

FARGO-MOORHEAD  
METROPOLITAN COUNCIL OF GOVERNMENTS

TITLE VI  
NON-DISCRIMINATION  
PLAN

PREPARED BY:  
FARGO-MOORHEAD METROPOLITAN  
COUNCIL OF GOVERNMENTS  
ADOPTON: September 21, 2023  
1 – 2nd Street N, Suite 232,  
 Fargo, ND 58102  
visit our webpage at: [www.fmmetrocog.org](http://www.fmmetrocog.org)

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**Resolution No. 2023-R012**  
**Approving the Title VI Non-Discrimination Plan**

**WHEREAS** Title VI of the Civil Rights Act of 1964 and U.S. Department of Transportation (USDOT) regulations to implement the law (49 CFR, Part 21) require all recipients and sub-recipients of Federal transportation funds such as the Fargo-Moorhead Metropolitan Council of Governments (Metro COG) to establish and maintain a Title VI Program that carries out the regulations and integrates the activities and considerations outlined in the USDOT's Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient (LEP) Persons (70 FR 74087, December 14, 2005) ; and

**WHEREAS** the Federal Transit Administration (FTA) issued Circular FTA 4702.1B, Title VI Requirements and Guidelines for FTA Recipients, on October 12, 2012 providing further guidance and instructions necessary to carry the USDOT Title VI regulations and policy guidance related to LEP persons; and

**WHEREAS** a Title VI Non-Discrimination Plan has been developed for Metro COG as its administrative and fiscal agent, which aims to meet these requirements; and

**WHEREAS** the Title VI Program includes an updated Limited English Proficiency (LEP) Plan contained in Appendix F; and

**WHEREAS** Metro COG intends that no person shall, on the grounds of race, color, and/or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any Metro COG program or activity, regardless of funding source; and

**WHEREAS** Metro COG as its agent intends that, any agencies or firms with whom the MPO contracts will comply with the Title VI Program as appropriate and Metro COG will take reasonable steps to ensure such compliance:

**NOW, THEREFORE, BE IT RESOLVED** that the Fargo-Moorhead Metropolitan Council of Governments as the designated Metropolitan Planning Organization (MPO) for the Fargo-Moorhead Metropolitan Area, approves the Title VI Non-Discrimination Plan dated September 21, 2023, which reflects the draft document dated September 21 without change; and

**BE IT FURTHER RESOLVED**, in accordance with 23 CFR 450.334(a) the Fargo-Moorhead Metropolitan Council of Governments hereby certifies that the metropolitan transportation planning process is addressing major issues facing the metropolitan planning area and is being conducted in accordance with all applicable requirements of:

1. 23 U.S.C. 134 and 49 U.S.C. 5303, and this subpart;
2. Title VI of the Civil Rights Act of 1964, as amended (42 USC 2000d-1) and 49 CFR part 21;
3. 49 USC 5332, prohibiting discrimination on the basis of race, color, creed, national origin, sex, or age in employment or business opportunity;
4. Sections 1101(b) of the Fixing America's Surface Transportation (FAST) Act (Pub. L. 114-357) and 49 CFR Part 26 regarding the involvement of disadvantaged business enterprises in the US DOT funded projects;

5. 23 CFR part 230, regarding the implementation of an equal employment opportunity program on Federal and Federal-aid highway construction contracts;
6. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and 49 CFR Parts 27, 37, and 38;
7. The Older Americans Act, as amended (42 U.S.C 6101), prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance;
8. Section 324 of title 23, U.S.C regarding the prohibition of discrimination based on gender; and
9. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and 49 CFR 27 regarding discrimination against individuals with disabilities.



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Chuck Hendrickson  
Chair, Metro COG Policy Board

09/21/2023

Date

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Fargo-Moorhead Metropolitan Council of Governments (Metro COG)

TITLE VI/NONDISCRIMINATION AND ADA POLICY STATEMENT

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, and national origin. Specifically, 42 USC 2000d states that "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." In addition to Title VI, there are other Nondiscrimination statutes which include: Section 162(a) of the Federal-Aid Highway Act of 1973 (23 USC 324) (sex), Age Discrimination Act of 1975 (age), and Section 504 of the Rehabilitation Act of 1973/ADA of 1990 (disability). Taken together, these requirements define an over-arching Title VI/Nondiscrimination and ADA Program. Title VI and the additional Nondiscrimination requirements are applicable to programs receiving federal financial assistance due to the Civil Rights Restoration Act of 1987.

There are two Presidential Executive Orders that place further emphasis upon the Title VI protections of race and national origin. Executive Order 12898 ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations. Executive Order 13166 directs recipients of Federal financial assistance that to ensure compliance with Title VI, they must take reasonable steps to ensure that limited English proficiency persons have meaningful access to their programs.

I, as Chair of the Metro COG Policy Board, am personally committed to and support taking all steps to ensure that no person or groups of persons shall, on the grounds of race, color, national origin, sex, age, disability, limited English proficiency, or income status, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs, services, or activities administered by Metro COG, its recipients, sub recipients, and contractors.

The Executive Director, Ben Griffith is appointed as the Title VI Coordinator and ADA Coordinator and is granted the authority to develop, administer, and monitor the Title VI/Nondiscrimination and ADA Program as promulgated.

Anyone who believes that he or she has been discriminated against should contact Ben Griffith, Title VI Coordinator and ADA Coordinator, 1 – 2<sup>nd</sup> St N, Suite 232, Fargo, ND 58102), at (701-532-5100). TTY users may call Relay North Dakota at 711 or 1-800-366-6888 (toll free).



\_\_\_\_\_  
Chuck Hendrickson  
Chair, Metro COG Policy Board

09/21/2023

\_\_\_\_\_  
Date

**The United States Department of Transportation (USDOT)**  
**Standard Title VI/Non-Discrimination Assurances**  
**DOT Order No. 1050.2A**

The **Fargo-Moorhead Metropolitan Council of Governments, Fargo, Cass County** (hereinreferred to as the "Recipient"), **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through the Federal Highway Administration is subject to and will comply with the following:

**Statutory/Regulatory Authorities**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled *Non-discrimination in Federally-Assisted Programs Of The Department Of Transportation-Effectuation Of Title VI Of The Civil Rights Act Of 1964*);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory cites hereinafter are referred to as the "Acts" and "Regulations," respectively.

**General Assurances**

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

*"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity," for which the Recipient receives Federal financial assistance from DOT, including the Federal Highway Administration.*

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these nondiscrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

## **Specific Assurances**

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted Federal-Aid Highway Program.

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23 (b) and 21.23 (e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated, or will be (with regard to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.

2. The Recipient will insert the following notification in all solicitations for bids, Requests for Proposals for work, or material subject to the Acts and the Regulations made in connection with all Federal-Aid Highway Program and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

" The **Fargo-Moorhead Metropolitan Council of Governments, Fargo, Cass County**, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.

4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.

5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.

6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.

7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:

a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and

b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.

8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:

a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or

b. the period during which the Recipient retains ownership or possession of the property.

9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.

10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the **Fargo-Moorhead Metropolitan Council of Governments, Fargo, Cass County** also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the Federal Highway Administration's access to records, accounts, documents, information, facilities, and staff. It is also recognized that compliance with any program or compliance reviews, and/or complaint investigations conducted by the Federal Highway Administration is required. Records and reports must be kept, and the material submitted for review upon request to the Federal Highway Administration, or its designee in a timely, complete, and accurate way. Additionally, compliance with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance, will be satisfied.

The **Fargo-Moorhead Metropolitan Council of Governments, Fargo, Cass County** gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the Federal-Aid Highway Program. This ASSURANCE is binding on **Fargo-Moorhead Metropolitan Council of Governments, Fargo, Cass County**, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the Federal-Aid Highway Program. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

Chuck Hendrickson Chair  
Name (Type/Print)

Fargo-Moorhead Metropolitan Council of Governments, Fargo, Cass County  
Recipient

  
Signature

09/21/2023  
Date

## **Organization, Staffing, and Responsibilities**

### **FARGO-MOORHEAD METROPOLITAN COUNCIL OF GOVERNMENTS**

The Fargo-Moorhead Metropolitan Council of Governments (Metro COG) employs eight (8) full-time staff members, and one part-time staff member. Staff was comprised of the following: one Executive Director, one Senior Transportation Planner, one Transportation Planner, one Community & Technical Analyst, one Associate Transportation Planner, one Assistant Transportation Planner, one GIS Specialist, one Transportation Planning Intern, and one Office Manager, who also serves as the Title VI Coordinator and ADA Coordinator, and assumes both roles by appointment.

### **POLICY BOARD**

The Metro COG Policy Board consists of sixteen (16) voting members, two (2) Ex-Officio members (non-voting), and non-voting members from Associate Member Jurisdictions. Each member is appointed as prescribed within the Metro COG Policy Board By-Laws. The membership is comprised of representatives (or their designees) from Metro COG jurisdictions as follows: Seven (7) total representatives from the City of Fargo, of which four (4) must be elected officials; Three (3) total representatives from the City of Moorhead, two (2) of which must be elected officials; One (1) representative (elected official) from the City of Dilworth; One (1) representative (elected official) from the City of Horace; Two (2) representatives from the City of West Fargo, one (1) of which must be an elected official; One (1) representative (elected official) from Clay County; and One (1) representative (elected official) from Cass County. Ex-Officio Members are the North Dakota Department of Transportation Director or her/his designee, and the Minnesota Department of Transportation District 4 Engineer or her/his designee. Non-Voting Associate Members include one representative for each Metro COG Associate Member.

### **TRANSPORTATION TECHNICAL COMMITTEE**

The Metro COG Transportation Technical Committee (TTC) consists of twenty-two (22) voting members, two (2) Ex-Officio members (non-voting), and non-voting members from Associate Member Jurisdictions. Each member is appointed as prescribed within the Metro COG TTC By-Laws. The membership is comprised of representatives (or their designees) from Metro COG jurisdictions and stakeholders as follows: Metro COG (Chair), Dilworth Community & Development Director, Fargo Traffic Engineer, Fargo Planning Director, Fargo Transit Manager, Horace Community Development Director, Moorhead Traffic Engineer, Moorhead City Planner, Moorhead Transit Manager, West Fargo Traffic Engineer, West Fargo Planning Director, Cass County Engineer, Cass County Planning Director, Clay County Engineer, Clay County Planning Director, North Dakota Department of Transportation MPO Coordinator, Minnesota Department of Transportation MPO Coordinator, Freight Representative, Bicycle/Pedestrian Committee Representative, North Dakota College/University Representative, Minnesota College/University Representative, and Economic Development Representative (regional). Ex-Officio members are Federal Highway Administration Representative and Federal Transit Administration Representative. Non-Voting Associate Members include one representative for each Metro COG Associate Member.

### **METROPOLITAN BICYCLE AND PEDESTRIAN COMMITTEE**

The Metropolitan Bicycle and Pedestrian Committee is tasked with the oversight of the development and maintenance of the Metropolitan Bicycle and Pedestrian Plan. The Committee is made up of twenty-two (22) representatives. The Committee is a subcommittee of Metro COG's Transportation Technical Committee. Each member is appointed as prescribed within the Metro COG TTC By-Laws.

Agencies or entities participating as voting members of the Committee as follows: One (1) Metro COG (MPO) representative; three (3) City of West Fargo representatives, two voting, one proxy – Planning Department, Engineering Department, and Parks Department; three (3) City of Fargo representatives – Planning Department, Engineering Department, and Parks Department; three (3) City of Moorhead representatives, two voting, one proxy – Planning Department, Engineering Department, and Parks Department; one (1) City of Dilworth representative; one (1) City of Horace representative; one (1) Cass County representative; one (1) Clay County representative; one (1) MATBUS transit representative; two (2) State Departments of Transportation – one MnDOT District 4, and one NDDOT Fargo District; three (3) Safety/Health representatives – City of Fargo Police, Cass County Public Health, and Clay County Public Health; one (1) representative from River Keepers; one (1) representative from a local College/University; one (1) representative from Great Rides (or similar Ride Share organization); and one (1) Citizen representative (two-year term).

## **Staff and Committee Composition**

Metro COG understands that diverse representation on the Policy Board and its committees helps result in sound policy reflective of the needs of the entire population. The Policy Board is comprised of elected officials from the communities within the Metropolitan Planning Area. These officials are chosen by the corresponding jurisdiction (see the Governance and Organizational Structure section for more information), and, per agreement, the Chair and Vice Chair rotate on an annual basis.

In addition to the Policy Board, Metro COG has one permanent advisory committee, the Transportation Technical Committee. Similar to the Policy Board, members from this committee are chosen by local jurisdictions, with the intent that they represent a broad range of technical knowledge and experience (see the Governance and Organizational Structure section for more information). The committee includes both staff from local jurisdictions, as well as representatives from MnDOT, NDDOT, and persons with expertise on particular relevant subject matter (e.g. freight, economic development, and bicycle and pedestrian issues). Metro COG makes every effort to encourage a diverse collection of individuals on the Transportation Technical Committee, but the members are ultimately chosen by each participating jurisdiction.

FTA Title VI Circular 4702.1B requires that for any recipients, which have transportation-related, non-elected planning boards, advisory council or committees, or similar bodies, membership of these committees must be broken down by race and accompanied by a description of efforts made to encourage the participation of minorities on these committees.

Metro COG has established two advisory committees – an intergovernmental Transportation Technical Committee (TTC) and an Executive Committee. Additionally, four supportive technical committees have been established – Metropolitan Bicycle and Pedestrian Committee, GIS Committee, Traffic Operations Working Group, and the Freight Advisory Committee.

Table 1 provides the racial and sexual composition of the Metropolitan Statistical Area (MSA), Metro COG's staff and committees.

Table 1: Demographic Composition of Metro COG Committees

| Committee<br>[Number of Members]                               | Race                              |                    |                             |  |                        |                                     |                   | Sex         |         |         | Gender               |         |         |                      |
|--|-----------------------------------|--------------------|-----------------------------|--|------------------------|-------------------------------------|-------------------|-------------|---------|---------|----------------------|---------|---------|----------------------|
|  | White<br>(not Hispanic or Latino) | Hispanic or Latino | Black /<br>African American | Native Hawaiian or<br>Other Pacific Islander | Asian / Asian American | American Indian or<br>Alaska Native | Two or More Races | No Response | Male    | Female  | Preferred Not To Say | Male    | Female  | Preferred Not to Say |
| <b>Metropolitan Statistical Area</b><br><i>(MSA)</i> [249,843] | 206,758                           | 9,193              | 16,153                      | 121  | 6,849                  | 3,761                               | 13,338            | 0           | 126,756 | 125,380 | 0                    | 116,897 | 115,763 | 0                    |
| <b>Policy Board</b> [24]                                       | 5                                 | -                  | -                           | -  | -                      | -                                   | -                 | 19          | 2       | 3       | -                    | 2       | 3       | -                    |
| <b>Transportation Technical Committee</b> [22]                 | 13                                | -                  | -                           | -  | 1                      | -                                   | 1                 | -           | 6       | 7       | -                    | 6       | 7       | -                    |
| <b>Metropolitan Bicycle and Pedestrian Committee</b> [22]      | 8                                 | -                  | -                           | -  | -                      | -                                   | -                 | 14          | 4       | 4       | -                    | 4       | 4       | -                    |
| <b>GIS Committee</b> [9]                                       | 6                                 | -                  | -                           | -  | -                      | 1                                   | -                 | 2           | 5       | 2       | -                    | 5       | 2       | -                    |
| <b>Traffic Operations Working Group</b><br>[#]                 | -                                 | -                  | -                           | -  | -                      | -                                   | -                 | *           | -       | -       | *                    | -       | -       | *                    |
| <b>Southwest Metro Working Group</b><br>[#]                    | 2                                 | -                  | -                           | -  | -                      | -                                   | -                 | **          | 2       | -       | **                   | 2       | -       | **                   |
| <b>Metro COG Staff</b> [9]                                     | 4                                 | -                  | -                           | -  | 1                      | -                                   | -                 | 4           | 3       | 2       | -                    | 3       | 2       | -                    |

Demographic information on the Fargo-Moorhead MSA taken from the 2020 U.S. Census Bureau's American Community Survey. Committee members are surveyed annually and as committee member turnover occurs; this table is updated subsequently.

\*The Traffic Operations Working Group meets on an as-needed basis, so positions may be left vacant between meetings. For this reason, the Traffic Operations Working Group does not have a complete demographic composition represented in this table.

\*\*Formation of a Southwest Metro Working Group was identified as a follow-up action in the 2016 Southwest Metro Transportation Plan. At this time, neither membership nor bylaws denoting voting members, appointments, or terms have been determined. For these reasons, committee demographics are not represented in this table.

Surveys are completed annually and as new hires occur.

Overall, staff received 5 responses from of the 24 members of the Policy Board and 13 of the 22 members of the Transportation Technical Committee responded. The figures included in Table 1 represent the committees as of March 2023, and will fluctuate annually based upon rotation of appointees from individual jurisdictions and other factors.

Staff demographics are collected upon employment. See Appendix A for Metro COG's employment application and detachable Equal Employment Opportunity Survey.

## **Part 1: Title VI/Non-Discrimination Plan**

Metro COG is committed to preventing discrimination and to fostering a just and equitable society, and recognizes the key role that transportation facilities and services provide to the community. Metro COG assures that no person shall on the grounds of race, color, or national origin, as provided by Title VI of the Civil Rights Act of 1964, and the Civil Rights Restoration Act of 1987 (P.L. 100-259) be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity. Metro COG further assures that every effort will be made to ensure nondiscrimination in all of its federally funded program activities.

Metro COG adopted its first Title VI Non-Discrimination Program in 2012. MPOs are required to update their Title VI program every three years.

To view a copy of Metro COG's Title VI Assurances, please see Appendix B.

On the following page is Metro COG's official Title VI / Nondiscrimination and ADA Policy Statement.

Fargo-Moorhead Metropolitan Council of Governments (Metro COG)

TITLE VI/NONDISCRIMINATION AND ADA POLICY STATEMENT

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, and national origin. Specifically, 42 USC 2000d states that "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." In addition to Title VI, there are other Nondiscrimination statutes which include: Section 162(a) of the Federal-Aid Highway Act of 1973 (23 USC 324) (sex), Age Discrimination Act of 1975 (age), and Section 504 of the Rehabilitation Act of 1973/ADA of 1990 (disability). Taken together, these requirements define an over-arching Title VI/Nondiscrimination and ADA Program. Title VI and the additional Nondiscrimination requirements are applicable to programs receiving federal financial assistance due to the Civil Rights Restoration Act of 1987.

