



Fargo-Moorhead Metropolitan Council of Governments

Title VI and Non-Discrimination Plan

Adopted January 2012

Revised November 21, 2013

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Fargo-Moorhead Metropolitan Council of Governments

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FARGO-MOORHEAD METROPOLITAN COUNCIL OF GOVERNMENTS TITLE VI AND NONDISCRIMINATION POLICY STATEMENT

The **Fargo-Moorhead Metropolitan Council of Governments (Metro COG)**, hereinafter referred to as the "Recipient" is committed to compliance with Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, and all related regulations and statutes. The Recipient assures that no person or groups(s) of persons shall, on the grounds of race, color, national origin, sex, age, disability/handicap, and 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 the Recipient, regardless of whether those programs and activities are federally funded or not.

The Recipient also assures that every effort will be made to prevent discrimination through the impacts of its programs, policies, and activities on minority and low-income populations. In addition, the Recipient will provide meaningful access to services for persons with Limited English Proficiency.

In the event the Recipient distributes federal-aid funds to a sub-recipient, the Recipient will include Title VI language in all written agreements and will monitor for compliance.

The Recipient's Title VI Coordinator (**WADE E. KLINE, EXECUTIVE DIRECTOR, ONE NORTH 2ND STREET, #232, FARGO, ND, 58102**) is responsible for initiating and monitoring Title VI activities, preparing reports and other responsibilities as required by 23 Code of Federal Regulations (CFR) 200 and 49 CFR 21.

*Title VI of the Civil Rights Act of 1964 governs race, color, and national origin. Related Nondiscrimination Authorities govern sex, 23 U.S.C. 324; age, 42 U.S.C. 6101; disability/handicap, 29 U.S.C. 790; and low income, E.O. 12898.

Mark Simmons, Chair, Metro COG Policy Board

11/21/2013

Date

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TITLE VI ASSURANCES

The **Fargo-Moorhead Metropolitan Council of Governments (Metro COG)** (hereinafter referred to as the Recipient) HEREBY AGREES THAT, as a condition to receiving any federal financial assistance from the U. S. Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 42 U.S.C. 2000d-4 (hereinafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted Programs of the U.S. Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the Regulations), and other pertinent directives to the end that, in accordance with the Act, regulations, and other pertinent directives, no person in the United States shall, on the grounds of race, color, national origin, sex, age, disability/handicap, or income status**, 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 through the North Dakota Department of Transportation, including the U.S. Department of Transportation and the Federal Highway Administration; and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement. This assurance is required by Subsection 21.7(a)(1) of the Regulations.

More specifically and without limiting the above general assurance, the Recipient hereby gives the following specific assurances with respect to its Federal-aid Highway Program:

1. That the Recipient agrees that each "program" and each "facility," as defined in Subsections 21.23(e) and 21.23(b) of the Regulations, will be (with regard to a "program") conducted, or will be (with regard to a "facility") operated in compliance with all requirements imposed by, or pursuant to, the Regulations.
2. That the Recipient shall insert the following notification in all solicitations for bids for work or materials subject to the regulations and made in connection with the Federal-aid Highway Program and, in adapted form, in all proposals for negotiated agreements:


The Recipient, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4, and Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted Programs of the U.S. Department of Transportation, issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, Disadvantaged Business Enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, sex, age, disability/handicap, or income status** in consideration for an award.

3. That the Recipient shall insert the clauses of Appendix A of this assurance in every contract subject to the Act and the Regulations.
4. That the Recipient shall insert the clauses of Appendix B of this assurance, as a covenant running with the land, in any deed from the United States effecting a transfer of real property, structures, or improvements thereon, or interest therein.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the assurance shall 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 shall extend to rights to space on, over, or under such property.
7. That the Recipient shall include the appropriate clauses set forth in Appendix C of this assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Recipient with other parties: (a) for the subsequent transfer of real property acquired or improved under the Federal-aid Highway Program; and (b) for the construction or use of, or access to space on, over, or under, real property acquired or improved under the Federal-aid Highway 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 shall provide for such methods of administration for the program as are found by the Secretary of Transportation, or the official to whom he or she delegates specific authority, to give reasonable guarantee that it, other recipients, subgrantees, contractors, subcontractors, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed by or pursuant to the Act, 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 Act, the Regulations, and this assurance.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all federal grants, loans, contracts, property, discounts, or other Federal financial assistance extended after the date hereof to the Recipient by the U.S. Department of Transportation under the Federal-aid Highway Program and is binding on it, other recipients, subgrantees, contractors, subcontractors, transferees, successors in interest, and other participants in the Federal-aid Highway Program. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Recipient.

** The Act governs race, color, and national origin. Related Nondiscrimination Authorities govern sex, 23 U.S.C. 324; age, 42 U.S.C. 6101; disability/handicap, 29 U.S.C. 790; and low income, E.O. 12898.



Mark Simmons, Chairman, Metro COG Policy Board

11/21/2013

Date

Attachments: Appendices A, B, and C

APPENDIX A OF THE TITLE VI ASSURANCES

Metro COG will insert or add the following clauses into every contract subject to the Act and Regulations associated with the receipt of Federal financial assistance:

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 shall comply with the regulations relative to nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
2. Nondiscrimination: The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, national origin, sex, age, disability/handicap, or income status**, in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor shall not participate, either directly or indirectly, in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
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 shall be notified by the Contractor of the Contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, age, disability/handicap, or income status**.
4. Information and Reports: The contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by **Metro COG** or the North Dakota Department of Transportation to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to **Metro COG** or the North Dakota Department of Transportation, as appropriate, and shall set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, **Metro COG** and the North Dakota Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including but not limited to:
 - a. withholding of payments to the Contractor under the contract until the Contractor complies, and/or
 - b. cancellation, termination, or suspension of the contract, in whole or in part.
6. Incorporation of Provisions: The Contractor shall include the provisions of paragraphs 1 through 6 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

The Contractor shall take such action with respect to any subcontract or procurement as Metro COG or the U.S. Department of Transportation, Federal Highway Administration, may direct as a means of enforcing such provisions, including sanctions for noncompliance provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation by a subcontractor or supplier as a result of such direction, the Contractor may request **Metro COG** enter into such litigation to protect the interests of **Metro COG**; and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

** The Act governs race, color, and national origin. Related Nondiscrimination Authorities govern sex, 23 U.S.C. 324; age, 42 U.S.C. 6101; disability/handicap, 29 U.S.C. 790; and low income, E.O. 12898.

APPENDIX B OF THE TITLE VI ASSURANCES

The following clauses shall be included in any and all deeds effecting or recording the transfer of real property, structures, or improvements thereon, or interest therein from the United States.

(GRANTING CLAUSE)

NOW, THEREFORE, **Metro COG** as authorized by law and upon the condition that the **Metro COG** will accept title to the lands and maintain the project constructed thereon, in accordance with Title 23, United States Code, the Regulations for the Administration of Federal Aid for Highways, and the policies and procedures prescribed by the Federal Highway Administration of the U.S. Department of Transportation, and also in accordance with and in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted Programs of the U.S. Department of Transportation (hereinafter referred to as the Regulations), pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. 2000d to 2000d-4), does hereby remise, release, quitclaim, and convey unto **Metro COG** all the right, title, and interest of the U.S. Department of Transportation in and to said lands described in Exhibit "A" attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto **Metro COG** and its successors forever, subject, however, to the covenant, conditions, restrictions, and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits, and shall be binding on **Metro COG** its successors, and assigns.

