b>Position Title:</b>	Program Specialist IV		(5)	
<b>Anticipated Hire Date (MM/DD/YY):</b>	June 5, 2020		(6)	
<b>Labor Grade:</b>	25		(7)	
<b>Step:</b>	1		(8)	
<b>Date of Vacancy (MM/DD/YY):</b>	August 16, 2018		(9)	
<b>Vacancy Rate (%):</b>	33%		(10)	
<b>Appropriation:</b>	Agency	096	Transportation Dept	(11)
	Department	096	Transportation Dept	
	Bureau	9603	Div Of Policy & Admin	
	Accounting Unit (XXXX)	2056	Office Of Federal Compliance	
	Class	010	Personal Services Perm Clas	
	Expense Account (500XXX):	500100	Regular Officers And Employees	
<b>Total Annual Salary:</b>	\$		50,954	(12)
<b>Total Annual Benefits:</b>	\$		29,113	(13)
<b>Total Cost</b>	\$		80,067	
<b>Estimated # of Pay Periods in FY:</b>			26	(14)

<b>Funding</b>	<b>% of Funding (ex: 5 = 5%)</b>	<b>Total Cost Based on Estimated Pay Periods Left in FY</b>	
0015 Highway Fund	50%	40,034	(15)
000 FEDERAL FUNDS	50%	40,034	
		-	
		-	
		-	
		-	
<b>Total</b>	<b>100%</b>	<b>80,067</b>	

**EXPLANATION**

(16) This is a request to post a full time position. The position is in the Office of Federal Compliance and the purpose of the Office is to ensure non-discrimination in all NHDOT program activities and those of our sub recipients of federal funding. Title VI is the overarching program of the ten required programs in this office and has broad authority over all program areas. This position is mandated by the Federal Highway Administration (FHWA) to be fully dedicated to this function with no ancillary duties. Previous to this vacancy, the position duties were intermingled with the supervisory function of the whole office and the FHWA required through an audit finding to make this a stand alone position. A reclassification process was required to do so, and the reclassification is complete. Having an adequately staffed Office of Federal Compliance is a requirement for eligibility for NHDOT to receive federal funding.

Standard Questions: (17)

1. What services or constituency group will be affected if this position is not filled?

NHDOT is a primary recipient of approximately \$168 million dollars of federal funding and serves as a conduit of federal financial assistance and pass through funds to sub recipients. The Federal Highway Administration (FHWA) mandates that state agencies receiving federal funds designate a full time Title VI Coordinator to enforce Title VI non discrimination to subrecipients, sub-grantees, and internal agency compliance. NHDOT, its subrecipients, sub-grantees would all be affected if this position is not filled and funds were withheld as a consequence. Should that occur, NH Citizens and Visitors to our State would be affected by the impacts of loss of federal funding to support transportation systems and conditions in NH.

**2. Are the services/duties performed by this position required by law, rule, court order or some other mandate? If yes, explain.**

Yes. 23 CFR 200.9(b)(1) & (2) requires each state to establish a Civil Rights Unit that is an independent entity and is adequately staffed to effectively implement the State's Civil Rights requirements. It further states that a state agency must designate a Title VI Coordinator to be responsible for the overall implementation of the Civil Rights Program. Further, a recent Federal Highway Administration audit cited NHDOT for failure to adequately staff the Civil Rights Unit (Office of Federal Compliance) by NOT having a full time position dedicated to Title VI.

**3. Did the position become vacant because of a promotion or personnel action within the organization, or did the incumbent move to another state position? Define**

The most recent incumbent of this position vacated when she accepted a promotion in another state agency.

**4. Can other personnel within the department cover the duties of this position? Explain in detail**

Historically, the duties of the Title VI Coordinator were performed by the Chief of Federal Compliance, who also managed multiple other programs in the unit as well as overall supervision of employees in the Office. The FHWA audit identified the "inadequate" staffing in the Office, requiring a full time Title VI Coordinator with no ancillary duties. By having the position duties mixed with other functions, the program is not as strong as FHWA requires. So while the "duties" of the position can be covered, it is not compliant with federal regulations to do so. Also, by having multiple program responsibilities required of one position, there are program weaknesses that could result in impacts on receipt of federal funding.

**5. Can the duties be completed by a part-time position? Explain in detail**

The federal regulations require that this position be a full time dedicated position with no other ancillary duties. In order to adequately implement program requirements, a full time employee is needed.

**6. If this position has been vacant for a period of time, explain how the work previously done by this position has been allocated to, or covered by others during this vacancy period.**

As noted above, a Program Assistant position was reclassified to be the full time Title VI Coordinator. During the time from the FHWA audit, through the reclassification process, to now, the Chief of Federal Compliance has been performing the duties of this position. It should be noted that the Chief of Federal Compliance, who performs the Title VI duties and serves as appointing authority for the Office is planning to retire effective August 1, 2020.

**7. Has this position been reclassified or established with the passage of the FY '20-21 budget or after?**

Yes. This position vacated in August of 2018 when the incumbent accepted a promotion to another state agency. Other positions in the Office also vacated around this same time, two for promotional opportunities to other state agencies and one for retirement purposes. This created the opportunity to reorganize the entire Office to better meet regulatory requirements and to create efficiencies. The reorganization and reclassification of this position was completed in January.

**8. Do you anticipate filling this position with an internal candidate? Explain**

There is a strong likelihood that this position will be filled by an internal candidate. The position was previously posted internally and two certified candidates were presented to the Appointing Authority. One of the certified candidates was an employee assigned to this Office and would receive a promotion if selected. The position was pending interviews at the time the hiring freeze took effect on March 13, 2020.

**9. If you are hiring at a step beyond 1, please provide justification.**

It is anticipated that an internal candidate will be selected for this position. If that is the case, the normal step promotional rule would apply and likely result in a step above step 1.

List of currently pending submitted waivers with the priority ranking (#1 = top ranking): (18)

See attached.

List of waivers previously granted: (19)

None

(20) & (21)

Respectfully submitted,

  
Commissioner

(22)

# NHDOT Office of Federal Compliance Organizational Chart 5/6/2020