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I, as Chair of the Metro COG Policy Board, am personally committed to and support taking all steps to ensure that no person or groups of persons shall, on the grounds of race, color, national origin, sex, age, disability, limited English proficiency, or income status, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs, services, or activities administered by Metro COG, its recipients, sub recipients, and contractors.

The Executive Director, Ben Griffith is appointed as the Title VI Coordinator and ADA Coordinator and is granted the authority to develop, administer, and monitor the Title VI/Nondiscrimination and ADA Program as promulgated.

Anyone who believes that he or she has been discriminated against should contact Ben Griffith, Title VI Coordinator and ADA Coordinator, 1 – 2<sup>nd</sup> St N, Suite 232, Fargo, ND 58102, at (701-532-5100). TTY users may call Relay North Dakota at 711 or 1-800-366-6888 (toll free).



\_\_\_\_\_  
Chuck Hendrickson  
Chair, Metro COG Policy Board

09/21/2023

\_\_\_\_\_  
Date

# Fargo-Moorhead Metropolitan Council of Governments

## Title VI Notice to the Public

Information must be provided to the public regarding the recipient's obligations under U.S. DOT Title VI regulations and members of the public must be apprised of the protections against discrimination afforded to them by Title VI.

Metro COG's Title VI notice to the public is posted under the [Resources/ Title VI Plan](#) link on the agency's website. The notice is also posted at the front desk in the agency office and in the hallway near the elevator on the second floor of the Case Plaza building. To view a copy of Metro COG's Title VI notice to the public, please see Figure 2.

**Fargo-Moorhead Metropolitan Council of Governments**

Case Plaza Suite 232 | 1 - 2nd Street North  
 Fargo, North Dakota 58102-4907  
 p: 701.532.5100 | f: 701.232.5043  
 e: metrocoq@fmmetrocoq.org  
 www.fmmetrocoq.org

### Notifying the Public of Rights under Title VI

#### Fargo-Moorhead Metropolitan Council of Governments

The Fargo-Moorhead Metropolitan Council of Governments (Metro COG) operates its programs and services without regard to race, color, and national origin in accordance with Title VI of the Civil Rights Act. Any person who believes he/she/they has been aggrieved by any unlawful discriminatory practice under Title VI may file a complaint with Metro COG.

For more information on Metro COG's civil rights program, and the procedures to file a complaint contact the Title VI Coordinator via

- o Phone: 701.532.5100
- o Email: [metrocoq@fmmetrocoq.org](mailto:metrocoq@fmmetrocoq.org)
- o Website: [www.fmmetrocoq.org/resources/title-vi-plan](http://www.fmmetrocoq.org/resources/title-vi-plan)

A complainant may file a complaint directly with the Federal Transit Administration by filing a complaint with the

Office of Civil Rights  
 Attention: Title VI Program Coordinator  
 East Building, 5<sup>th</sup> Floor-TCR  
 1200 New Jersey Avenue SE  
 Washington, DC 20590

|  |            |
|--|------------|
| Complaint forms are provided below.                      | English    |
| Los formularios de queja se proporcionan a continuación. | Spanish    |
| Formên gîllî li jêr têne peyda kirin.                    | Kurdish    |
| U nastavku su navedeni formulari za žalbe.               | Bosnia     |
| Foomamka cabashada ayaa hoosta laga bixiyay.             | Somali     |
| उजुरी फारमहरू तल प्रदान गरिएको छ।                        | Nepali     |
| Формы жалоб представлены ниже.                           | Russian    |
| 投诉表格如下。  | Chinese    |
| Mẫu đơn khiếu nại được cung cấp dưới đây.                | Vietnamese |
| يتم توفير نماذج الشكاوى أدناه.                           | Arabic     |

- 701.532.5100
- Case Plaza  
1 - 2<sup>nd</sup> Street N, Suite 232  
Fargo, ND 58102

Figure 2: Fargo-Moorhead Metropolitan Council of Governments Title VI Notice to the Public

## **Title VI Complaint Procedure**

### Scope of Title VI Complaints

Discrimination complaints can be based on race, sex, color, age, national origin, disability, limited English proficiency, and income status. The scope of Title VI covers all internal and external Metro COG activities. Adverse impacts resulting in Title VI complaints can arise from many sources, including advertising, bidding, and contracts.

Discrimination complaints can originate from individuals or firms alleging inability to bid upon or obtain a contract with Metro COG for the furnishing of goods and/or services. Examples include:

- Advertising for bid proposals;
- Prequalification or qualification;
- Bid proposals and awards; or
- Selection of contractors, subcontractors, material and equipment suppliers, lessors, vendors, consultants, fee appraisers, universities, etc.

Discrimination complaints can originate as a result of project impacts on individuals or groups. Examples may include:

- Social and economic hardships
- Traffic
- Noise
- Air quality
- Access
- Accidents
- Failure to maintain facilities

### How to File a Formal Title VI Complaint

The Metro COG Title VI Policy assures that no person or groups of persons shall, on the grounds of race, color, sex, age, national origin, income status, sexual orientation, and disability or handicap, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs, services, or activities administered by Metro COG, its recipients, subrecipients, and contractors. In addition, Executive Order 12898 (Environmental Justice) prohibits discrimination based on income status.

Any person(s) or organization(s) believing they have been discriminated against on the basis of race, color, or national origin by Metro COG may file a Title VI complaint by completing and submitting Metro COG's Title VI Complaint Form or by sending an email or letter with the necessary information to Metro COG:

Fargo-Moorhead Metro COG  
Attn: Title VI Complaint  
1 – 2<sup>nd</sup> Street N, Suite 232  
Fargo, ND 58102

PH: 701-532-5100

Email: [metrococg@fmmetrococg.org](mailto:metrococg@fmmetrococg.org)

A person may also file a complaint directly with the Federal Transit Administration (FTA), at FTA Office of Civil Rights, 1200 New Jersey Avenue SE, Washington, DC 20590.

Discrimination complaints addressed to Metro COG must be received no more than 180 days after the alleged incident. Filing times may be extended if deemed necessary. Once the complaint is received, Metro COG's Title VI Coordinator will review it to determine which agency has jurisdiction. The complainant will receive an acknowledgement letter informing her/him whether the complaint will be investigated by our agency within ten (10) business days. The complainant has ten (10) business days from the date of the acknowledgement letter to send requested information to the investigator assigned to the case.

Discrimination complaints will be investigated within thirty (30) calendar days from the date the original complaint was received. If more information is needed to resolve the case, the city may contact the complainant.

Once the complaint is investigated, the investigator will issue either a letter of finding if a case of discrimination is found, or a closure letter if no discrimination is found. A copy of the letter will be sent to the U.S. Department of Transportation and North Dakota Department of Transportation. Every effort will be made to complete the investigation process and issue a letter within sixty (60) days of the complaint.

If the complainant wishes to appeal the decision, she/he/they has thirty (30) days after the date of the letter to do so.

Metro COG's complaint form and detailed procedures for investigating a complaint are posted under the [Resources/ Title VI Plan](#) link on the agency's website. The complaint form is also posted in the second floor of Case Plaza Lobby: 1 -2<sup>nd</sup> Street N, Fargo, ND 58102 and at the front desk in the agency office.

To view a copy of Metro COG's detailed complaint investigation procedures please see Appendix C. To view a copy of Metro COG's Complaint Form please see Appendix D.

### Title VI Investigations

All recipients of federal financial assistance are required to maintain a list of any complaints alleging discrimination on the basis of race, color, or national origin.

**As of January 2023, there have been no Title VI investigations, complaints, or lawsuits filed with Metro COG.**

In order to comply with federal requirements Metro COG maintains Appendix E, in case a complaint arises. To view a copy of Metro COG's Complaint Log please see Appendix E.

## **Organizational Responsibilities**

The general responsibility for overseeing compliance with applicable nondiscrimination authorities in each transportation planning and programming area Metro COG is involved in resides with the Title VI Coordinator. The Title VI Coordinator ensures compliance with provisions of the law, including the requirements of 23 CFR Part 200 and 49 CFR Part 21, administering the Title VI complaint procedures, and insuring compliance with Title VI by recipients, sub-grantees, contractors and sub-contractors of Metro COG.

### Promote Inclusive Public Participation

Additionally, Metro COG promotes inclusive public participation through:

1. Implementing Policy (i.e. Public Participation Plan)
2. Developing and amending plans and programs (i.e. Metropolitan Transportation Plan and Transportation Improvement Programs)
3. Conducting general transportation plans and studies (i.e. neighborhood or corridor studies; transit studies; and bicycle/pedestrian studies)

In order to comply with Federal Policy 23 CFR Section 450.316 and MAP-21 requirements, as well as to provide structure, consistency and accountability in its public involvement processes, Metro COG maintains and conducts its planning activities in accordance with the Public Participation Plan (PPP). The PPP is available at Metro COG's office and on the website at [Resources/Public-Participation-Plan](#).

### Provide Access to Limited-English Proficient (LEP) Persons

See Appendix J: Limited English Proficiency (LEP) Plan for details.

### Encourage Minority Representation on Planning and Advisory Committees

See Staff and Committee Composition within this document for further details on how Metro COG strives to achieve this.

### Training

As an organization, staff will complete one hour of training per calendar year. The Title VI Coordinator will determine the required training annually. Each year, the Title VI Training and Certificate of Completion will be amended into the appendices, along with the Title VI Training Log for Employees.

To view the 2019 Title VI Training and Certificate of Completion view Appendix F. The Title VI Training Log for Employees can be viewed in Appendix G.

### Metro COG Title VI Coordinator

Metro COG's Executive Director is responsible for ensuring the implementation of the MPO's overall Title VI Program. This includes responsibility for ensuring compliance, program monitoring, reporting, and education on Title VI issues within the MPO.

Fargo-Moorhead Metro COG  
Attn: Executive Director  
1 – 2<sup>nd</sup> Street N, Suite 232  
Fargo, ND 58102

PH: 701-532-5100

Email: [metrocoog@fmmetrocog.org](mailto:metrocoog@fmmetrocog.org)

### Title VI Coordinator Responsibilities

The Title VI Coordinator is charged with the responsibility for implementing, monitoring, and ensuring Metro COG's compliance with Title VI regulations. Title VI responsibilities are as follows:

1. Process the disposition of Title VI complaints received by Metro COG.
2. Collect Statistical data (race, color, sex, age, disability, or national origin) of participants in and beneficiaries of state highway programs, e.g. affected citizens and impacted communities. (See Appendix F)
3. Conduct annual Title VI reviews to determine the effectiveness of program activities at all levels.
4. Conduct Title VI reviews of consultant contractors and other recipients of federal-aid highway fund contracts administered through Metro COG.
5. Review Metro COG program directives. Where applicable, include Title VI language and related requirements.
6. Conduct training programs on Title VI and other related statutes for Metro COG employees and recipients of federal highway funds. Post a copy of the Title VI Plan on Metro COG web-site. Post the Title VI Plan on bulletin boards near the front desk at the Metro COG worksite. Inform all employees that a copy of the Title VI Plan is available upon request. Instruct all new employees about the Title VI Plan during orientation.
7. Prepare a yearly report of Title VI accomplishments and goals, as required.
8. Develop Title VI information for dissemination to the general public and, where appropriate, in languages other than English. Post the Title VI Plan on Metro COG web- site and on bulletin boards near the front desk.
9. Conduct post-grant reviews of Metro COG programs and applicants for compliance with Title VI requirements.
10. Identify and take corrective action to help eliminate discrimination.
11. Establish procedures to promptly resolve identified Title VI deficiencies. Document remedial actions agreed to be necessary. Provide remedial actions within 90 days of identification of a deficiency.

## **Part 2: Title VI and Environmental Justice Considerations in the Planning and Programming Process**

### **Procedures by which mobility needs of minority populations are identified and considered**

Metro COG seeks to identify the mobility needs of minority populations during the transportation planning and programming process through early and continuing public outreach to minority populations to obtain their input, and through data and GIS analysis of the location of minority population concentrations relative to existing and planned jobs and services and their travel patterns. The following sections outline in more detail how Title VI and environmental justice considerations are incorporated into Metro COG's planning and programming process.

### **Promoting Inclusive Public Participation and Providing Meaningful Access to Limited English Proficient Persons**

#### Public Participation Plan (PPP)

Metro COG's Public Participation Plan, approved in May 2016, provides a framework for engaging the public in the regional transportation planning and programming process. Metro COG recognizes that effective public involvement is inclusive of the needs of all transportation system users with an emphasis on traditionally underserved populations. The goals of the PPP include:

1. Inform the Public and Engage Citizens in the Transportation Planning Process
2. Facilitate two-way communication between the public and key decision makers.
3. Evaluate effectiveness of public participation strategies

The PPP identifies multiple stakeholders that are important participants in the transportation planning process. Further information regarding the PPP can be found on Metro COG's website at: <http://www.fmmetrocog.org/resources/public-participation-plan>

The Public Participation Sign-in Sheet is available in Appendix H.  
The Public Participation Survey is available in Appendix I.

#### Limited English Proficiency Plan

Under Title VI of the Civil Rights Act of 1964, individuals who do not speak English well and who have a limited ability to read, write, speak, or understand English are entitled to language assistance under Title VI in order to access public services or benefits for which they are eligible.

Metro COG seeks to ensure access to the regional transportation planning process, information published by Metro COG, and Metro COG's programs to area residents who do not speak or read English proficiently. It is Metro COG's policy to inform residents with LEP of the right to free language assistance and interpreter services at no cost to them. This plan outlines the procedures and practices Metro COG uses to provide meaningful access to its programs and activities for LEP populations within the Fargo-Moorhead Metropolitan Planning Area.

The plan outlines the following elements:

- Meaningful Access: Four Factor Analysis
  - a. LEP Assessment, which includes the results of the Four Factor Analysis
  - b. LEP populations in the Fargo-Moorhead Metropolitan Statistical Area
- Language Assistance
  - a. Language Assistance Services Provided
  - b. Translation of Documents
  - c. Public Outreach
  - d. Monitoring, Evaluating, and Updating the Language Assistance program
  - e. Staff Training

For more detailed information regarding Metro COG's LEP Plan, please refer to Appendix J or refer to Metro COG's website at: <http://fmmetrocog.org/resources/LEP>

#### Procedure for Conducting an Environmental Justice Analysis

Metro COG is committed to continuing efforts to enhance the analytical capability for assessing impact distributions of transportation programs, policies, and projects in its transportation plans and the TIP. The object of Executive Order 12898 on Environmental Justice is to ensure that Federal agencies and programs that receive Federal funding promote and enforce nondiscrimination as one way of achieving the overarching objective of environmental justice. FTA issued FTA Circular 4703.1 in 2012 to provide guidance on how recipients of Federal funding can integrate environmental justice principles into the transportation planning and programming process. This section provides a brief overview of the process that Metro COG follows to identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations.

An equity or environmental justice (EJ) analysis is conducted for the Metropolitan Transportation Plan (MTP) and the Transportation Improvement Program (TIP). This includes a qualitative analysis in which planned or programmed roadway, transit, and bicycle projects are overlaid or superimposed on a map highlighting the areas with concentrations of minority populations and low-income populations to determine the extent to which these areas are negatively or positively impacted by projects. The EJ analyses of the MTP and TIP are conducted at the draft stage well before they are finalized in order to inform the MTP and TIP development process and address any disproportionate impacts if discovered.

These analyses for the 2045 MTP and annual TIP updates have concluded that the planned and programmed projects do not impose disproportionately high and adverse impacts on minority and other EJ population groups. Additionally, the analyses identified the benefits of the recommended and programmed transportation projects and services are reasonably distributed to meet the needs of all populations in the metropolitan planning area. See Figure 3 for how the 2020-2023 programmed Transportation Improvement Program projects overlap EJ population areas.

### Title VI and Environmental Justice in Metro COG's Planning Documents

Federal regulations require the formation of an MPO for each urbanized area with a population over 50,000 people to facilitate a 3-C (comprehensive, coordinated, and continuing) transportation planning process. Listed in this section are some of the major Metro COG planning efforts that reflect Title VI and EJ issues most closely.

#### Metropolitan Transportation Plan (MTP)

The purpose of the metropolitan transportation plan is to set a policy direction and identify how the region intends to invest in the transportation system across all modes. The MTP ensures that transportation projects are coordinated between the various levels of government (municipal, county, state, and federal). The Fargo-Moorhead 2045 MTP: *Metro Grow* contains the coordinated vision for our region. MTPs must:

- Have at least a 20-year planning horizon that supports the ten Federal metropolitan transportation planning factors
- Be updated every 5 years

The goals of the 2045 MTP are:

- *Safety System & Security*: Provide a transportation system that is safer for all users and resilient to incidents
- *Travel Efficiency & Reliability*: Improve regional mobility
- *Walking & Biking*: Increase walking and biking as a mode of transportation
- *Transit Access*: Support enhanced access to the existing and future MATBUS system
- *Maintain Transportation Infrastructure*: Provides a financial plan that supports maintaining transportation infrastructure in a state of good repair
- *Environmental Sustainability*: Provide a transportation system that provides access equitably and limits impacts to the natural and built environment
- *Economic Development & Transportation Decisions*: Promote transportation projects that support regional economic goals, support freight movement, and promote projects that can be financially sustained for the long-term
- *Emerging Transportation Trends*: Incorporate transportation trends and new technologies in regional transportation plans

Each of these goals look to improve equity for all users of the transportation system.

### Transportation Improvement Program (TIP)

The Transportation Improvement Program (TIP), which Metro COG updates annually, is a coordinated listing of short-range transportation improvement projects anticipated to be undertaken in the next four-year period. The TIP is the mechanism by which the MTP is implemented, and represents the transportation improvement priorities of the region.

Projects within Metro COG's metropolitan planning area must be included in the TIP in order to be eligible to receive federal funding assistance. To be included, projects must be included in the MTP or determined to be consistent with the MTP

The TIP project list is multi-modal. In addition to streets/ roadways, it includes transit, pedestrian, and bicycle projects. The coordinated listing of projects in the TIP is a cooperative effort by state and local implementing agencies and the staff of Metro COG, and is primarily based upon state and local capital improvement programs and budgets. Implementing agencies submit their lists of proposed projects to Metro COG staff to coordinate into a comprehensive list of proposed transportation improvements, with information about project scope, cost timing, etc. The listing is subject to review by local units of government, Metro COG's Technical Transportation Committee (TTC), and Policy Board. A public comment period is opened fourteen (14) days directly prior to Policy Board meetings.

### Unified Planning Work Program (UPWP)

The Metro COG work program is an bi-annual publication that outlines major transportation planning issues, describes the planning activities Metro COG will undertake and be involved in during the following two years, summarizes Metro COG's recent planning activities and accomplishments, and identifies how federal, state, and local transportation funding will be spent on the different planning activities.