Metro COG, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree, as a covenant running with the land, for itself, its successor, and assigns that (1) no person shall, on the grounds of race, color, national origin, sex, age, disability/handicap, or income status**, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that **Metro COG** shall use the lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted Programs of the U.S. Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended [,] and (3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the Department shall have a right to re-enter said lands and facilities on said land; and the above described land and facilities shall thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assignees as such interest existed prior to this instruction.*

*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purpose of Title VI of the Civil Rights Act of 1964.

** The Act governs race, color, and national origin. Related Nondiscrimination Authorities govern sex, 23 U.S.C. 324; age, 42 U.S.C. 6101; disability/handicap, 29 U.S.C. 790; and low income, E.O. 12898.

APPENDIX C OF THE TITLE VI ASSURANCES

The following clauses shall be included in all deeds, licenses, leases, permits, or similar instruments entered into by **Metro COG**, pursuant to the provisions of Assurance 7(a).

The (grantee, licensee, lessee, permittee, etc., as appropriate), for him or herself, his or her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases, add "as a covenant running with the land"] that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation program or activity is extended, or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted Programs of the U.S. Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

[Include in licenses, leases, permits, etc.]*

That in the event of breach of any of the above nondiscrimination covenants, **Metro COG** shall have the right to terminate the [license, lease, permit, etc.] and to re-enter and repossess said land and the facilities thereon and hold the same as if said [license, lease, permit, etc.] had never been made or issued.

[Include in deed.]*

That in the event of breach of any of the above nondiscrimination covenants, **Metro COG** shall have the right to re-enter said lands and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of **Metro COG** and its assigns.

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by **Metro COG**, pursuant to the provisions of Assurance 7(b).

The (grantee, licensee, lessee, permittee, etc., as appropriate), for him or herself, his or her personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases, add "as a covenant running with the land"] that (1) no person, on the grounds of race, color, national origin, sex, age, disability/handicap, or income status**, shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person, on the grounds of race, color, national origin, sex, age, disability/handicap, or income status**, shall be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted Programs of the U.S. Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

[Include in licenses, leases, permits, etc.]*

That in the event of breach of any of the above nondiscrimination covenants, **Metro COG** shall have the right to terminate the [license, lease, permit, etc.] and to re-enter and repossess said land and the facilities thereon and hold the same as if said [license, lease, permit, etc.] had never been made or issued.

[Include in deeds.]*

That in the event of breach of any of the above nondiscrimination covenants, **Metro COG** shall have the right to re-enter said land and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of **Metro COG** and its assigns.

*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purpose of Title VI of the Civil Rights Act of 1964.

** The Act governs race, color, and national origin. Related Nondiscrimination Authorities govern sex, 23 U.S.C. 324; age, 42 U.S.C. 6101; disability/handicap, 29 U.S.C. 790; and low income, E.O. 12898.

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 deficiencies. Document remedial actions agreed to be necessary. Provide remedial actions within 90 days of identification of a deficiency.

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TITLE VI COMPLAINT PROCEDURE

SCOPE OF TITLE VI COMPLAINTS

The scope of Title VI covers all external Metro COG activities. Adverse impacts resulting in Title VI complaints can arise from many sources, including advertising, bidding, and contracts.

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; selection of contractors, subcontractors, material and equipment suppliers, lessors, vendors, consultants, fee appraisers, universities, etc.

Complaints can originate as a result of project impacts on individuals or groups. For example, social and economic, traffic, noise, air quality, access, accidents, and failure to maintain facilities.

FORMAL TITLE VI COMPLAINT PROCEDURE

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.

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.
2. 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 D)
3. 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.

4. 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.
 - (1) A copy of the complaint, together with a copy of Metro COG 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.
 - (2) A copy of the complaint, together with a copy of Metro COG report of the investigation and recommendations, are provided to NDDOT, Local Government Division, 608 East Boulevard, Bismarck, ND 58505-0700, for informational purposes only.
 - (3) The FHWA Headquarters Office of Civil Rights makes the final agency decision.
5. 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.
6. If an investigation is to be initiated, Metro COG determines the method of investigation and who will conduct the investigation.

7. 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.
8. 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.
 - e. Depending on the nature of the complaint, the complaint will be referred to the following for final decision:
 - (1) Federal Highway Administration (FHWA)
 - (2) U. S. Department of Justice (USDOJ)
9. 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)⁵.
 - d. Date of alleged discriminatory act(s).
 - e. Date complaint was received by Metro COG.
 - f. A brief statement concerning the nature of the complaint.

⁵ The Act governs race, color, and national origin. Related Nondiscrimination Authorities govern sex, 23 U.S.C. 324; age, 42 U.S.C. 6101; disability/handicap, 29 U.S.C. 790; and low income, E.O.12898.

- 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.
10. The investigation consists of an in-depth, personal interview with the complainant(s). Information gathered in this interview includes but is not limited to: identification of each complainant by race, color, sex, age, national origin, disability/handicap, or income status⁶; name of the complainant; a complete statement concerning the nature of the complaint, including names, dates, places, and incidents involved in the complaint; the date the complaint was filed; and 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.
 11. 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') findings, conclusions concerning each issue raised in the complaint, and 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.
 12. 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 final determination is made by the FHWA Headquarters Office of Civil Rights.
 13. 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 copy of the complaint, copies of all documentation pertaining to the complaint, the date the complaint was filed, the date the investigation was completed, and any other pertinent information.
 14. The FHWA Office of Civil Rights makes the final agency decision.

⁶ The Act governs race, color, and national origin. Related Nondiscrimination Authorities govern sex, 23 U.S.C. 324; age, 42 U.S.C. 6101; disability/handicap, 29 U.S.C. 790; and low income, E.O.12898.

**Limited English Proficiency (LEP) Plan
for the
FM Metropolitan Council of Governments**

Approved May 19, 2011

Prepared by the FM Metropolitan Council of Governments Metro COG

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LIMITED ENGLISH PROFICIENCY (LEP) PLAN

This *Limited English Proficiency Plan* has been prepared to address Metro COG's responsibilities as a recipient of federal financial assistance as they relate to the needs of individuals with limited English language skills. 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.

Executive Order 13166, titled *Improving Access to Services for Persons with Limited English Proficiency*, indicates that differing treatment based upon a person's inability to speak, read, write or understand English is a type of national origin discrimination. It directs each agency to publish guidance for its respective recipients clarifying their obligation to ensure that such discrimination does not take place. This order applies to all state and local agencies which receive federal funds, including Metro COG and its departments receiving federal grant funds.

Plan Summary

Metro COG has developed its *Limited English Proficiency Plan* to help identify reasonable steps for providing language assistance to persons with limited English proficiency (LEP) who wish to access services provided. As defined Executive Order 13166, LEP persons are those who do not speak English as their primary language and have limited ability to read, speak, write or understand English. This plan outlines how to identify a person who may need language assistance, the ways in which assistance may be provided, staff training that may be required, and how to notify LEP persons that assistance is available.

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

1. The number or proportion of LEP persons in the FM Metropolitan Statistical Area who may be served by the Metro COG.
2. The frequency with which LEP persons come in contact with Metro COG programs or services.
3. The nature and importance of programs or services provided by Metro COG to the LEP population.
4. The interpretation services available to Metro COG and overall cost to provide LEP assistance. A summary of the results of the four-factor analysis is in the following section.

MEANINGFUL ACCESS: FOUR-FACTOR ANALYSIS

1. The number or proportion of LEP persons in the service area who may be served or are likely to require Metro COG services.

