

FARGO-MOORHEAD  
METROPOLITAN COUNCIL OF GOVERNMENTS

TITLE VI  
NON-DISCRIMINATION  
PLAN

PREPARED BY:  
FARGO-MOORHEAD METROPOLITAN  
COUNCIL OF GOVERNMENTS  
ADOPTON: January 16, 2020  
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 Fargo, ND 58102  
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# Fargo-Moorhead Metropolitan Council of Governments

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**Resolution No. 2020-R002**  
**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 January 16 2020, which reflects the draft document dated December 2019 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.

  
Brad Olson  
Chair, Metro COG Policy Board

1/16/2020  
Date

# Contents

Introduction .....	1
Purpose .....	1
Statutory Authorities .....	2
Definitions .....	4
Relationship between Title VI and Environmental Justice .....	5
About Metro COG.....	6
Governance and Organizational Structure .....	7
Staff and Committee Composition .....	10
Table 1: Demographic Composition of Metro COG Committees.....	11
Table 2: Policy Board Jurisdictional Representation.....	12
Table 3: Transportation Technical Committee Jurisdictional Representation .....	13
Table 4: Metropolitan Bicycle and Pedestrian Committee Representation.....	14
Table 5: GIS Committee Representation .....	15
Table 6: Demographic Composition of Metro COG Staff by Position.....	16
Part 1: Title VI/Non-Discrimination Plan.....	18
Title VI/Nondiscrimination and ADA Policy Statement .....	19
Title VI Notice to the Public .....	20
Title VI Complaint Procedure.....	21
Scope of Title VI Complaints.....	21
How to File a Formal Title VI Complaint.....	21
Title VI Investigations .....	22
Organizational Responsibilities .....	23
Promote Inclusive Public Participation.....	23
Provide Access to Limited-English Proficient (LEP) Persons .....	23
Encourage Minority Representation on Planning and Advisory Committees.....	23
Training.....	23
Metro COG Title VI Coordinator.....	24
Title VI Coordinator Responsibilities.....	24
Part 2: Title VI and Environmental Justice Considerations in the Planning and Programming Process .....	26
Procedures by which mobility needs of minority populations are identified and considered .....	26

Promoting Inclusive Public Participation and Providing Meaningful Access to Limited English Proficient Persons.....	26
Public Participation Plan (PPP) .....	26
Limited English Proficiency Plan .....	26
Procedure for Conducting an Environmental Justice Analysis .....	27
Title VI and Environmental Justice in Metro COG's Planning Documents .....	28
Title VI and Environmental Justice in Metro COG's Programming.....	30
Part 3: Demographic Profile .....	31
Introduction.....	31
Data Analysis, Demographic Profile of the Region and Identification of Environmental Justice Areas .....	31
Environmental Justice Areas in the Fargo-Moorhead Urbanized Area.....	32
Low-income Populations.....	32
2010 Minority Populations.....	34
Figure 4: Environmental Justice Areas within the Metro COG Urbanized Area .....	35
Analysis of State/Federal Funding Distribution on Environmental Justice Areas .....	36
Figure 5: Programmed Transportation Projects and Environmental Justice Areas ....	37
Part 4: Appendices.....	38
Appendix A: Employment Application & Equal Employment Opportunity Survey	
Appendix B: Title VI Assurances	
Appendix I of the Title VI Assurances	
Appendix II of the Title VI Assurances	
Appendix C: Title VI Complaint Investigation Procedures	
Appendix D: Title VI Complaint Form	
Appendix E: Title VI Complaint Log	
Appendix F: Title VI Training and Certificate of Completion	
Appendix G: Title VI Training Log for Employees	
Appendix H: Public Participation Sign-in Sheet	
Appendix I: Public Participation Survey	
Appendix J: Limited English Proficiency Plan	
Appendix K: Federal Clauses	



# Introduction

## **Purpose**

The U.S Department of Transportation's (USDOT) Title VI regulations require that all programs which receive funding from the Federal Highway Administration (FHWA) and/or Federal Transit Administration (FTA) must be compliant with Section 601 of Title VI of the Civil Rights Act of 1964, which states:

*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 subjected to discrimination under any program or activity receiving Federal financial assistance.*

Recipients of USDOT financial assistance are required to prepare a Title VI Program in accordance with the guidance contained in FTA Circular 4702.1B, with the objectives to:

- Ensure that the level and quality of transportation facilities and services are planned for and provided in a nondiscriminatory manner;
- Promote full and fair participation in transportation decision-making without regard to race, color, or nation origin;
- Ensure meaningful access to transportation planning-related programs and activities by person with limited English proficiency.

As a subrecipient of USDOT funding, the Fargo-Moorhead Metropolitan Council of Governments (Metro COG) is required to prepare a Title VI Program containing:

- Metro COG's Title VI notice to the public;
- Procedures for filing a discrimination complaint;
- Listing of any public transportation-related Title VI investigations, complaints, or lawsuits filed against Metro COG;
- Public participation plan;
- Limited English proficiency (LEP) plan; and
- Overview of minority representation on Metro COG's planning and advisory bodies.

Additionally, as Fargo-Moorhead Metropolitan Council of Governments (Metro COG) is both the designated Council of Governments (COG) and Metropolitan Planning Organization (MPO) for the Fargo-Moorhead Metropolitan Area. As an MPO, Metro COG is required to include a demographic profile of the metropolitan area that includes identification of the locations of minority populations in the aggregate, a description of the procedures by which the mobility needs of minority populations are identified and considered within the planning process, demographic maps that overlay the percent minority and non-minority populations and charts that analyze the impacts of the distribution of State and Federal funds in the aggregate for public transportation

purposes, and an analysis of any actions that could result in a disparate impacts on the basis of race, color, or national origin.

The Title VI program must be approved by the MPO Policy Board and submitted to the North Dakota Department of Transportation (NDDOT) every three years. Metro COG will ensure that members of the public within the Metro COG planning area be aware of Title VI provisions and the responsibilities associated with Title VI of the Civil Rights Act of 1964.

This document serves as the Title VI Non-Discrimination Plan and the Limited English Proficiency (LEP) Plan for Metro COG.

The following Title VI program was approved by the Metro COG on January 16, 2020.

### **Statutory Authorities**

Section 601 of Title VI of the Civil Rights Act of 1964 states the following:

*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.*

The Civil Rights Restoration Act of 1987 clarified the broad, institution-wide application of Title VI. Title VI covers all of the operations of covered entities without regard to whether specific portions of the covered program or activity are Federally funded. The term "program or activity" means all of the operations of a department, agency, special purpose district, or government; or the entity of such State or local government that distributes such assistance and each such department or agency to which the assistance is extended, in the case of assistance to a State or local government.

The U.S. Department of Justice ("DOJ") Title VI regulations can be found at 28 CFR § 42.401 et seq., and 28 CFR § 50.3. The U.S. Department of Transportation ("DOT") Title VI implementing regulations can be found at 49 CFR part 21.

Since the Civil Rights Act of 1964, other nondiscrimination laws have been enacted that expand the range and scope of Title VI coverage and applicability. These include the follow:

- **THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970** prohibits unfair and inequitable treatment of persons displaced or whose property will be acquired as a result of federal and federal-aid programs and projects.
- **THE FEDERAL AID HIGHWAY ACT OF 1973** states that no person shall, on the grounds of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal assistance under this title or carried on under this title.
- **SECTION 504 OF THE REHABILITATION ACT OF 1973** states that no qualified disabled person shall, solely by reason of his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination

under any program or activity that receives or benefits from federal financial assistance. This Act protects qualified individuals from discrimination based on their disability.

- **THE AGE DISCRIMINATION ACT OF 1975** states that no person shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. This act prohibits age discrimination in Federally Assisted Programs.
- **THE CIVIL RIGHTS RESTORATION ACT OF 1987, P.L.100-209** amends Title VI of the 1964 Civil Rights Act to make it clear that discrimination is prohibited throughout an entire agency if any part of the agency receives federal assistance.
- **THE AMERICAN DISABILITIES ACT (ADA) OF 1990** prohibits discrimination against people with disabilities in employment, transportation, public accommodation, communications, and governmental activities.

## **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.

## **Relationship between Title VI and Environmental Justice**

President Clinton issued Executive Order 12898 "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" in 1994, which builds upon Title VI principles by including the consideration of low-income populations in addition to minority populations into the transportation planning and decision-making process. The principles of environmental justice (EJ) are to:

1. Avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority and low-income populations.
2. Ensure the full and fair participation by all potentially affected communities in the transportation decision-making process.
3. Prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations.

Although Title VI and EJ intersect and are closely related, they each have their own distinct authorities and requirements. Title VI prohibits intentional discrimination or disparate treatment on the basis of race, color, and national origin and is enforceable in court, whereas environmental justice policies require that in addition to intentional discrimination disproportionately high and adverse effects of proposed decisions on low-income and minority populations must be considered, but it provides no legal rights or remedies. A series of orders have been issued by Federal agencies, including USDOT, requiring the incorporation of Environmental Justice principles into Federal programs and policies. FTA issued Circular 4703.1 in 2012 containing the EJ requirements and guidelines for MPOs.

Metro COG is committed to achieving the broader goal of environmental justice as part of its mission. While this program primarily focuses on meeting the statutory requirements for Title VI and its prohibition of discrimination on the basis of race, color, and national origin, EJ considerations are also integrated in this program in order to promote equity and inclusion within the Fargo-Moorhead area.

## 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.

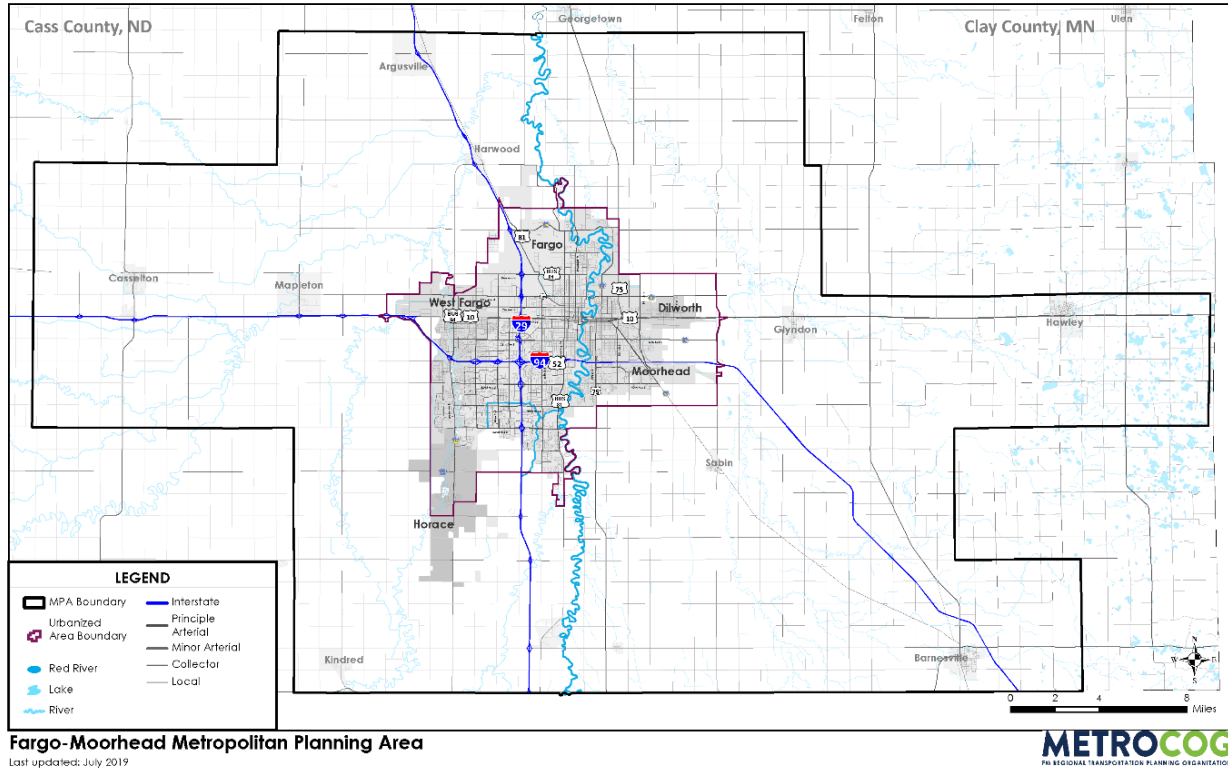
The Federal Surface Transportation Assistance Act of 1973 requires the formation of a MPO for any urbanized area with a population greater than 50,000. The Act also requires, as a condition for federal transportation financial assistance, that transportation projects be based upon a continuous, comprehensive, 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) prioritize their transportation investments in a coordinated way consistent with regional needs, as outlined in a long-range metropolitan transportation plan.