The publication of an MPO work program is required by federal law as a condition of receiving federal transportation funding.

Metro COG includes a Statement of Non-discrimination as part of the UPWP. The UPWP also includes a self-certification summary that details how Metro COG complies with the applicable federal laws, including Title VI.

### Transit Development Plan (TDP)

The Transit Development Plan (TDP) for the Fargo-Moorhead Urbanized Area is a short- to medium range strategic plan intended to identify transit needs and proposed improvements and studies over a five-year planning horizon. Metro COG is responsible for developing and maintaining the TDP. Metro COG works in close cooperation with MATBUS, funding partners, and jurisdictions in the region to develop the plan. An Environmental Justice (EJ) analysis is typically conducted for the TDP and will be done as part of the next update, which will be initiated in early 2020.

### Coordinated Public Transit – Human Services Transportation Plan

Federal transit law requires that projects selected for funding under the Enhanced Mobility for Seniors and Individuals with Disabilities (Section 5310) Program be "included

in a locally developed, coordinated public transit-human services transportation plan," and that the plan be "developed and approved through a process that includes participation by seniors, individuals with disabilities, representatives of public, private, and nonprofit transportation and human services providers and other members of the public" utilizing transportation services. These coordinated plans identify the transportation needs of individuals with disabilities, older adults, and people with low incomes, provide strategies for meeting these needs, and prioritize transportation services for funding and implementation. Plans include:

- An assessment of available services;
- An assessment of transportation needs, strategies, activities, and/or projects to address identified gaps between current services and needs and to improve efficiencies in service delivery; and
- Priorities for implementation based upon available resources, time, and feasibility.

This plan is included within the TDP and will be updated as a part of that effort starting in early 2020.

### Bicycle and Pedestrian Plan

Metro COG is responsible for maintaining a comprehensive, coordinated, and continuous transportation planning process for all modes of transportation in the region. This update of the Bicycle and Pedestrian Plan is a sub-element of Metro COG's MTP and is updated every five years. The Bicycle and Pedestrian Plan has a twenty-year planning horizon in which it looks at all types of bicycle and pedestrian facilities that have a transportation element. Facilities that are strictly recreational are not considered on in this Plan. The purpose of the Plan is listed below:

*"The purpose of the Plan is to identify current issues and needs as they relate to bicycling and pedestrian movements in the area; develop goals, objectives, and recommendations to enhance bicycle and pedestrian accommodations and safety for all types of users regardless of age, gender, race, social status, or mobility needs."*

One of the goals of the Bicycle and Pedestrian Plan is to 'Ensure equal bicycle and pedestrian opportunities for all.' The objective of this goal is to 'Ensure a network where equal bicycle and pedestrian accommodations are provided to all regardless of age, gender, race, social status, or mobility needs per Metro COG's Title VI policies.'

### Title VI and Environmental Justice in Metro COG's Programming

NDDOT and MnDOT select the projects for the federal program funds that they control. For NDDOT and MnDOT this includes programs that fund state highway projects (e.g., National Highway Performance Program) and programs that fund local projects which NDDOT and MnDOT administers (e.g., Local Bridge, Highway Safety Improvement Program). These projects are submitted to Metro COG for inclusion in the TIP.

## Part 3: Demographic Profile

### Introduction

Title VI and related federal regulations regarding non-discrimination establish that the mobility needs of communities of concern, such as minorities, low income or the disabled, should be considered in the MPO planning process at the plan development, program and project level. Metro COG, as the metropolitan planning organization for the Fargo-Moorhead region, is responsible for developing long and short-range transportation plans and programs and coordinates its planning and programming activities with the North Dakota and Minnesota Departments of the Transportation, local governments, FHWA, and FTA.

Metro COG facilitates consideration of communities of concern in its planning and programming activities primarily through the following activities:

- Collection, analysis and distribution of demographic data,
- Public involvement activities, and
- Performing program and project analyses.

As part of Metro COG's public involvement efforts, the agency seeks out locations and methods of engagement that facilitates and encourages participation by potentially affected minority groups, people with disabilities, and low-income individuals and households. Some of these methods are described in Metro COG's Public Participation Plan; however, and each project is approached differently, depending upon the location and type of project.

### Data Analysis, Demographic Profile of the Region and Identification of Environmental Justice Areas

As part of the Title VI program, Metro COG closely monitors and tracks statistical demographic data on race, national origin, age, languages spoken, income level, persons with disabilities, and sex of the population of the Fargo-Moorhead metropolitan area. This data is incorporated into the annual *Metropolitan Profile*, which is a document designed for use by both professional staff within Metro COG's jurisdictions as well as the public at large. Figure 3 depicts the racial composition of the Fargo-Moorhead MSA according to the U.S. Census Bureau's 2013-2017 American Community Survey (ACS) estimates.

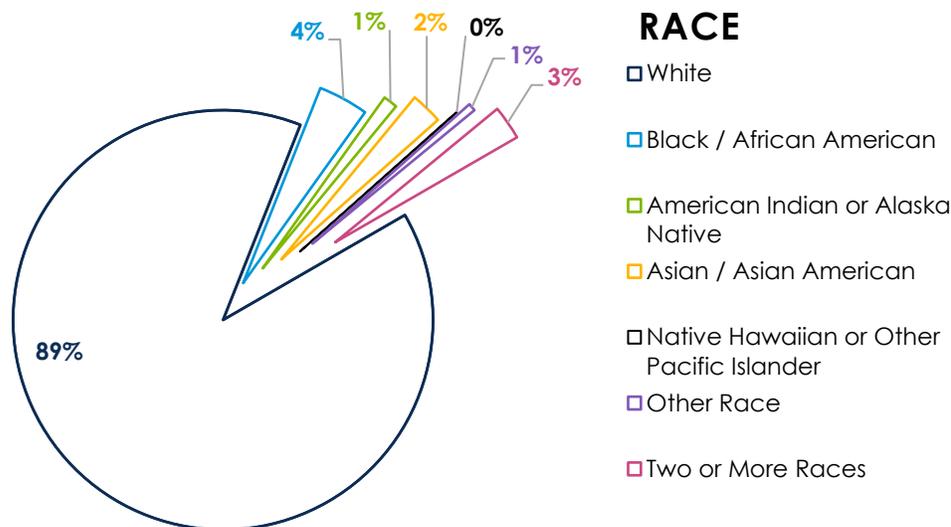


Figure 3: Fargo-Moorhead Metropolitan Council of Governments Organizational Chart

Based on 2013-2017 American Census Survey 5-year data

### **Environmental Justice Areas in the Fargo-Moorhead Urbanized Area**

Pending the availability of data, Metro COG annually updates the Environmental Justice database to most accurately identify and map these areas. Environmental Justice areas are identified, considered, and addressed in all aspects of the transportation planning and programming process. The map depicted in Figure 5 shows the spatial distribution of minority and low income populations in the urbanized area.

The maps and data pertaining to Environmental Justice areas are published in the annual *Metropolitan Profile*, Transportation Improvement Program (TIP), and available on Metro COG's website.

#### Low-income Populations

The currently approved definition of low-income persons is defined by the FTA Title VI circular, which states that a person whose median household income is at or below the [U.S. Department of Health and Human Service \(HHS\) poverty guidelines](#) is considered a low-income person.

USDOT, FHWA, and FTA define a low-income population as 1) any readily identifiable group of low-income persons who live in geographic proximity, or 2) geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed program, policy, or activity. State and local/regional agencies, including Metro COG, are encouraged to use a locally developed threshold in determining low-income populations in their areas, provided that the threshold is at least as inclusive as HHS poverty guidelines for low-income individuals. Setting the low-

income threshold above the official HHS poverty guideline allows Metro COG to detect larger populations that may still experience economic hardships.

Metro COG has established a process to determine where low-income populations are located. Metro COG staff calculate the MSA median household low-income threshold using the HHS poverty guidelines and the five-year American Census Survey (ACS) MSA median household size. Then staff use the MSA low-income threshold to determine which block groups' median household income is lower than the MSA low-income threshold. These block groups are then considered to be areas of low-income populations and can be depicted visually on maps, such as in Figure 4.

Metro COG uses the following steps and formulas to calculate and determine the median household low-income value.

Step 1: Calculate Average Household Size for Fargo-Moorhead Metropolitan Statistical Area (MSA)

This is done by using the most recent ACS five-year data set available, which for this Plan is the 2013-2017 ACS data set.

$$[5\text{-year Population estimate}] \div [5\text{-year Occupied Housing Units estimate}] =$$

**Average Household Size**

Step 2: Calculate Poverty Guideline for the Average Household Size for Fargo-Moorhead Metropolitan Statistical Area (MSA)

This is done using the most current year's [U.S. Department of Health and Human Services \(HHS\) Poverty Guideline](#) data and the Average Household Size calculated in Step 1.

$$[\text{Average Household Size}] - [\text{Lowest whole number of Persons in Family/Household}] =$$

**Portion of Additional Persons**

$$[\text{Current Year HHS Poverty Guideline for Additional Persons}] \times [\text{Portion of Additional Persons}] =$$

**Portion of Additional Persons Poverty Guideline**

$$[\text{Portion of Additional Persons Poverty Guideline rounded to the nearest \$1}] +$$
$$[\text{Current Year HHS Poverty Guideline for Lowest whole number of Persons in Family/Household}] =$$

**Poverty Guideline per Average Household Size in the Fargo-Moorhead MSA**

Step 3: Calculate Low-Income Threshold for Fargo-Moorhead Metropolitan Statistical Area (MSA)

This is done using the Poverty Guideline per Average Household Size in the Fargo-Moorhead MSA and the 125% factor that was noted at the beginning of this section.

$$[\text{Poverty Guideline per Average Household Size in the Fargo-Moorhead MSA}] \times 1.25 =$$

**Fargo-Moorhead MSA Low-income Threshold** (Rounded to the nearest \$1.)

The following are the previous steps used to calculate the 2023 Fargo-Moorhead MSA Low-income Threshold that Metro COG uses.

Step 1:

$$232,660 \div 96,492 = \mathbf{2.41 \text{ as the Average Household Size}}$$

Step 2:

$$2.4 - 2 = 0.41 \text{ as the Portion of Additional Persons}$$

$$\$4,420 \times 0.41 = \$1,812.20$$

$$\$1,812.20 + \$16,910 = \$18,722.20, \text{ round to the nearest \$1}$$

**\$18,722 as the Poverty Guideline per Average Household Size in the Fargo-Moorhead MSA**

Step 3:

$$\$18,722 \times 1.25 = \$23,402.50, \text{ round to the nearest \$1}$$

**\$23,403 Fargo-Moorhead MSA Low-income Threshold**

As of 2020, block groups with an annual median household income less than \$23,403 are considered "Low-income" block groups.

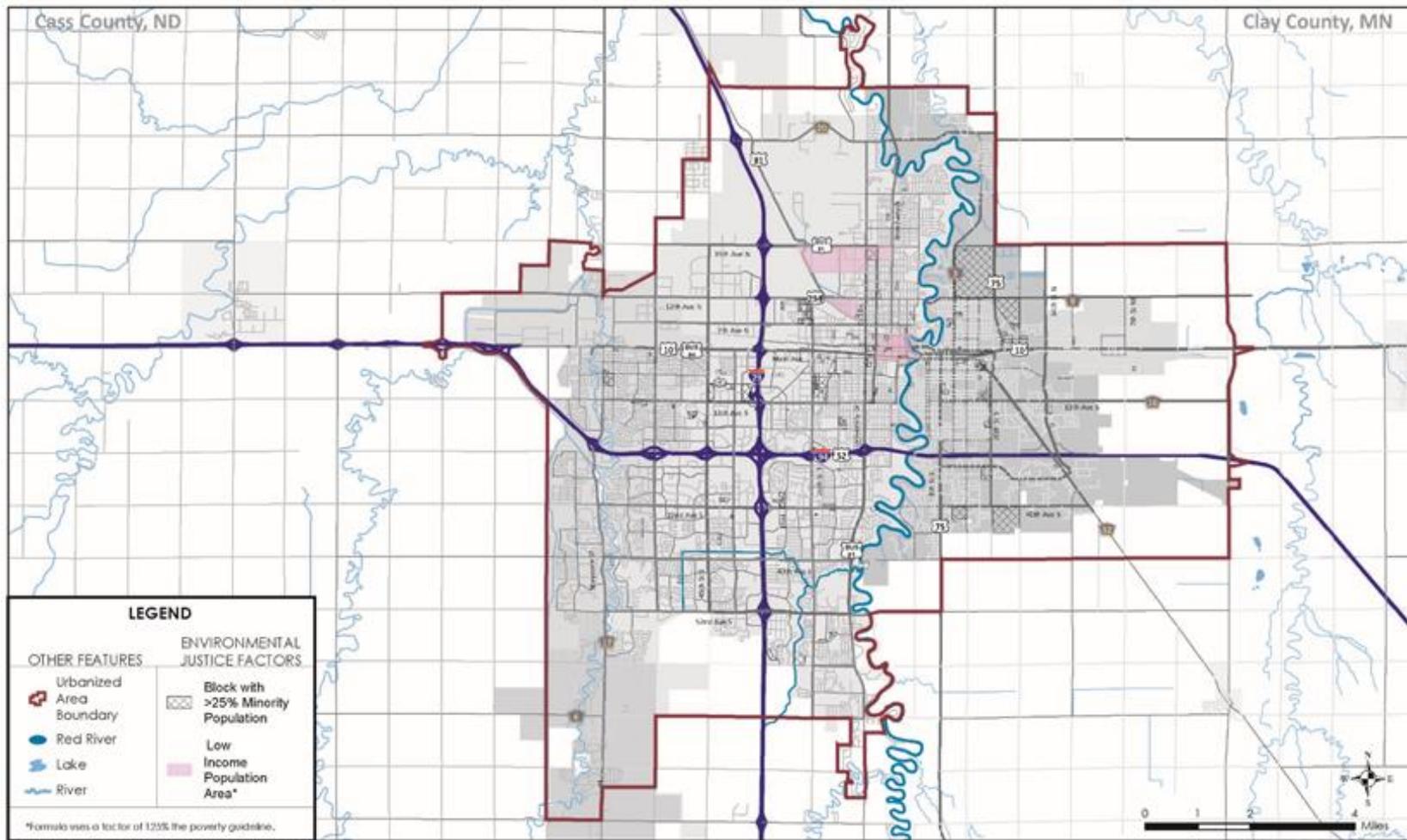
2020 Minority Populations

A minority person is an individual that identifies as having a race other than "white-alone" on their census questionnaire. In order to determine areas of minority populations within the Fargo-Moorhead MSA, Metro COG has set the following methodology.

Minority populations are identified geographically at the Census block level. Census blocks with minority populations equaling or exceeding 25% of the total block population are determined to be areas of minority populations.

The ACS does not provide Census block-level race estimates, so the minority population areas can only be updated with the decennial Census. Figure 2: Environmental Justice Areas within the Metro COG urbanized Area identifies the minority population areas and the low-income areas.

Figure 4: Environmental Justice Areas within the Metro COG Urbanized Area



**Environmental Justice Factors**

Metro COG has established a process to determine where low-income populations are located. Metro COG staff calculate the MSA median household low-income threshold using the HHS poverty guidelines and the five-year American Census Survey (ACS) MSA median household size. Then staff use the MSA low-income threshold to determine which block groups' median household income is lower than the MSA low-income threshold.



## **Analysis of State/Federal Funding Distribution on Environmental Justice Areas**

FTA Circular 4702.1B, Title VI Requirements and Guidelines for Federal Transit Administration Recipients, discusses the need for MPO Title VI Plans to analyze the distribution of state and federal funds in aggregate for transportation purposes and to identify any disparate impact on the basis of race, color or natural origin. Further, the Federal Highway Administration identifies three fundamental Environmental Justice principles, which need to be addressed in the planning and programming of transportation projects:

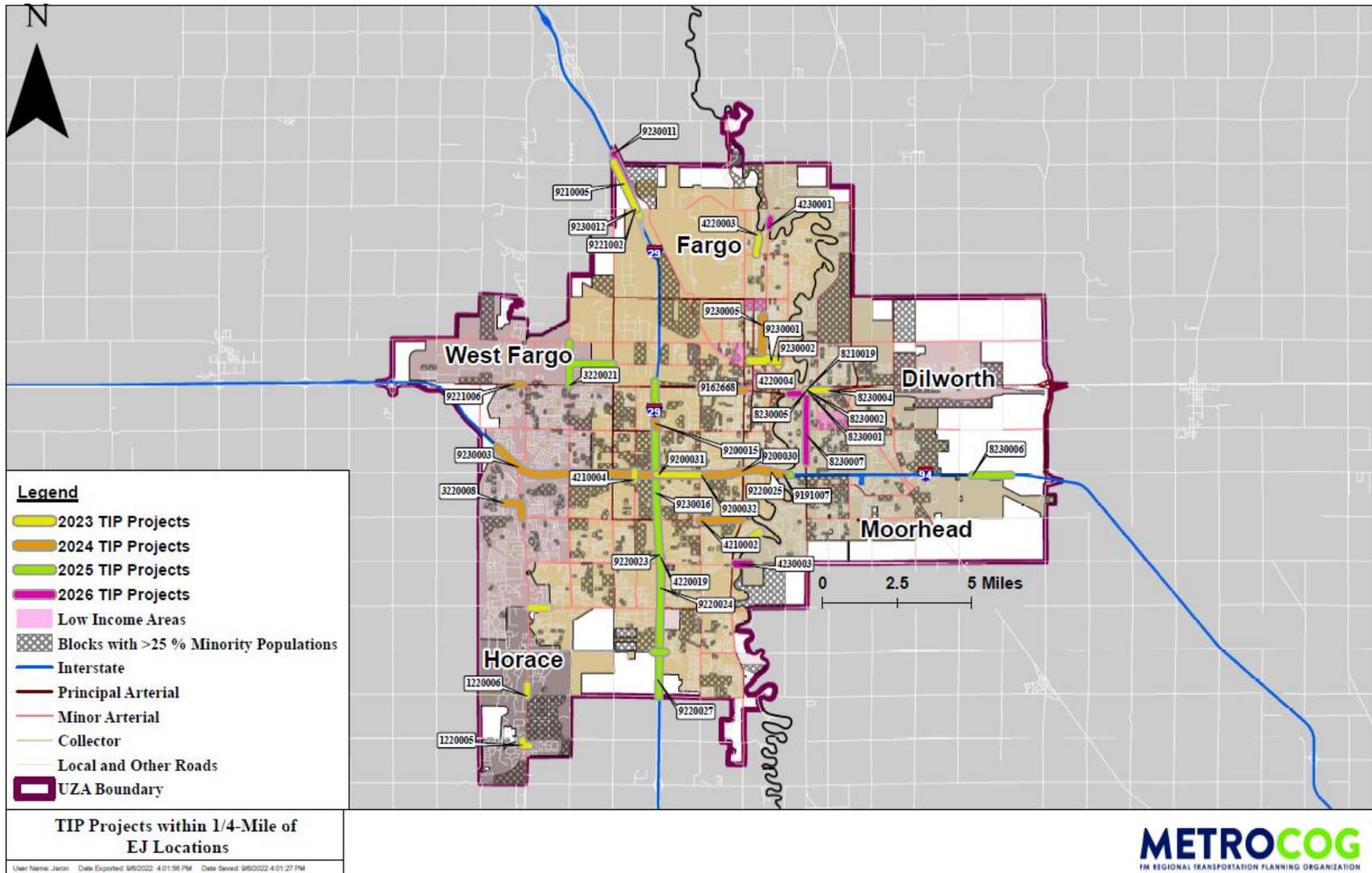
- To avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority and low-income populations;
- To ensure the full and fair participation by all potentially affected communities in the transportation decision-making process; and
- To prevent denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations.