The Metro COG staff reviewed the 2010 U.S. Census Report and determined that 11,705 (or 6%) of persons in the FM Metropolitan Statistical Area (over the age of 5) speak a language other than English. Of those persons, 3,183 speak Spanish, 4,289 speak Indo-European, and 2,457 speak Asian or other Pacific Islander Languages. An additional 1,776 speak other languages. Of the 11,705 persons speaking a language other than English, 3,347 have limited English proficiency; that is, they speak English “less than very well” which is 1.7% of the overall population in the FM Metropolitan Statistical Area.

2. The frequency with which LEP persons come in contact with Metro COG services or programs.

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, the Metro COG has had no requests for interpreters and no requests for translated program documents. The Metro COG Policy Board, Metro COG staff, and Metro COG contractors or sub recipients have had very little contact with LEP persons.

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

There is no large geographic concentration of any type of LEP individuals in the FM Metropolitan Statistical Area. The overwhelming majority of the population in the FM Metropolitan Statistical Area, 94%, speak only English. As a result, there are few social service, professional and leadership organizations within the FM Metropolitan Statistical Area that 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.

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

Metro COG reviewed its available resources that could be used for providing LEP assistance. There are currently no less than four resources within the FM Metropolitan Statistical Area to assist Metro COG with interpretive services should the need arise. Metro COG keeps a list of these services updated and on file.

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's 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.

How Metro COG staff may identify an LEP person who needs language assistance:

- Post notice of LEP Plan and the availability of interpretation or translation services free of charge in languages LEP persons would understand.
- Metro COG staff will be provided with "I Speak" cards to assist in identifying the language interpretation needed if the occasion arises. (Appendix E)
- Metro COG staff will be informally surveyed periodically on their experience concerning any contacts with LEP persons during the previous year.
- When Metro COG sponsors an informational meeting or event, an advanced public notice of the event should be published including special needs related to offering a translator (LEP) or interpreter (sign language for hearing impaired individuals). Additionally, a staff person may greet participants as they arrive. By informally engaging participants in conversation 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.

Language Assistance Measures

Although there is a low percentage in the FM Metropolitan Statistical Area of LEP individuals, that is, persons who speak English "less than very well" 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 English.
2. The following resources will be available to accommodate LEP persons:
 - Interpretive services, within reason, will be provided for public meetings, if advance notice is provided to Metro COG and such services are readily available;
 - 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 frame and if resources permit.

STAFF TRAINING

The following training will be provided to all staff:

- Information on the Title VI Policy and LEP responsibilities.
- Description of language assistance services offered to the public.
- Use of the “I Speak” cards.
- Documentation of language assistance requests.
- How to handle a potential Title VI/LEP complaint.

All contractors or subcontractors performing work for Metro COG will be required to follow the Title VI/LEP guidelines.

TRANSLATION OF DOCUMENTS

Metro COG 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 and are kept on file by Metro COG. However, when and if the need arises for LEP outreach related to Metro COG’s programs and services, it will coordinate with the City of Fargo and the City of Moorhead to determine an appropriate course of action in regards to existing interpretive and outreach resources available.

MONITORING

Monitoring and Updating the LEP 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:

- The number of documented LEP person contacts encountered annually.
- How the needs of LEP persons have been addressed.
- Determination of the current LEP population in the service area.
- Determination whether the need for translation services has changed.
- Determine whether local language assistance programs have been effective and sufficient to meet the need.
- Determine whether Metro COG’s financial resources are sufficient to fund language assistance resources needed.
- Determine whether Metro COG fully complies with the goals of this LEP Plan.
- Determine whether complaints have been received concerning the agency’s failure to meet the needs of LEP individuals.

- Maintain a Title VI complaint log, including LEP to determine issues and basis of complaints.

DISSEMINATION OF METRO COG's LEP PLAN

- Post signs at conspicuous and accessible locations notifying LEP persons of the LEP Plan and how to access language services.
- Include as part of public notices and related materials that LEP person needing interpretative service need to contact Metro COG.
- Include as part of the Metro COG website.
- Post on a bulletin board in the front desk area of Metro COG's offices.

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APPENDICES

FARGO-MOORHEAD METROPOLITAN COUNCIL OF GOVERNMENTNS

TITLE VI COMPLAINT FORM

PART I - COMPLAINANT INFORMATION (Print all items legibly.)

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

PART II - CAUSE OF DISCRIMINATION BASED ON [Check all appropriate box(es).]

- Race
 Color
 Sex
 Age
 National Origin
 Disability/Handicap

 Income Status

PART III - THE PARTICULARS ARE: (Include names, dates, places, and incidents involved in the complaint.) [If additional space is needed, attach extra sheet(s).]

PART IV - REMEDY SOUGHT [State the specific remedy sought to resolve the issues(s).]

PART V - VERIFICATION

Complainant's Signature _____ Date _____

INSTRUCTIONS

GENERAL

1. Under Title VI of the Civil Rights Act of 1964 and the related statutes and regulations, no person or groups(s) of persons shall, on the grounds of race, color, sex, age, national origin, disability/handicap, and 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. Any person or groups(s) of persons who feel they have been discriminated against may file a complaint.
2. Instructions provided within this form are not meant to be all inclusive. Complainants are responsible for all procedural requirements.
3. Complainants **must** include all required information and **must** meet all timeframes as defined in the Metro COG Title VI Complaint Procedure.
4. Legible copies of all available pertinent documentation should be attached to this form.
5. All inquiries should be directed to Metro COG attn: Wade E. Kline, Executive Director, One North Second Street, #232, Fargo, ND 58102, 701.232.3242.

PART I

Complete all information in this section.

PART II

Check all boxes that apply indicating the basis for the complaint. The discrimination **must** be based on at least one of the listed categories.

PART III

State the specific complaint in a manner that clearly identifies the issues upon which the complaint is based.

PART IV

State the minimum remedy acceptable for resolution of this complaint.

PART V

Sign and date this section to verify the information contained in Parts I through IV.

Complaints filed with U. S. Department of Transportation

Discrimination complaints based on race, color sex, age, national origin, disability/handicap, and income status¹ may 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.

¹ The Act governs race, color, and national origin. Related Nondiscrimination Authorities govern sex, 23 U.S.C. 324; age, 42 U.S.C. 6101; disability/handicap, 29 U.S.C. 790; and low income, E.O.12898.

2004
Census
Test

United States
Census
2010

LANGUAGE IDENTIFICATION FLASHCARD

ضع علامة في هذا المربع إذا كنت تقرأ أو تتحدث العربية.

1. Arabic

Խոսողո՞ւմ ե՞նք նշո՞ւմ կատարե՞ք այս քառակուսում,
եթե խոսո՞ւմ կամ կարդո՞ւմ եք հայերեն:

2. Armenian

যদি আপনি বাংলা পড়েন বা বলেন তা হলে এই বাক্সে দাগ দিন।

3. Bengali

ឈ្លឹមបញ្ជាក់ក្នុងប្រអប់នេះ បើអ្នកអាន ឬនិយាយភាសា ខ្មែរ ។

4. Cambodian

Motka i kahhon ya yangin ûntûngnu' manaitai pat ûntûngnu' kumentos Chamorro.

5. Chamorro

如果你能读中文或讲中文，请选择此框。

6. Simplified Chinese

如果你能讀中文或講中文，請選擇此框。

7. Traditional Chinese

Označite ovaj kvadratić ako čitate ili govorite hrvatski jezik.