The core of an MPO is the urbanized area, 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 which is the official Adjusted Urban Area Boundary (known as the UZA). In Metro COG's case, the overseeing DOT is North Dakota Department of Transportation (NDDOT). The UZA boundary 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 2 states, 2 counties, 14 cities, and 30 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.

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.

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, Kindred, 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.

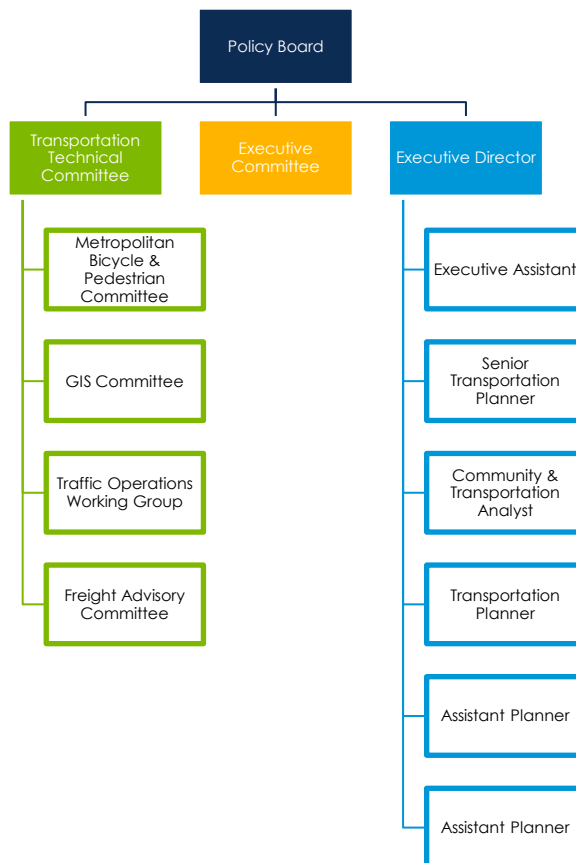


Figure 1: Fargo-Moorhead Metropolitan Council of Governments Organizational Chart



The appointments to Metro COG's Policy Board are made as follows:

- The Mayor of Fargo appoints seven members. Four of the seven appointees must be elected officials.
- The Mayor of Moorhead appoints three members. Two of the three appointees must be elected officials.
- The Mayor of West Fargo appoints two members, of which one must be an elected official.
- The Mayor of Dilworth appoints one member, of which must be an elected official of the Dilworth City Council.
- The Mayor of Horace appoints one member, of which must be an elected official of the Horace City Council.
- The Clay County Administrator appoints one member, of which must be an elected official of the Clay County Commission.
- The Cass County Administrator appoints one member, of which must be an elected official of the Cass County Commission.
- Associate member jurisdictions, which include the City of Casselton, City of Harwood, City of Mapleton, City of Barnesville, City of Glyndon, and City of Hawley, are entitled to one non-voting member.
- There are two ex-officio members, one from NDDOT- Fargo District and one from MnDOT- District 4.

The Policy Board is advised by a 22-member Transportation Technical Committee (TTC) made up of representatives from MnDOT, NDDOT, FHWA, Fargo, Moorhead, West Fargo, Dilworth, Horace, Cass County, Clay County, North Dakota Universities, Minnesota Universities, Freight, Bicycle and Pedestrian, and Economic Development. The Metro COG Executive Director, who also has a vote, chairs the TTC. There are three additional ex-officio members and all associate member jurisdictions may choose to participate, but do not have voting privileges.

The appointments to Metro COG's Transportation Technical Committee are made as follows:

- The Metro COG Executive Director represents staff and is the Chair of the committee
- City of Fargo has three representatives, one from each of the following: Engineering Department, Planning Department, and Fargo Transit
- City of Moorhead has three representatives, one from each of the following: Engineering Department, Planning Department, and Moorhead Transit
- City of West Fargo has two representatives, one from each of the following: Public Works Department and Planning Department
- City of Dilworth has one representative
- City of Horace has one representative
- Cass County has two representatives, one from each of the following: County Engineer's Office, County Planning Department

- Clay County has two representatives, one from each of the following: County Engineer's Office, County Planning Department
- Minnesota Department of Transportation has one representative
- North Dakota Department of Transportation has one representative
- Economic Development community has one representative
- Freight community has one representative
- Bicycle and Pedestrian community has one representative
- North Dakota University/Colleges have one representative
- Minnesota University/Colleges have one representative

It is important to note that Metro COG does not have any control over the racial and ethnic composition of the TTC.

Metro COG encourages participation of all citizens in the regional transportation planning and programming process. All Policy Board, TTC, and subcommittee meetings are public meetings.

The MPO continues to make efforts to encourage and promote diversity. To encourage participation in its committees, Metro COG continues to reach out to community, ethnic and faith-based organizations to connect with all populations. Specifically, Metro COG has reached out to minority group representatives in the region to find out how we can better serve and reach minority populations.

Additionally, Metro COG strives to find ways to make participating on its committees convenient. This includes scheduling meetings in locations with good transit service and in or near neighborhoods with a high concentration of minority and low-income populations. Some further goals and strategies to actively engage minority populations are included in the Public Participation Plan.

## **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 [Number of Members]	Appointment Mechanism	Race							Sex			
		White (not Hispanic or Latino)	Hispanic or Latino	Black / African American	Native Hawaiian or Other Pacific Islander	Asian / Asian American	American Indian or Alaska Native	Two or More Races	No Response	Male	Female	Preferred Not To Say
<b>Metropolitan Statistical Area (MSA)</b> [232,660]		207,843	6,878	8,977	66	5,707	2,561	6,128	0	116,897	115,763	0
<b>Policy Board</b> [24]	See Table 2	14	-	1	-	-	-	-	9	12	3	9
<b>Transportation Technical Committee</b> [22]	See Table 3	21	-	-	-	1	-	-	-	15	7	-
<b>Metropolitan Bicycle and Pedestrian Committee</b> [22]	See Table 4	15	-	-	-	-	-	-	6	10	5	6
<b>GIS Committee</b> [9]	See Table 5	7	-	-	-	-	1	-	1	6	2	1
<b>Traffic Operations Working Group</b> [#]	*	-	-	-	-	-	-	-	*	-	-	*
<b>Freight Advisory Committee</b> [#]	**	-	-	-	-	-	-	-	**	-	-	**
<b>Metro COG Staff</b> [7]	See Table 6	6	-	-	-	-	-	-	1	3	3	1

Demographic information on the Fargo-Moorhead MSA taken from the 2013-2017 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 Freight Advisory Committee was identified as a follow-up action in the 2017 Regional Freight 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.

Table 2: Policy Board Jurisdictional Representation

Jurisdiction [total representatives]	Race										Sex		
	Voting Representatives	Non-voting Representatives	White (not Hispanic or Latino)	Hispanic or Latino	Black / African American	Native Hawaiian or Other Pacific Islander	Asian / Asian American	American Indian or Alaska Native	Two or More Races	No Response	Male	Female	Preferred Not To Say
<b>Policy Board [24]</b>	<b>16</b>	<b>8</b>	<b>14</b>	-	<b>1</b>	-	-	-	-	<b>9</b>	<b>12</b>	<b>3</b>	<b>9</b>
<i>City of Fargo</i>	7	-	3	-	-	-	-	-	-	4	2	1	4
<i>City of Moorhead</i>	3	-	2	-	1	-	-	-	-	-	2	1	-
<i>City of West Fargo</i>	2	-	2	-	-	-	-	-	-	-	2	-	-
<i>City of Dilworth</i>	1	-	1	-	-	-	-	-	-	-	1	-	-
<i>City of Horace</i>	1	-	1	-	-	-	-	-	-	-	1	-	-
<i>Cass County</i>	1	-	1	-	-	-	-	-	-	-	1	-	-
<i>Clay County</i>	1	-	1	-	-	-	-	-	-	-	-	1	-
<i>Minnesota Department of Transportation</i>	-	1	1	-	-	-	-	-	-	-	1	-	-
<i>North Dakota Department of Transportation</i>	-	1	1	-	-	-	-	-	-	-	1	-	-
<i>City of Casselton</i>	-	1	-	-	-	-	-	-	-	1	-	-	1
<i>City of Harwood</i>	-	1	-	-	-	-	-	-	-	1	-	-	1
<i>City of Mapleton</i>	-	1	-	-	-	-	-	-	-	1	-	-	1
<i>City of Barnesville</i>	-	1	1	-	-	-	-	-	-	-	1	-	-
<i>City of Glyndon</i>	-	1	-	-	-	-	-	-	-	1	-	-	1
<i>City of Hawley</i>	-	1	-	-	-	-	-	-	-	1	-	-	1

Committee members are surveyed annually and as committee, member turnover occurs; this table is updated subsequently.

Table 3: Transportation Technical Committee Jurisdictional Representation

Jurisdiction	Voting Representatives	Race								Sex		
		White (not Hispanic or Latino)	Hispanic or Latino	Black / African American	Native Hawaiian or Other Pacific Islander	Asian / Asian American	American Indian or Alaska Native	Two or More Races	No Response	Male	Female	Preferred Not To Say
<b>Transportation Technical Committee [22]</b>	<b>22</b>	<b>21</b>	-	-	-	1	-	-	-	<b>15</b>	<b>7</b>	-
<i>Metro COG Executive Director</i>	1	1	-	-	-	-	-	-	-	-	1	-
<i>City of Fargo</i>	3	3	-	-	-	-	-	-	-	2	1	-
<i>City of Moorhead</i>	3	3	-	-	-	-	-	-	-	1	2	-
<i>City of West Fargo</i>	2	2	-	-	-	-	-	-	-	2	-	-
<i>City of Dilworth</i>	1	1	-	-	-	-	-	-	-	1	-	-
<i>City of Horace</i>	1	1	-	-	-	-	-	-	-	1	-	-
<i>Cass County</i>	2	2	-	-	-	-	-	-	-	2	-	-
<i>Clay County</i>	2	2	-	-	-	-	-	-	-	2	-	-
<i>Minnesota Department of Transportation</i>	1	-	-	-	-	1	-	-	-	-	1	-
<i>North Dakota Department of Transportation</i>	1	1	-	-	-	-	-	-	-	1	-	-
<i>Economic Development Community</i>	1	1	-	-	-	-	-	-	-	1	-	-
<i>Freight Community</i>	1	1	-	-	-	-	-	-	-	1	-	-
<i>Bicycle &amp; Pedestrian Community</i>	1	1	-	-	-	-	-	-	-	-	1	-
<i>Minnesota University/Colleges</i>	1	1	-	-	-	-	-	-	-	-	1	-
<i>North Dakota University/Colleges</i>	1	1	-	-	-	-	-	-	-	1	-	-

Committee members are surveyed annually and as committee, member turnover occurs; this table is updated subsequently.