The information shown in Figure 3 depicts the Environmental Justice areas within Metro COG's UZA and their proximity to projects programmed in the 2020-2023 Transportation Improvement Program (TIP).

As identified in Figure 5, a number of projects programmed within the 2020-2023 TIP come within close proximity to current Environmental Justice areas. The dispersion of projects throughout the Metro COG urbanized areas will have equal benefit to both Environmental Justice populations and the public as a whole by improving safety and traffic operations for all roadway users.

Metro COG's analysis shows that no projects will have a disproportionately negative impact on Environmental Justice populations.

Figure 5: Programmed Transportation Projects and Environmental Justice Areas



## **Part 4: Appendices**

## **Appendix A: Employment Application & Equal Employment Opportunity Survey**

Forms are on the following pages

# EMPLOYMENT APPLICATION

**EMAIL: metrocog@fmmetrocog.org**

Read the certificate at the end of this questionnaire before filling in your answers. Print or type all answers. All questions and statements must be complete. If the appropriate answer is no or none, please state that as an answer. Fill out, print, and sign this form. If more space is required, provide an additional attachment.

Position Applying For: \_\_\_\_\_ Available Start Date: \_\_\_\_\_

| 1. PERSONAL INFORMATION  |  |  |  |
|--|--|--|--|
| Last Name: _____ First: _____ Middle: _____<br>Legal Name Change / Maiden Name _____ |  |  |  |
| Address: _____ City: _____ State: _____ Zip: _____                                   |  |  |  |
| Home/Cell Phone: _____ Work Phone: _____ Email Address: _____                        |  |  |  |

| 2. EDUCATION LIST                   |                   |                                       |               |
|-------------------------------------|-------------------|---------------------------------------|---------------|
| School, Address                     | Did you Graduate? | Certificate / Diploma / Degree Earned | Major / Minor |
| High School                         | Yes<br>No<br>GED  |                                       | N/A           |
| College/University/Technical School | Yes<br>No         |                                       |               |
| College/University/Technical School | Yes<br>No         |                                       |               |
| College/University/Technical School | Yes<br>No         |                                       |               |

| 3. SPECIALIZED EDUCATION/SKILLS/CERTIFICATIONS |
|--|
|  |

**4. WORK EXPERIENCE** (Past 5 years; all employment including part time, self-employment, and unemployment)

**Current/Most Recent Employer:** \_\_\_\_\_ **Position/Title:** \_\_\_\_\_

Employed From: \_\_\_\_\_ To: \_\_\_\_\_ Total Years: \_\_\_\_\_ Total Months: \_\_\_\_\_

Last Salary: \_\_\_\_\_ Reason for Leaving: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Supervisor's Name: \_\_\_\_\_ May we contact this person? \_\_\_\_\_

Supervisor's Title: \_\_\_\_\_ Supervisor's Phone: \_\_\_\_\_

Primary Responsibilities: \_\_\_\_\_  
\_\_\_\_\_

**Prior Employer:** \_\_\_\_\_ **Position/Title:** \_\_\_\_\_

Employed From: \_\_\_\_\_ To: \_\_\_\_\_ Total Years: \_\_\_\_\_ Total Months: \_\_\_\_\_

Last Salary: \_\_\_\_\_ Reason for Leaving: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Supervisor's Name: \_\_\_\_\_ May we contact this person? \_\_\_\_\_

Supervisor's Title: \_\_\_\_\_ Supervisor's Phone: \_\_\_\_\_

Primary Responsibilities: \_\_\_\_\_  
\_\_\_\_\_

**Prior Employer:** \_\_\_\_\_ **Position/Title:** \_\_\_\_\_

Employed From: \_\_\_\_\_ To: \_\_\_\_\_ Total Years: \_\_\_\_\_ Total Months: \_\_\_\_\_

Last Salary: \_\_\_\_\_ Reason for Leaving: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Supervisor's Name: \_\_\_\_\_ May we contact this person? \_\_\_\_\_

Supervisor's Title: \_\_\_\_\_ Supervisor's Phone: \_\_\_\_\_

Primary Responsibilities: \_\_\_\_\_  
\_\_\_\_\_

Number of additional employer sheets attached: \_\_\_\_\_  
For additional employer information sheets, see last page of application.

**5. CURRENT LICENSES**

Do you have a Driver's License?      Yes      No      Do you have a CDL?      Yes      No

Driver's License Number: \_\_\_\_\_ State: \_\_\_\_\_

**6. CURRENT PROFESSIONAL LICENSES / EXPERIENCE**

License: \_\_\_\_\_ License Number: \_\_\_\_\_

Type of License/Skill: \_\_\_\_\_

License: \_\_\_\_\_ License Number: \_\_\_\_\_

Type of License/Skill: \_\_\_\_\_

License: \_\_\_\_\_ License Number: \_\_\_\_\_

Type of License/Skill: \_\_\_\_\_

**7. REFERENCES**

Name: \_\_\_\_\_ Relationship/Type of Reference: \_\_\_\_\_

Total Years Known: \_\_\_\_\_ Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Name: \_\_\_\_\_ Relationship/Type of Reference: \_\_\_\_\_

Total Years Known: \_\_\_\_\_ Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Name: \_\_\_\_\_ Relationship/Type of Reference: \_\_\_\_\_

Total Years Known: \_\_\_\_\_ Phone: \_\_\_\_\_ Email: \_\_\_\_\_

**8. ARREST RECORD**

Include traffic violations, but not parking tickets – list dates, places, charges, disposition, and details of the crime

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Have you every pled guilty or been found guilty of a felony, including a felony that was later dismissed?

\_\_\_\_\_

**9. ADDITIONAL INFORMATION**

How were you referred to the position? \_\_\_\_\_

Are you related to a current employee?    Yes    No                      Name: \_\_\_\_\_

If hired, can you provide proof that you are eligible to work in the United States?                      Yes    No

Are you a veteran?    Yes    No                      Please attach a copy of your DD-214 form.



## 12. ATTACHMENTS TO APPLICATION

|              |     |    |                          |     |    |
|--------------|-----|----|--------------------------|-----|----|
| Cover Letter | Yes | No | Additional Attachment #1 | Yes | No |
| Resume       | Yes | No | Additional Attachment #2 | Yes | No |

## CERTIFICATE

I represent and warrant the answers I have made to each and all of the foregoing questions are full and true to the best of my knowledge and belief, AND FURTHER, in order that the AGENCY be fully informed as to my personal character and qualifications for employment, I refer to each of my former employers and to any other person who may have information concerning me, agreeing, as this information is furnished at my express request and for my benefit, I do hereby release them from any and all liability for damage of what so ever nature on account of furnishing such information. I acknowledge that **any false statement** knowingly made in answering the above questions is **good cause for removal from eligible register or discharge during or after probation.**

**Applicant's Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## EEO STATEMENT

It is the continuing policy of the FM Metro COG to afford equal opportunity to qualified individuals regardless of their sex, race, creed, disability, or national origin, and to conform to applicable laws and regulations. Equal opportunity encompasses all aspects of employment practices to include, but not limited to, recruiting, hiring, training, compensation, benefits, promotions, transfers, layoffs, recall from layoffs, discipline, and agency-sponsored educational, social, recreational programs. Additionally, it is the policy of this agency to provide its members a viable means for communicating and resolving grievances and complaints regarding unlawful discriminatory employment practices. Any employee of the FM Metro COG who fails to comply with this policy is subject to appropriate disciplinary action.

**EMAIL FORM**

## ADDITIONAL WORK EXPERIENCE

**Prior Employer:** \_\_\_\_\_ **Position/Title:** \_\_\_\_\_

Employed From: \_\_\_\_\_ To: \_\_\_\_\_ Total Years: \_\_\_\_\_ Total Months: \_\_\_\_\_

Last Salary: \_\_\_\_\_ Reason for Leaving: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Supervisor's Name: \_\_\_\_\_ May we contact this person? \_\_\_\_\_

Supervisor's Title: \_\_\_\_\_ Supervisor's Phone: \_\_\_\_\_

Primary Responsibilities: \_\_\_\_\_

\_\_\_\_\_

**Prior Employer:** \_\_\_\_\_ **Position/Title:** \_\_\_\_\_

Employed From: \_\_\_\_\_ To: \_\_\_\_\_ Total Years: \_\_\_\_\_ Total Months: \_\_\_\_\_

Last Salary: \_\_\_\_\_ Reason for Leaving: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Supervisor's Name: \_\_\_\_\_ May we contact this person? \_\_\_\_\_

Supervisor's Title: \_\_\_\_\_ Supervisor's Phone: \_\_\_\_\_

Primary Responsibilities: \_\_\_\_\_

\_\_\_\_\_

**Prior Employer:** \_\_\_\_\_ **Position/Title:** \_\_\_\_\_

Employed From: \_\_\_\_\_ To: \_\_\_\_\_ Total Years: \_\_\_\_\_ Total Months: \_\_\_\_\_

Last Salary: \_\_\_\_\_ Reason for Leaving: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Supervisor's Name: \_\_\_\_\_ May we contact this person? \_\_\_\_\_

Supervisor's Title: \_\_\_\_\_ Supervisor's Phone: \_\_\_\_\_

Primary Responsibilities: \_\_\_\_\_

\_\_\_\_\_

## Equal Employment Opportunity Survey

To All Applicants:

The information request on this sheet regarding race, sex, and gender is needed to analyze and assure compliance with State and Federal Equal Employment Opportunity Laws and to meet the reporting requirements of those laws. Your cooperation in voluntarily giving this information is important to the success of our Equal Employment Opportunity Programs.

This Application Identification Sheet will be detached and kept separate from your application. It is not to be used in hiring or interviewing. It will be available only to authorized personnel for research and evaluation purposes. Refusing to provide this information will not subject you to adverse treatment.

This information is sought not for employment decisions, but for record keeping in compliance with Federal Law.

**NAME:** \_\_\_\_\_

**JOB POSITION:** \_\_\_\_\_

**DATE COMPLETED:** \_\_\_\_\_

### SEX:

Please check one of the options below.

Male

Female

PREFER NOT TO SAY

### GENDER:

Which of the following do you identify as (Please check one of the options below.)

Male

Female

Gender neutral

PREFER NOT TO SAY

**RACE/ETHNICITY:**

Please check one of the descriptions below corresponding to the ethnic group with which you identify.

Hispanic or Latino: A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race.

White (Not Hispanic or Latino): A person having origins in any of the original peoples of Europe, the Middle East or North Africa.

Black or African American (Not Hispanic or Latino): A person having origins in any of the black racial groups of Africa.

Native Hawaiian or Pacific Islander (Not Hispanic or Latino): A person having origins in any of the peoples of Hawaii, Guam, Samoa or other Pacific Islands.

Asian or Asian American (Not Hispanic or Latino): A person having origins in any of the original peoples of the Far East, Southeast Asia or the Indian Subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand and Vietnam.

American Indian or Alaska Native (Not Hispanic or Latino): A person having origins in any of the original peoples of North and South America (including Central America) and who maintains tribal affiliation or community attachment.

Two or more races (Not Hispanic or Latino): All persons who identify with more than one of the above five races.

I do not wish to disclose.

## Appendix B: Title VI Assurances

The **Fargo-Moorhead Metropolitan Council of Governments** (herein referred to as the "Recipient"), **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through the Federal Highway Administration is subject to and will comply with the following:

### **Statutory/Regulatory Authorities**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled *Non-discrimination In Federally-Assisted Programs Of The Department Of Transportation-Effectuation Of Title VI Of The Civil Rights Act Of 1964*);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory cites hereinafter are referred to as the "Acts" and "Regulations," respectively.

### **General Assurances**

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

*"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity," for which the Recipient receives Federal financial assistance from DOT, including the Federal Highway Administration."*

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these non-discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

### **Specific Assurances**

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted Federal-Aid Highway Program.

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23 (b) and 21.23 (e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated, or will be (with regard to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.

2. The Recipient will insert the following notification in all solicitations for bids, Requests for Proposals for work, or material subject to the Acts and the Regulations made in connection with all Federal-Aid Highway Program and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

*"The Fargo-Moorhead Metropolitan Council of Governments, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."*

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
  - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
  - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
  - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
  - b. the period during which the Recipient retains ownership or possession of the property.

9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
  
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the Fargo-Moorhead Metropolitan Council of Governments also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the Federal Highway Administration's access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the Federal Highway Administration. You must keep records, reports, and submit the material for review upon request to the Federal Highway Administration, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The Fargo-Moorhead Metropolitan Council of Governments) gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the Federal-Aid Highway Program. This ASSURANCE is binding on Fargo-Moorhead Metropolitan Council of Governments, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the Federal-Aid Highway Program. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.



\_\_\_\_\_  
Chuck Hendrickson  
Chair, Metro COG Policy Board

09/21/2023

Date

**Attachments: Appendices A and B**

# Fargo-Moorhead Metropolitan Council of Governments

## Appendix A of the Title VI Assurances

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the Contractor) agrees as follows:

1. Compliance with Regulations:

The Contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, the Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. Non-discrimination:

The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment:

In all solicitations, either by competitive bidding, or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the Contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.

4. Information and Reports:

The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Recipient or the Federal Highway Administration as appropriate, and will set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance:

In the event of a contractor's noncompliance with the Nondiscrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal

Highway Administration may determine to be appropriate, including, but not limited to:

- a. withholding payments to the Contractor under the contract until the Contractor complies; and/or
- b. cancelling, terminating, or suspending a contract, in whole or in part.

6. Incorporation of Provisions:

The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

# Fargo-Moorhead Metropolitan Council of Governments

## Appendix E of the Title VI Assurances

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the Contractor) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

### **Pertinent Non-Discrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with

disproportionately high and adverse human health or environmental effects on minority and low-income populations;

- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

## **Appendix C: Title VI Complaint Investigation Procedures**

Metro COG uses the following detailed, internal procedures for prompt processing of all Title VI complaints received directly by it. These procedures include, but are not limited to:

1. Any person or groups of persons who believe they have been aggrieved by an unlawful discriminatory practice under Title VI may individually, or through a legally authorized representative, make and sign a complaint and file the complaint with Metro COG. Allegations received do not have to use the key words "complaint," "civil rights," "discrimination," or their near equivalents. It is sufficient if such allegations imply any form of unequal treatment in one or more of Metro COGs programs for it to be considered and processed as an allegation of a discriminatory practice.
1. The complaint must be filed, in writing, no later than 180 calendar days after the date of the alleged discrimination. Metro COG's Title VI Complaint Form must be used. (See Appendix C).
2. The complaint may also be filed with the U. S. Department of Transportation, Office of the Secretary, 1200 New Jersey Avenue, SE (S-33), Washington, D.C. 20590. The complaint must be filed, in writing, no later than 180 days after the date of the alleged discrimination, unless the time for filing is extended by the Secretary, U. S. Department of Transportation.
3. Immediately, upon receipt of a Title VI complaint, Metro COG determines a course of action. Possible courses of action include:
  - a. Title VI complaints filed against Metro COG are referred to the North Dakota Department of Transportation (NDDOT) for processing. NDDOT notifies the Federal Highway Administration (FHWA) Division Office of the complaint.
  - b. Title VI complaints filed against Metro COG recipients and subrecipients (e.g., contractors, subcontractors, material and equipment suppliers, lessors, vendors, consultants, fee appraisers, universities, etc.) are processed by Metro COG in accordance with FHWA approved complaint procedures, as required under 23 Code of Federal Regulations Part 200. NDDOT is available to provide assistance.
    - i. A copy of the complaint, together with a copy of Metro COG's report of the investigation and recommendations, are forwarded to the FHWA Division Office within sixty (60) days of the date the complaint was received by Metro COG.
    - ii. A copy of the complaint, together with a copy of Metro COG's report of the investigation and recommendations, are provided to NDDOT, Local Government Division, 608 East Boulevard, Bismarck, ND 58505-0700, for informational purposes only.
    - iii. The FHWA Headquarters Office of Civil Rights makes the final agency decision.

4. Metro COG reviews and determines the appropriate action regarding every complaint. Metro COG will recommend to the FHWA Division Office, with a copy to NDDOT, not to proceed with or continue a complaint investigation if:
  - a. The complaint is, on its face, without merit.
  - b. The same allegations and issues of the complaint have been addressed in a recently closed investigation or by previous federal court decisions.
  - c. The complainant's or injured party's refusal to cooperate (including refusal to give permission to disclose his or her identity) has made it impossible to investigate further.
5. If an investigation is to be initiated, Metro COG determines the method of investigation and who will conduct the investigation.
6. The entire investigation process, including the submission of the final report of the investigation and recommendations to the FHWA Division Office, with a copy to NDDOT, is to be carried out in a period not to exceed sixty (60) calendar days from the date the original complaint was received by Metro COG.
7. Metro COG acknowledges receipt of the allegation(s) within ten (10) working days. The complainant is notified of the proposed action to be taken to process the allegation(s). The notification letter contains:
  - a. The basis for the complaint.
  - b. A brief statement of the allegation(s) over which Metro COG has jurisdiction.
  - c. A brief statement of Metro COG jurisdiction over the recipient to investigate the complaint; and
  - d. An indication of when the parties will be contacted.

