Title VI and Non-Discrimination Plan

July, 2017

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TITLE VI AND NON-DISCRIMINATION POLICY STATEMENT

The City of Fargo (City) is committed to compliance with Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, and all related regulations and statutes. The City assures that no person or groups(s) of persons shall, on the grounds of race, color, national origin, sex, age, disability/handicap, and income status[1] be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs, services, or activities administered by the City, regardless of whether those programs and activities are federally funded or not.

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

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

The City's Title VI Coordinator is responsible for initiating and monitoring Title VI activities, preparing reports and other responsibilities as required by 23 Code of Federal Regulations (CFR) 200 and 49 CFR 21. The City's Title VI Coordinator is:

Willard Yellow Bird Jr.
Cultural Planner, Department of Planning and Development
200 N 3rd Street
Fargo, ND 58102
701-476-4116/wyellowbird@cityoffargo.com

Timothy Mahoney, Mayor — City of Fargo

Signature — 8/30/2017 Date

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

TITLE VI COORDINATOR RESPONSIBILITIES

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

1. Process the disposition of Title VI complaints received by the City of Fargo.
2. Collect Statistical data (race, color, sex, age, disability, or national origin, religion, sexual orientation) of participants in and beneficiaries of state highway programs, e.g. affected citizens and impacted communities.
3. Conduct annual Title VI reviews to determine the effectiveness of program activities at all levels.
4. Review City program directives. Where applicable, include Title VI language and related requirements.
5. Conduct and/or arrange training programs on Title VI and other related statutes for City employees and recipients of federal highway funds. Include a statement about the City of Fargo's Title VI Plan in the Employee Newsletter. Advise all employees of the availability of the Title VI Plan on the City of Fargo's Intranet. Post the Title VI Plan on the City of Fargo Intranet. Post the Title VI Plan on employee bulletin boards at City of Fargo worksites. Inform all employees that a copy of the Title VI Plan is available upon request. Assure that all new employees are informed of the Title VI Plan during orientation.
6. Prepare a yearly report of Title VI accomplishments and goals, as required.
7. Develop Title VI information for dissemination to the general public and, where appropriate, in languages other than English. Post the Title VI Plan on the City of Fargo web page and other physical locations that are accessible to the general public.
8. Identify and take corrective action to help eliminate discrimination.
9. Establish procedures to promptly resolve identified Title VI deficiencies.

LIMITED ENGLISH PROFICIENCY PLAN

TITLE VI COORDINATOR

Willard Yellow Bird, Cultural Planner

Fargo Department of Planning and Development

701-476-4116

INTRODUCTION

This *Limited English Proficiency Plan* has been prepared to address the City of Fargo's (City) responsibilities as a recipient of federal financial assistance as they relate to the needs of individuals with limited English proficiency language skills. The plan has been prepared in accordance with Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq, and its implementing regulations, which state that no person shall be subjected to discrimination on the basis of race, color or national origin.

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

Plan Summary

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

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

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

MEANINGFUL ACCESS: FOUR-FACTOR ANALYSIS

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

The City staff reviewed the 2011-2015 American Community Survey Data from the U.S. Census and determined that 9,752 persons in Fargo's [9.2% of the population] speak a language other than English. Of those, 3,756 persons [3.5% of the total population] have limited English proficiency; that is, they speak English "less than very well."[2] It is believed that, given Fargo's role as a refugee settlement community, the numbers of persons speaking English "less than very well" may be higher than reported by the Census due to incomplete data.

The frequency with which LEP persons come in contact with City services.

City staff reviewed the frequency with which their office staff and maintenance staff have, or could have, contact with LEP persons. This includes documenting phone inquiries or office visits. To date, the City has had a limited number of requests for interpreters and a few requests for translated program documents. The City office staff have had (and continue to have) periodic contact with LEP persons where the services of an interpreter are required.

The nature and importance of services provided by the City to the LEP population.

As populations in the FM area became increasingly diverse, the need for foreign language interpreters - men and women who interpret for people who speak little or no English - has risen dramatically. To add further complexity to the issue, there are more than 40 languages spoken in the metropolitan area. The most frequent language needs are Bosnian, Arabic, Vietnamese, Spanish, French and Somali. People with English language barriers are found in both immigrant and refugee populations. Currently, the City provides information translated into various languages upon request, and will continue to strive to provide needed information for all English Language Learners as needed.

City staff members are most likely to encounter LEP individuals through office visits, phone conversations, notifications from maintenance staff of impacts on city/service area services and attendance at meetings.

The resources available to the City, and overall costs to provide LEP assistance.

The Metro Interpreter Resource Center (MIRC) will assist the City of Fargo in securing translators in other languages for individuals to access important programs and information, understand rules, and

[2] US Census Bureau, 2011-2015 American Community Survey, Table S161

participate in proceedings or programs, and meetings. If the City of Fargo determines that LEP services are to be provided to enable access to City services and/or programs, it will be the responsibility of the City of Fargo to pay for translation services and not the person requesting such service. It is impossible to provide brochures or interpreters for the City in every language needed on a regular basis, but every effort will be made to meet language translation needs.