8. Croatian

Zaškrtněte tuto kolonku, pokud čtete a hovoříte česky.

9. Czech

Kruis dit vakje aan als u Nederlands kunt lezen of spreken.

10. Dutch

Mark this box if you read or speak English.

11. English

اگر خواندن و نوشتن فارسی بلد هستید، این مربع را علامت بزنید.

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 casuță 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

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Sign In Sheet

Appendix F

Fargo-Moorhead Metropolitan Council of Governments

< Project Title (name)/Meeting Location / Date / Time >

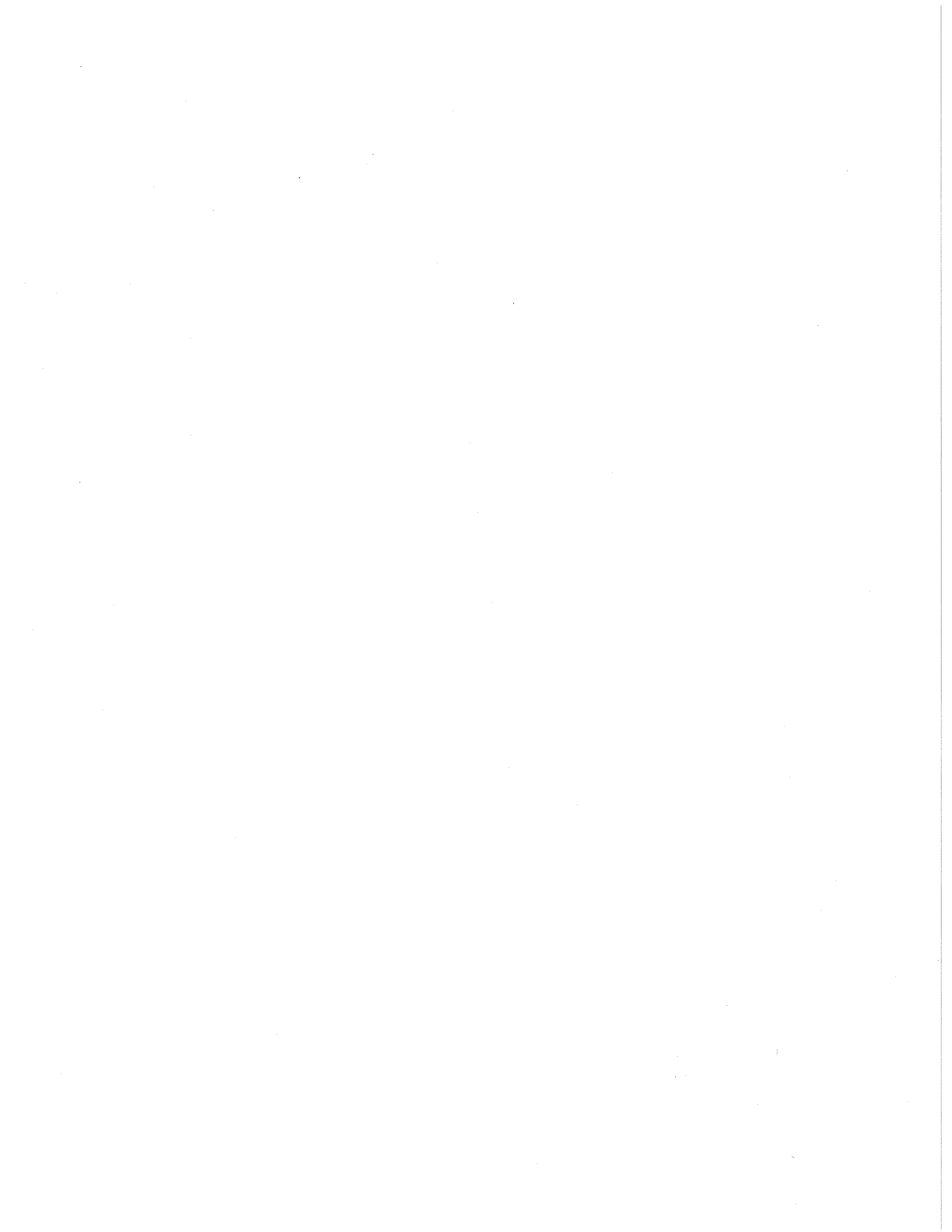
Name (Please print)			Title/Representing	Email			
Address			Please check the appropriate boxes below:				
City	State	Zip code	<input type="checkbox"/> Male <input type="checkbox"/> Female	Disabled <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> American Indian/ Alaskan Native <input type="checkbox"/> Native Hawaiian or Pacific Islander	<input type="checkbox"/> White <input type="checkbox"/> Black	<input type="checkbox"/> Asian <input type="checkbox"/> Hispanic <input type="checkbox"/> Other

Name (Please print)			Title/Representing	Email			
Address			Please check the appropriate boxes below:				
City	State	Zip code	<input type="checkbox"/> Male <input type="checkbox"/> Female	Disabled <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> American Indian/ Alaskan Native <input type="checkbox"/> Native Hawaiian or Pacific Islander	<input type="checkbox"/> White <input type="checkbox"/> Black	<input type="checkbox"/> Asian <input type="checkbox"/> Hispanic <input type="checkbox"/> Other

Name (Please print)			Title/Representing	Email			
Address			Please check the appropriate boxes below:				
City	State	Zip code	<input type="checkbox"/> Male <input type="checkbox"/> Female	Disabled <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> American Indian/ Alaskan Native <input type="checkbox"/> Native Hawaiian or Pacific Islander	<input type="checkbox"/> White <input type="checkbox"/> Black	<input type="checkbox"/> Asian <input type="checkbox"/> Hispanic <input type="checkbox"/> Other

Name (Please print)			Title/Representing	Email			
Address			Please check the appropriate boxes below:				
City	State	Zip code	<input type="checkbox"/> Male <input type="checkbox"/> Female	Disabled <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> American Indian/ Alaskan Native <input type="checkbox"/> Native Hawaiian or Pacific Islander	<input type="checkbox"/> White <input type="checkbox"/> Black	<input type="checkbox"/> Asian <input type="checkbox"/> Hispanic <input type="checkbox"/> Other

Metro COG's Title VI Program: The Fargo-Moorhead Metropolitan Council of Governments (Metro COG) is a subrecipient of Federal funds from the NDDOT and therefore is subject to certain requirements regarding Title VI. Title VI and Nondiscrimination Programs require that statistical data be gathered on participants and beneficiaries of the Metro COG's federal-aid highway programs and activities. Information is collected on race, color, national origin, and sex of the attendees to this public meeting to ensure the inclusion of all segments of the population affected by the proposed project. This information gathering process is completely voluntary and you are not required to disclose any information requested in order to participate in the meeting. **This form is a public document and will be retained by Metro COG. For further information regarding Metro COG's Title VI program, please contact Metro COG's Title VI Coordinator Wade E. Kline, Executive Director, by phone at 701.232.3242 or by email at kline@fmmetrocog.org.**



AUXILIARY AIDS AND SERVICES

(Provided as Reference Material by the NDDOT – Updated April 19, 2011)

As a recipient of Federal Financial Assistance, the North Dakota Department of Transportation (NDDOT) assures compliance with Title VI of the Civil Rights Act of 1964, Regulations, and other pertinent directives. NDDOT is required to take reasonable steps to ensure meaningful access to persons with Limited English Proficiency (LEP) through oral and written translation.