Table 4: Metropolitan Bicycle and Pedestrian Committee Representation

Jurisdiction	Voting Representatives	Race								Sex		
		White (not Hispanic or Latino)	Hispanic or Latino	Black / African American	Native Hawaiian or Other Pacific	Asian / Asian American	American Indian or Alaska Native	Two or More Races	No Response	Male	Female	Preferred Not To Say
<b>Bicycle &amp; Pedestrian Committee [21]</b>	<b>21</b>	<b>15</b>	-	-	-	-	-	-	<b>6</b>	<b>10</b>	<b>5</b>	<b>6</b>
<i>Metro COG Transportation Planner</i>	1	1	-	-	-	-	-	-	-	1	-	-
<i>City of Fargo</i>	2	2	-	-	-	-	-	-	-	1	1	-
<i>Fargo Park District</i>	1	1	-	-	-	-	-	-	-	1	-	-
<i>Fargo Police Department</i>	1	-	-	-	-	-	-	-	1	-	-	1
<i>City of Moorhead</i>	2	2	-	-	-	-	-	-	-	1	1	-
<i>City of West Fargo</i>	1	1	-	-	-	-	-	-	-	1	-	-
<i>West Fargo Park District</i>	1	-	-	-	-	-	-	-	1	-	-	1
<i>City of Dilworth</i>	1	1	-	-	-	-	-	-	-	1	-	-
<i>City of Horace</i>	1	-	-	-	-	-	-	-	1	-	-	1
<i>Cass County (Vacant)</i>	1	-	-	-	-	-	-	-	1	-	-	1
<i>Clay County (Vacant)</i>	1	-	-	-	-	-	-	-	1	-	-	1
<i>Minnesota DOT – District 4</i>	1	1	-	-	-	-	-	-	-	-	1	-
<i>North Dakota DOT – Fargo District</i>	1	1	-	-	-	-	-	-	-	1	-	-
<i>PartnerSHIP 4 Health</i>	1	1	-	-	-	-	-	-	-	1	-	-
<i>Fargo Cass Public Health</i>	1	1	-	-	-	-	-	-	-	-	1	-
<i>Great Rides</i>	1	-	-	-	-	-	-	-	1	-	-	1
<i>NDSU</i>	1	1	-	-	-	-	-	-	-	1	-	-
<i>River Keepers</i>	1	1	-	-	-	-	-	-	-	-	1	-
<i>Citizen Representative</i>	1	1	-	-	-	-	-	-	-	1	-	-

Committee members are surveyed annually and as committee, member turnover occurs; this table is updated subsequently.

Table 5: GIS Committee Representation

Jurisdiction	Voting Representatives	Race							Sex			
		White (not Hispanic or Latino)	Hispanic or Latino	Black / African American	Native Hawaiian or Other Pacific Islander	Asian / Asian American	American Indian or Alaska Native	Two or More Races	No Response	Male	Female	Preferred Not To Say
<b>GIS Committee [9]</b>	<b>9</b>	<b>7</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>6</b>	<b>2</b>	<b>1</b>
<i>Metro COG Assistant Planner</i>	1	1	-	-	-	-	-	-	-	-	1	-
<i>City of Fargo</i>	1	-	-	-	-	-	1	-	-	1	-	-
<i>City of Moorhead</i>	1	1	-	-	-	-	-	-	-	1	-	-
<i>City of West Fargo</i>	1	1	-	-	-	-	-	-	-	1	-	-
<i>City of Dilworth</i>	1	1	-	-	-	-	-	-	-	1	-	-
<i>City of Horace</i>	1	1	-	-	-	-	-	-	-	1	-	-
<i>Cass County</i>	1	1	-	-	-	-	-	-	-	-	1	-
<i>Clay County</i>	1	1	-	-	-	-	-	-	-	1	-	-
<b>Moorhead Public Service</b>	1	-	-	-	-	-	-	-	1	-	-	1

Committee members are surveyed annually and as committee, member turnover occurs; this table is updated subsequently.



Table 6: Demographic Composition of Metro COG Staff by Position

Position [Number of Staff]	Race							Sex			
	White (not Hispanic or Latino)	Hispanic or Latino	Black / African American	Native Hawaiian or Other Pacific Islander	Asian / Asian American	American Indian or Alaska Native	Two or More Races	No Response	Male	Female	Preferred Not To Say
<b>Overall Metro COG Staff [7]</b>	<b>6</b>	-	-	-	-	-	-	<b>1</b>	<b>3</b>	<b>3</b>	<b>1</b>
<b>Executive Director [1]</b>	1	-	-	-	-	-	-	-	-	1	-
<b>Senior Transportation Planner [1]</b>	-	-	-	-	-	-	-	1	-	-	1
<b>Transportation Planner [1]</b>	1	-	-	-	-	-	-	-	1	-	-
<b>Community &amp; Transportation Analyst [1]</b>	1	-	-	-	-	-	-	-	1	-	-
<b>Assistant Planner [2]</b>	2	-	-	-	-	-	-	-	1	1	-
<b>Executive Assistant [1]</b>	1	-	-	-	-	-	-	-	-	1	-
<b>Interns [0]</b>	-	-	-	-	-	-	-	-	-	-	-

Surveys are completed annually and as new hires occur.

Overall, staff received 15 responses from of the 24 members of the Policy Board and all 22 members of the Transportation Technical Committee responded. The figures included in Table 1 represent the committees as of December 2019, 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

## 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.

Two Presidential Executive Orders 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 Policy Board of the Fargo-Moorhead Metropolitan Council of Governments (Metro COG), 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, Cindy Gray, of Metro COG is the appointed Title VI Coordinator and ADA Coordinator. Thus, he/she/they is granted the authority to develop, administer, and monitor the Title VI / Nondiscrimination and ADA Program as is adopted.

Anyone who believes that he/she/they has been discriminated against should contact the Executive Director, Title VI Coordinator and ADA Coordinator via mail, phone, or email.

Metro COG's address is 1 – 2<sup>nd</sup> Street North, Suite 232, Fargo, ND 58102

Metro COG's phone number is 701-532-5100. TTY users may call Relay North Dakota at 711 or 1-800-366-6888 (toll free).

  
\_\_\_\_\_  
Brad Olson  
Chair, Metro COG Policy Board

1/16/2020  
\_\_\_\_\_  
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 2020, 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: [metrococg@fmmetrococg.org](mailto:metrococg@fmmetrococg.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.



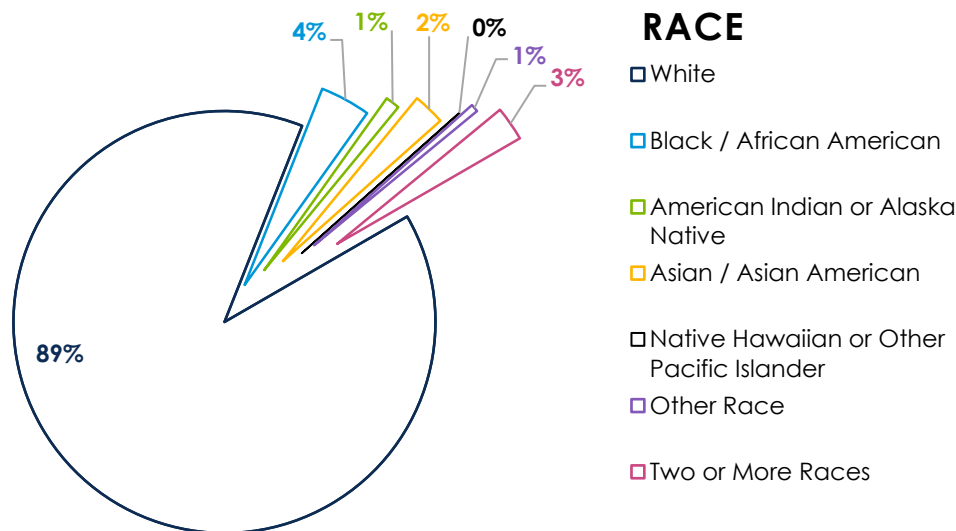


Figure 3: Fargo-Moorhead Metropolitan Council of Governments Organizational Chart

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 2019 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:

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

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

$$\$1,810.20 + \$16,910 = \$18,722.20, \text{ round to the nearest } \$1$$

$$\mathbf{\$18,722 \text{ as the Poverty Guideline per Average Household Size in the Fargo-Moorhead MSA}}$$

Step 3:

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

$$\mathbf{\$23,403 \text{ Fargo-Moorhead MSA Low-income Threshold}}$$

As of 2019, block groups with an annual median household income less than \$23,403 are considered “Low-income” block groups.

