

2017 Title VI Annual Report

Annual Update and Accomplishment Report of the Title VI Program

PREPARED BY:

FARGO-MOORHEAD METROPOLITAN COUNCIL OF GOVERNMENTS

ADOPTON: February 15, 2018

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I. What is 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. An MPO is a transportation policy-making organization comprised of representatives from local government and transportation authorities. 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. MPOs ensure that existing and future expenditures for transportation projects and programs are based on a comprehensive, cooperative, and continuing planning process, known as the “3-C” process. The following are the five core functions of an MPO:

- Establish a fair and impartial setting for effective regional decision making;
- Evaluate transportation alternatives by collecting data, understanding issues, and creating a vision for the region;
- Develop and update a Long Range Transportation Plan, covering a planning horizon of at least 20 years, that fosters mobility for people and goods; efficient transportation performance and preservation; and quality of life;
- Develop a Transportation Improvement Program (TIP) based on the Long Range Transportation Plan and designed to serve area transportation goals; and
- Involve the general public and all the significantly affected sub-groups in the four functions listed above.

An organizational chart depicting the composition of Metro COG’s boards, committees and staff is depicted in Figure 1 below.

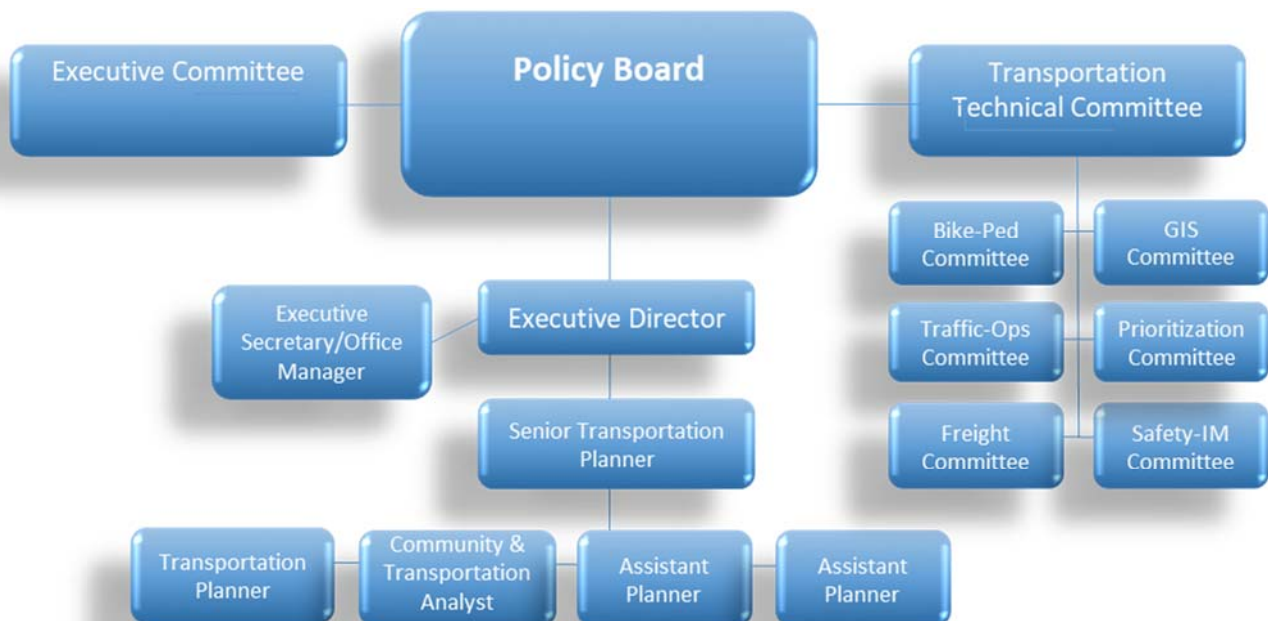


Figure 1: Metro COG Organizational Chart

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II. Overview

The Metro COG Title VI Program includes both administrative and oversight activities as well as activities associated with fulfilling the transportation planning process. This report is intended to provide a summary of the following:

- Policies guiding Metro COG's Title VI Program;
- The demographics of the Fargo-Moorhead metropolitan area;
- Environmental Justice areas and Limited English Proficiency populations within the Metro COG Metropolitan Planning Area (MPA) boundary;
- Demographics of Metro COG staff and Policy Board members;
- An accomplishment report for both administrative/oversight activities as well as metropolitan transportation planning process activities for the 2017 calendar year; and
- The 2017 Public Participation database report.