Depending on the nature of the complaint, the complaint will be referred to the following for final decision:

- i. Federal Highway Administration (FHWA)
  - ii. U.S. Department of Justice
8. Metro COG also notifies the FHWA Division Office and/or FTA Region 8 Office, with a copy to NDDOT, within ten (10) calendar days of receipt of the allegations. The following information is included in the notification to FHWA:
    - a. Name, address, and phone number of the complainant.
    - b. Name(s) and address(es) of persons alleged to have been involved in the act.
    - c. Basis of alleged discrimination (i.e., race, color, sex, age, national origin, disability/handicap, or income status).
    - d. Date of alleged discriminatory act(s).
    - e. Date complaint was received by Metro COG.
    - f. Brief statement concerning the nature of the complaint.
    - g. Other agencies (federal, state, or local) with which the complaint has been filed.

- h. An explanation of the actions Metro COG proposes to take to resolve the issues raised in the complaint.
- 9. The investigation consists of an in-depth, personal interview with the complainant(s). Information gathered in this interview includes, but is not limited to:
  - a. Identification of each complainant by race, color, sex, age, national origin, disability/handicap, or income status;
  - b. Name of the complainant;
  - c. A complete statement concerning the nature of the complaint, including names, dates, places, and incidents involved in the complaint;
  - d. The date the complaint was filed; and
  - e. Any other pertinent information the investigator(s) feels is relevant to the complaint.

The interview(s) is recorded, either on audio tape or by an investigator taking notes. The investigator(s) arranges for the complainant to read, make necessary changes to, and sign the interview transcript or interview notes.

- 10. Following the interviews, the investigator(s) develops a report of the investigation and recommendations based on the facts. The report contains the investigator's(s'):
  - a. Findings;
  - b. Conclusions concerning each issue raised in the complaint; and
  - c. Recommendations for corrective action.

The report is the last document prepared by the investigator(s). Any other actions taken as a result of the investigator's(s') findings and conclusions are the responsibility of Metro COG management.

- 11. The complainant receives a letter from Metro COG detailing the findings and any recommendations for corrective action to be taken based on the facts. All issues in the complaint are addressed. The complainant is informed that the FHWA Headquarters Office of Civil Rights makes the final determination.
- 12. Metro COG forwards the report of the investigation and recommendations to the FHWA Division Office, with a copy to NDDOT. Included with the report is
  - a. A copy of the complaint;
  - b. Copies of all documentation pertaining to the complaint;
  - c. The date the complaint was filed;
  - d. The date the investigation was completed; and
  - e. Any other pertinent information.

- 13. The FHWA Office of Civil Rights makes the final agency decision.

## **Appendix D: Title VI Complaint Form**

Form is on the following page



# NON-DISCRIMINATION / ADA COMPLAINT FORM

## COMPLAINANT INFORMATION [Print all items legibly.]

|                         |       |               |
|-------------------------|-------|---------------|
| Name                    |       | Telephone     |
| Street Address/P.O. Box |       | Email Address |
| City                    | State | Zip Code      |

## CAUSE OF DISCRIMINATION [Check all that apply]

|  |                 |   |                             |
|--|-----------------|---|-----------------------------|
| Title VI of the Civil Rights Act of 1964 |                 | Other Nondiscrimination Statutes/Executive Orders |                             |
| Race                                     | National Origin | Sex   | Disability                  |
| Color                                    |                 | Age   | Limited English Proficiency |

Name of public entity complaint is against.

|  |
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|  |
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Provide and explanation of what happened and date(s) of the alleged discriminatory act and location.

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|  |
|  |

## WE CANNOT ACCEPT YOUR COMPLAINT WITHOUT A SIGNATURE AND DATE

|                         |      |
|-------------------------|------|
| Complainant's Signature | Date |
|-------------------------|------|

Any person or specific class of persons, who believes they were subjected to discrimination on the basis of race, color, national origin; or sex, age, disability, or limited English proficiency in the programs and activities of Sub-Recipient or its sub-recipients (e.g., a city, county, Metropolitan Planning Organization, Transit Agency, etc.,) may by himself/herself or through his/her legally authorized representative, make, sign and date a written complaint and file such complaint with the Sub-Recipient within 180 calendar days following the date of the last instance of the alleged discriminatory action. Complainants must complete in its entirety, sign, and date Sub-Recipient's External Complaints of Discrimination form and file by mail, fax, in person, or e-mail. However, the complainant may call Sub-Recipient and provide the allegations by telephone. Sub-Recipient will transcribe the complainant's allegations into the complaint form and send the written complaint to the complainant for corrections, signature, and date.

**POSTED AT: Fargo-Moorhead Metropolitan Council of Governments: 1 - 2<sup>nd</sup> Street N #232, Fargo, ND 58102  
Case Plaza Lobby: 1 - 2<sup>nd</sup> Street N, Second Floor, Fargo, ND 58102 just outside the elevator.**

To request accommodations, complainants may contact Sub-Recipient at:  
Fargo-Moorhead Metropolitan Council of Governments  
ATTN: Title VI Coordinator  
1 – 2<sup>nd</sup> St N, Case Plaza Suite 232  
Fargo, ND 58102

TTY users may use Relay North Dakota at 711 or 1-800-366-6888.

The Sub-Recipient will review the complaint, gather additional information from the complainant if necessary, and refer the complaint to NDDOT. It is also within your rights to file directly with the appropriate Federal agency that oversees the transportation activities, services or facilities.

**FHWA JURISDICTION (Roads and Bridges)** Title VI Complaints will be forwarded to the NDDOT. See NDDOT's External Complaints of Discrimination (SFN 51795) for processing information at:  
<https://www.dot.nd.gov/divisions/civilrights/titlevi.htm>

**FHWA JURISDICTION (Roads and Bridges)** Title VI Complaints will be forwarded to the NDDOT. See NDDOT's External Complaints of Discrimination (SFN 51795) for processing information at:  
<https://www.dot.nd.gov/divisions/civilrights/titlevi.htm>

**FTA JURISDICTION (Public Transit)** Complaints filed under Title VI, related statutes, and Section 504/ADA in which Sub-Recipient is named as the respondent will be forwarded by Sub-Recipient to NDDOT Civil Rights Division. Title VI, related statutes, and Section 504/ADA complaints filed directly with Sub-Recipient against its sub recipients or contractors will be processed by Sub-Recipient in accordance with the FTA approved complaint procedures under FTA C 4710.1, FTA C 4702.1B, 49 CFR 27.13(b). Sub-Recipient may investigate complaints against its sub recipients as follows:

1. The complaint will be reviewed within 10 business days to determine whether it contains all the necessary information required for acceptance.
2. If the complaint is complete and no additional information is needed, the complainant will be sent a letter of acceptance along with the Complainant Consent/Release form (SFN 60741) and the Notice About Investigatory Uses of Personal Information fact sheet.

For Title VI or related statutes Complaints, Sub-Recipient is required to follow the FTA C 4702.1B to comply with reporting requirements of 49 CFR 21.9(b). The investigation information is recorded on the Transit Title VI - List of Investigations, Lawsuits, and Complaints (SFN 60805) and included in the Title VI/Nondiscrimination and ADA Program submitted to NDDOT every year. Although, FTA regulations do not specify a time frame for the investigation of Title VI complaints, the Sub-Recipient attempts to complete investigations within 90 days of receipt of the complaint from NDDOT.

For a Section 504/ADA complaint, Sub-Recipient shall forward a copy of the complaint, together with a copy of the report of investigation within 90 days of receipt of the complaint to the NDDOT and the FTA Office of Civil Rights.

The FTA has delegated authority for issuing LOFs for Title VI, related statutes, and Section 504/ADA complaints processed by FTA. LOFs issued by the FTA are administratively final.

Sub-Recipient has delegated authority for issuing LOFs for Title VI, related statutes, and Section 504/ADA complaints processed by Sub-Recipient against FTA funded sub recipients or contractors. Closure letters or LOFs issued by Sub-Recipients under FTA jurisdiction on Title VI, related statutes, and Section 504/ADA complaints are administratively final. Individuals or a specific class of individuals, personally or through a representative, may submit a complaint to FTA within 180 days from the date of the alleged discrimination.

**POSTED AT: Fargo-Moorhead Metropolitan Council of Governments: 1 - 2<sup>nd</sup> Street N #232, Fargo, ND 58102  
Case Plaza Lobby: 1 - 2<sup>nd</sup> Street N, Second Floor, Fargo, ND 58102 just outside the elevator.**

## Agencies Authorized to Receive and Process Complaints

### **Fargo-Moorhead Metropolitan Council of Governments**

Attention: Title VI Coordinator  
1 – 2<sup>nd</sup> St N, Case Plaza Suite 232  
Fargo, ND 58102  
Phone: (701)532-5100  
Fax: (701)232-5043  
TTY: 711 or (800)366-6888  
E-mail: [metrocoq@fmmetrocoq.org](mailto:metrocoq@fmmetrocoq.org)

### **North Dakota Department of Transportation**

Civil Rights Division  
608 E Boulevard Ave.  
Bismarck, ND 58507-0700  
Phone: (701) 328-2576  
Fax: (701) 328-0343  
TTY: 711 or (800) 366-6888  
E-mail:  
[civilrights@nd.gov](mailto:civilrights@nd.gov)

### **FHWA**

North Dakota Division Office  
4503 Coleman St. N., Suite 205  
Bismarck, ND 58503  
Phone: (701) 250-4204  
Fax: (701) 250-4395  
E-mail: [NorthDakota.fhwa@dot.gov](mailto:NorthDakota.fhwa@dot.gov)

### **Federal Transit Administration (FTA)**

Office of Civil Rights Attention: Complaint Team East  
Building, 5th Floor - TCR  
1200 New Jersey Ave., S.E.  
Washington, DC 20590  
Phone: (888) 446-4511

### **USDOJ - ADA Complaints**

U.S. Department of Justice (USDOJ)  
950 Pennsylvania Avenue, N.W.  
Civil Rights Division  
Disability Rights Section - 1425 NYAV  
Washington, DC 20530  
Fax: (202) 307-1197  
ADA Information Line:  
(800) 514-0301 (voice) or (800)514-0383 (TTY)  
Main Section Telephone Number:  
(202) 307-0663 (voice and TTY)

### **United States Department of Transportation (USDOT)**

Departmental Office of Civil Rights  
U.S. Department of Transportation  
Office of Civil Rights  
1200 New Jersey Ave., S.E.  
Washington, DC 20590  
Phone: (202) 366-4648  
Fax: (202) 366-5575  
TTY/Assistive Device: (202) 366-9696

### **USDOJ - Race, Color, National Origin Complaints**

Federal Coordination and Compliance Section - NWB  
Civil Rights Division U.S. Department of Justice (USDOJ)  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20530  
Phone: (888) 848-5306 (English and Spanish)  
(202) 307-2222 (voice)  
(202) 307-2678 (TDD)

### **United States Department of Transportation (FHWA)**

Federal Highway Administration  
U.S. Department of Transportation  
Office of Civil Rights  
1200 New Jersey Ave., S.E.  
8th Floor E81-105  
Washington, DC 20590  
Phone: (202) 366-0693  
Fax: (202) 366-1599  
TTY: (202) 366-5132  
E-mail: [CivilRights.FHWA@dot.gov](mailto:CivilRights.FHWA@dot.gov)



## COMPLAINANT CONSENT/RELEASE (EXTERNAL COMPLAINTS OF DISCRIMINATION)

|                               |      |       |          |
|-------------------------------|------|-------|----------|
| Name                          |      |       |          |
| Mailing Address               | City | State | Zip Code |
| Complaint Number(s) if known: |      |       |          |

Please read the information below, check the appropriate box, and sign this form.

I have read the Notice About Investigatory Uses of Personal Information by the Sub Recipient. As a complainant, I understand that in the course of an investigation it may become necessary for Sub Recipient to reveal my identity to persons at the organization or institution under investigation. I am also aware of the obligations of Sub Recipient to honor requests under the Freedom of Information Act and North Dakota Century Code 44-04-18. I understand that it may be necessary for Sub Recipient to disclose information, including personally identifying details, which it has gathered as a part of its investigation of my complaint. In addition, I understand that as a complainant I am protected by Sub Recipient's regulations from intimidation or retaliation for having taken action or participated in action to secure rights protected by nondiscrimination statutes enforced by Sub Recipient.

### CONSENT/RELEASE

|                       |  |
|-----------------------|--|
| <b>CONSENT</b>        | I have read and understand the above information and authorize Sub Recipient to reveal my identity to persons at the organization or institution under investigation. I hereby authorize the Sub Recipient to receive material and information about me pertinent to the investigation of my complaint. I understand that the material and information will be used for authorized civil rights compliance and enforcement activities. I further understand that I am not required to authorize this release, and do so voluntarily. |
| <b>CONSENT</b>        | The respondent named in the complaint may receive a copy of my complaint upon request.   |
| <b>CONSENT DENIED</b> | I have read and understand the above information and do not want Sub Recipient to reveal my identity to the organization or institution under investigation, or to review, receive copies of, or discuss material and information about me, pertinent to the investigation of my complaint. I understand this is likely to impede the investigation of my complaint and may result in the closure of the investigation   |

|           |      |
|-----------|------|
| Signature | Date |
|-----------|------|

## **Appendix E: Title VI Complaint Log**

Form is on the following page

## Title VI Complaint Log

The first line of the table, shaded in yellow, is an example of how to fill in the table when / if a complaint is received.

| EXAMPLE | Name of Complainant  |      | Date Requested |        | Basis of Complaint<br><small>(race, sex, color, age, national origin, disability, limited English proficiency, income status)</small> | Additional information regarding Complaint | Metro COG Response   |            | Date Complaint Closed |
|---------|--|------|----------------|--------|---|--|--|------------|-----------------------|
|         | <small>First Name, Last Name<br/>Address<br/>Phone<br/>Email</small>                                 | Year | Month/<br>Day  | Action |   |  | Status<br><small>(Active, pending comment, closed)</small> |            |                       |
|         | John Doe<br>1234 This Town Rd<br>Small Town, XX #####<br><br>xxx-xxx-xxxx<br><br>xxxxxx@blahblah.com | YYYY | MM/DD          | Race   |   | Translated document in entirety            | Active   | MM/DD/YYYY |                       |
|         |  |      |                |        |   |  |  |            |                       |
|         |  |      |                |        |   |  |  |            |                       |

\*As of December 2022, no Discrimination Complaints been received.

## **Appendix F: Title VI Training and Certificate of Completion**

Forms are on the following pages

**Appendix G: Title VI Training Log for Employees**

| Position                                      | Last Date Completed | Year |      |      |      |      |      |      |      |      |      |      |
|---|---------------------|------|------|------|------|------|------|------|------|------|------|------|
|   |                     | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 | 2030 |
| <i>Executive Director</i>                     | 03/15/2023          | X    | X    | X    | X    |      |      |      |      |      |      |      |
| <i>Senior Transportation Planner</i>          | 03/15/2023          | X    | X    | X    | X    |      |      |      |      |      |      |      |
| <i>Transportation Planner</i>                 | 03/15/2023          | X    | X    | X    | X    |      |      |      |      |      |      |      |
| <i>Community &amp; Transportation Analyst</i> | 03/15/2023          | X    | X    | X    | X    |      |      |      |      |      |      |      |
| <i>Associate Planner</i>                      | 03/15/2023          | X    | X    | X    | X    |      |      |      |      |      |      |      |
| <i>Assistant Planner</i>                      | 03/15/2023          | X    | X    | X    | X    |      |      |      |      |      |      |      |
| <i>GIS Coordinator</i>                        | 03/15/2023          | n/a  | X    | X    | X    |      |      |      |      |      |      |      |
| <i>Office Manager</i>                         | 03/15/2023          | X    | X    | X    | X    |      |      |      |      |      |      |      |

## 2023 TITLE VI TRAINING AND CERTIFICATE OF COMPLETION

As a direct recipient of federal assistance, the North Dakota Department of Transportation (NDDOT) is required to comply with Title VI laws, related statutes, and regulations. It is necessary that any agency receiving federal and/or state financial assistance from NDDOT receive training on U.S. Department of Transportation (DOT) and Federal Highway Administration (FHWA) Title VI laws and regulations on an annual basis.

As a sub-recipient of NDDOT's federal funds, the Fargo-Moorhead Metropolitan Council of Governments (Metro COG) is required to comply with Title VI and related nondiscrimination laws and regulations. Employees of Metro COG are required to complete Title VI training each year.

Metro COG employees shall review the following modules in order to fulfill their Title VI training requirements for 2023:

- **MODULE I** <https://www.fhwa.dot.gov/federal-aidessentials/catmod.cfm?id=92>  
Overview of FHWA's Civil Rights Program Requirement for Local Public Agencies - Public transportation agencies must comply with civil rights requirements
- **MODULE II** <https://www.fhwa.dot.gov/federal-aidessentials/catmod.cfm?id=71>  
Background and Purpose - The historical context of Title VI of the Civil Rights Act of 1964 is explained to help comply with Federal-aid program requirements
- **MODULE III** <https://www.fhwa.dot.gov/federal-aidessentials/catmod.cfm?id=93>  
Nondiscrimination Assurances - A Federal-aid recipient must have 'assurances,' a signed agreement to assure nondiscrimination in all of its programs and activities
- **MODULE IV** <https://www.fhwa.dot.gov/federal-aidessentials/catmod.cfm?id=91>  
Implementation Plans - A Federal-aid recipient must have a formal plan to prevent discrimination in all of its programs and activities
- **MODULE V** <https://www.fhwa.dot.gov/federal-aidessentials/catmod.cfm?id=94>  
Compliance and Enforcement - A Federal-aid recipient must perform civil rights compliance monitoring and provide enforcement of the Federal regulations
- **MODULE VI** <https://www.fhwa.dot.gov/federal-aidessentials/catmod.cfm?id=23>  
Nondiscrimination Requirements on Construction Contracts - Federal nondiscrimination requirements must be enforced on all Federal-aid construction contracts
- **MODULE VII** <https://www.fhwa.dot.gov/federal-aidessentials/catmod.cfm?id=72>  
Foundations of the ADA/Section 504 - Protecting the rights of persons with disabilities helps agencies accommodate all users

**Declaration of Employee:** I completed annual Title VI training on \_\_\_\_\_ (date) as required by the Fargo-Moorhead Metropolitan Council of Governments and the North Dakota Department of Transportation.