A MIRC Coordinator was hired in January 2005, and this person is located within Cultural Diversity Resources. General oversight and direction is provided by an Advisory Committee that consists of representatives from all funding agencies. Day-to-day supervision is handled by an Executive Committee of the larger Advisory Committee. The coordinator has a strong working relationship with local providers of interpreter 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 City services. Language assistance can include interpretation, which means oral or spoken transfer of a message from one language into another language and/or translation, which means the written transfer of a message from one language into another language.

How the City staff may identify an LEP person who needs language assistance:

- Post notice of LEP Plan and the availability of interpretation or translation services free of charge in languages LEP persons would understand.
- All City staff will be provided with "I Speak" cards to assist in identifying the language interpretation needed if the occasion arises.
- All City staff will be informally surveyed periodically on their experience concerning any contacts with LEP persons during the previous year.
- When the City sponsors an informational meeting or event, a staff person may greet participants as they arrive. By informally engaging participants in conversation it is possible to gauge each attendee's ability to speak and understand English. Although translation may not be able to be provided at the event it will help identify the need for future events.

Language Assistance Measures

Although there is a low percentage of LEP individuals in the City service area, that is, persons who speak English "less than very well", it will strive to offer the following measures:

1. The City staff will take reasonable steps to provide the opportunity for meaningful access to LEP clients who have difficulty communicating English.
2. The following resources will be available to accommodate LEP persons:

a. Paid interpreters for many world languages are available through the Metro Interpreter Resource Center and will be provided within a reasonable time period.
b. Language interpretation can also be accessed through a telephone interpretation service when necessary.
c. Interpreter services are also provided at Lutheran Social Services and Family Healthcare Center.
d. Language Link – an over-the-phone interpreting service is available at Fargo Police Deparment.

STAFF TRAINING

The following training will be provided to all staff:

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

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

TRANSLATION OF DOCUMENTS

The City 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, at this time it is an unnecessary burden to have any documents translated.

Due to the very small local LEP population, the City does not have a formal outreach procedure in place, as of 2010. Translation resources have been identified and are limited in this region. However, when and if the need arises for LEP outreach, the City will consider the following options:

- When staff prepares a document, or schedules a meeting, for which the target audience is expected to include LEP individuals, then documents, meeting notices, flyers, and agendas will be printed in an alternative language based on the known LEP population.

MONITORING

Monitoring and Updating the LEP Plan - The City will update the LEP Plan as required. At a minimum, the plan will be reviewed and updated when it is clear that higher concentrations of LEP individuals are present in the City service area. Updates will include the following:

- The number of documented LEP person contacts encountered annually.
- How the needs of LEP persons have been addressed.

- Determination of the current LEP population in the service area.
- Determination as to whether the need for translation services has changed.
- Determine whether local language assistance programs have been effective and sufficient to meet the need.
- Determine whether the City financial resources are sufficient to fund language assistance resources needed.
- Determine whether the City fully complies with the goals of this LEP Plan.
- Determine whether complaints have been received concerning the agency's failure to meet the needs of LEP individuals.

DISSEMINATION OF THE CITY OF FARGO LEP PLAN

- Post signs in City's service area notifying LEP persons of the LEP Plan and how to access language services.
- State on agendas and public notices in the language that LEP persons would understand that documents are available in that language upon request at the City.
- Post on the City's website the LEP Plan and how to access language services.

TITLE VI COMPLAINT PROCEDURE

SCOPE OF TITLE VI COMPLAINTS

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

Complaints can originate from individuals or firms alleging inability to bid upon or obtain a contract with the City of Fargo for the furnishing of goods and/or services. Examples include advertising for bid proposals; prequalification or qualification; bid proposals and awards; selection of contractors, subcontractors, material and equipment suppliers, lessors, vendors, consultants, fee appraisers, universities, etc.

FORMAL TITLE VI COMPLAINT PROCEDURE

The City of Fargo Title VI Policy assures that no person or groups of persons shall, on the grounds of race, color, national origin, sex, age, disability/handicap and income status[3] be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs, services, or activities administered by the City of Fargo, its recipients, subrecipients, and contractors.

The City of Fargo 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 the City of Fargo. Complaints should be directed to the Title VI Coordinator. 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 the City of Fargo's 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. The City of Fargo's Title VI Complaint Form **must** be used.

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

3. Immediately, upon receipt of a Title VI complaint, the City of Fargo determines a course of action. Possible courses of action include:

   a. Title VI complaints filed against the City of Fargo are referred to the North Dakota Department of Human Rights for processing.

   b. Title VI complaints filed against City of Fargo recipients and subrecipients (e.g., contractors, subcontractors, material and equipment suppliers, lessors, vendors, consultants, fee appraisers, universities, etc.) are processed by the City of Fargo.