III. Metro COG's Title VI Program

Title VI Policy

The revised *Title VI Non-Discrimination and Limited English Proficiency Plan* was approved on March 16, 2017 by Metro COG's governing body, the Policy Board. Metro COG is committed to compliance with Title VI of the Civil Rights Act of 1964, 49 CFR, part 2, the Civil Rights Restoration Act of 1987, and all related regulations and directives.

Metro COG's Commitment to Nondiscrimination and Title VI Assurances

Metro COG's commitment to the Title VI program assures that no person or groups(s) of persons shall, on the grounds of race, color, national origin, sex, age, disability/handicap, and income status, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs, services, or activities administered by the Agency, regardless of whether those programs and activities are federally funded or not. Metro COG also assures that every effort will be made to prevent discrimination through the impacts of its programs, policies, and activities on minority and low-income populations. In addition, Metro COG will provide meaningful access to services for persons with Limited English Proficiency.

A full copy of Metro COG's approved Title VI Assurances and non-discrimination policy statement is provided in the adopted *Title VI Non-Discrimination and Limited English Proficiency Plan* and available on the Metro COG website: www.fmmetrocog.org.

Title VI Complaint Procedure

Metro COG is committed to providing a means for any person or group of persons who believes that, on the basis of race, color, sex, age, national origin, income status, sexual orientation, or disability, was excluded from or denied the benefits of, or subjected to discrimination by Metro COG in any program or activity administered by Metro COG. Metro COG has adopted a formal complaint procedure for addressing and resolving such complaints, which is detailed in the *Title VI Non-Discrimination and Limited English Proficiency Plan*. The Title VI complaint form is included in **Appendix A** of this document.

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Pursuant to the *Title VI Non-Discrimination and Limited English Proficiency Plan*, Metro COG maintains a list of complaints filed alleging discrimination towards any individual or group in any program or activity administered by Metro COG. This list includes a summary of the investigation, lawsuit or complaint; the status of the allegation; the actions taken in response to the allegation; and the date it was filed.

Metro COG had no Title VI complaints, investigations, or lawsuits during this reporting period.

Limited English Proficiency (LEP)

In order to fulfill Metro COG's responsibilities in regards to compliance with the Title VI of the Civil Rights Act of 1964, as well as Executive Order 13166, Metro COG has adopted the *Title VI Non-Discrimination and Limited English Proficiency Plan*, which was approved in March of 2017. This plan outlines the steps for providing language assistance to persons with limited English proficiency who wish to access Metro COG services and be involved in the Metropolitan Planning Process. The *Title VI Non-Discrimination and Limited English Proficiency Plan* specifies that Metro COG will monitor compliance and report upon the adherence to the goals of this plan on an annual basis. The 2017 annual report on LEP activities is provided in Section IV of this document. The full *Title VI Non-Discrimination and Limited English Proficiency Plan* is included is available on the Metro COG website, www.metrocog.org.

Title VI Outreach, Monitoring, and Notification Policies

Metro COG current Public Participation Plan (PPP) was adopted and approved in May 2016. As required by 23 CFR 450.316, the PPP provides substantive guidance to Metro COG as it implements programs and projects within the Metro COG planning area. Pursuant to the PPP, Metro COG has an identified list of interested persons and stakeholders, which includes individuals and groups representative of low income and minority populations within the Metro COG planning area. All Metro COG meetings are held in ADA accessible locations, and as per the PPP, and direct notifications are provided to all known low income and minority groups. Metro COG's PPP identifies low-income and minority populations as a targeted outreach group. Metro COG also coordinates its activities with the Metro Mobility Manager of MATBUS to ensure coordination of its programs with human services and public transportation resources. In all cases, Metro COG uses its website, legal notices, box ads, and press releases to provide additional notification to interested persons, including low income and minority populations, in the planning area.

In July 2016, Metro COG approved an updated Environmental Justice (EJ) database as part of the 2016 *Fargo-Moorhead Metropolitan Profile*. This data set is reviewed and, as appropriate, updated annually as new census data becomes available. The EJ database is critical to Metro COG's overall transportation planning program and is used as area wide and subarea projects are developed. A summary and map of 2017 EJ areas is included in Section IV of this document.