Additionally, NDDOT has a responsibility to develop a policy in advance of any request for auxiliary aids or services for persons with impaired vision and hearing. With respect to the provision of auxiliary aids to access State Transportation Agency/Local Public Agency (STA/Fargo-Moorhead Metropolitan Council of Governments) programs, services and activities, the most likely of these will be public activities in connection with the planning and construction of Federal aid construction projects. Program areas where auxiliary aids and effective communications may be required include, but are not limited to the following: bid opening events, Disadvantaged Business Enterprise (DBE) certification activities, right-of-way proceedings (appraisals, acquisitions), public telephone lines (511, project hotlines, pothole repair hotlines), law enforcement activities (if STA has a law enforcement branch), groundbreaking/ribbon-cutting ceremonies, and rest area tourist information centers.

Auxiliary aids and services for deaf or hard of hearing include a wide range of services, equipment, and devices such as:

- sign language interpreter
- note takers
- computer-aided real-time transcription services (CART)
- amplified and hearing-aid compatible telephones
- assistive listening systems
- open or closed captioning and caption decoders
- video relay, or
- text telephones/ telephone communication devices for the deaf (TTY/TDD), and
- flashing alarms

Auxiliary aids and services for the vision impaired include providing access to printed information through the following:

- audiotape cassettes
- computer diskettes
- Braille or large print materials, or through the use of qualified readers
- providing verbal descriptions of action and visual information to enhance the accessibility of performances and presentations; and
- making a staff member available as a guide to enable a person with limited vision to find his or her way along an unfamiliar route

The following information provides a synopsis of the critical facts and costs involved in providing oral and written communication services.

North Dakota has laws governing Interpreter Services for individuals that are deaf, deaf-blind, speech impaired, hard of hearing, or who require special communication techniques in order to communicate. Our policy should identify what qualifications are required for interpreters after reviewing the North Dakota Century Code as the Federal Highway Administration (FHWA) Americans With Disabilities Act (ADA) Desk Reference states that when sign language interpretation is necessary, the ADA requires that it be provided by a “qualified interpreter” and defined at [28 C. F. R. § 35.104].

▶ North Dakota Century Code

- Under Occupations & Professions, Chapter 43-52 Interpreters
 - Defines requirements for deaf persons
 - Requires a valid nationally recognized certification or met certification by 2003
 - Contains exceptions
- Under Judicial Procedure, Civil, Chapter 28-33 Interpreters For Deaf Persons
 - Defines requirements for deaf persons
 - Includes administrative proceedings
 - Requires “Qualified interpreter”- certified by the national registry of interpreters for the deaf or ND Association for the deaf, interpreter approved by the superintendent of the school for the deaf, or, if none available, any other interpreter whose qualifications have been appropriately determined.

The FHWA ADA Desk Reference allows flexibility in providing accommodations. A visual communication accommodation may include the use of other auxiliary aids such as recorded text, electronic documents, or large print text depending on the circumstances.

The FHWA Limited English Proficiency Program Desk Reference states that oral interpreters are not required to have formal certification but certification is helpful. Recipients can ensure with greater certainty that they comply with their obligation to provide written translations in languages other than English by following the Safe Harbor provisions.

Safe Harbor. Many recipients would like to ensure with greater certainty that they comply with their obligations to provide written translations in languages other than English. Paragraphs (a) and (b) below outline the circumstances that can provide a “safe harbor” for recipients regarding the requirements for translation of written materials. A “safe harbor” means that if a recipient provides written translations under these circumstances, such action will be considered strong evidence of compliance with the recipient’s written-translation obligations under Title VI.

The failure to provide written translations under the circumstances outlined in paragraphs (a) and (b) does not mean there is noncompliance. Rather these paragraphs merely provide a guide

for recipients that would like greater certainty of compliance than can be provided by a fact-intensive, four-factor analysis. For example, even if a safe harbor is not used, if written translation of a certain document(s) would be so burdensome as to defeat the legitimate objectives of its program, it is not necessary. Other ways of providing meaningful access, such as effective oral interpretation of certain vital documents, might be acceptable under such circumstances.

The following actions will be considered strong evidence of compliance with the recipient's written-translation obligations:

- a. Metro COG provides written translations of vital documents for each eligible LEP language group that constitutes 5% or 1,000, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or
- b. If there are fewer than 50 persons in a language group that reached the 5% trigger in (a), the recipient does not translate vital written materials but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

These safe harbor provisions apply to the translation of written documents only. They do not affect the requirement to provide meaningful access to LEP individuals through competent oral interpreters where oral language services are needed and are reasonable.

Available Sources

There are several sources to obtain auxiliary aids and services for persons with Limited English Proficiency or speech, hearing, and vision impairments. Some of the most common sources are as follows:

- ▶ Communication Services for the Deaf (CSD) and Interpreting Online (CSDIO)
- ▶ Relay North Dakota
- ▶ Interagency Program for Assistive Technology (IPAT)
- ▶ North Dakota School for the Deaf
- ▶ ND Vision Services/School for the Blind (NDVS/SB)
- ▶ ND Association for the Blind (NDAB)
- ▶ Language Line Services
- ▶ Pacific Interpreters, Inc.
- ▶ International Translation Services
- ▶ Metro Interpreter Resource Center (MIRC)

Communication Services for the Deaf (CSD) and Interpreting Online (CSDIO)

Interpreter rates, effective January 1, 2009, vary dependent on the date, time, etc. The base rate of two hours will be billed for each assignment ranging from \$104-\$150 with additional time billed in 30 minute increments at the rate of \$52-\$75 per hour. Additionally, if an

assignment extends for a period of two hours or longer and the interpreter is signing non-stop, then a second interpreter is required. Charges include travel time within the Fargo-Moorhead city limits. If assignments are further than 20 miles outside of the Fargo-Moorhead city limits, travel time is billed at the hourly rate plus mileage at \$.50 per mile. For assignments less than 20 miles, a \$5 fuel charge is added to each invoice. The Cancellation Policy requires a 48 business hour advance notice for cancellations or the assignment will be billed in full.

Additionally, CSD operates CSDIO which enables deaf and hearing people in the same room to communicate through an interpreter at a distant location. Video conferencing equipment is required for this service.

Contact: Cathy Obregon, Communication Services for the Deaf, P.O. Box 66, Fargo, ND 58107; (701) 799-1395; email: cobregon@c-s-d.org website: www.c-s-d.org

Relay North Dakota

Relay North Dakota is a free service within your local calling area that lets a person that is hearing or speech impaired communicate with standard telephone users through specially trained Communications Assistants (CA). Relay North Dakota serves TTY Users, Hearing Users, Voice Carry-Over (VCO), Hearing Carry-Over (HCO), Speech-to-Speech (STS), Spanish Relay, International Calls, and Emergency Calls. For example: A person who is deaf, deaf-blind, hard-of-hearing, or has a speech disability uses a Text Telephone (TTY) sometimes called a Telecommunication Device for the Deaf (TDD) to type his/her conversation. The CA reads the typed conversation to a hearing person. The CA relays the hearing person's spoken words by typing them back to the TTY user. Hearing Users such as NDDOT personnel can call hearing or speech impaired individuals from standard telephones through Relay North Dakota. Calls can be made worldwide 24 hours a day, 365 days a year. Long distance call rates are determined by the carrier of choice. Sprint long distance calls are billed at a reduced rate. Notify the CA of your preferred billing option. Toll calls may be billed through calling cards, prepaid cards, collect, and third party billing. There is no charge for Telecommunication Relay Services (TRS) calls placed from payphones.