4. The City of Fargo reviews and determines the appropriate action regarding every complaint. The City of Fargo will not to proceed with or continue a complaint investigation if:

   a. The complaint is, on its face, without merit.

   b. The same allegations and issues of the complaint have been addressed in a recently closed investigation or by previous federal court decisions.

   c. The complainant's or injured party's refusal to cooperate (including refusal to give permission to disclose his or her identity) has made it impossible to investigate further.

5. If an investigation is to be initiated, the City of Fargo determines the method of investigation and who will conduct the investigation.

6. The entire investigation process, including the submission of the final report of the investigation and recommendations is to be carried out in a period not to exceed sixty (60) calendar days from the date the original complaint was received by the City of Fargo.

7. The City of Fargo 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 the City of Fargo has jurisdiction.

   c. A brief statement of the City of Fargo jurisdiction over the recipient to investigate the complaint; and

   d. An indication of when the parties will be contacted.

8. The investigation consists of an in-depth, personal interview with the complainant(s). Information gathered in this interview includes but is not limited to: identification of each complainant by race, color, national origin, sex, age, disability/handicap, or income status[4], name of the complainant; a complete statement concerning the nature of the complaint, including names, dates, places, and incidents involved in the complaint; the date the complaint was filed; and any other pertinent information the investigator(s) feels is relevant to the complaint. The interview(s) is recorded, either on audio tape or by an investigator taking notes. The investigator(s) arranges for the complainant to read, make necessary changes to, and sign the interview transcript or interview notes.

9. Following the interviews, the investigator(s) develops a report of the investigation and recommendations based on the facts. The report contains the investigator's(s') findings, conclusions concerning each issue raised in the complaint, and recommendations for corrective action. The report is the last document prepared by the investigator(s). Any other actions taken as a result of the investigator's(s') findings and conclusions are the responsibility of City of Fargo management.

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

INFORMAL TITLE VI COMPLAINT PROCEDURE

1. Title VI complaints may be resolved by informal means. When informal means are used, the complainant is informed of his or her right to file a formal written complaint. Informal means may be followed, for example, if the complaint is received by phone or in person and the complainant chooses not to pursue the formal written complaint process.
2. Any complaint received in writing is considered to be a formal complaint and is handled under the formal complaint procedure outlined above.
3. When a complaint has been directly filed with another federal or state agency, The City of Fargo is to be informed by the agency where the complaint has been filed and is to take whatever action is needed to resolve the complaint.

SFN 51795 (Rev. 05-2011)

SUBRECIPIENT INSTRUCTIONS

General

1. Under Title VI of the Civil Rights Act of 1964 and the related statutes and regulations, no person or group(s) of persons shall, on the grounds of race, color, national origin, sex, age, disability/handicap, or income status*, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs, services, or activities administered by the **(CITY OF FARGO)**. Any person or group(s) of persons who feel they have been discriminated against may file a complaint.

2. Instructions provided within this form are not meant to be all inclusive. Complainants are responsible for all procedural requirements.

3. Complainants **must** include all required information and **must** meet all timeframes as defined in the **(CITY OF FARGO)** Title VI Complaint Procedure.

4. Legible copies of all available pertinent documentation should be attached to this form.

5. All inquiries should be directed to **(Willard Yellow Bird, City of Fargo, 200 3rd Street North, Fargo, ND, 58102, 701-241-1474, 701-476-4116)**.

Part I

Complete all information in this section.

Part II

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

Part III

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

Part IV

State the minimum remedy acceptable for resolution of this complaint.

Part V

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

Complaints Filed with U.S. Department of Transportation

Discrimination complaints based on race, color, national origin, sex, age, disability/handicap, or income status* may be filed with the U.S. Department of Transportation, Office of the Secretary, 1200 New Jersey Avenue, SE (S-33), Washington, D.C. 20590. The complaint **must** be filed, in writing, no later than 180 calendar days after the date of the alleged discrimination, unless the time for filing is extended by the Secretary of the U.S. Department of Transportation.

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

TITLE VI COMPLAINT LOG

North Dakota Department of Transportation, Civil Right Division
SFN 59892 (04-2011)

Reporting Year

Name		
Address	State	Zip Code

Status of Complainant:

Race	Color	National Origin	Sex	Age	Disability/Handicap	Income Status

Nature of Complaint (If you need more space please attach additional sheets)

Recipient (Processor of Complaint)		
Date Filed	Date Investigation Completed	Date of Disposition

Disposition (If you need more space please attach additional sheets)

Name		
Address	State	Zip Code

Status of Complainant:

Race	Color	National Origin	Sex	Age	Disability/Handicap	Income Status

Nature of Complaint (If you need more space please attach additional sheets)

Recipient (Processor of Complaint)		
Date Filed	Date Investigation Completed	Date of Disposition

Disposition (If you need more space please attach additional sheets)