In accordance with the Public Participation Plan, Metro COG publishes and distributes its newsletter, *Metro Connection*, at least three times annually. The *Metro Connection* contains pertinent and timely information regarding implementation of Metro COG programs and projects. *Metro Connection* is sent to all known low-income and minority persons and groups included within the Metro COG list of interested persons, and provides clear guidance on how to engage in the transportation planning process.

Monitoring of Sub-recipients for Title VI Compliance

Metro COG ensures the compliance of all consultants and, if applicable, sub-consultants with state and federal Title VI and Non-Discrimination Assurances as a condition of receiving federal financial assistance. Included in all Metro COG contracts and Requests for Proposals (RFPs) are assurances requiring the consultant and sub-

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consultant to agree with Title VI provisions governing Metro COG, as well as developing and following a Title VI program and policy for their firm. During the performance of any contracted service, the consultant, its assignees, and successors agree to assurances governing the following:

- Compliance with Title 49, Code of Federal Regulations, Part 21 (hereafter referred to as the Regulations);
- Nondiscrimination, including restrictions on participation in discrimination prohibited by Section 21.5 of the Regulations;
- Solicitations for subcontracts, including procurements of materials and equipment;
- Information and reports, including access to any information to ensure consultant compliance with Title VI regulations;
- Sanctions for noncompliance, such as withholding of payments and/or cancellation/termination of the contract; and
- Incorporation of all Title VI provisions in every subcontract.

IV. Demographics and Environmental Justice Areas

As part of the Title VI program, Metro COG closely monitors and tracks statistical demographic data on race, national origin, age, language spoken, income level, persons with disabilities, and sex of the population of the Fargo-Moorhead metropolitan area. Since 2015, this data has been incorporated into the annual *Metropolitan Profile*, a document designed for use by both professional staff within Metro COG's jurisdictions as well as the public at large. Figure 2 (below) depicts the racial composition of the Fargo-Moorhead Metropolitan Statistical Area (MSA) according to the U.S. Census Bureau's 2012-2016 American Community Survey (ACS) estimates.

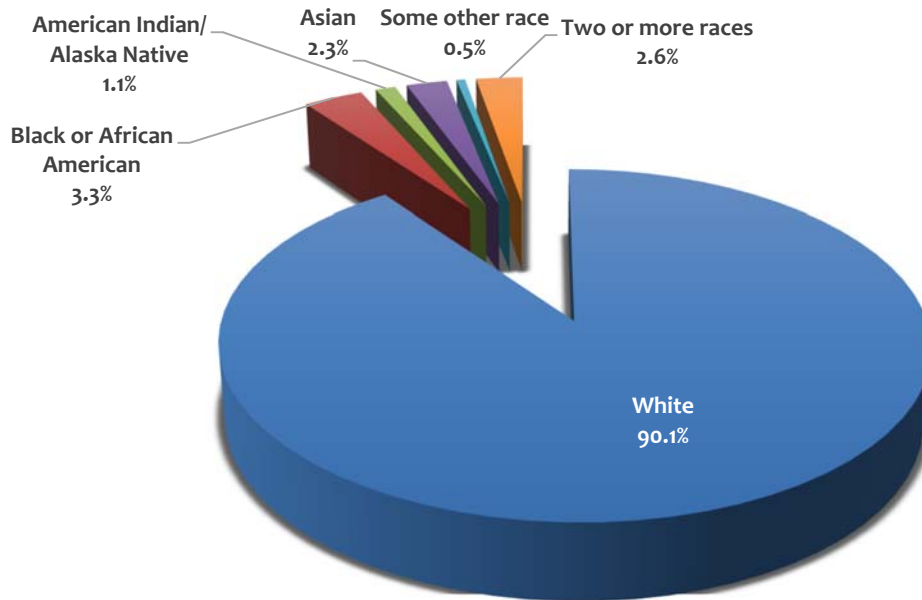


Figure 2: Race/Ethnicity of Residents of the Fargo-Moorhead Metro Area (figures based on 2012-2016 ACS)

2017 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. Figure 3 shows the spatial distribution of minority and low income populations in the urbanized area. Maps and data pertaining to Environmental Justice areas are published in the annual *Metropolitan Profile* and available on Metro COG's website.

Low Income Populations. The currently approved definition of low-income is a block group with a median household income less than 1.25 times the poverty level (per 2017 U.S. Department of Health and Human Services federal poverty guidelines). The median household income used was obtained from the 2012-2016 American Community Survey.

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To determine the annual household income to use for poverty based on U.S. Department of Health and Human Services (HHS) federal guidelines, the average household size for the Fargo-Moorhead MSA was used. The average household size in Fargo-Moorhead per the 2016 ACS is 2.43 persons, therefore linear interpolation of the HHS values was performed in order to determine the annual household income threshold to define poverty.

To calculate the low income threshold per the definition described above, the poverty guideline as established by HHS was multiplied by 1.25:

$$\$18,037.40 * 1.25 = \$22,546.75$$

As of 2017, block groups with an annual median household income less than \$22,546.75 are considered to be “low income” block groups. This definition was determined with the intent of maintaining consistency with previous low income definitions, which allows for better monitoring of any potential changes/shifts in low income populations.

2010 Minority Populations. The currently adopted methodology defines minority populations as those blocks with minority populations equaling or exceeding 25 percent of the total block population. As the ACS does not provide block-level race estimates, 2010 census data was used for this analysis.

A minority is defined as any individual who reports anything other than “white-alone” on their census questionnaire.

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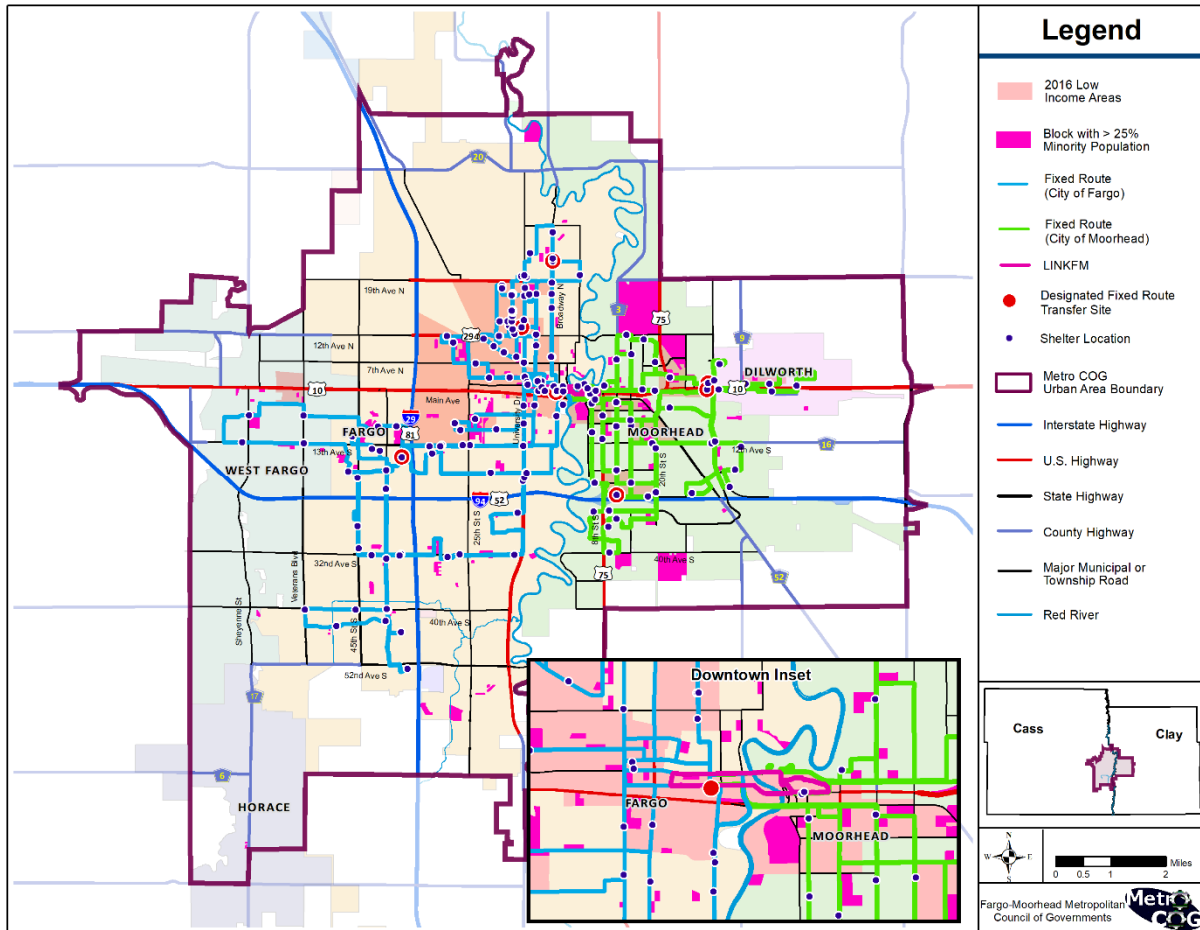


Figure 3: Environmental Justice Areas as of 2017

Limited English Proficiency

Pursuant to the four-factor analysis described in the *Title VI Non-Discrimination and Limited English Proficiency Plan*, Metro COG monitors both the total number and proportion of LEP persons within the metropolitan planning area (MPA). These figures were updated in December of 2016 to reflect the most recent numbers from the American Community Survey (ACS).

Based upon figures gathered from the 2016 ACS, there were approximately 1,835 limited English-speaking households within the MPA. This represents approximately 1.95 percent of all households within the MPA. Of the 15,583 persons speaking a language other than English, 5,988 have limited English proficiency; that is, they speak English “less than very well.” This represents 2.66 percent of the overall population of the MPA.

Of households within the MPA whose primary language is something other than English, Spanish was the single most widely-used language, used as the primary language by approximately 0.95 percent of the all households. Of all households whose primary language spoken at home was Spanish, 20.5 percent were classified as having limited English proficiency.

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Other Indo-European languages were used as the primary language by approximately 2.2 percent of all households within the MPA; 37.9 percent of these households were considered to have limited English proficiency. Asian and Pacific Island languages were the primary language of approximately 0.83 percent of households within the MPA, and households whose primary language was classified as “other” represented 1.1 percent of all households. Notably, the latter households had a much higher overall rate of limited English proficiency than other households whose primary language was anything other than English, at 47.6 percent. While official figures are difficult to obtain, these may be households of New Americans and/or refugees recently placed within the region.

Language Assistance Measures. Although there is a relatively low percentage of LEP individuals in the planning area, Metro COG is committed to taking reasonable steps to provide the opportunity for meaningful access to LEP persons who have difficulty communicating English. Per the adopted *Title VI Non-Discrimination and Limited English Proficiency Plan*, the following resources are available to accommodate LEP persons:

- Interpretive services, within reason, for public meetings, if advance notice is provided to Metro COG and such services are readily available; and
- Translated versions of documents/publications (or provide for the interpretation of relevant sections) are available if requested, so long as the request is within a reasonable time frame and if resources permit.

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 Secretary at 701.232.3242 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.”

Safe Harbor Stipulation. Federal law provides a “safe harbor” stipulation so recipients of federal funding can ensure compliance with their obligation to provide written translations in languages other than English with greater certainty. A “safe harbor” means that as long as a recipient (the MPO) has created a plan for the provision of written translations under a specific set of circumstances, such action will be considered strong evidence of compliance with written translation obligations under Title VI. However, failure to provide written translations under the circumstances does not mean there is noncompliance, but rather provides for recipients a guide for greater certainty of compliance in accordance with the four factor analysis.

Evidence of compliance with the recipient’s written translation obligations under “safe harbor” includes providing written translations of vital documents for each eligible LEP language group that constitutes 5 percent or 1,000 persons, whichever is less of eligible persons served or likely to be affected.

The “safe harbor” provision applies to the translation of written documents only. It does not affect the requirement to provide meaningful access to LEP individuals through competent oral interpreters where oral language services are needed and reasonable to provide.

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V. Organization Administration, Staffing, and Structure

During 2017, Metro COG had one staffing change due to position turnover. Metro COG has also had one open position as of October 2017. New employees are provided with Metro COG’s Title VI Plan and instructed on policies pertaining to Title VI and nondiscrimination. Metro COG’s Title VI Coordinator contact information is provided below:

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Metro COG Title VI Coordinator
Case Plaza, Suite 232
One 2nd Street North
Fargo, North Dakota 58102-4807
altenburg@fmmetrocog.org
701.232.3242 ext. 34

Organization and Committee Race and Sex Composition

Pursuant to Title VI requirements, Metro COG collects data on the race and sex of both staff and other key decision-makers in the transportation planning process. Every year, Metro COG distributes an optional, anonymous survey to staff and members of the Transportation Technical Committee (TTC) and the Policy Board. This voluntary survey invited individuals to self-identify their race/ethnicity and sex, and is used to help determine the extent to which the organization, TTC, and Policy Board reflect the demographic composition of the Fargo-Moorhead metropolitan area. Table 1 (below) summarizes the results of the survey for 2017.

Organization or Committee	Number of Members	White (not Hispanic or Latino)	Black or African American	American Indian/ Alaska Native	Asian	Some other race	Two or more races	Sex		No response provided
								Male	Female	
Metro COG Staff	5	100%						60%	40%	
TTC	21	93.75%			6.25%			68.75%	31.25%	5
Policy Board	16	100%						75%	25%	8
FM MSA		90.1%	3.3%	1.1%	2.3%	0.5%	2.6%	50.21%	49.79%	

Table 1: Demographic Composition of Metro COG Staff, TTC, and Policy Board

VI. Annual Accomplishment Report for Metro COG Program Areas

Public Outreach Activities

As outlined in the recently updated Public Participation Plan, Metro COG strives to provide a proactive public involvement process that ensures the distribution of complete information, timely notices, transparency in program development and implementation, and supports early and continuing involvement of the public in Metro COG’s transportation planning program. To this end, the following public outreach activities were conducted during the reporting period of 2016:

- Alerted the public through email blasts, website updates/postings, newsletters, newspaper advertisements, and press releases for Metro COG projects and activities. An annual public

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participation event tracking database, included in this report, lists the specific activities and the means to which they were advertised in detail.

- All Metro COG meetings are held in ADA accessible locations and, per the PPP, direct notifications are provided to all known low income, LEP, and minority groups.

Executed Contracts

During the reporting period of 2017, Metro COG had contracts for the following planning-related services/activities. All projects used a combination of federal and/or local funds.

- **Long-Range Data Development Plan and Demographic Forecast Study**
- **Fargo-Moorhead Regional Freight Plan**
- **Regional Railroad Crossing Safety Study**
- **Alternate Route/Traffic Incident Management Guidebook**
- **Fargo 17th Avenue South Corridor Study**
- **Fargo/West Fargo Parking Access Study**
- **MATBUS Transit Facility Analysis & Development Strategy**
- **52nd Avenue South Cooperative Planning and Environmental Report**
- **Moorhead ADA Transition Plan**
- **13th Avenue South/CR 28 Corridor Study**
- **Cass County Comprehensive & Transportation Plan**
- **Dilworth Comprehensive & Transportation Plan**

As with all Metro COG planning projects, the advertisements included the Title VI Assurances, non-discrimination statements, and language pertaining to the incorporation of all Title VI provisions in every subcontract. Additionally, as part of the general RFP requirements for contracted planning studies, Metro COG encourages and supports firms that are verified Disadvantaged Businesses Enterprises (DBE) and/or Minority Business Enterprises (MBE). All RFP's are distributed to an extensive list of contractors, including DBE/MBE firms. Since 2015, Metro COG also publishes all RFP's on NDDOT's portal for consulting services and requires all firms to be pre-qualified by NDDOT in order to be eligible to apply. This further ensures that Metro COG RFP's reach a large audience and that disadvantaged firms are given equal opportunity to participate in Metro COG's projects.

Project Impacts on Minority and Low-Income Populations

Metro COG performed a number of additional analyses and services over the course of 2017, all of which had the potential to impact Environmental Justice populations in a variety of ways. During the reporting period, Metro COG conducted the following Environmental Justice activities as part of planning studies:

Cass Clay Food Commission. Much of the work of the Cass Clay Food Commission has been focused on improving access to healthy, local, and affordable food for area residents. This work includes the possible expansion of urban agriculture practices that would ensure that people in low-income or minority neighborhoods have better access to fresh and nutritious food.

Clay County Heartland Trail Extension. The Clay County Heartland Trail is in the planning stages. Criteria being considered in the trail planning has not singled-out minority or low income populations. The trail is a means of providing recreation and transportation options to all users in the region regardless of race or income level.

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The trail alignments proposed have been determined based on various criteria such as service to community, construction feasibility, right-of-way availability, points of interest, and more.

Barnesville Comprehensive & Transportation Plan. The Barnesville Comprehensive & Transportation Plan included community goals, objectives, and policies which will guide short-range decisions and long-range considerations. Of these, the plan provided recommendations on affordable housing options to address growing concerns for adequate housing for low-income citizens. It also focused on increasing walkability and ADA compliance issues within the city.

VII. Annual Public Participation Event Tracking Database Report

Metro COG maintains a database of all public participation activities performed as part of both administrative/oversight and transportation planning process activities. This database includes information on how the event was advertised, its location, the number of attendees, and whether public comments were received.