Printed Name and Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## **Appendix H: Public Participation Sign-in Sheet**

Form is on the following page

**SIGN-IN SHEET**

North Dakota Department of Transportation, Civil Rights  
SFN 59531 (5-2018)

Page \_\_\_\_ of \_\_\_\_

|                              |
|------------------------------|
| Division/District/Consultant |
|------------------------------|

|                  |              |              |
|------------------|--------------|--------------|
| Meeting Location | Meeting Type | Meeting Date |
|------------------|--------------|--------------|

|                |     |
|----------------|-----|
| Project Number | PCN |
|----------------|-----|

|                     |
|---------------------|
| Project Description |
|---------------------|

|                     |                    |
|---------------------|--------------------|
| Name (Please print) | Title/Representing |
|---------------------|--------------------|

|         |      |       |          |
|---------|------|-------|----------|
| Address | City | State | ZIP Code |
|---------|------|-------|----------|

|               |                  |
|---------------|------------------|
| Email Address | Telephone Number |
|---------------|------------------|

|                     |                    |
|---------------------|--------------------|
| Name (Please print) | Title/Representing |
|---------------------|--------------------|

|         |      |       |          |
|---------|------|-------|----------|
| Address | City | State | ZIP Code |
|---------|------|-------|----------|

|               |                  |
|---------------|------------------|
| Email Address | Telephone Number |
|---------------|------------------|

|                     |                    |
|---------------------|--------------------|
| Name (Please print) | Title/Representing |
|---------------------|--------------------|

|         |      |       |          |
|---------|------|-------|----------|
| Address | City | State | ZIP Code |
|---------|------|-------|----------|

|               |                  |
|---------------|------------------|
| Email Address | Telephone Number |
|---------------|------------------|

|                     |                    |
|---------------------|--------------------|
| Name (Please print) | Title/Representing |
|---------------------|--------------------|

|         |      |       |          |
|---------|------|-------|----------|
| Address | City | State | ZIP Code |
|---------|------|-------|----------|

|               |                  |
|---------------|------------------|
| Email Address | Telephone Number |
|---------------|------------------|

|                     |                    |
|---------------------|--------------------|
| Name (Please print) | Title/Representing |
|---------------------|--------------------|

|         |      |       |          |
|---------|------|-------|----------|
| Address | City | State | ZIP Code |
|---------|------|-------|----------|

|               |                  |
|---------------|------------------|
| Email Address | Telephone Number |
|---------------|------------------|

|                     |                    |
|---------------------|--------------------|
| Name (Please print) | Title/Representing |
|---------------------|--------------------|

|         |      |       |          |
|---------|------|-------|----------|
| Address | City | State | ZIP Code |
|---------|------|-------|----------|

|               |                  |
|---------------|------------------|
| Email Address | Telephone Number |
|---------------|------------------|

|                     |                    |
|---------------------|--------------------|
| Name (Please print) | Title/Representing |
|---------------------|--------------------|

|         |      |       |          |
|---------|------|-------|----------|
| Address | City | State | ZIP Code |
|---------|------|-------|----------|

|               |                  |
|---------------|------------------|
| Email Address | Telephone Number |
|---------------|------------------|

|                     |                    |
|---------------------|--------------------|
| Name (Please print) | Title/Representing |
|---------------------|--------------------|

|         |      |       |          |
|---------|------|-------|----------|
| Address | City | State | ZIP Code |
|---------|------|-------|----------|

|               |                  |
|---------------|------------------|
| Email Address | Telephone Number |
|---------------|------------------|

## **Appendix I: Public Participation Survey**

Form is on the following page



## **Appendix J: Limited English Proficiency Plan**

Document starts on the following page.

FARGO-MOORHEAD  
METROPOLITAN COUNCIL OF GOVERNMENTS

LIMITED ENGLISH  
PROFICIENCY  
PLAN

PREPARED BY:  
FARGO-MOORHEAD METROPOLITAN  
COUNCIL OF GOVERNMENTS  
ADOPTON: September 21, 2023  
1 - 2nd Street N, Suite 232  
 Fargo, ND 58102  
[www.fmmetrocog.org](http://www.fmmetrocog.org)

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# Fargo-Moorhead Metropolitan Council of Governments

## Policy Board

|                             |                 |                 |
|-----------------------------|-----------------|-----------------|
| Chuck Hendrickson, Chair    | Steve Lindaas   | Rocky Schneider |
| Duane Breitling, Vice Chair | Jenny Mongeau   | John Strand     |
| Amanda George               | Julie Nash      | Maranda Tasa    |
| John Gunkelman              | Brad Olson      | Jeff Trudeau    |
| Denise Kolpack              | Dave Piepkorn   | Deb White       |
|                             | Arlette Preston |                 |

## Staff

|  |  |
|--|--|
| Ben Griffith<br>Executive Director                     | Jaron Capps<br>Assistant Planner / GIS Coordinator |
| Michael Maddox<br>Senior Transportation Planner        | Paul Bervik<br>Assistant Transportation Planner    |
| Dan Farnsworth<br>Transportation Planner               | Savanna Leach<br>Office Manager                    |
| Adam Altenburg<br>Community and Transportation Analyst | Ayden Schaffler<br>Transportation Planning Intern  |



U.S. Department  
of Transportation

**Federal Transit  
Administration**



U.S. Department  
of Transportation

**Federal Highway  
Administration**

The preparation of this report has been financed in part through grants from the Federal Highway Administration and Federal Transit Administration, U.S. Department of Transportation, under the Metropolitan Planning Program, Section 104(f) of Title 23, U.S. Code, and by the North Dakota Department of Transportation (NDDOT).

The contents of this report do not necessarily reflect the official views or policy of the U.S. Department of Transportation or NDDOT.

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**Resolution No. 2023-R011**  
**Approving the Limited English Proficiency Plan**

**WHEREAS** Title VI of the Civil Rights Act of 1964 and U.S. Department of Transportation (USDOT) regulations to implement the law (49 CFR, Part 21) require all recipients and sub-recipients of Federal transportation funds such as the Fargo-Moorhead Metropolitan Council of Governments (Metro COG) to establish and maintain a Title VI Program that carries out the regulations and integrates the activities and considerations outlined in the USDOT's Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient (LEP) Persons (70 FR 74087, December 14, 2005) ; and

**WHEREAS** the Federal Transit Administration (FTA) issued Circular FTA 4702.1B, Title VI Requirements and Guidelines for FTA Recipients, on October 12, 2012 providing further guidance and instructions necessary to carry the USDOT Title VI regulations and policy guidance related to LEP persons; and

**WHEREAS** a Title VI Non-Discrimination Program has been developed for the Metro COG as its administrative and fiscal agent, which aims to meet these requirements; and

**WHEREAS** the Title VI Program includes an updated Limited English Proficiency (LEP) Plan contained in Appendix F; and

**WHEREAS** Metro COG intends that no person shall, on the grounds of race, color, and/or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any Metro COG program or activity, regardless of funding source; and

**WHEREAS** Metro COG as its agent intends that any agencies or firms with whom the MPO contracts will comply with the Title VI Program as appropriate and the Metro COG will take reasonable steps to ensure such compliance:

**NOW, THEREFORE, BE IT RESOLVED** that the Fargo-Moorhead Metropolitan Council of Governments as the designated Metropolitan Planning Organization (MPO) for the Fargo-Moorhead Metropolitan Area, approves the Limited English Proficiency Plan dated September 21, 2023 which reflects the draft document dated September 2023 without change; and

**BE IT FURTHER RESOLVED**, in accordance with 23 CFR 450.334(a) the Madison Area Transportation Board hereby certifies that the metropolitan transportation planning process is addressing major issues facing the metropolitan planning area and is being conducted in accordance with all applicable requirements of:

1. 23 U.S.C. 134 and 49 U.S.C. 5303, and this subpart;
2. Title VI of the Civil Rights Act of 1964, as amended (42 USC 2000d-1) and 49 CFR part 21;
3. 49 USC 5332, prohibiting discrimination on the basis of race, color, creed, national origin, sex, or age in employment or business opportunity;
4. Sections 1101(b) of the Fixing America's Surface Transportation (FAST) Act (Pub. L. 114-357) and 49 CFR Part 26 regarding the involvement of disadvantaged business enterprises in the US DOT funded projects;
5. 23 CFR part 230, regarding the implementation of an equal employment opportunity

program on Federal and Federal-aid highway construction contracts;

6. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and 49 CFR Parts 27, 37, and 38;
7. The Older Americans Act, as amended (42 U.S.C 6101), prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance;
8. Section 324 of title 23, U.S.C regarding the prohibition of discrimination based on gender; and
9. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and 49 CFR 27 regarding discrimination against individuals with disabilities.



---

Chuck Hendrickson  
Chair, Metro COG Policy Board

09/21/2023

Date

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# Introduction

## **Purpose**

Fargo-Moorhead Council of Governments (Metro COG) is the designated Metropolitan Planning Organization (MPO) responsible for continuing, cooperative, comprehensive transportation planning and decision making in the Fargo-Moorhead metropolitan area. As a recipient of federal financial assistance, Metro COG is obligated under Title VI of the Civil Rights Act of 1964 and Executive Order 13166 to develop and implement a plan to ensure accessibility to its programs and services for persons who are not proficient in the English language.

The *Limited English Proficiency Plan* outlines the policies and procedures Metro COG uses to address the needs of individuals with limited English proficiency (LEP) that wish to access or participate in Metro COG's programs and planning activities. The plan has been prepared in accordance with Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq., and its implementing regulations, which state that no person shall be subjected to discrimination on the basis of race, color or national origin. This plan updates the previous one adopted in January 2020.

## **Statutory Authorities**

Executive Order 13166: *Improving Access to Services for Persons with Limited English Proficiency*, issued in 2000 clarified Title VI of the Civil Rights Act of 1964. It stated that individuals who do not speak English well and who have a limited ability to read, write, speak, or understand English are entitled to language assistance under Title VI in order to access public services or benefits for which they are eligible. It directed federal agencies to prepare a plan to improve access to its federally conducted programs and activities by eligible LEP persons consistent with LEP guidelines. Recipients of federal financial assistance are also required to implement LEP plans in accordance with guidelines of the federal agency from which the funds are provided.

The U.S. Department of Transportation published guidance in December 2005 concerning recipients' responsibilities to LEP persons. The guidance specifically identifies MPOs as organizations that must follow the guidance. In October 2012, the Federal Transit Administration (FTA) published Title VI Requirements and Guidance for FTA Recipients in FTA Circular 4702.1B, which provides guidance and instructions for carrying out U.S. DOT Title VI regulations and integrating into FTA recipients' programs and activities (the considerations expressed in the U.S. DOT's 2005 policy guidance).

The Executive Order 13166 applies to all state and local agencies, which receive federal funds, including Metro COG and its jurisdictions receiving federal grant funds.

The following Limited English Proficiency (LEP) Plan was approved by the Metro COG on September 21, 2023.

## **Definitions**

The following are a selection of definitions applicable to the Title VI Program, which can be found in Chapter 1 of FTA Circular 4702.1B:

*Discrimination*: Refers to any action, or inaction, whether intentional or unintentional, in any program or activity of a Federal aid recipient, sub-recipient, or contractor that results in disparate treatment, disparate impact, or perpetuating the effects of prior discrimination based on race, color, or national origin.

*Limited English Proficiency (LEP) Person*: Refers to person for whom English is not their primary language and who have a limited ability to read, write, speak, or understand English. It includes people who reported to the U.S. Census that they speak English less than very well, not well, or not at all.

*Low-Income Person*: a person whose median household income is at or below the [U.S. Department of Health and Human Service poverty guidelines](#) per FTA's Title VI circular

*Low-Income Population*: USDOT, FHWA, and FTA define a low-income population as, 1) any readily identifiable group of low-income persons who live in geographic proximity, or 2) geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed program, policy or activity.

*Metropolitan Planning Organization (MPO)*: The transportation policy-making organization created and designated to carry out the federally required metropolitan transportation planning process. *Minority Person*: Includes the following:

1. American Indian and Alaska Native, which refers to people having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment.
2. Asian, which refers to people having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
3. Black, or African American, which refers to peoples having origins in any of the Black racial groups of Africa.
4. Hispanic, or Latino, which includes persons of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.
5. Native Hawaiian or Other Pacific Islander, which refers to people having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

## About Metro COG

The Fargo-Moorhead Metropolitan Council of Governments (Metro COG) is both the designated Council of Governments (COG) and Metropolitan Planning Organization (MPO) for the greater Fargo-Moorhead Metropolitan Area.

The Federal Surface Transportation Assistance Act of 1973 requires the formation of an MPO for any urbanized area with a population greater than 50,000. The Act also requires, as a condition for federal transportation financial assistance, that transportation projects be based upon a continuous, comprehensive, and cooperative (3-C) planning process for the Fargo-Moorhead Metropolitan Planning Area (MPA). MPOs help facilitate implementing agencies (including municipal public works departments, county highway departments, and state departments of transportation) to prioritize their transportation investments in a coordinated way consistent with regional needs, as outlined in a metropolitan transportation plan (MTP).

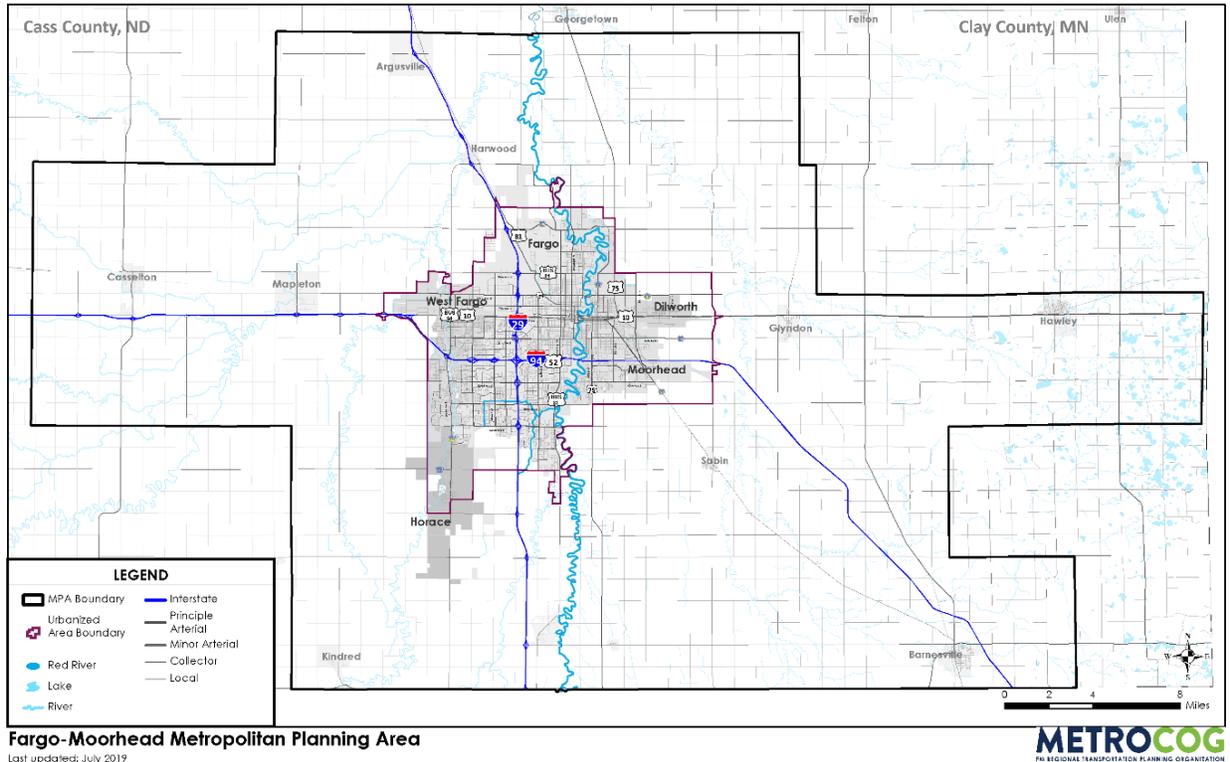
The core of an MPO is the urbanized area (UZA), which is initially identified and defined by the U.S. Census Bureau as part of the Decennial Census update. This boundary is adjusted by local officials and approved by the overseeing state Department of Transportation (DOT). The result of this is the official Adjusted Urban Area Boundary (known as the AUAB). In Metro COG's case, the overseeing DOT is the North Dakota Department of Transportation (NDDOT). The UZA is used to determine the type of transportation funding programs potential projects may be eligible to receive.

In addition to the UZA, the MPO boundary includes any contiguous areas, which may become urbanized within a twenty-year forecast period. Collectively, this area is known as the Metropolitan Planning Area (MPA). Metro COG's MPA boundary was most recently expanded in 2013 and is currently comprised of approximately 1,073 square miles (687,000 acres), across two states, two counties, 14 cities, and 31 townships. The MPA boundary is effectively Metro COG's "study area" or area of influence respective to the metropolitan transportation planning program. These areas are significant not only as potential future population centers but also due to their proximity to existing and future transportation assets of regional significance.

For UZAs with populations greater than 200,000 people, the FHWA and FTA designate Transportation Management Areas (TMAs) to address increased planning and regulatory needs faced by larger UZAs. In the 2020 U.S. Census, Metro COG's UZA surpassed this population threshold and, as of 2023, Metro COG is in the process of transitioning to a TMA.

Map 1 provides an overview of these boundaries for the Fargo-Moorhead area, specifically depicting:

- a) The Metropolitan Planning Area Boundary;
- b) The Adjusted Urbanized Area boundary; and
- c) Cities within the MPA.



Map 1: Fargo-Moorhead Planning Boundaries

Metro COG serves a bi-state area. This area is unique that it covers 14 townships in Cass County, ND, and 16 townships in Clay County, MN.

Within the MPA there are seven (7) member jurisdictions, which pay dues and have voting rights on the policy board and transportation technical committee. The following are the member jurisdictions:

- Cass County, ND
- Clay County, MN
- City of Fargo, ND
- City of Moorhead, MN
- City of West Fargo, ND
- City of Dilworth, MN
- City of Horace, ND

Additionally, there are Associate Jurisdictions located within the MPA. These towns have populations over 700, do not pay dues, and do not have voting rights on the policy board and transportation technical committee. In Minnesota, these include Barnesville, Glyndon, and Hawley; and in North Dakota include Casselton, Harwood, and Mapleton. Kindred has recently expressed interest in becoming an Associate Jurisdiction.

Additionally, there is a third designation of jurisdiction, which are non-member jurisdictions. These jurisdictions have populations under 700 and/or have chosen not to

participate in Metro COG. These include in Minnesota: Comstock and Sabin; and in North Dakota: Argusville, Briarwood, Frontier, North River, Oxbow, Prairie Rose, and Reiles Acres.

The (14) Townships within the MPA in North Dakota include: Barnes, Berlin, Casselton, Durbin, Everest, Harmony, Harwood, Mapleton, Normanna, Pleasant, Raymond, Reed, Stanley, Warren.

The (16) Townships within the MPA in Minnesota include: Alliance, Barnesville, Eglon, Elkton, Elmwood, Glyndon, Hawley, Holy Cross, Humboldt, Kragnes, Kurtz, Moland, Moorhead, Morken, Oakport, Riverton.