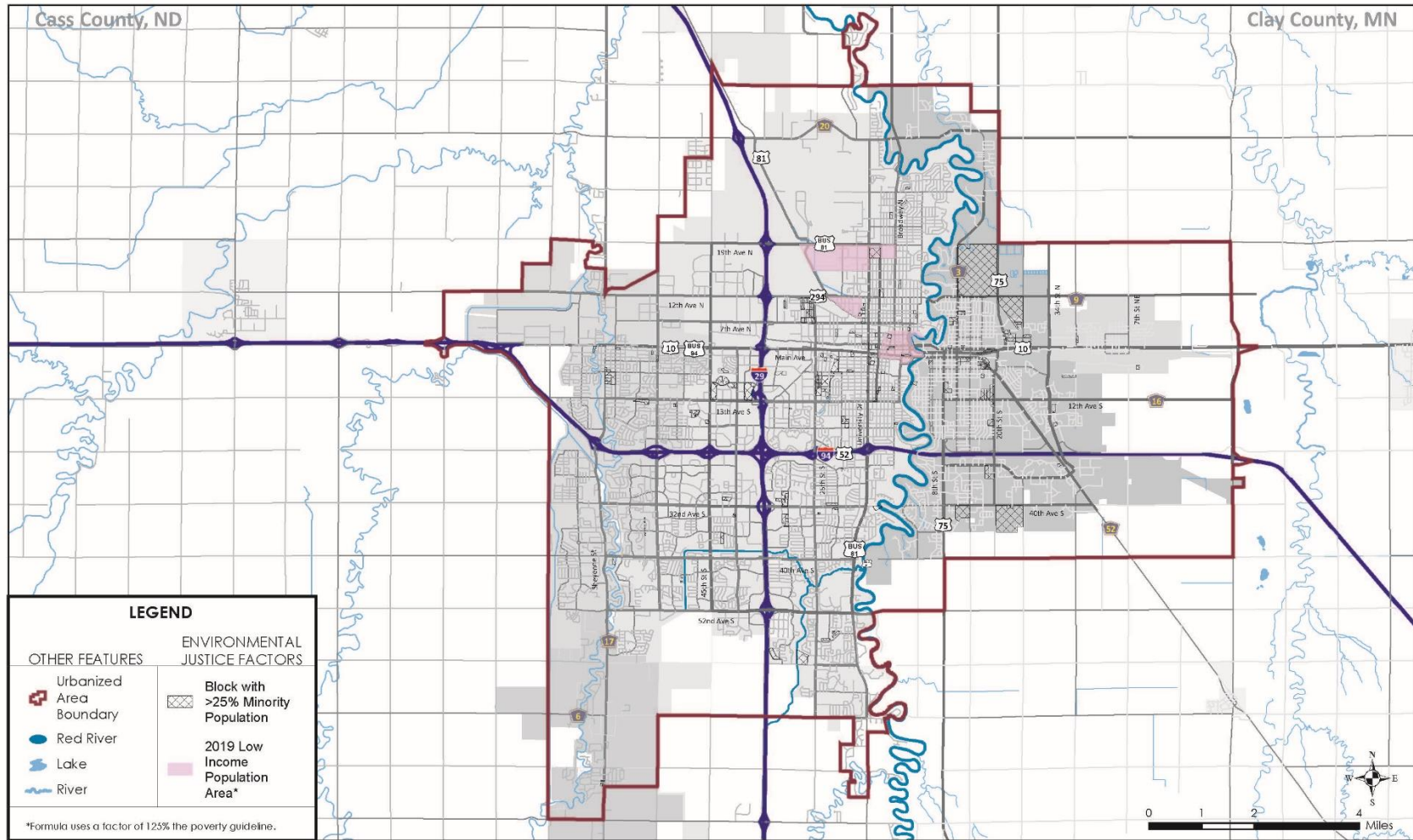
### 2010 Minority Populations

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. Therefore, 2010 census data was used to establish the minority population areas in the 2012, 2016, and 2020 Title VI Plans. Figure 2: Environmental Justice Areas within the Metro COG urbanized Area identifies the minority population areas and the low-income areas. When 2020 Census data becomes available, the 2020 decennial Census data will be used to re-evaluate where minority populations exist within the Fargo-Moorhead MSA.

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.

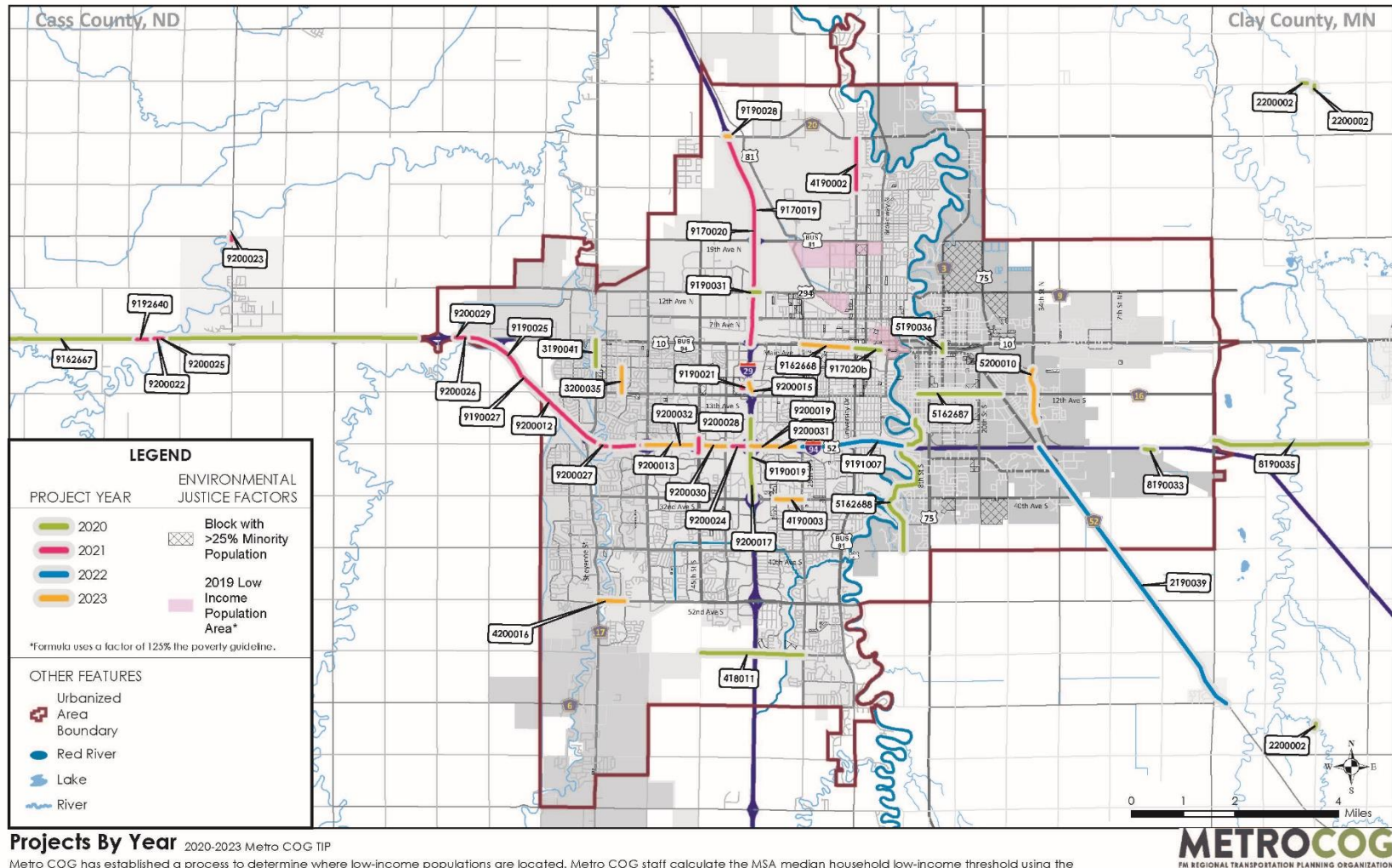
The information shown in Figure 3 depicts the Environmental Justice areas within Metro COG's UZA and their proximity to projects programmed in the 2020-2023 Transportation Improvement Program (TIP).

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: _____ 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 No GED		N/A
College/University/Technical School	Yes No		
College/University/Technical School	Yes No		
College/University/Technical School	Yes 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:
  - f. 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
  - g. 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.

  
Brad Olson  
Chair, Metro COG Policy Board

1/16/2020  
Date

**Attachments: Appendices I and II**

# Fargo-Moorhead Metropolitan Council of Governments

## Appendix I 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 II 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.
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 C).
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.
    - 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.



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.

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
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).
    - 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.
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:
- 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.

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'):
- 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.

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 FHWA Headquarters Office of Civil Rights makes the final determination.
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. 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.

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

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

Form is on the following page



# TITLE VI / ADA 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   
  National Origin   
  Limited English Proficiency  
 Sex   
  Age   
  Disability   
  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 \_\_\_\_\_

**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.

# INSTRUCTIONS FOR TITLE VI COMPLAINT PROCESS FORM

## GENERAL

1. Instructions provided within this form are not meant to be all inclusive. Members of the public or external applicants for employment filing a Title VI/ADA complaint are responsible for all procedural requirements contained in Metro COG's Title VI/ADA External Complaint Process.
2. 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, national origin, sex, age, national origin, 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. Members of the public, external applicants for employment, or groups(s) of persons who feel they have been discriminated against may file a complaint.
3. Complainants **must** include all required information and **must** meet all timeframes as defined in Metro COG's Title VI / ADA External Complaint Process.
4. Legible copies of all available pertinent documentation should be attached to this form.
5. All inquiries should be directed to  
Metro COG  
Attn: Title VI / ADA Coordinator  
1 - 2<sup>nd</sup> Street N #232  
Fargo, ND 58102  
  
(701) 532-5103, TDD 711

## 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.

**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.**

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

\*As of December 2019, no Discrimination Complaints been received.

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

Forms are on the following pages



## 2019 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 one hour of Title VI training each year.

Metro COG employees shall review the following modules in order to fulfill their Title VI training requirements for 2019:

- **MODULE I** (approximately 6 minutes): [https://www.youtube.com/watch?v=MU\\_SfdA6E5w](https://www.youtube.com/watch?v=MU_SfdA6E5w)  
Created by the US Department of Justice several years ago, this video provides a brief overview of Title VI and has appropriate closed captioning.
- **MODULE II** (approximately 26 minutes): <https://www.youtube.com/watch?v=90uNM-aZwdI>  
Created by the US Department of Justice several years ago, this video provides an extended overview of Title VI.
- **MODULE III** (approximately 24 minutes): <https://www.youtube.com/watch?v=RPCIqDtRUkA>  
Created in 2010 by the US Office for Civil Rights, US Department of Health & Human Services, this video explains Title VI, Limited English Proficiency (LEP), and the use of interpreters.
- **MODULE IV** (approximately 6 minutes): <https://www.youtube.com/watch?v=mL-R1-WoLAc>  
Created by the Federal Highway Administration, this video provides an overview of Title VI program requirements for local public agencies

**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 \_\_\_\_

Meeting Location		Division/District/Consultant	
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	

## **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: January 16, 2020  
1 - 2nd Street N, Suite 232,  
 Fargo, ND 58102  
visit our webpage at: [www.fmmetrocog.org](http://www.fmmetrocog.org)



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# Fargo-Moorhead Metropolitan Council of Governments

## Policy Board

Brad Olson, Chair	Tony Grindberg	Dave Piepkorn
Dave Fenelon, Vice Chair	John Gunkelman	Rocky Schneider
Duane Breitling	Chuck Hendrickson	John Strand
Tony Gehrig	Steve Jesme	Maranda Tasa
Eric Gjerdevig	Mayor Jonathan Judd	Sara Watson Curry
	Jenny Mongeau	

## Staff

Cindy Gray Executive Director	Anna Pierce Assistant Planner
Michael Maddox Senior Transportation Planner	Luke Champa Assistant Planner
Dan Farnsworth Transportation Planner	Savanna Leach Executive Assistant
Adam Altenburg Community and Transportation Analyst	



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. 2020-R001**  
**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 January 16, 2020 which reflects the draft document dated December 2019 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.

  
\_\_\_\_\_  
Brad Olson  
Chair, Metro COG Policy Board

1/16/2020  
Date

# Table of Contents

Introduction .....	1
Purpose .....	1
Statutory Authorities .....	1
Definitions .....	2
About Metro COG.....	3
Governance and Organizational Structure .....	5
Plan Summary .....	6
Meaningful Access: Four-Factor Analysis.....	7
Factor 1: Demography .....	7
Table A: LEP Populations by Community for the Fargo-Moorhead MSA .....	8
Factor 2: Frequency .....	9
Factor 3: Importance.....	10
Factor 4: Resources.....	11
Language Assistance.....	12
Language Assistance Measures .....	13
Staff Training.....	13
Contractors / Consultants.....	14
Translation of Documents .....	14
Monitoring, Evaluating, and Updating the Plan .....	14
Dissemination of Metro COG's LEP Plan .....	15
Appendices.....	16
Appendix A: Interpretive Services	
Appendix B: Language Index Cards	
Appendix C: LEP Training and Certificate of Completion	
Appendix D: LEP Training Log	
Appendix E: Language Assistance Requests	
Appendix F: LEP Annual Assessment <sup>22</sup>	

# Introduction

## **Purpose**

Fargo-Moorhead Council of Governments (Metro COG) is the designated Metropolitan Planning Organization (MPO) responsible for ongoing, 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 March 2017.