Captioned Telephone Service (CapTel) is provided free of charge (except long distance charges) through Relay North Dakota and is ideal for people with some degree of hearing loss. A CapTel phone is required to use this service. A CapTel phone allows the impaired user to simultaneously hear the caller's voice and see captions of everything said to them. Online relay services through Sprint include Video Relay, Internet Relay, and IP Relay using AOL Instant Messenger (AIM).

Roxy Ennen, Relay ND Administrator, stated that most agencies have done away with the TTY/TDD, thus relieving the monthly cost for that service, as any deaf person can dial 711 or 800-366-6888 (toll free) and receive immediate free interpreter service from Relay North Dakota. Anyone can dial 771 or the toll free number to contact persons with hearing impairments at no cost, too.

Contact: Roxy Ennen, Relay ND Administrator, Telecommunications Analyst, ITD, Dept 112, 600 East Blvd., Bismarck, ND 58505-0100; (701)323-2300; email: rennen@state.nd.us
website: www.relaynorthdakota.com

Interagency Program for Assistive Technology (IPAT)

The North Dakota Interagency Program for Assistive Technology (IPAT), which is North Dakota's Statewide Assistive Technology (AT) Program, was established under the Department of Human Services (DHS), as a Program of the Division of Vocational Rehabilitation (VR) in 1993. At that time, DHS/VR was designated as the lead agency by the Governor. IPAT developed the goals and carried out all of the AT activities required under the AT Act from 1993 to 2005. Effective July 1, 2005, Governor Hoeven designated the North Dakota Association for the Disabled as the implementing entity for the Statewide AT Program. (Note: The entire IPAT operation moved under the administration of NDAD and became a program of NDAD as of July 1, 2005, thus providing sufficient time for NDAD/IPAT to prepare and submit the Statewide AT Plan.) DHS will continue to act as the lead agency, and will control and administer the funds made available through the grant awarded to the State; and will submit the application described in subsection (d) of the AT Act of 1998, as amended on behalf of the State, to ensure conformance with Federal and State accounting requirements.

IPAT is the North Dakota Telecommunications Equipment Distribution Service for relay equipment. IPAT provides free specialized telecommunications equipment for individuals who are deaf, hard-of-hearing, deaf-blind, or have a speech disability who meet income, residency, disability, etc., qualifications.

Contact: Judie Lee, Executive Director, Program Director, IPAT, 3509 Interstate Blvd., Fargo, ND 58103; (701) 365-4729; toll free 1-800-265-4728; email: jlee@polarcomm.com website: www.ndipat.org

North Dakota School for the Deaf

The North Dakota School for the Deaf maintains the ND Freelance Interpreter's List on their website. A disclaimer states that the interpreters listed are not endorsed or in any way recommended by the ND School for the Deaf other than the fact they hold national certification. The School for the Deaf provides no other auxiliary aids or services.

Mary Everson Heintz, a Bismarck resident on the ND Freelance Interpreter's List, provided an estimate for her services. She bills a minimum of one hour at \$35 per hour and ½ hour increments thereafter, Monday through Friday between 8:00am and 5:00pm.; after hours are billed at \$45 per hour and ½ hour increments thereafter. Ms. Heintz informed me that Interpreters set their own fees based on their level of certification. Bismarck State College has an interpreter, new to the Bismarck area, who interprets for students. Her name is Renee Bitner.

Contact: Eileen Gray, President of the ND Register of Interpreters for the Deaf, Lake Region State College, 1801 College Drive N, Devils Lake, ND 58301; (218) 969-3881; website: www.nd.gov/ndsd

Web link for Interpreters List: www.nd.gov/ndsd/outreach/doc/freelance-interpreters-2009.pdf

ND Vision Services/School for the Blind (NDVS/SB)

North Dakota Vision Services/School for the Blind operates a Braille Access Center that transcribes materials into Braille or large print and electronic media. The cost of a Braille project can be estimated by the following factors:

1. Costs: \$15 per hour; plus \$.15 per Braille page; \$3 per volume for comb binding and labeling
2. Expect each print page to equal approximately three Braille pages
3. 4-5 pages of text take 15-20 minutes to convert to Braille
3. Figure approximately \$1.25 per Braille page
4. Complexity of the material, such as tables and special formatting increases the cost.
5. Submitting Word documents and straight text will lessen costs

Contact: Crystal Roy, ND vision Services/School for the Blind, 500 Stanford Rd, Grand Forks, ND 58203;

(701) 795-2713; email: croy@nd.gov website: www.ndvisionservices.com

ND Association for the Blind (NDAB)

The North Dakota Association for the Blind publishes the Promoter, a newsletter, quarterly in August, November, February, and May. The Promoter is available in large print, Braille, email, and audio tape. Submissions are due the 10th of the month preceding the issue. You may submit notices or information at no cost.

Contact: Michelle Zentz, President, NDAB, 1025 7th Ave S #5, Fargo, ND 58103; (701)298-9105; website: www.ndab.org or Zelda Gebhardt, Promoter Editor, zgeb@drtel.net (701) 493-2399

Language Line Services

Language Line Services is located in California and provides services nationwide. They provide telephonic interpreting in about 170 languages. They also provide document translation and web pages. They offer personal interpreter services where no contract is required. You dial in their number, pay by credit card (\$3.95/min.), and walk through the steps. Contractual services include other benefits such as tracking calls, speaking tips, reference guides, web meeting training, do's and don'ts. No on site interpretation is available in North Dakota.

Language Line Services also provides Video Interpreter Service for persons that are deaf. Video equipment is required to provide this service. You may view a brief video interpreting for a deaf person on their website listed below.

Language Line's representative, Greg Welsh, estimated contracted services at \$1.95/min. with a \$50/month minimum fee. You can use regular phones, but dual handsets are available at \$3.75/month, a rental/maintenance fee; if there is a problem with the phone you simply return it and receive a new replacement free; if you lose the phone, there is a \$200 replacement fee.

Contact: Greg Welsh, Language Line Representative 1-877-716-0669; website: www.languageline.com

Pacific Interpreters, Inc.

Pacific Interpreters, Inc. is located in Portland, Oregon and provides services nationwide. Pacific Interpreters provides customized information reporting including monthly detailed reports in Excel spreadsheets to save their clients time in compiling information about each encounter. They provide telephonic interpreting in over 180 languages and dialects with language availability of 99.925%. They require a Service Agreement and charge on a floating rate based on call volume and language mix at a rate of \$1.50/minute for less than 500 minutes per month or \$1.30/minute for 500-1000 minutes per month. There is no monthly service fee. You can use regular phones or dual handsets are available. Pacific Interpreters offers accurate, fast, and affordable document translation in over 120 languages. They specialize in the translation of medical and social service documents including web pages. No on site interpretations is available in North Dakota. When you begin service with Pacific Interpreters, their implementation team will contact you to prepare a comprehensive implementation plan for your facility. They like to establish a working relationship with your interpreter program staff and a member of your IT department who can assist them in removing any technical barriers to using their service.

Contact: Emilie Gerber, Account Management Coordinator, Pacific Interpreters, Inc., 707 Washington, Suite 200, Portland, OR 97205; (503) 445-5652; website: www.pacificinterpreters.com

International Translation Services

International Translation Services is located in Moorhead, Minnesota. Leonor Sillers, owner, provides onsite and telephonic interpreters. On site interpreter fees are \$50/hr. minimum, plus \$50 each additional hour, plus state mileage rate; 24 hour cancellation notice required. Interpreters may be available instantly to days. Most are located in eastern North Dakota and Minnesota. All interpreters are certified by the Supreme Court of MN. Telephonic interpreter fees are \$2.50 per minute from connection. She also provides written translation services. The cost varies based on the # of words and technical level. She reviews the document and gives an estimate. She prefers email attachments in Word and returns either email or hard copy for us to reproduce copies. Leonor Sillers' terms would be a yearly contract. She would try to locate interpreters in SD and MT for our central and western areas. Leonor is a skilled interpreter in several languages and interprets, too.

Additionally, Leonor Sillers has a contract with Cass County Court. She has been used extensively by the ND Court System and has translated a lot of their documents. I visited with

Sally Holewa in the Court Administrators Office. She highly recommended this service. She suggested visiting with the Fargo and Grand Forks Court regarding using this service, too.

Contact: Leonor Sillers via email: Leonor.Sillers@gmail.com no website

Metro Interpreter Resource Center (MIRC)

The Metro Interpreter Resource Center (MIRC) is located in and serves the Fargo area. They may be able to expand to the Grand Forks area. They work with local city and county government. Interpreters are not employees of MIRC. MIRC does provide interpreter training. MIRC provides access to an Oral Interpreter List for an annual fee of \$500 for nonprofits and \$750 for profit businesses.

On site or oral interpreters charge a 1 hour minimum of \$55, plus \$20 for each additional hour (no mileage fee in Fargo). Interpreters are qualified and some may be certified.

Fargo has approximately 13 languages and 9 dialects. Individuals who are illiterate speak Mother's Tongue which means their native language.

Fargo MPO may have access to the Oral Interpreter List.

Contact: Hatidza Asovic, Coordinator, MIRC, 3350 35th Ave SW, Fargo, ND 58104; (701) 241-8594;

email: hasovic@cityoffargo.com website: www.rrrmirc.com

Hatidza Asovic will do private work such as written translation informing LEP individuals of language assistance such as simple posters, flyers, and brochures with phone numbers or directions to an office. You could request written translation by emailing the item for a cost estimate. Ms. Asovic stated that basic posters don't have a lot of words so they would be pretty reasonable. Ms. Asovic is willing to help reach the LEP populations. She serves on various local committees, works with all of Fargo-Moorhead's LEP groups or key people in their cultures, and is involved with their churches, mosques, and hospitals. Contact Hatidza Asovic via email listed above.

Internet Resources

Limited English Proficiency, a Federal Interagency Website, promotes a positive and cooperative understanding of the importance of language access to federally conducted and federally assisted programs. It is located at www.lep.gov Under Resources there are numerous documents addressing language issues. See specifically the following documents:

- Accessing and Using Language Data from the Census Bureau
- Language Assistance Self-Assessment and Planning Tool for Recipients of Federal Financial Assistance
- Language Identification Flashcard (I Speak card)

United State Census Bureau, at the Census Bureau Web Site provides on-line access to Data on Race and Hispanic Origin, Age, Employment, Income, Marital Status, Education, Genealogy, Businesses, Governments and more. It is located at www.census.gov Under American Fact Finder you can locate detailed data sets. There is a Help tab available on the FactFinder ribbon. (Accessing Census Bureau Instructions are found at www.lep.gov listed above.)

North Dakota Department of Public Instruction website provides statistics on the location and number of students with Limited English Proficient skills. This information may provide an alternate method of identifying LEP populations. Their website is located at www.dpi.state.nd.us

- Select, Programs & Services
- Select, English Language Learner Programs
- Select, Title III Information
- Select, List of English Language Learners by REAs (Regional Education Cooperative) for Limited English Proficient statistics for youth.

United States Access Board, a Federal Agency Committed to Accessible Design, is an independent federal agency devoted to accessibility for people with disabilities. The Board is now a leading source of information on accessible design. Their website is located at www.access-board.gov Under Guidelines & Standards see specifically the following:

- ADA Accessibility Guidelines (ADAAG (1991, as amended through 2002)
- Public Rights-of-Way (upcoming)

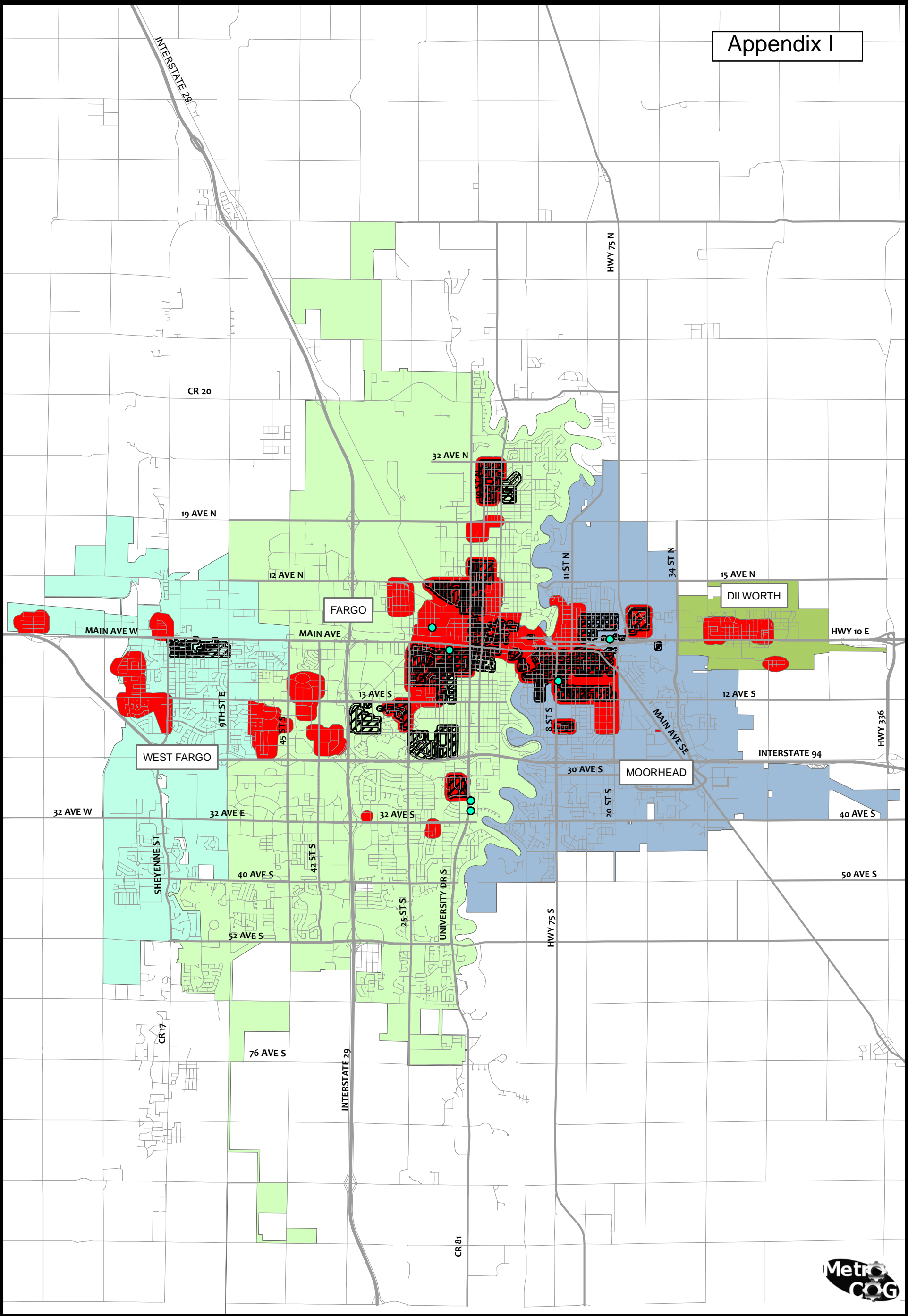
U.S. Department of Justice, Americans with Disabilities Act, ADA Home Page is found at www.ada.gov

- Scroll through ADA Publications to State and Local Governments
 - Select Title II Technical Assistance Manual.
 - Select the Title II Technical Assistance Manual (1993) and Supplement to view a 56-page manual that explains in lay terms what State and local governments must do to ensure that their services, programs, and activities are provided to the public in a nondiscriminatory manner. Many examples are provided for practical guidance. (Spanish edition available from the ADA Information Line.)

US Department of Transportation, Federal Highway Administration (FHWA) carries out the Federal highway programs in partnership with the State and local agencies to meet the Nation's transportation needs. FHWA's website hosts vast information about nondiscrimination issues. FHWA's Home Page is found at www.fhwa.dot.gov Under FHWA by Topic, see specifically the following:

- Scroll through Topics to Environment
 - Select Environmental Justice (EJ) – this is the Home Page
 - Select Overview – describes and explains Environmental Justice issues
- Scroll through Topics to Road Users

- Select Civil Rights – this is the Home Page
- Under Programs – Select and read about FHWA Programs
 - Title VI and Nondiscrimination
 - Limited English
 - Many others



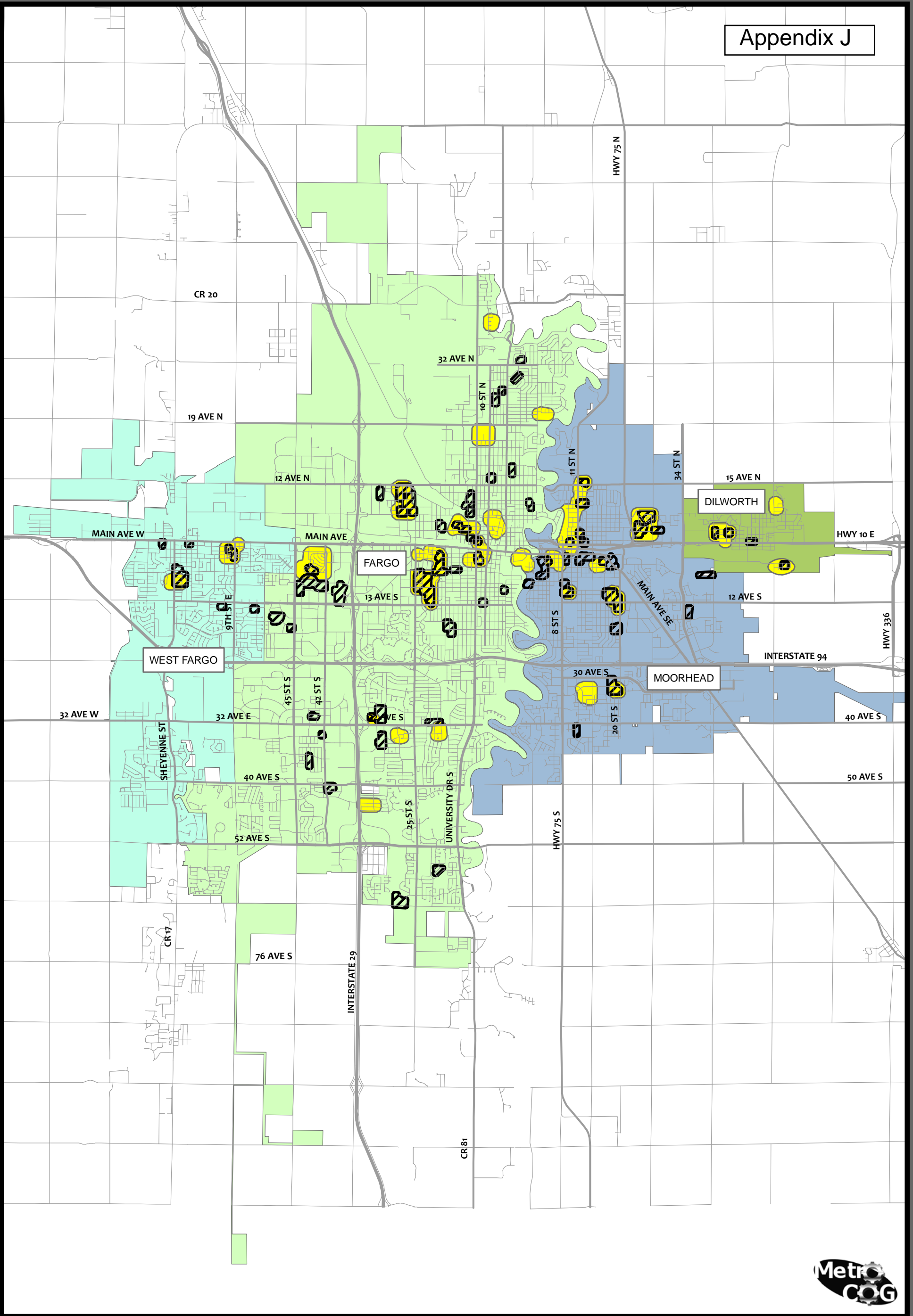
Fargo - Moorhead Metropolitan Area

Environmental Justice: Low Income Populations



- Emergency Shelters
- Major Roads
- Local Streets
- 2009 Low Income Populations
- 2000 Low Income Populations
- Dilworth
- Fargo
- Moorhead
- West Fargo





Fargo - Moorhead Metropolitan Area

Environmental Justice: Minority Populations



- Major Roads
- Local Streets
- 2010 Minority Populations
- 2000 Minority Populations
- Dilworth
- Fargo
- Moorhead
- West Fargo

0 1.25 2.5 5 Miles

**Fargo-Moorhead Metropolitan Council of Governments**

701.232.3242 • FAX 701.232.5043 • Case Plaza Suite 232 • One 2nd Street North • Fargo, North Dakota 58102-4807

Email: metrocof@fmmetrocog.org<http://www.fmmetrocog.org>

Memorandum

TO: Environmental Justice and Title VI Interested Persons**FROM: Katie White, Transportation Planning Assistant****DATE: December 12, 2011****RE: Title VI and Non-Discrimination Plan Available for Review**

Metro COG has opened a public comment period to review the Title VI and Non-Discrimination Plan for the period **Friday, December 16 through Friday, December 30, 2011**. The document can be accessed online at www.fmmetrocog.org or at the Metro COG offices (see below).

The purpose of the Title VI and Non-Discrimination Plan is to bring Metro COG into compliance with Title VI of the Civil Rights Act. As a recipient of Federal Highway Administration (FHWA) dollars through the North Dakota Department of Transportation (NDDOT), Metro COG is required to ensure adequate resources for the public to access, as well as outline a grievance process if those resources are not being provided. This includes language-barrier issues, which are addressed in the Limited English Proficiency (LEP) portion of the document. This review and compilation has been completed with guidance from the City of Fargo and NDDOT.

The public is invited to submit written comments to Metro COG no later than noon, December 30, 2011, at Case Plaza, Suite 232, One Second Street North, Fargo, ND 58102 (e-mail: white@fmmetrocog.org). Contact Katie White, Transportation Planning Assistant, at 701.232.3242 (Ext. 35) if additional information is required.