Metro COG provides regional coordination and approves the use of federal transportation funds within the MPA, responsibility for the implementation of specific transportation projects lies with NDDOT, MnDOT, and the local units of government as transportation providers.

### **Governance and Organizational Structure**

Metro COG is governed by a 24-member Policy Board appointed by local units of government within the Metropolitan Planning Area, Minnesota Department of Transportation, and North Dakota Department of Transportation. Federal law requires that the Policy Board shall consist of:

- Elected officials;
- Officials of public agencies that administer or operate major modes of transportation in the metropolitan area; and
- Appropriate State officials

Figure 1 provides an overview of Metro COG's organizational structure. The light blue branch are staff positions. The green branch are technical committees and subcommittees. The technical committees, executive committee, and staff provide recommendations to the Policy Board.

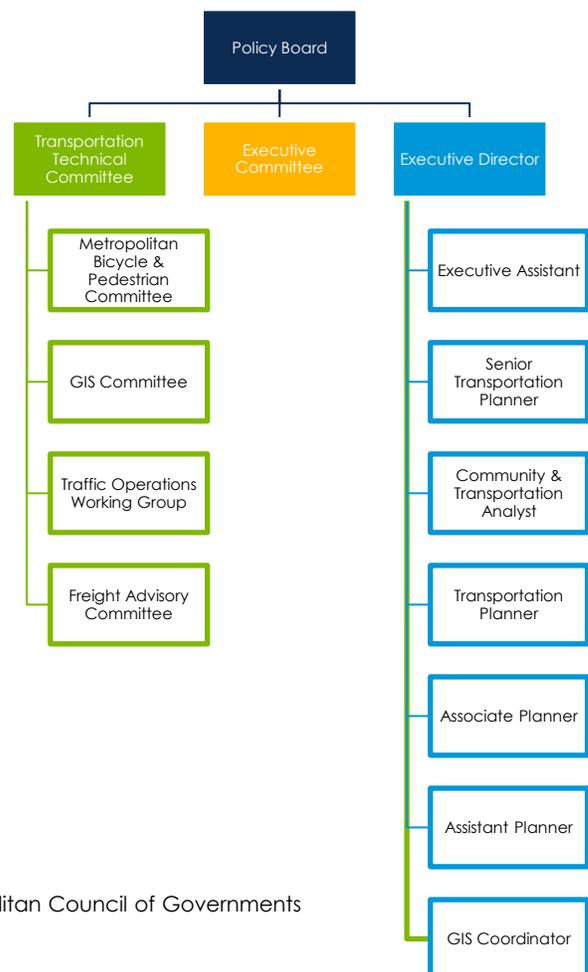


Figure 1: Fargo-Moorhead Metropolitan Council of Governments Organizational Chart

## Plan Summary

Metro COG seeks to ensure access to the regional transportation planning process, information published by Metro COG, and Metro COG's programs to area residents who do not speak or read English proficiently. It is Metro COG's policy to inform residents with LEP of the right to free language assistance and interpreter services at no cost to them. This plan outlines the procedures and practices Metro COG uses to provide meaningful access to its programs and activities for LEP populations within the Fargo-Moorhead Metropolitan Planning Area.

The plan outlines the following elements:

- Meaningful Access: Four Factor Analysis
  - a. LEP Assessment, which includes the results of the Four Factor Analysis
  - b. LEP populations in the Fargo-Moorhead Metropolitan Statistical Area
- Language Assistance
  - a. Language Assistance Services Provided
  - b. Translation of Documents
  - c. Public Outreach
  - d. Monitoring, Evaluating, and Updating the Language Assistance program
  - e. Staff Training

## Meaningful Access: Four-Factor Analysis

In order to prepare this plan, Metro COG used the four-factor LEP analysis, which considers the following factors:

### **Factor 1: Demography**

*The number or proportion of LEP persons in the service area who may be served by Metro COG.*

Metro COG staff have reviewed the 2021 American Community 5-year estimates from the Census Bureau and determined that 6,020 individuals have limited English proficiency; that is that they speak English less than “very well.” This is 2.43% of the overall population over the age of 5 in the Fargo-Moorhead Metropolitan Statistical Area (MSA).

Table A presents the above data and compares it to the counties, states, and country jurisdictional population breakdowns that Metro COG’s MSA is located within.

Among persons speaking English less than “very well,” the most common languages in the MSA are Indo-European languages, which includes:

- Spanish
- French, Haitian, or Cajun
- German or other West Germanic languages
- Russian, Polish, or other Slavic languages
- Other Indo-European Languages
- Korean
- Chinese (including Mandarin, Cantonese)
- Vietnamese
- Tagalog (including Filipino)
- Other Asian and Pacific Island languages
- Arabic
- Other and unspecified languages

See Appendix F for annual updates to the information presented here.

Table A: LEP Populations by Community for the Fargo-Moorhead MSA

| Geographic Area           | 2021 Total Population Est. | # Who Speak English Less Than "Very Well" | % of Total Population | % of total population speaking |                         |                                |                 |
|---------------------------|----------------------------|---|-----------------------|--------------------------------|-------------------------|--------------------------------|-----------------|
|                           |                            |   |                       | Spanish                        | Indo-European Languages | Asian-Pacific Island Languages | Other Languages |
| <b>United States</b>      | 310,302,360                | 25,535,259                                | 8.2%                  | 5.2%                           | 1.1%                    | 1.6%                           | 0.3%            |
| <b>Minnesota</b>          | 719,927                    | 239,624                                   | 1.9%                  | 0.5%                           | 0.6%                    | 0.3%                           | 0.5%            |
| <b>North Dakota</b>       | 5,322,004                  | 13,809                                    | 4.5%                  | 1.4%                           | 0.5%                    | 1.5%                           | 1.0%            |
| <b>Clay County, MN</b>    | 170,558                    | 1,026                                     | 2.9%                  | 0.2%                           | 1.0%                    | 0.7%                           | 0.9%            |
| <b>Cass County, ND</b>    | 60,376                     | 4,994                                     | 1.7%                  | 0.2%                           | 0.7%                    | 0.3%                           | 0.4%            |
| <b>Fargo-Moorhead MSA</b> | 230,934                    | 6,020                                     | 2.6%                  | 0.2%                           | 0.9%                    | 0.6%                           | 0.8%            |
| <b>Fargo-Moorhead UZA</b> | 201,288                    | 5,899                                     | 2.9%                  | 0.2%                           | 1.1%                    | 0.7%                           | 0.9%            |

See Appendix F for annual updates to the information presented here.

USDOT has adopted the Safe Harbor Provision, which outlines circumstances that can provide a "safe harbor" for recipients regarding translation of written materials for LEP populations. The Safe Harbor Provision applies to eligible LEP language groups that constitute five percent (5%) or 1,000 persons, whichever is less of the total population of persons eligible to be served or likely to be affected or encountered.

**Based on the 1,000 person or 5% threshold, there is no individual language group that falls under the Safe Harbor Provision in the Fargo-Moorhead MSA.**

Discussions with the Language Services at Family Health Care Center in Fargo, ND led Metro COG staff to have a more complete understanding of the current (as of August 2023) Metropolitan Area LEP community. Family Health Care Center noted that there has been a consistent trend in illiteracy amongst individuals in the region that use their services, so translation services seem to be ineffective. Conversely, interpreter services are in high demand. The top three languages that are most requested and used at Family Health Care Center (which has a pulse on the LEP population in the Fargo-Moorhead region) from highest demand to less demand are Nepali, Somalian, and Arabic. Two languages that Family Healthcare offers have been growing in popularity: Swahili and Haitian. Family Health Care attributes this rise in popularity to new Americans entering the USA from these countries due to political conditions and planned migration.

Metro COG also spoke with the English Learners programs at the area public K-12 school districts, finding that Nepali, Somali, Spanish, Creoles/Pigin (English-based), Swahili, and Arabic are among the top languages spoken at home for those students.

This information is helpful to understand that if Metro COG is considering translating documents, that Nepali, Somalian, Arabic, Swahili, and Haitian may be the most needed, but also understanding that translation services may not be as valuable as interpretive services.

## **Factor 2: Frequency**

*The frequency with which LEP persons come in contact with Metro COG services.*

Metro COG staff reviewed the frequency with which its Policy Board, staff, and contractors have, or could have, contact with LEP persons. This includes documenting phone inquiries or office visits. To date, Metro COG has had no requests for interpreters and no requests for translated program documents. Metro COG staff, contractors, and the Policy Board have had very little contact with LEP persons.

Agendas for all Metro COG Policy Board meetings include the following notice:

*Metro COG is committed to ensuring all individuals, regardless of race, color, sex, age, national origin, disability/handicap, sexual orientation, and/or income status have access to Metro COG's*

*programs and services. Meeting facilities will be accessible to mobility-impaired individuals. Metro COG will make a good faith effort to accommodate requests for translation services for meeting proceedings and related materials. Please contact Savanna Leach, Metro COG Office Manager, at 701-532-5100 at least five days in advance of the meeting if any special accommodations are required for any member of the public to be able to participate in the meeting.*

Metro COG has not had a request for interpreter services at any of its meetings, but has flexibility in its budget each year for such services.

### **Factor 3: Importance**

*The nature and importance of services provided by Metro COG to the LEP population.*

Metro COG plans and programs the use of federal funds for future transportation projects. However, Metro COG does not provide a direct service or program that requires vital, immediate, or emergency assistance. Metro COG also does not conduct required activities, such as permit applications. Involvement by citizens with Metro COG or its committees is voluntary.

There is no large geographic concentration of any type of LEP individuals in the Fargo-Moorhead MSA. The majority of the population in the MSA, 91.5%, speak only English. Overall, 96.9% of the MSA population speaks either only English or speaks another language and English "very well". As a result, few social, service, or professional and leadership organizations within the MSA focus on outreach to LEP individuals. The Policy Board, Metro COG staff, and Metro COG contractors or sub recipients are most likely to contact LEP individuals through public meetings and other general public involvement opportunities, which is voluntary.

While Metro COG does not provide an essential service, it is committed to ensuring that all segments of the population, including LEP persons, are involved or at the very least have the opportunity to be involved in the transportation planning process and benefit from programs. Special efforts are made to involve LEP persons and other traditionally under-represented populations in the planning process through a three-phase approach. The [Public Participation Plan \(PPP\)](#) further details Metro COG's public involvement approach.

Metro COG has determined the importance of its services by reviewing and considering the identification of vital documents: [Unified Planning Work Program \(UPWP\)](#), [Transportation Improvement Program \(TIP\)](#), [Public Participation Plan \(PPP\)](#), Title VI / Nondiscrimination and ADA Policy Statement, and the Non-Discrimination Complaint Form.

Metro COG also evaluates the impact of proposed transportation investments on underserved and under-represented population groups as part of the planning

and programming process consistent with Title VI, Executive Order 12898, and other federal guidance.

The impacts of federally funded transportation investments in the Fargo-Moorhead area are monitored and assessed annually in its [Transportation Improvement Program](#). As noted in Part 3: Demographic Profile, the upcoming four-year program of projects will have no significant or disproportionate negative impacts and are expected, instead, to provide positive transportation improvements for community members in proximity to those projects. See Title VI Non-Discrimination Plan, Part 3: Demographic Profile for further information.

#### **Factor 4: Resources**

*The resources available to Metro COG and overall costs to provide LEP assistance.*

As noted in Factor 1 and Factor 3, there is no large geographic concentration of any type of LEP individuals in Metro COG's planning area. The majority (96.9%) of the population speaks English only or another language and English "very well".

Given the small size of the LEP population (3.1%) and our financial constraints, full multi-language translations of our planning and meeting documents are not warranted at this time, but can be made available on a case-by-case basis and upon request.

Metro COG has reviewed its available resources that can be used for providing LEP assistance. Currently, there are no less than seven resources within the Fargo-Moorhead region to assist Metro COG with interpretive services should the need arise. Metro COG keeps a list of these services updated and on file. The list can also be viewed in Appendix A: Interpretive Services.

## Language Assistance

A person who does not speak English as their primary language and who has a limited ability to read, write, speak or understand English may be a Limited English Proficient person and may be entitled to language assistance with respect to Metro COG programs and services. Language assistance can include interpretation, which means oral or spoken transfer of a message from one language into another language and/or translation, which means the written transfer of a message from one language into another language.

After applying the four-factor analysis, Metro COG has examined the following language assistance options and identified which methods will provide Metro COG with an effective LEP Plan.

The following are measures Metro COG staff may use to notify and identify a LEP person:

1. Post a notice in a conspicuous and accessible place in the Metro COG office of the LEP Plan and of the availability of interpretation or translation services free of charge in languages LEP persons would understand.
2. Post the LEP on Metro COG's website
3. Greet participants as they arrive at Metro COG - sponsored informational meetings or events. By informally engaging participants in conversation or by using language identification flashcards (next bullet point), it is possible to gauge each attendee's ability to speak and understand English. Although translation may not be able to be provided at the event, it will help identify the need for future events.
4. Make language identification flashcards (see Appendix B) available at public meetings and other community input events.
5. Survey Metro COG staff periodically on their experience concerning any contacts with LEP persons during the previous year.

## **Language Assistance Measures**

Although there is a very low percentage of LEP individuals in the Metro COG planning area, that is, persons who speak English less than “very well” or “not at all”, Metro COG will strive to offer the following measures:

1. Metro COG staff will take reasonable steps to provide the opportunity for meaningful access to LEP clients who have difficulty communicating in English.
2. The following resources will be available to accommodate LEP persons:
  - a. Interpretative services, within reason, will be provided for public meetings, if advance notice is provided to Metro COG and such services are readily available;
  - b. Metro COG will make translated versions (or provide for the interpretation of relevant sections) of all documents/publications available upon request, within a reasonable time period and as resources permit.

Additionally, Metro COG includes the following disclaimer on all public meeting notifications:

*“Metro COG will make a good faith effort to accommodate requests for translation services for meeting proceedings and related materials. Please contact the Metro COG Office Manager at 701.532.5100 at least five days in advance of the meeting if any special accommodations are required for any member of the public to be able to participate in this meeting.”*

## **Staff Training**

Metro COG will take steps to ensure staff has appropriate training and resources available to assist LEP individuals. These steps are completed annually and in coordination with employee orientation:

1. Provide staff with information on the Title VI Policy and LEP responsibilities
2. Provide staff with information on the use of language identification cards
3. Provide staff with information on language assistance services available and offered to the public
4. Train staff on how to document language assistance requests
5. Train staff on how to handle potential Title VI / LEP complaints

Appendix C identifies the LEP Training and Certificate of Completion and is amended annually in February. Appendix D identifies the LEP Training Log, which is amended annually in February.

## **Contractors / Consultants**

All contractors or subcontractors performing work for Metro COG will be required to follow Title VI / LEP guidelines. Such assurance is made at the time the contract is established.

## **Translation of Documents**

Metro COG staff weighed the cost and benefits of translating documents for potential LEP groups. Considering the expense of translating the documents, the likelihood of frequent changes in documents and other relevant factors, Metro COG will consider the translation of documents (or portions thereof) on a case-by-case basis, as requested.

Translation resources have been identified (see Appendix A) and are kept on file by Metro COG.

As an interim tool, Metro COG can use Google's Translate program, located at <http://translate.google.com>, to provide users with HTML content in other languages. This resource is an imperfect system, but has a potential to provide enough information for a LEP individual or group to gain an initial understanding of Metro COG documents in response to an initial contact. Outside of that service, because Metro COG staff level is small and does not possess in-house translation capabilities or expertise, Metro COG staff can only assist LEP persons, but cannot accurately assess or guarantee the accuracy of translation services provided by others.

## **Monitoring, Evaluating, and Updating the Plan**

Metro COG will update the LEP Plan annually with its self-certification procedure per 23 CFR 450.334. An annual review and update will include the following:

1. Completion of Appendix E: Language Assistance Requests
  - a. Document the number of LEP person contacts encountered in the previous calendar year, if any
  - b. Document how the needs of LEP persons that were encountered were addressed, if any
2. Completion of Appendix F: LEP Annual Assessment
  - a. Current LEP population in the service area; subject to available Census data
  - b. Assessment and determination whether:
    - i. The need for translation services has changed
    - ii. Local language assistance programs have been effective and sufficient to meet the need
    - iii. Staff training is sufficient
    - iv. Metro COG's financial resources are sufficient to fund language assistance resources needed
    - v. Metro COG fully complies with the goals of this LEP Plan

- c. Document the complaints that have been received concerning the agency's failure to meet the needs of LEP individuals. These are recorded and maintained in the Title VI complaint log, which includes LEP to determine issues and basis of complaints (see Title VI Non-Discrimination Plan Appendix D and E for Complaint Forms and Logs).

### **Dissemination of Metro COG's LEP Plan**

Metro COG will make good faith efforts to notify the public that a LEP Plan and language assistance is available through the following means:

1. Post a notice in a conspicuous and accessible place in the Metro COG office of the LEP Plan and of the availability of interpretation or translation services free of charge in languages LEP persons would understand
2. Post the LEP on the Metro COG website
3. Include as part of public notices and related materials that LEP person needing interpretative service need to contact Metro COG. The following disclaimer is on all public meeting notifications:

*"Metro COG will make a good faith effort to accommodate requests for translation services for meeting proceedings and related materials. Please contact the Metro COG Office Manager at 701.532.5100 at least five days in advance of the meeting if any special accommodations are required for any member of the public to be able to participate in this meeting."*

# Appendices

## **Appendix A: Interpretive Services**

### FARGO-MOORHEAD METROPOLITAN COUNCIL OF GOVERNMENTS

## INTERPRETIVE SERVICES AVAILABLE FOR PUBLICATIONS AND MATERIALS

### Services Available

- Local Translation
- Document Translation
- Website Translation

### Resources

#### **Cultural Diversity Resources**

112 N University Drive #305  
Fargo, ND 58102  
701-526-3000  
[www.culturaldiversityresources.org](http://www.culturaldiversityresources.org)

#### **Minnesota Translations**

19 8<sup>th</sup> Street South #103  
Fargo, ND 58103  
701-566-8870  
[www.minnesotatranslations.com](http://www.minnesotatranslations.com)

#### **Luther Immigration and Refugee Service**

3310 Fiechtner Drive, Suite 100  
Fargo, ND, 58103  
701-409-3750  
<https://www.lirs.org/north-dakota>

#### **Language Services**

##### **Family Health Care Center**

301 NP Avenue  
Fargo, ND 58102  
701-271-6369  
[www.famhealthcare.org](http://www.famhealthcare.org)

#### **North Dakota State Contracted Services Telephone Based Interpreter Services**

Contract Administrator: 701-328-2740  
<https://apps.nd.gov/csd/spo/services/bi/der/listCurrentContracts.do>

- Cyracom 866-742-9080
- Language Link 203-889-5477,  
ext. 1708

#### **North Dakota Assistive**

3240 15<sup>th</sup> Street South, Suite B  
Fargo, ND 58104  
701-365-4728  
<https://ndassistive.org/>

## **Appendix B: Language Index Cards**

To be able to communicate with LEP persons, Metro COG staff will make the following language identification flashcards available at public meetings and other community input events.

Developed by the U.S. Census Bureau, these cards have the phrase, "Mark this box if you read or speak 'name of language'", translated into 38 languages. They were designed for use by government and nongovernment agencies to identify the primary language of LEP individuals during face-to-face contacts.

Once a language is identified, a relevant point of contact will be notified to assess feasible translation or oral interpretation assistance.

Language Index Cards are on the following pages.

- |   |                        |
|---|------------------------|
| <input type="checkbox"/> <p>ضع علامة في هذا المربع إذا كنت تقرأ أو تتحدث العربية.</p>                                     | 1. Arabic              |
| <input type="checkbox"/> <p>Խոսողո՞ւմ ե՞սք նշո՞ւմ կատարե՞ք այս քանակուսու՞մ,<br/>եթե խոսո՞ւմ կա՞մ կարո՞ւմ եք հայերեն:</p> | 2. Armenian            |
| <input type="checkbox"/> <p>যদি আপনি বাংলা পড়েন বা বলেন তা হলে এই বাক্সে দাগ দিন।</p>                                    | 3. Bengali             |
| <input type="checkbox"/> <p>ល្អបញ្ជាក់ក្នុងប្រអប់នេះ បើអ្នកអាន ឬនិយាយភាសា ខ្មែរ ។</p>                                     | 4. Cambodian           |
| <input type="checkbox"/> <p>Motka i kahhon ya yangin ûntûngnu' manaitai pat ûntûngnu' kumentos Chamorro.</p>              | 5. Chamorro            |
| <input type="checkbox"/> <p>如果你能读中文或讲中文，请选择此框。</p>  | 6. Simplified Chinese  |
| <input type="checkbox"/> <p>如果你能讀中文或講中文，請選擇此框。</p>  | 7. Traditional Chinese |
| <input type="checkbox"/> <p>Označite ovaj kvadratić ako čitate ili govorite hrvatski jezik.</p>                           | 8. Croatian            |
| <input type="checkbox"/> <p>Zaškrtněte tuto kolonku, pokud čtete a hovoříte česky.</p>                                    | 9. Czech               |
| <input type="checkbox"/> <p>Kruis dit vakje aan als u Nederlands kunt lezen of spreken.</p>                               | 10. Dutch              |
| <input type="checkbox"/> <p>Mark this box if you read or speak English.</p>   | 11. English            |
| <input type="checkbox"/> <p>اگر خواندن و نوشتن فارسي بلد هستيد، اين مربع را علامت بنيد.</p>                               | 12. Farsi              |

|                          |  |                    |
|--------------------------|--|--------------------|
| <input type="checkbox"/> | Cocher ici si vous lisez ou parlez le français.                                      | 13. French         |
| <input type="checkbox"/> | Kreuzen Sie dieses Kästchen an, wenn Sie Deutsch lesen oder sprechen.                | 14. German         |
| <input type="checkbox"/> | Σημειώστε αυτό το πλαίσιο αν διαβάζετε ή μιλάτε Ελληνικά.                            | 15. Greek          |
| <input type="checkbox"/> | Make kazye sa a si ou li oswa ou pale kreyòl ayisyen.                                | 16. Haitian Creole |
| <input type="checkbox"/> | अगर आप हिन्दी बोलते या पढ़ सकते हैं तो इस बक्स पर चिह्न लगाएँ।                       | 17. Hindi          |
| <input type="checkbox"/> | Kos lub voj no yog koj paub twm thiab hais lus Hmoob.                                | 18. Hmong          |
| <input type="checkbox"/> | Jelölje meg ezt a kockát, ha megérta vagy beszéli a magyar nyelvet.                  | 19. Hungarian      |
| <input type="checkbox"/> | Markaam daytoy nga kahon no makabasa wenno makasaoka iti Ilocano.                    | 20. Ilocano        |
| <input type="checkbox"/> | Marchi questa casella se legge o parla italiano.                                     | 21. Italian        |
| <input type="checkbox"/> | 日本語を読んだり、話せる場合はここに印を付けてください。   | 22. Japanese       |
| <input type="checkbox"/> | 한국어를 읽거나 말할 수 있으면 이 칸에 표시하십시오.   | 23. Korean         |
| <input type="checkbox"/> | ໃຫ້ໝາຍໃສ່ຊ່ອງນີ້ ຖ້າທ່ານອ່ານຫຼືປາກພາສາລາວ.   | 24. Laotian        |
| <input type="checkbox"/> | Prosimy o zaznaczenie tego kwadratu, jeżeli posługuje się Pan/Pani językiem polskim. | 25. Polish         |

|                          |  |                |
|--------------------------|--|----------------|
| <input type="checkbox"/> | Assinale este quadrado se você lê ou fala português.                           | 26. Portuguese |
| <input type="checkbox"/> | Însemnați această căsuță dacă citiți sau vorbiți românește.                    | 27. Romanian   |
| <input type="checkbox"/> | Пометьте этот квадратик, если вы читаете или говорите по-русски.               | 28. Russian    |
| <input type="checkbox"/> | Обележите овај квадратик уколико читате или говорите српски језик.             | 29. Serbian    |
| <input type="checkbox"/> | Označte tento štvorček, ak viete čítať alebo hovoriť po slovensky.             | 30. Slovak     |
| <input type="checkbox"/> | Marque esta casilla si lee o habla español.                                    | 31. Spanish    |
| <input type="checkbox"/> | Markahan itong kuwadrado kung kayo ay marunong magbasa o magsalita ng Tagalog. | 32. Tagalog    |
| <input type="checkbox"/> | ให้กาเครื่องหมายลงในช่องถ้าท่านอ่านหรือพูดภาษาไทย.                             | 33. Thai       |
| <input type="checkbox"/> | Maaka 'i he puha ni kapau 'oku ke lau pe lea fakatonga.                        | 34. Tongan     |
| <input type="checkbox"/> | Відмітьте цю клітинку, якщо ви читаете або говорите українською мовою.         | 35. Ukrainian  |
| <input type="checkbox"/> | اگر آپ اردو پڑھتے یا بولتے ہیں تو اس خانے میں نشان لگائیں۔                     | 36. Urdu       |
| <input type="checkbox"/> | Xin đánh dấu vào ô này nếu quý vị biết đọc và nói được Việt Ngữ.               | 37. Vietnamese |
| <input type="checkbox"/> | באצייכנט דעם קעסטל אויב איר לייענט אדער רעדט אידיש.                            | 38. Yiddish    |

**Appendix C: LEP Training and Certificate of Completion**

Form is on the following page.

## 2023 LIMITED ENGLISH PROFICIENCY (LEP) TRAINING AND CERTIFICATE OF COMPLETION

As a direct recipient of federal assistance, the North Dakota Department of Transportation (NDDOT) is required to comply with Title VI laws, related statutes, and regulations. It is necessary that any agency receiving federal and/or state financial assistance from NDDOT receive training on U.S. Department of Transportation (DOT) and Federal Highway Administration (FHWA) Limited English Proficiency laws and regulations on an annual basis.

As a sub-recipient of NDDOT's federal funds, the Fargo-Moorhead Metropolitan Council of Governments (Metro COG) is required to comply with Title VI and related nondiscrimination laws and regulations, which includes Limited English Proficiency assistance. Employees of Metro COG are required to complete one hour of Title VI training each year.

Metro COG employees shall review the following module in order to fulfill their LEP training requirements for 2023:

- **MODULE I – Communicating Effectively with Limited English Proficient Members of the Public** (50 minutes):

<https://www.youtube.com/watch?v=vv3IBZkUgwg&feature=youtu.be>

This video training series, in production since 2013, is part of a training toolkit designed to educate federal personnel on interacting with limited English proficient individuals. It was developed in response to the Attorney General's February 2011 memorandum to all federal agencies, calling upon them to ensure that limited English proficient individuals can access federal government programs and services under Executive Order 13166. The training series is intended to help establish consistent and legally sound practices across the government when engaging in communications with limited English proficient individuals.

More information can be found at [www.LEP.gov](http://www.LEP.gov)

**Declaration of Employee:** I have completed annual LEP training on \_\_\_\_\_ (date) as required by the Fargo-Moorhead Metropolitan Council of Governments and the North Dakota Department of Transportation. I have also received information on:

- Title VI Policy and LEP responsibilities;
- The use and location of language identification cards;
- Language assistance services available and where the resources can be found;
- How to document language assistance requests; and
- How to handle potential Title VI / LEP complaints.

Printed Name and Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

### Appendix D: LEP Training Log

| <b>Position</b>                               | <b>Last Date Completed</b> | <b>Year</b> |             |             |             |             |             |             |
|---|----------------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
|   |                            | <b>2023</b> | <b>2024</b> | <b>2025</b> | <b>2026</b> | <b>2027</b> | <b>2028</b> | <b>2029</b> |
| <i>Executive Director</i>                     | 3/15/2023                  | X           |             |             |             |             |             |             |
| <i>Senior Transportation Planner</i>          | 3/15/2023                  | X           |             |             |             |             |             |             |
| <i>Transportation Planner</i>                 | 3/15/2023                  | X           |             |             |             |             |             |             |
| <i>Community &amp; Transportation Analyst</i> | 3/15/2023                  | X           |             |             |             |             |             |             |
| <i>Associate Planner</i>                      | 3/15/2023                  | X           |             |             |             |             |             |             |
| <i>Assistant Planner</i>                      | 3/15/2023                  | X           |             |             |             |             |             |             |
| <i>GIS Coordinator</i>                        | 3/15/2023                  | X           |             |             |             |             |             |             |
| <i>Office Manager</i>                         | 3/15/2023                  | X           |             |             |             |             |             |             |
| <i>Planning Intern</i>                        | 3/15/2023                  | X           |             |             |             |             |             |             |

## **Appendix E: Language Assistance Requests**

A blank form is on the following page.

For each calendar year, a new form is amended into this plan and added subsequently to this Appendix. This amendment shall occur no later than February of the year following the calendar year that is assessed.

## Language Assistance Requests

The first line of the table, shaded in yellow, is an example of how to fill in the table when / if a request is received.

| EXAMPLE | Name of Requester  | Date Requested |               | Language Requested | Type of Service Requested | Comments about Request  | Metro COG Response              |                   | Date Request Completed |
|---------|--|----------------|---------------|--------------------|---------------------------|---|---------------------------------|-------------------|------------------------|
|         | First Name, Last Name<br>Address<br>Phone<br>Email   | Year           | Month/<br>Day |                    |                           |   | Action                          | Service Used      |                        |
|         | John Doe<br>1234 This Town Rd<br>Small Town, XX #####<br><br>xxx-xxx-xxxx<br>xxxxxx@blahblah.com | YYYY           | MM/DD         | Nepali             | Document Translation      | Requested the entire 2045 MTP be translated from English to Nepali. | Translated document in entirety | NDDOT Linguistica | MM/DD/YYYY             |
|         |  |                |               |                    |                           |   |                                 |                   |                        |
|         |  |                |               |                    |                           |   |                                 |                   |                        |

\*As of December 2022, no language assistance requests have been received.

## **Appendix F: LEP Annual Assessment**

A blank form is on the following page.

For each calendar year, a new form is amended into this plan and added subsequently to this Appendix. This amendment shall occur no later than February of the year following the calendar year that is assessed.

## **LEP Annual Assessment**

Per the Limited English Proficiency (LEP) Plan, Metro COG needs review annually the following:

1. Current LEP population in the service area, which is subject to available Census data
2. Assess and determination whether:
  - a. The need for translation services has changed
  - b. Local language assistance programs have been effective and sufficient to meet the need
  - c. Staff training is sufficient
  - d. Metro COG's financial resources are sufficient to fund language assistance resources needed
  - e. Metro COG fully complies with the goals of this LEP Plan

Every January, Metro COG staff will review the previous calendar year's Unified Plan Work Program activities and the interactions staff, consultants, and contractors had with LEP individuals. The information noted above in items 1 and 2 are reviewed and noted in the following form. Once the form is completed in January, it will be brought to the Transportation Technical Committee and Policy Board for adoption and amendment into the current LEP Plan.

## LEP Annual Assessment Form

### 1. CURRENT LEP POPULATION IN SERVICE AREA (METROPOLITAN STATISTICAL AREA)

DATE RETRIEVED \_\_\_\_\_ SOURCE: \_\_\_\_\_

COMMENTS REGARDING DATA: Note changes that have occurred since previous calendar year; note any data limitations

Table A: LEP Populations by Community for the Fargo-Moorhead MSA

| Geographic Area           | 20XX Total Population | # Who Speak English Less Than "Very Well" | % of Total Population | % of total population speaking |                         |                                |                 |
|---------------------------|-----------------------|---|-----------------------|--------------------------------|-------------------------|--------------------------------|-----------------|
|                           |                       |   |                       | Spanish                        | Indo-European Languages | Asian-Pacific Island Languages | Other Languages |
| <b>United States</b>      | 301,150,892           | 25,654,421                                | 8.5%                  | 5.4%                           | 1.2%                    | 1.6%                           | 0.3%            |
| <b>Minnesota</b>          | 5,140,764             | 236,363                                   | 4.6%                  | 1.6%                           | 0.5%                    | 1.6%                           | 0.9%            |
| <b>North Dakota</b>       | 693,709               | 11,266                                    | 1.6%                  | 0.4%                           | 0.6%                    | 0.3%                           | 0.3%            |
| <b>Clay County, MN</b>    | 57,645                | 1,084                                     | 1.9%                  | 0.3%                           | 0.6%                    | 0.4%                           | 0.6%            |
| <b>Cass County, ND</b>    | 158,535               | 4,402                                     | 2.8%                  | 0.3%                           | 1.2%                    | 0.6%                           | 0.7%            |
| <b>Fargo-Moorhead MSA</b> | 216,180               | 5,486                                     | 2.6%                  | 0.3%                           | 1.0%                    | 0.6%                           | 0.7%            |
| <b>Fargo-Moorhead UZA</b> | 181,567               | 3,194                                     | 1.7%                  | 0.1%                           | 0.7%                    | 0.3%                           | 0.6%            |

Replace data in the table as it becomes available. This is the same information listed in Factor 1: Demography of the LEP Plan.

## 2. ASSESSMENT & DETERMINATION

DATE OF ASSESSMENT: \_\_\_\_\_

**A. HAS THE NEED FOR TRANSLATION SERVICES CHANGED:** \_\_\_\_\_ YES \_\_\_\_\_ NO

RATIONAL: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**B. WERE LOCAL LANGUAGE ASSISTANCE PROGRAMS USED IN THE PREVIOUS CALENDAR YEAR:** \_\_\_\_\_ YES \_\_\_\_\_ NO

If yes, which programs and type of assistance were used: \_\_\_\_\_  
\_\_\_\_\_

If yes, which languages were requested for translation or interpretation: \_\_\_\_\_  
\_\_\_\_\_

**BASED ON THE ABOVE ASSESSMENT, WERE THE LOCAL LANGUAGE ASSISTANCE PROGRAMS EFFECTIVE AND SUFFICIENT TO MEET THE NEEDS?** \_\_\_\_\_ YES \_\_\_\_\_ NO

If no, what changes need to be made in the next year: \_\_\_\_\_  
\_\_\_\_\_

If no, the changes listed above shall be amended into the LEP Plan with the amendment of this assessment.



**C. IS STAFF TRAINING SUFFICIENT: \_\_\_\_\_ YES \_\_\_\_\_ NO**

RATIONAL: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**D. ARE METRO COG'S FINANCIAL RESOURCES SUFFICIENT TO FUND THE NEEDED LANGUAGE ASSISTANCE: \_\_\_\_\_ YES \_\_\_\_\_ NO**

RATIONAL: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**E. DOES METRO COG FULLY COMPLY WITH THE GOALS OF THE CURRENT ADOPTED LEP: \_\_\_\_\_ YES \_\_\_\_\_ NO**

If no, what amendments need to occur, to bring Metro COG into compliance: \_\_\_\_\_  
\_\_\_\_\_  
When will these amendments occur: \_\_\_\_\_

**CERTIFICATE**

I, \_\_\_\_\_, represent Metro COG as the Title VI, limited English proficiency, and Americans with Disabilities Act Coordinator, and warrant the answers that have been made to each and all of the foregoing questions are full and true to the best of my knowledge and belief.

\_\_\_\_\_  
Signature of Metro COG Executive Director,  
whom is the Title VI - limited English proficiency – Americans with Disabilities Act Coordinator

**Date:** \_\_\_\_\_

## **Appendix K: Federal Clauses**

Form is on the following page

## Federal Clauses

### Equal Employment Opportunity Clause – 41 CFR 60-1.4(a) and 2 CFR Part 200 Appendix II (C)

#### 41 CFR 60-1.4(a)

- (a) *Government contracts.* Except as otherwise provided, each contracting agency shall include the following equal opportunity clause contained in section 202 of the order in each of its Government contracts (and modifications thereof if not included in the original contract): during the performance of this contract, the contractor agrees as follows:
- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of the nondiscrimination clause.
  - (2) The contract will, in all solicitations or advertisements for employees placed by or no behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
  - (3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
  - (4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the secretary of labor.
  - (5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the secretary of labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the secretary of labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- (6) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the secretary of labor, or as otherwise provided by law.
- (7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the secretary of labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the secretary of labor as a means of enforcing such provisions including sanctions for noncompliance: *provided, however*, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

## **2 CFR Part 200 Appendix II (C)**

- (C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

## **Sanctions and Penalties for Breach of Contract – 2 CFR Part 200 Appendix II (A)**

- (A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

## **Termination for Cause and Convenience – 2 CFR Part 200 Appendix II (B)**

- (B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be affected and the basis for settlement.

**Rights to Inventions Made Under a Contract or Agreement – 2 CFR Part 200 Appendix II (F)**

- (F) Right to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "Funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

**Debarment and Suspension – 2 CFR Part 200 Appendix II (I)**

- (I) Debarment and Suspension (Executive Orders 12549 and 12689) – A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p.235), "Debarment and Suspension." The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

**Byrd Anti-Lobbying Amendment – 2 CFR Part 200 Appendix II (J)**

- (J) Byrd Anti-Lobbying Amendment (31 U.S.C 1352) – Contractors that apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.