## **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 January 16, 2020.

## **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.

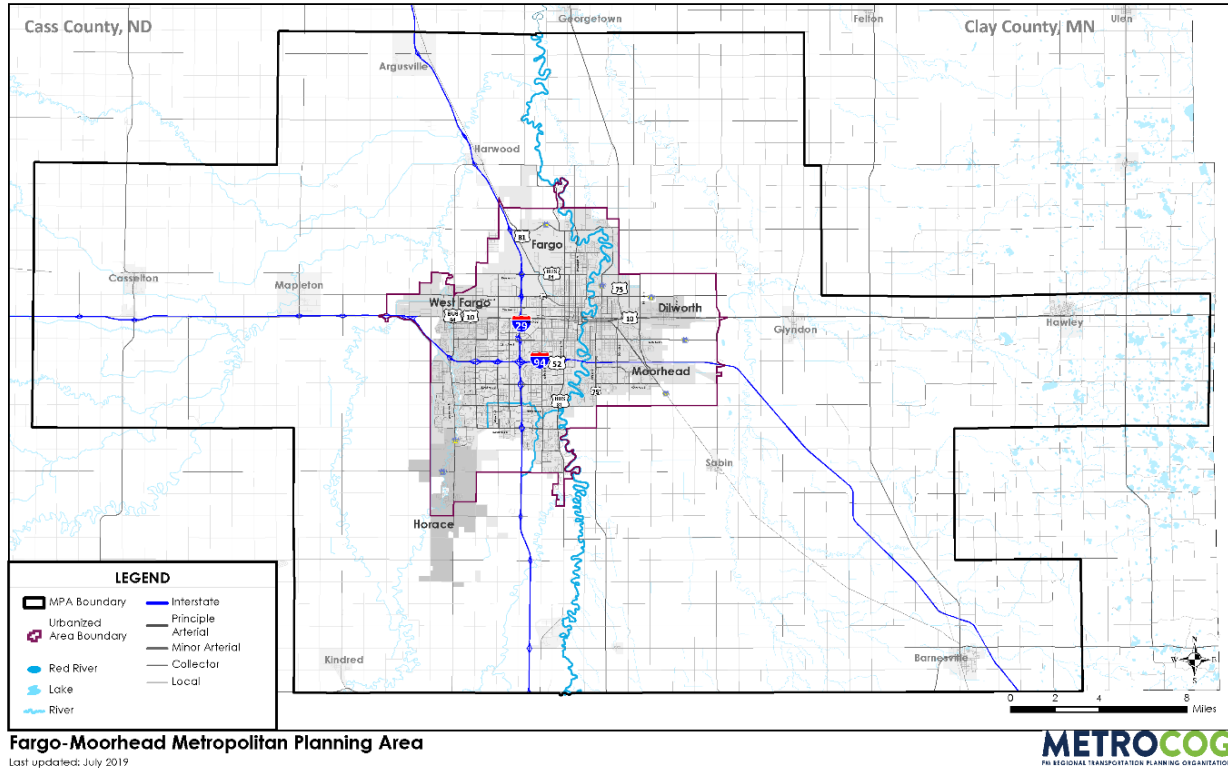
The Federal Surface Transportation Assistance Act of 1973 requires the formation of a MPO for any urbanized area with a population greater than 50,000. The Act also requires, as a condition for federal transportation financial assistance, that transportation projects be based upon a continuous, comprehensive, 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) prioritize their transportation investments in a coordinated way consistent with regional needs, as outlined in a long-range metropolitan transportation plan.

The core of an MPO is the urbanized area, 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 which is the official Adjusted Urban Area Boundary (known as the UZA). In Metro COG's case, the overseeing DOT is North Dakota Department of Transportation (NDDOT). The UZA boundary 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 2 states, 2 counties, 14 cities, and 30 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.

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.

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, Kindred, 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.

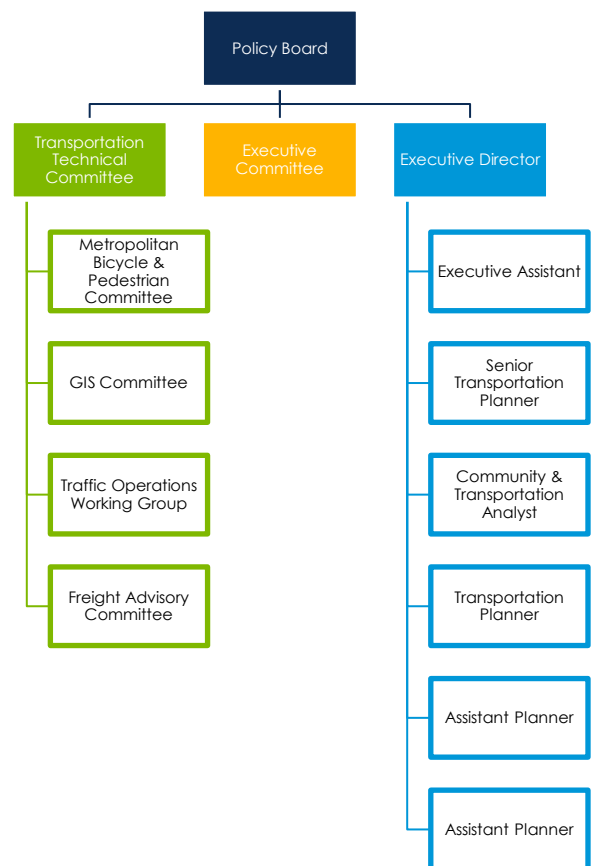


Figure 1: Fargo-Moorhead Metropolitan Council of Governments Organizational Chart

## 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 2013-2017 American Community Survey 5-year Estimates and determined that 5,486 individuals have limited English proficiency; that is that they speak English less than “very well” or “not at all.” This is 2.5% 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:

- French (incl. Cajun)
- Haitian
- Italian, Sicilian
- Portuguese, Kabuverdianu
- German, Luxembourgish
- Yiddish, Pennsylvania Dutch or other West Germanic languages
- Greek
- Russian
- Polish
- Serbo-Croatian (Bosnian, Croatian, Serbian)
- Ukrainian or other Slavic languages (Bulgarian, Czech, Ukrainian)
- Armenian
- Persian (incl. Farsi, Dari)
- Gujarati
- Hindi
- Urdu
- Punjabi (Panjabi)
- Bengali
- Nepali, Marathi or other Indic languages
- Other Indo-European languages (Albanian, Lithuanian, Pashto (Pushto), Romanian, Swedish, Norwegian)
- Telugu
- Tamil
- Malayalam, Kannada, or other Dravidian language

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

Geographic Area	2017 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%

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 November 2019) 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 four 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, Arabic, and then Kurdish. Interestingly, the demand for Vietnamese and Bosnian/Croatian language translations has decreased over the past few years, which Family Health Care Center staff attributed to the length of time first generation immigrants and their families have been within the United States.

This information is helpful to understand that if Metro COG is considering translating documents, that Nepali, Somalian, Arabic, and Kurdish 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 Executive Secretary, 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, 92.8%, speak only English. Overall, 97.4% 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 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 (97.4%) of the population speaks English only or another language and English "very well".

Given the small size of the LEP population (2.6%) 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 Executive Assistant 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 insure 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 Executive Assistant 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  
701-353-7686  
[www.minnesotatranslations.com](http://www.minnesotatranslations.com)

#### **Lutheran Social Services of North Dakota**

3911 20<sup>th</sup> Avenue South  
Fargo, ND 58103  
701-235-7341  
[www.lssnd.org](http://www.lssnd.org)

#### **North Dakota Assistive**

3240 15<sup>th</sup> Street South  
Fargo, ND 58104  
701-365-4728  
[www.ndipat.org](http://www.ndipat.org)

#### **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: 701-328-2690  
<https://apps.nd.gov/csd/spo/services/bi/der/listCurrentContracts.htm>

- Linguistica 801-617-1958
- Language Link 360-823-2287
- Humble Translations

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

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

Form is on the following page.

## 2020 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 2020:

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

<https://www.youtube.com/watch?v=vv3lBzkUgwg&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 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 Address Phone Email	Year	Month/ Day				Action	Service Used	
	John Doe 1234 This Town Rd Small Town, XX #####  xxx-xxx-xxxx 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 2019, 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

## **Fly America Requirements**

Applicability – all contracts involving transportation of persons or property, by air between the U.S. and/or places outside the U.S. These requirements do not apply to micro-purchases (\$3,500 or less, except for construction contracts over \$2,000).

Contractor shall comply with 49 USC 40118 (the "Fly America" Act) in accordance with General Services Administration regulations 41 CFR 301-10, stating that recipients and subrecipients of Federal funds and their contractors are required to use US Flag air carriers for US Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a US flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. Contractor shall include the requirements of this section in all subcontracts that may involve international air transportation.

## **Seismic Safety**

Construction of new buildings or additions to existing buildings. These requirements do not apply to micro-purchases (\$3,500 or less, except for construction contracts over \$2,000). Contractor agrees that any new building or addition to an existing building shall be designed and constructed in accordance with the standards required in USDOT Seismic Safety Regulations 49 CFR 41 and shall certify compliance to the extent required by the regulation. Contractor shall also ensure that all work performed under this contract, including work performed by subcontractors, complies with the standards required by 49 CFR 41 and the certification of compliance issued on the project.

## **Energy Conservation**

All Contracts except micro-purchases (\$3,500 or less, except for construction contracts over \$2,000)  
Contractor shall comply with mandatory standards and policies relating to energy efficiency, stated in the state energy conservation plan issued in compliance with the Energy Policy & Conservation Act.

## **Clean Water**

Applicability – All Contracts and Subcontracts over \$150,000. Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient shall, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. Contractor shall include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with FTA assistance.

## **Lobbying**

Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contract/Turnkey contracts over \$150,000

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$150,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." 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 shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

## **Access to Records and Reports**

Applicability – As shown below. These requirements do not apply to micro-purchases (\$3,500 or less, except for construction contracts over \$2,000)

The following access to records requirements apply to this Contract:

1. Where the purchaser is not a State but a local government and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 18.36(i), contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives access to any books, documents, papers and contractor records which are pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor shall also, pursuant to 49 CFR 633.17, provide authorized FTA representatives, including any PMO contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which is receiving FTA assistance through the programs described at 49 USC 5307, 5309 or 5311.
2. Where the purchaser is a State and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 633.17, contractor shall provide the purchaser, authorized FTA representatives, including any PMO Contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which receives FTA assistance through the programs described at 49 USC 5307, 5309 or 5311. By definition, a capital project excludes contracts of less than the simplified acquisition threshold currently set at \$150,000.
3. Where the purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 19.48, contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives, access to any books, documents, papers and record of the contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
4. Where a purchaser which is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 USC 5325(a) enters into a contract for a capital project or improvement (defined at 49 USC 5302(a)1) through other than competitive bidding, contractor shall make available records related to the contract to the purchaser, the Secretary of USDOT and the US Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
5. Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
6. Contractor shall maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case contractor agrees to maintain same until the recipient, FTA Administrator, US Comptroller General, or any of their authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Re: 49 CFR 18.39(i)(11).

FTA does not require the inclusion of these requirements in subcontracts.

### **Federal Changes**

All Contracts except micro-purchases (\$3,500 or less, except for construction contracts over \$2,000)

Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the purchaser and FTA, as they may be amended or promulgated from time to time during the term of the contract. Contractor's failure to comply shall constitute a material breach of the contract.



## **Clean Air**

Applicability – All contracts over \$150,000.

- 1) Contractor shall comply with all applicable standards, orders or regulations pursuant to the Clean Air Act, 42 USC 7401 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office.
- 2) Contractor shall include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with FTA assistance.

## **No Government Obligation to Third Parties**

Applicability – All contracts except micro-purchases (\$3,500 or less, except for construction contracts over \$2,000)

- (1) The recipient and contractor acknowledge and agree that, notwithstanding any concurrence by the US Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the US Government, the US Government is not a party to this contract and shall not be subject to any obligations or liabilities to the recipient, the contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.
- (2) Contractor agrees to include the above clause in each subcontract financed in whole or in part with FTA assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

## **Program Fraud and False or Fraudulent Statements or Related Acts**

Applicability – All contracts except micro-purchases (\$3,500 or less, except for construction contracts over \$2,000)

- (1) Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801 et seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification, the US Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act (1986) on contractor to the extent the US Government deems appropriate.
- (2) If contractor makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification to the US Government under a contract connected with a project that is financed in whole or in part with FTA assistance under the authority of 49 USC 5307, the Government reserves the right to impose the penalties of 18 USC 1001 and 49 USC 5307(n)(1) on contractor, to the extent the US Government deems appropriate.
- (3) Contractor shall include the above two clauses in each subcontract financed in whole or in part with FTA assistance. The clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

## **Termination**

Applicability – All Contracts over \$10,000, except contracts with nonprofit organizations and institutions of higher learning, where the threshold is \$150,000

- a. Termination for Convenience (General Provision) the recipient may terminate this contract, in whole or in part, at any time by written notice to contractor when it is in the recipient's best interest. Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. Contractor shall promptly submit its termination claim to the recipient. If contractor is in possession of any of the recipient's property, contractor shall account for same, and dispose of it as the recipient directs.

b. Termination for Default [Breach or Cause] (General Provision) If contractor does not deliver items in accordance with the contract delivery schedule, or, if the contract is for services, and contractor fails to perform in the manner called for in the contract, or if contractor fails to comply with any other provisions of the contract, the recipient may terminate this contract for default. Termination shall be effected by serving a notice of termination to contractor setting forth the manner in which contractor is in default. Contractor shall only be paid the contract price for supplies delivered and accepted, or for services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by the recipient that contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of contractor, the recipient, after setting up a new delivery or performance schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.

c. Opportunity to Cure (General Provision) the recipient in its sole discretion may, in the case of a termination for breach or default, allow contractor an appropriately short period of time in which to cure the defect. In such case, the notice of termination shall state the time period in which cure is permitted and other appropriate conditions. If contractor fails to remedy to the recipient's satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by contractor or written notice from the recipient setting forth the nature of said breach or default, the recipient shall have the right to terminate the Contract without any further obligation to contractor. Any such termination for default shall not in any way operate to preclude the recipient from also pursuing all available remedies against contractor and its sureties for said breach or default.

d. Waiver of Remedies for any Breach In the event that the recipient elects to waive its remedies for any breach by contractor of any covenant, term or condition of this Contract, such waiver by the recipient shall not limit its remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

e. Termination for Convenience (Professional or Transit Service Contracts) the recipient, by written notice, may terminate this contract, in whole or in part, when it is in the recipient's interest. If the contract is terminated, the recipient shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

f. Termination for Default (Supplies and Service) If contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. Contractor shall only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.

g. Termination for Default (Transportation Services) If contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. Contractor shall only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while contractor has possession of the recipient goods, contractor shall, as directed by the recipient, protect and preserve the goods until surrendered to the recipient or its agent. Contractor and the recipient shall agree on payment for the preservation and protection of goods. Failure to agree on an amount shall be resolved under the Dispute clause. If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.

h. Termination for Default (Construction) If contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified, or any extension, or fails to complete the work within this time, or if contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. the recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. In this event, the recipient may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. Contractor and its sureties shall be liable for any damage to the recipient resulting from contractor's refusal or failure to complete the work within specified time, whether or not contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the recipient in completing the work.

Contractor's right to proceed shall not be terminated nor shall contractor be charged with damages under this clause if:

1. Delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of contractor. Examples of such causes include: acts of God, acts of the recipient, acts of another contractor in the performance of a contract with the recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and

2. Contractor, within 10 days from the beginning of any delay, notifies the recipient in writing of the causes of delay. If in the recipient's judgment, delay is excusable, the time for completing the work shall be extended. The recipient's judgment shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

If, after termination of contractor's right to proceed, it is determined that contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if termination had been issued for the recipient's convenience.

i. Termination for Convenience or Default (Architect & Engineering) the recipient may terminate this contract in whole or in part, for the recipient's convenience or because of contractor's failure to fulfill contract obligations. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature, extent, and effective date of termination. Upon receipt of the notice, contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the recipient all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. If termination is for the recipient's convenience, it shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services. If termination is for contractor's failure to fulfill contract obligations, the recipient may complete the work by contract or otherwise and contractor shall be liable for any additional cost incurred by the recipient.

If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.

j. Termination for Convenience or Default (Cost-Type Contracts) the recipient may terminate this contract, or any portion of it, by serving a notice of termination on contractor. The notice shall state whether termination is for convenience of the recipient or for default of contractor. If termination is for default, the notice shall state the manner in which contractor has failed to perform the requirements of the contract. Contractor shall account for any property in its possession paid for from funds received from the recipient, or property supplied to contractor by the recipient. If termination is for default, the recipient may fix the fee, if the contract provides for a fee, to be paid to contractor in proportion to the value, if any, of work performed up to the time of termination. Contractor shall promptly submit its termination claim to the recipient and the parties shall negotiate the termination settlement to be paid to contractor. If termination is for the recipient's convenience, contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the

time of termination.

If, after serving a notice of termination for default, the recipient determines that contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of contractor, the recipient, after setting up a new work schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.

### **Government Wide Debarment and Suspension (Non Procurement)**

The Recipient agrees to the following: (1) It will comply with the requirements of 2 C.F.R. part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 C.F.R. part 1200, which include the following: (a) It will not enter into any arrangement to participate in the development or implementation of the Project with any Third Party Participant that is debarred or suspended except as authorized by: 1 U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, 2 U.S. OMB, "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180, including any amendments thereto, and 3 Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, (b) It will review the U.S. GSA "System for Award Management," <http://https.www.sam.gov,.proxy1.semalt.design> if required by U.S. DOT regulations, 2 C.F.R. part 1200, and (c) It will include, and require each of its Third Party Participants to include, a similar provision in each lower tier covered transaction, ensuring that each lower tier Third Party Participant: 1 Will comply with Federal debarment and suspension requirements, and 2 Reviews the "System for Award Management" at <http://https.www.sam.gov,.proxy1.semalt.design> if necessary to comply with U.S. DOT regulations, 2 C.F.R. part 1200, and (2) If the Recipient suspends, debars, or takes any similar action against a Third Party Participant or individual, the Recipient will provide immediate written notice to the: (a) FTA Regional Counsel for the Region in which the Recipient is located or implements the Project, (b) FTA Project Manager if the Project is administered by an FTA Headquarters Office, or (c) FTA Chief Counsel,

### **Contracts Involving Federal Privacy Act Requirements**

When a grantee maintains files on drug and alcohol enforcement activities for FTA, and those files are organized so that information could be retrieved by personal identifier, the Privacy Act requirements apply to all contracts except micro-purchases (\$3,500 or less, except for construction contracts over \$2,000)

The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

(1) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

(2) The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

### **Civil Rights Requirements**

Applicability – All contracts except micro-purchases (\$3,500 or less, except for construction contracts over \$2,000)

The following requirements apply to the underlying contract:

The Recipient understands and agrees that it must comply with applicable Federal civil rights laws and regulations, and follow applicable Federal guidance, except as the Federal Government determines otherwise in

writing. Therefore, unless a Recipient or Program, including an Indian Tribe or the Tribal Transit Program, is specifically exempted from a civil rights statute, FTA requires compliance with that civil rights statute, including compliance with equity in service:

a. Nondiscrimination in Federal Public Transportation Programs. The Recipient agrees to, and assures that each Third Party Participant will, comply with Federal transit law, 49 U.S.C. § 5332 (FTA's "Nondiscrimination" statute): (1) FTA's "Nondiscrimination" statute prohibits discrimination on the basis of: (a) Race, (b) Color, (c) Religion, (d) National origin, (e) Sex, (f) Disability, (g) Age, or (h) Gender identity and (2) The FTA "Nondiscrimination" statute's prohibition against discrimination includes: (a) Exclusion from participation, (b) Denial of program benefits, or (c) Discrimination, including discrimination in employment or business opportunity, (3) Except as FTA determines otherwise in writing: (a) General. Follow: 1 The most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable Federal laws, regulations, and guidance, and 2 Other applicable Federal guidance that may be issued, but (b) Exception for the Tribal Transit Program. FTA does not require an Indian Tribe to comply with FTA program-specific guidelines for Title VI when administering its projects funded under the Tribal Transit Program,

b. Nondiscrimination – Title VI of the Civil Rights Act. The Recipient agrees to, and assures that each Third Party Participant will: (1) Prohibit discrimination based on: (a) Race, (b) Color, or (c) National origin, (2) Comply with: (a) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq., (b) U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964," 49 C.F.R. part 21, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in the preceding section a, and (3) Except as FTA determines otherwise in writing, follow: (a) The most recent edition of FTA Circular 4702.1, "Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable Federal laws, regulations, and guidance. (b) U.S. DOJ, "Guidelines for the enforcement of Title VI, Civil Rights Act of 1964," 28 C.F.R. § 50.3, and (c) Other applicable Federal guidance that may be issued,

c. Equal Employment Opportunity. (1) Federal Requirements and Guidance. The Recipient agrees to, and assures that each Third Party Participant will, prohibit discrimination on the basis of race, color, religion, sex, or national origin, and: (a) Comply with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., (b) Facilitate compliance with Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note, (c) Comply with Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, and (d) Comply with other applicable EEO laws and regulations, as provided in Federal guidance, including laws and regulations prohibiting discrimination on the basis of disability, except as the Federal Government determines otherwise in writing, (2) General. The Recipient agrees to: (a) Ensure that applicants for employment are employed and employees are treated during employment without discrimination on the basis of their: 1 Race, 2 Color, 3 Religion, 4 Sex, 5 Disability, 6 Age, or 7 National origin, (b) Take affirmative action that includes, but is not limited to: 1 Recruitment advertising, 2 Recruitment, 3 Employment, 4 Rates of pay, 5 Other forms of compensation, 6 Selection for training, including apprenticeship, 7 Upgrading, 8 Transfers, 9 Demotions, 10 Layoffs, and 11 Terminations, but (b) Indian Tribe. Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer".

(3) Equal Employment Opportunity Requirements for Construction Activities. In addition to the foregoing, when undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), the Recipient agrees to comply, and assures the compliance of each Third Party Participant, with: (a) U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and (b) Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note,

d. Disadvantaged Business Enterprise. To the extent authorized by applicable Federal law, the Recipient agrees to facilitate, and assures that each Third Party Participant will facilitate, participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as "Disadvantaged Business Enterprises" (DBEs), in the Project as follows: 1) Requirements. The Recipient agrees to comply with: (a) Section 1101(b) of MAP-21, 23 U.S.C. § 101 note, (b) U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. part 26, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, (2) Assurance. As required by 49 C.F.R. § 26.13(a), (b) DBE Program Requirements. Recipients receiving planning, capital and/or operating assistance that will award prime third party contracts exceeding \$250,000 in a Federal fiscal year must: 1 Have a DBE program meeting the requirements of 49 C.F.R. part 26, 2 Implement a DBE program approved by FTA, and 3 Establish an annual DBE participation goal, (c) Special Requirements for a Transit Vehicle Manufacturer. The Recipient understands and agrees that each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, must certify that it has complied with the requirements of 49 C.F.R. part 26, (d) the Recipient provides assurance that: The Recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 C.F.R. part 26. The Recipient shall take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The Recipient's DBE program, as required by 49 C.F.R. part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 C.F.R. part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 et seq.,

(2) Exception for the Tribal Transit Program. FTA exempts Indian tribes from the Disadvantaged Business Enterprise regulations at 49 C.F.R. part 26 under MAP-21 and previous legislation,

e. Nondiscrimination on the Basis of Sex. The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of sex, including: (1) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq., (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25, and (3) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a,

f. Nondiscrimination on the Basis of Age. The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of age, including: (1) The Age Discrimination in Employment Act (ADEA), 29 U.S.C. §§ 621 – 634, which prohibits discrimination on the basis of age, (2) U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, which implements the ADEA, (3) The Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., which prohibits discrimination against individuals on the basis of age in the administration of programs or activities receiving Federal funds, (4) U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, which implements the Age Discrimination Act of 1975, and (5) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a,

g. Nondiscrimination on the Basis of Disability. The Recipient agrees to comply with the following Federal prohibitions pertaining to discrimination against seniors or individuals with disabilities: (1) Federal laws, including: (a) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of federally funded programs or activities, (b) The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities, 1 General. Titles I, II, and III of the ADA apply to FTA Recipients, but 2 Indian Tribes. While Titles II and III of the ADA apply to Indian Tribes, Title I of the ADA exempts Indian Tribes from the definition of "employer," (c) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., which requires that buildings and public accommodations be accessible to individuals

with disabilities, (d) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination, and (e) Other applicable laws and amendments pertaining to access for elderly individuals or individuals with disabilities, (2) Federal regulations, including: (a) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. part 37, (b) U.S. DOT regulations, "Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. part 27, (c) U.S. DOT regulations, "Transportation for Individuals with Disabilities: Passenger Vessels," 49 C.F.R. part 39, (d) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. part 1192 and 49 C.F.R. part 38, (e) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. part 35, (f) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. part 36, (g) U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. part 1630, (h) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities," 47 C.F.R. part 64, Subpart F, (i) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. part 1194, and (j) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. part 609, and (3) Other applicable Federal civil rights and nondiscrimination guidance,

h. Drug or Alcohol Abuse - Confidentiality and Other Civil Rights Protections. The Recipient agrees to comply with the confidentiality and civil rights protections of: (1) The Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. § 1101 et seq., (2) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. § 4541 et seq., and (3) The Public Health Service Act, as amended, 42 U.S.C. §§ 290dd – 290dd-2,

i. Access to Services for People with Limited English Proficiency. Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote accessibility of public transportation services to people whose understanding of English is limited by following: 1) Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," August 11, 2000, 42 U.S.C. § 2000d-1 note, and (2) U.S. DOT Notice, "DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons," 70 Fed. Reg. 74087, December 14, 2005,

j. Other Nondiscrimination Laws. Except as the Federal Government determines otherwise in writing, the Recipient agrees to: (1) Comply with other applicable Federal nondiscrimination laws and regulations, and (2) Follow Federal guidance prohibiting discrimination.

k. Remedies. Remedies for failure to comply with applicable Federal Civil Rights laws and Federal regulations may be enforced as provided in those Federal laws or Federal regulations.

### **Breaches and Dispute Resolution**

All contracts over \$150,000

Disputes arising in the performance of this contract which are not resolved by agreement of the parties shall be decided in writing by the recipient's authorized representative. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, contractor mails or otherwise furnishes a written appeal to the recipient's CEO. In connection with such appeal, contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the recipient's CEO shall be binding upon contractor and contractor shall abide by the decision. FTA has a vested interest in the settlement of any violation of Federal law including the the False Claims Act, 31 U.S.C. § 3729.

Performance During Dispute - Unless otherwise directed by the recipient, contractor shall continue performance under this contract while matters in dispute are being resolved.

Claims for Damages - Should either party to the contract suffer injury or damage to person or property because of

any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within ten days after the first observance of such injury or damage.

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the recipient and contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the residing State.

Rights and Remedies - Duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the recipient or contractor shall constitute a waiver of any right or duty afforded any of them under the contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

### **Patent and Rights in Data**

Contracts Involving Experimental, Developmental, or Research Work (\$3,500 or less, except for construction contracts over \$2,000).

#### Patent Rights

A. General. The Recipient agrees that:

(1) Depending on the nature of the Project, the Federal Government may acquire patent rights when the Recipient or Third Party Participant produces a patented or patentable: (a) Invention, (b) Improvement, or (c) Discovery, (2) The Federal Government's rights arise when the patent or patentable information is: (a) Conceived under the Project, or (b) Reduced to practice under the Project, and (3) When a patent is issued or patented information becomes available as described in Patent Rights section A(2), the Recipient agrees to: (a) Notify FTA immediately, and (b) Provide a detailed report satisfactory to FTA,

B. Federal Rights. The Recipient agrees that:

(1) Its rights and responsibilities, and the rights and responsibilities of each Third Party Participant, in that federally funded invention, improvement, or discovery will be determined as provided by applicable Federal laws, regulations, and guidance, including any waiver thereof, and (2) Unless the Federal Government determines otherwise in writing, irrespective of the Recipient's status or the status of any Third Party Participant as a large business, a small business, a State government, a State instrumentality, a local government, an Indian tribe, a nonprofit organization, an institution of higher education, or an individual, the Recipient agrees to transmit the Federal Government's patent rights to FTA as specified in: (a) 35 U.S.C. § 200 et seq., and (b) U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. part 401, and

C. License Fees and Royalties. As permitted by 49 C.F.R. parts 18 and 19:

(1) License fees and royalties for patents, patent applications, and inventions derived from the Project are program income, and (2) The Recipient has no obligation to the Federal Government with respect to those license fees or royalties, except: (a) For compliance with 35 U.S.C. § 200 et seq., which applies to patent rights developed under a federally funded research-type project, and (b) As FTA determines otherwise in writing.

#### Rights in Data and Copyrights

A. Definition of "Subject Data." means recorded information: (1) Copyright. Whether or not copyrighted, and (2)



Delivery. That is delivered or specified to be delivered under the Underlying Agreement,

B. Examples of "Subject Data." Examples of "subject data": (1) Include, but are not limited to:

- (a) Computer software, (b) Standards, (c) Specifications, (d) Engineering drawings and associated lists, (e) Process sheets, (f) Manuals, (g) Technical reports, (h) Catalog item identifications, and (i) Related information, but
- (2) Do not include: (a) Financial reports,
- (b) Cost analyses, or (c) Other similar information used for Project administration,

C. General Federal Restrictions. The following restrictions apply to all subject data first produced in the performance of the Recipient's Project supported by the Underlying Agreement: (1) Prohibitions. The Recipient may not: (a) Publish or reproduce any subject data in whole or in part, or in any manner or form, or (b) Permit others to do so, but (2) Exceptions. The prohibitions of Rights in Data and Copyrights C(1) do not apply to: (a) Publications or reproductions for the Recipient's own internal use, (b) An institution of higher learning, (c) The portion of subject data that the Federal Government has previously released or approved for release to the public, or (d) The portion of data that has the Federal Government's prior written consent for release,

D. Federal Rights in Data and Copyrights. The Recipient agrees that: (1) License Rights. The Recipient must provide a license to its "subject data" to the Federal Government, which license is: (a) Royalty-free, (b) Non-exclusive, and (c) Irrevocable, (2) Uses. The Federal Government's license must permit the Federal Government to take the following actions provided those actions are taken for Federal Government purposes: (a) Reproduce the subject data, (b) Publish the subject data, (c) Otherwise use the subject data, and (d) Permit other entities or individuals to use the subject data, and

E. Special Federal Rights in Data for Research, Development, Demonstration, Deployment, and Special Studies Projects. In general, FTA's purpose in providing Federal funds for a research, development, demonstration, deployment, or special studies Project is to increase transportation knowledge, rather than limit the benefits of the Project to the Recipient and its Third Party Participants, therefore, the Recipient agrees that: (1) Publicly Available Report. When the Project is completed, it must provide a Project report that FTA may publish or make available for publication on the Internet, (2) Other Reports. It must provide other reports pertaining to the Project that FTA may request, (3) Availability of Subject Data. FTA may make available to any FTA Recipient or any of its Third Party Participants at any tier of the Project, either FTA's copyright license to the subject data or a copy of the subject data, except as the Federal Government determines otherwise in writing, (4) Identification of Information. It must identify clearly any specific confidential, privileged, or proprietary information submitted to FTA, (5) Incomplete Project. If the Project is not completed for any reason whatsoever, all data developed under the Project becomes "subject data" and must be delivered as the Federal Government may direct, but (6) Exception. Rights in Data and Copyrights Section E does not apply to an adaptation of automatic data processing equipment or program that is both: (a) For the Recipient's use, and (b) Acquired with FTA capital program funding,

F. License Fees and Royalties. As permitted by 49 C.F.R. parts 18 and 19: (1) License fees and royalties for copyrighted material or trademarks derived from Project are program income, and (2) The Recipient has no obligation to the Federal Government with respect to those license fees or royalties, except: (a) For compliance with 35 U.S.C. § 200 et seq., which applies to patent rights developed under a federally funded research-type project, and (b) As FTA determines otherwise in writing,

G. Hold Harmless. Upon request by the Federal Government, the Recipient agrees that: (1) Violation by Recipient. (a) If it willfully or intentionally violates any: 1 Proprietary rights, 2 Copyrights, or 3 Right of privacy, and (b) Its violation occurs from any of the following uses of Project data: 1 Publication, 2 Translation, 3 Reproduction, 4 Delivery, 5 Use, or 6 Disposition, then (c) It will indemnify, save, and hold harmless against any liability, including costs and expenses of: 1 The Federal Government's officers acting within the scope of their official duties, 2 The Federal Government's employees acting within the scope of their official duties, and 3 Federal Government's agents acting within the scope of their official duties, but (2) Exceptions. The Recipient will not be

required to indemnify the Federal Government for any liability described in Rights in Data and Copyrights section G(1) if: (a) Violation by Federal Officers, Employees or Agents. The violation is caused by the wrongful acts of Federal employees or agents, or (b) State law. If indemnification is prohibited or limited by applicable State law,

H. Restrictions on Access to Patent Rights. Nothing in this Rights in Data and Copyrights section pertaining to rights in data either: (1) Implies a license to the Federal Government under any patent, or (2) May be construed to affect the scope of any license or other right otherwise granted to the Federal Government under any patent,

I. Data Developed Without Federal Funding or Support. The Recipient understands and agrees that in certain circumstances it may need to provide data developed without any Federal funding or support to FTA. Nevertheless: (1) Protections. Rights in Data and Copyrights Sections A, B, C, and D generally do not apply to data developed without Federal funding, even though that data may have been used in connection with the Project, and (2) Identification of Information. The Recipient understands and agrees that the Federal Government will not be able to protect data developed without Federal funding from unauthorized disclosure unless that data is clearly marked "Proprietary" or "Confidential," and

J. Requirements to Release Data. The Recipient understands and agrees that the Federal Government may be required to release Project data and information the Recipient submits to the Federal Government as required by: (1) The Freedom of Information Act, 5 U.S.C. § 552, (2) Another applicable Federal law requiring access to Project records, (3) U.S. DOT regulations, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," specifically 49 C.F.R. § 19.36(d), or (4) Other applicable Federal regulations and guidance pertaining to access to Project records.

### **Disadvantaged Business Enterprise**

Contracts over \$3,500 awarded on the basis of a bid or proposal offering to use DBEs

a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The recipient's overall goal for DBE participation is listed elsewhere. If a separate contract goal for DBE participation has been established for this procurement, it is listed elsewhere.

b. The contractor shall not discriminate on the basis of race, color, religion, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the municipal corporation deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

c. If a separate contract goal has been established, Bidders/offerors are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53.

d. If no separate contract goal has been established, the successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

e. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the recipient. In addition, the contractor may not hold retainage from its subcontractors or must return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed or must return any retainage payments to those subcontractors within 30 days after

incremental acceptance of the subcontractor's work by the recipient and contractor's receipt of the partial retainage payment related to the subcontractor's work.

f. The contractor must promptly notify the recipient whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the recipient.

### **Prompt payment**

Applicability – All contracts except micro-purchases (\$3,500 or less, except for construction contracts over \$2,000)

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from the Recipient. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Recipient. This clause applies to both DBE and non-DBE subcontracts.

### **Incorporation of Federal Transit Administration (FTA) Terms**

All contracts except micro-purchases (\$3,500 or less, except for construction contracts over \$2,000)

The preceding provisions include, in part, certain Standard Terms & Conditions required by USDOT, whether or not expressly stated in the preceding contract provisions. All USDOT-required contractual provisions, as stated in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The contractor shall not perform any act, fail to perform any act, or refuse to comply with any request that would cause the recipient to be in violation of FTA terms and conditions.

### **Other Federal Requirements**

The following requirements are not federal clauses.

### **Full and Open Competition**

In accordance with 49 U.S.C. § 5325(a) all procurement transactions shall be conducted in a manner that provides full and open competition.

### **Prohibition Against Exclusionary or Discriminatory Specifications**

Apart from inconsistent requirements imposed by Federal statute or regulations, the contractor shall comply with the requirements of 49 USC 5323(h)(2) by refraining from using any FTA assistance to support procurements using exclusionary or discriminatory specifications.

### **Conformance with ITS National Architecture**

Contractor shall conform, to the extent applicable, to the National Intelligent Transportation Standards architecture as required by SAFETEA-LU Section 5307(c), 23 U.S.C. Section 512 and as amended by MAP-21 23 U.S.C. § 517(d), note and follow the provisions of FTA Notice, "FTA National Architecture Policy on Transit Projects," 66 Fed. Reg. 1455 etseq., January 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing.

### **Access Requirements for Persons with Disabilities**

Contractor shall comply with 49 USC 5301(d), stating Federal policy that the elderly and persons with disabilities have the same rights as other persons to use mass transportation services and facilities and that special efforts

shall be made in planning and designing those services and facilities to implement that policy. Contractor shall also comply with all applicable requirements of Sec. 504 of the Rehabilitation Act (1973), as amended, 29 USC 794, which prohibits discrimination on the basis of handicaps, and the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments thereto.

### **Notification of Federal Participation**

To the extent required by law, in the announcement of any third party contract award for goods and services (including construction services) having an aggregate value of \$500,000 or more, contractor shall specify the amount of Federal assistance to be used in financing that acquisition of goods and services and to express that amount of Federal assistance as a percentage of the total cost of the third party contract.

### **Interest of Members or Delegates to Congress**

No members of, or delegates to, the US Congress shall be admitted to any share or part of this contract nor to any benefit arising therefrom.

### **Ineligible Contractors and Subcontractors**

Any name appearing upon the Comptroller General's list of ineligible contractors for federally-assisted contracts shall be ineligible to act as a subcontractor for contractor pursuant to this contract. If contractor is on the Comptroller General's list of ineligible contractors for federally financed or assisted construction, the recipient shall cancel, terminate or suspend this contract.

### **Other Contract Requirements**

To the extent not inconsistent with the foregoing Federal requirements, this contract shall also include those provisions attached hereto, and shall comply with the recipient's Procurement Guidelines, available upon request from the recipient.

### **Compliance with Federal Regulations**

Any contract entered pursuant to this solicitation shall contain the following provisions: All USDOT-required contractual provisions, as set forth in FTA Circular 4220.1F, are incorporated by reference. Anything to the contrary herein notwithstanding, FTA mandated terms shall control in the event of a conflict with other provisions contained in this Agreement. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any grantee request that would cause the recipient to be in violation of FTA terms and conditions. Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including, without limitation, those listed directly or incorporated by reference in the Master Agreement between the recipient and FTA, as may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

### **Real Property**

Any contract entered into shall contain the following provisions: Contractor shall at all times comply with all applicable statutes and USDOT regulations, policies, procedures and directives governing the acquisition, use and disposal of real property, including, but not limited to, 49 CFR 18.31-18.34, 49 CFR 19.30-19.37, 49 CFR Part 24, 49 CFR 5326 as amended by FAST Act, 49 CFR part 18 or 19, 49 USC 5334, applicable FTA Circular 5010, and FTA Master Agreement, as they may be amended or promulgated during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

### **Access to Services for Persons with Limited English Proficiency**

To the extent applicable and except to the extent that FTA determines otherwise in writing, the Recipient agrees to comply with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d 1 note, and with the provisions of U.S. DOT Notice, "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries," 70 Fed. Reg. 74087,

December 14, 2005.

### **Environmental Justice**

Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote environmental justice by following: (1)

Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," February 11, 1994, 42 U.S.C. § 4321 note, as well as facilitating compliance with that Executive Order, and (2) DOT Order 5610.2, "Department of Transportation Actions To Address Environmental Justice in Minority Populations and Low-Income Populations," 62 Fed. Reg. 18377, April 15, 1997, and (3) The most recent and applicable edition of FTA Circular 4703.1, "Environmental Justice Policy Guidance for Federal Transit Administration Recipients," August 15, 2012, to the extent consistent with applicable Federal laws, regulations, and guidance,

### **Environmental Protections**

Compliance is required with any applicable Federal laws imposing environmental and resource conservation requirements for the project. Some, but not all, of the major Federal laws that may affect the project include: the National Environmental Policy Act of 1969; the Clean Air Act; the Resource Conservation and Recovery Act; the comprehensive Environmental response, Compensation and Liability Act; as well as environmental provisions with Title 23 U.S.C., and 49 U.C. chapter 53. The U.S. EPA, FHWA and other federal agencies may issue other federal regulations and directives that may affect the project. Compliance is required with any applicable Federal laws and regulations in effect now or that become effective in the future.

### **Geographic Information and Related Spatial Data**

Any project activities involving spatial data or geographic information systems activities financed with Federal assistance are required to be consistent with the National Spatial Data Infrastructure promulgated by the Federal Geographic Data Committee, except to the extent that FTA determines otherwise in writing.

### **Geographic Preference**

All project activities must be advertised without geographic preference, (except in A/E under certain circumstances, preference for hiring veterans on transit construction projects and geographic-based hiring preferences as proposes to be amended in 2 CFR Part 1201 ).

### **Organizational Conflicts of Interest**

The Recipient agrees that it will not enter into a procurement that involves a real or apparent organizational conflict of interest described as follows: (1) When It Occurs. An organizational conflict of interest occurs when the Project work, without appropriate restrictions on certain future activities, results in an unfair competitive advantage: (a) To that Third Party Participant or another Third Party Participant performing the Project work, and (b) That impairs that Third Party Participant's objectivity in performing the Project work, or (2) Other. An organizational conflict of interest may involve other situations resulting in fundamentally unfair competitive conditions, (3) Disclosure Requirements. Consistent with FTA policies, the Recipient must disclose to FTA, and each of its Subrecipients must disclose to the Recipient: (a) Any instances of organizational conflict of interest, or (b) Violations of federal criminal law, involving fraud, bribery, or gratuity violations potentially affecting the federal award, and (4) Failure to Disclose. Failure to make required disclosures can result in remedies for noncompliance, including debarment or suspension.

### **Federal Single Audit Requirements for State Administered Federally Aid Funded Projects Only**

Non Federal entities that expend \$750,000 or more in a year in Federal awards from all sources are required to comply with the Federal Single Audit Act provisions contained in U.S. Office of Management and Budget (OMB) Circular No. A 133, "Audits of States, Local Governments, and Non Profit Organizations" (replaced with 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" effective December 26, 2014 as applicable). Non Federal entities that expend Federal awards from a single

source may provide a program specific audit, as defined in the Circular. Non Federal entities that expend less than the amount above in a year in Federal awards from all sources are exempt from Federal audit requirements for that year, except as noted in Sec. 215 (a) of OMB Circular A-133 Subpart B--Audits, records must be available for review or audit by appropriate officials of the cognizant Federal agency the New York State Department of Transportation, the New York State Comptrollers Office and the U.S. Governmental Accountability Office (GAO). Non Federal entities are required to submit a copy of all audits, as described above, within 30 days of issuance of audit report, but no later than 9 months after the end of the entity's fiscal year, to the New York State Department of Transportation, Contract Audit Bureau, 50 Wolf Road, Albany, NY 12232. Unless a time extension has been granted by the cognizant Federal Agency and has been filed with the New York State Department of Transportation's Contract Audit Bureau, failure to comply with the requirements of OMB Circular A-133 may result in suspension or termination of Federal award payments.

### **Veterans Preference**

Veterans Preference. As provided by 49 U.S.C. § 5325(k), to the extent practicable, the Recipient agrees and assures that each of its Subrecipients:

- (1) Will give a hiring preference to veterans, as defined in 5 U.S.C. § 2108, who have the skills and abilities required to perform construction work required under a third party contract in connection with a Capital Project supported with federal assistance appropriated or made available for 49 U.S.C. chapter 53, and
- (2) Will not require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

### **Safe Operation of Motor Vehicles**

The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company rented vehicles, or personally operated vehicles. The terms "company-owned" and "company-leased" refer to vehicles owned or leased either by the Contractor or AGENCY.

The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this agreement.

### **Catalog of Federal Domestic Assistance (CFDA) Identification Number**

The municipal project sponsor is required to identify in its accounts all Federal awards received and expended, and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass through entity.

### **CFDA number for the Federal Transportation Administration**

Nonurbanized Area Formula (Section 5311) is 20.509. A Recipient covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," (replaced with 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" effective December 26, 2014 as applicable) agrees to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. The Recipient agrees to accomplish this by identifying expenditures for Federal awards made under Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix "ARRA" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC.