

Morgantown Monongalia Metropolitan Planning Organization



Title VI Plan

Adopted:

May 19, 2016

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Policy Statement

The Morgantown Monongalia Metropolitan Planning Organization (MMMPO) assures that no person shall on the grounds of race, color, national origin, or sex, 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. MMMPO further assures every effort will be made to ensure non-discrimination in all of its programs and activities, whether those programs and activities are federally funded or not. The Civil Rights Restoration Act of 1987, broadened the scope of Title VI coverage by expanding the definition of terms “programs or activities” to include all programs or activities of Federal Aid recipients, sub-recipients, and contractors/consultants, whether such programs and activities are federally assisted or not (Public Law 100259 [S.557] March 22, 1988.) In the event the Recipient distributes federal aid funds to a sub-recipient, the Recipient will include Title VI language in all written agreements and will monitor for compliance.

MMMPO’s Executive Director is responsible for initiating and monitoring Title VI activities, preparing reports and other responsibilities as required by 23 Code of Federal Regulation (CFR) 200 and 49 Code of Federal Regulation 21.



J. William B. Austin, Executive Director

5/19/16

Date

Introduction

Title VI of the Civil Rights Act of 1964 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.”

Subsequent laws, regulations, directives, and executive orders enlarged the criteria for which discrimination is prohibited to include disability, sex, age, income, and limited proficiency in English. These related authorizations are identified in Appendix A. Two Presidential Orders are particularly important to these requirements. Executive Order 12898 requires that federal agencies address equity and fairness, known as Environmental Justice, toward low income and minority persons and populations. Executive Order 13166 requires federal agencies to ensure that people who have Limited English Proficiency (LEP) have meaningful access to federally conducted and/or funded programs and activities.

The Morgantown Monongalia Metropolitan Planning Organization (MMMPO) is a sub-recipient of federal aid. As a sub-recipient of federal aid the MMMPO is mandated to comply with Title VI and subsequent nondiscrimination laws and regulations. In addition to complying with the requirements noted above Executive Orders 12898 (Environmental Justice) and 13166 (LEP) require the MMMPO to provide an overview of how it addresses the provisions of these Orders. This plan was developed to document the MMMPO’s ongoing efforts to ensure compliance with Title VI related rules and regulations as well as related statutes regarding non-discrimination and environmental justice.

MMMPO Profile and Organizational Structure

In accordance with the requirements of Federal statute (23 USC 134), the MMMPO has been designated by the State of West Virginia and the US Department of Transportation as the lead agency for transportation planning in Monongalia County particularly for the urbanized area surrounding Morgantown.

The MMMPO was organized in 2003 due to population growth identified in the 2000 Census. The purpose of the MPO is to fulfill the requirements of federal regulations for urbanized areas with a population exceeding 50,000 that specify that there should be a regional forum for a continuous, cooperative, and coordinated, transportation planning process. The plans prepared by the MMMPO and the planning process utilized by the MMMPO should address the following:

- (A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;
- (B) increase the safety of the transportation system for motorized and nonmotorized users;
- (C) increase the security of the transportation system for motorized and nonmotorized users;
- (D) increase the accessibility and mobility of people and for freight;

(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

(F) enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;

(G) promote efficient system management and operation; and

(H) emphasize the preservation of the existing transportation system.

(23 US 134)

Structure

The MMMPO is governed by a Policy Board which includes representatives of all of the incorporated communities in Monongalia County as well as West Virginia University, the Monongalia County Board of Education, the West Virginia Department of Transportation and Mountain Line Transit. Following is a list of the communities and agencies that sit on the MPO Policy Board. (Unless otherwise noted each agency has one vote on the Policy Board)

Blacksville, Granville, Monongalia County (3 members), Monongalia County Board of Education, Morgantown (3 members), Mountain Line Transit, Star City, Westover, West Virginia Department of Transportation, West Virginia University

The MMMPO's committee structure includes three committees that report to the Policy Board. The Technical Advisory Committee is made up of professional staff that reviews the MPO's operations and technical products. The Citizens Advisory Committee is made up of volunteers appointed to represent the constituents of the MMMPO's member agencies. The Policy Advisory Committee is made up of representatives of the business community and significant community groups. The PAC is to meet at least annually to advise the Policy Board on policy issues that may arise. The MPO's Bylaws specifies a minimum membership but the PAC may have representation from additional organizations as well.

**2016 Morgantown Monongalia MPO Committee Membership
Metropolitan Planning Organization Policy Board**

Officers

Chairman-Commissioner Eldon Callen, Monongalia County Commission

Vice-Chairman-Mayor Herman Reid, Star City

Treasurer-Mayor Patricia Lewis, Granville

Secretary, Bill Austin, MPO Director ex officio

Members

Mountain Line Transit, Dave Bruffy

City of Morgantown-Mayor Marty Shamberger, Councilors Jennifer Selin, Wes Nugent,

Monongalia County Board of Education-Michael Kelly

Blacksville, The Honorable Joe Statler

Westover-Councilperson Janice Goodwin

Monongalia County Commission-Commissioners Tom Bloom, Edward Hawkins

West Virginia University-Randy Hudak

West Virginia Department of Transportation-Division of Highways-Brian Carr

MPO Citizen's Advisory Committee

Maria Smith, Christiaan Abildso, Chip Wamsley, Chris Azzaro, Ed Sneckenberger, Bill Rice, Joe Patten, Matthew Cross, Charles Renner

MPO Transportation Technical Advisory Committee

Federal Highway Administration and Federal Transit Administration-Jason Workman, ex officio

Town of Granville, Ron Snyder, Town Manager

Monongalia County Board of Education, Jeff Meadows

Monongalia County, Richard Wood, Planning Director

City of Morgantown, Damien Davis-City Eng., Chris Fletcher-Dir. of Dev. Services,

Morgantown Monongalia MPO-Bill Austin, ex officio

Mountain Line Transit, Dave Bruffy

West Virginia Department of Transportation-Brian Carr, Elwood Penn, Foad Shoukry, Donald Williams

West Virginia University, Clement Solomon

Morgantown Utility Board-Tim Ball

Policy Advisory Committee (Agencies to be Invited)

Mountain Line Transit Authority

West Virginia Department of Transportation

West Virginia University

Monongalia County Development Authority

The Director of the Morgantown Area Economic Partnership

The Executive Director of the Morgantown Area Chamber of Commerce

The Federal Highway Administration

The Federal Aviation Administration

The Federal Transit Administration

The West Virginia Governor's Office

Resident Associations

Local Commercial Associations

Emergency Service Organizations

Morgantown Utilities Board

Ruby Memorial Hospital

Monongalia General Hospital

Monongalia County Board of Education

Morgantown Municipal Airport

Title VI Coordinator and Responsibilities

The MMMPO Executive Director is responsible for Title VI Coordination, ensuring the implementation and management of the MMMPO Title VI Plan.

Title VI Coordinator Contact Information:

J. William B. Austin, AICP

Executive Director

Morgantown Monongalia MPO

82 Hart Field Road Suite 105

Morgantown, WV 26505

(304)291-9571

baustin@labyrinth.net

Title VI Coordinator Responsibilities include:

- Monitor and review agency programs, policies and activities for Title VI compliance;
- Collect and review statistical data (race, color, sex, age, disability or national origin) to prevent or eliminate potential disparate treatment discrimination;
- Work with staff involved in procurement or consulting contracts to insure that Title VI compliance is met; and mitigating any issues if it is not met;
- Maintain a list of interpretation service providers;
- Periodically review and update the Title VI Plan;
- Attend trainings to keep aware of non-discrimination opportunities and procedures; and,
- Resolve Title VI complaints in a timely and thorough fashion

TITLE VI Components

Regional Overview

As shown in the figure, the Morgantown Monongalia MPO encompasses the 366 square miles of Monongalia County, West Virginia and its incorporated municipalities including the City of Morgantown, the City of Westover and the towns of Blacksville, Granville, and Star City. The Census Bureau’s American Community Survey indicated that Monongalia County had an estimated total population of 103,463 as of 2013. Approximately, 71,202 (approximately 69%) of those residents reside in and around the urban core centered on Morgantown.

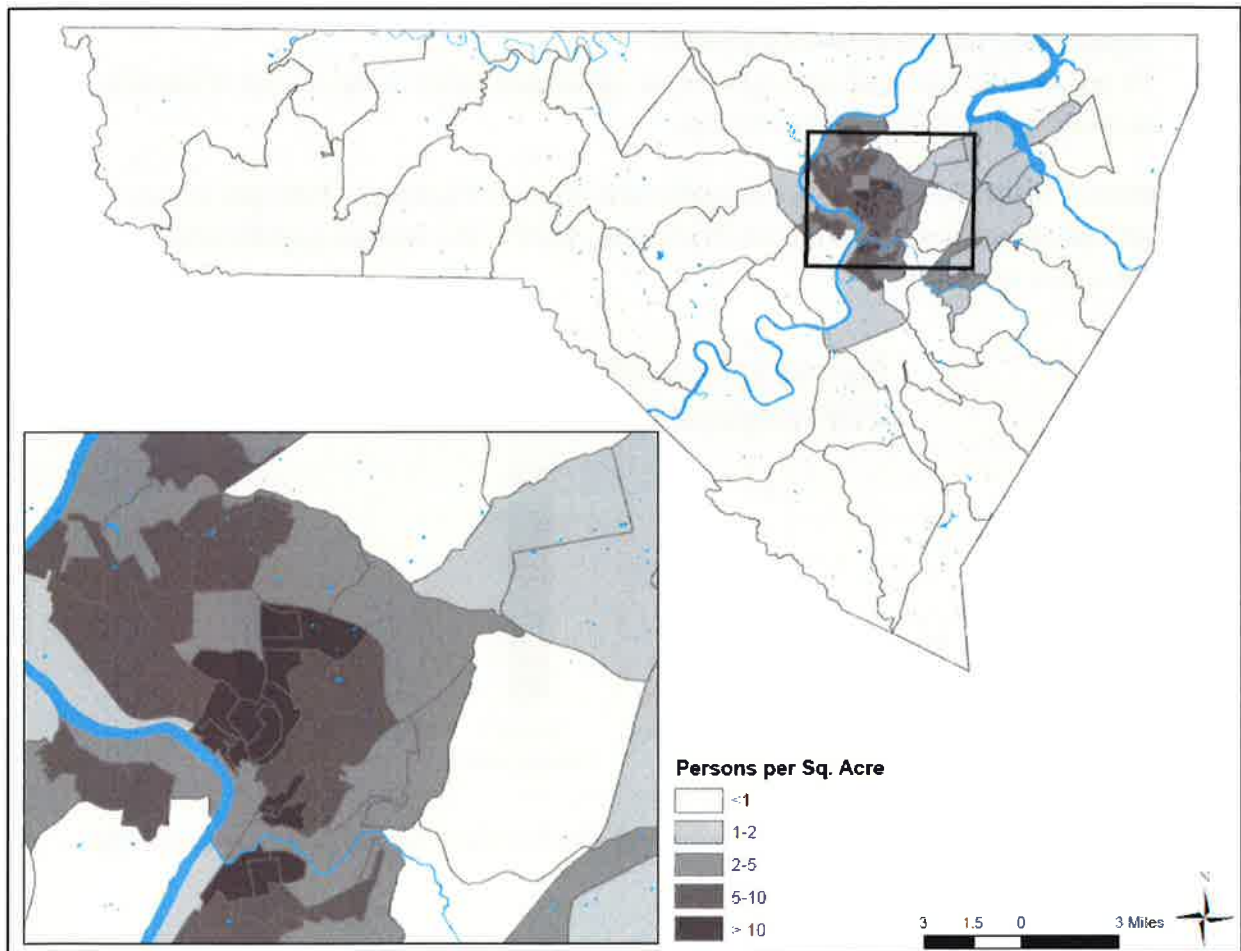


Figure 1: Population Density of the MMMPO Region (Source: 2009-2013 American Community Survey-5-year Estimates)

Environmental Justice and Demographic Profile

In keeping with the requirements of Title VI of the Civil Rights Act of 1964 as amended, and with Executive Order 12898 which expanded the scope of previous guidance to include

identifying and avoiding “disproportionately high and adverse impacts” on minority and low-income populations. The United States Department of Transportation (USDOT) Order 6640.23 requires the Federal Highway Administration and the Federal Transit Administration to implement the principles of environmental justice in all programs, policies, and activities. . The three principles of environmental justice are:

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

Environmental Justice has been expanded since the original Executive Order and is now focused on four groups: minorities, Low English Proficiency (LEP), low income populations, and population with a disability.

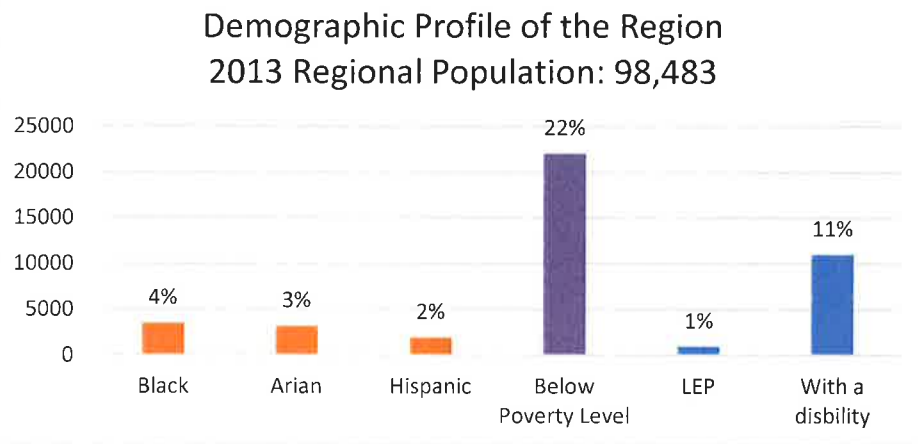


Figure 2 Demographic Profile of the Region (Source: 2009-2013 American Community Survey-5-year Estimates)

Table 1: Race and Ethnicity by County (Source: 2009-2013 American Community Survey-5-year Estimates)

Area	Black/African American	% Black/African American	Asian	% Asian	Hispanic	%Hispanic
Monongalia County	3,526	3.6%	3,197	3.2%	1,951	2.0

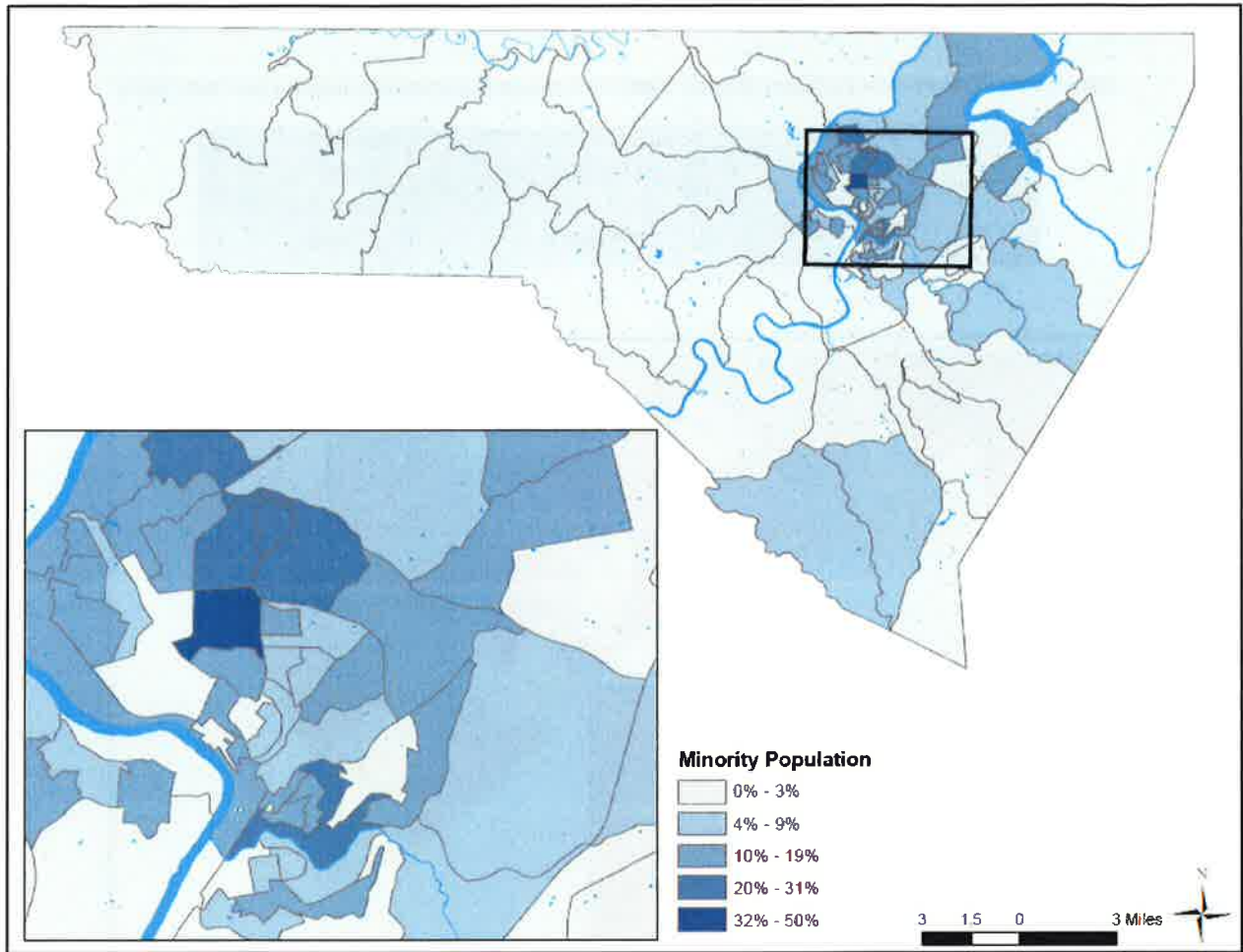


Figure 3: Minority Population of the MMMPO Region (Source: 2009-2013 American Community Survey-5-year Estimates)

Table 2: LEP Population of the MMMPO Region (Source: 2009-2013 American Community Survey-5-year Estimates)

Area	LEP Population	% LEP Population
Monongalia County	952	1%

Table 3: Persons with a disability by county (Source: 2009-2013 American Community Survey-5-year Estimates)

Area	Persons with a Disability	% Persons with a Disability
Monongalia County	11,030	11%

Table 4: Persons in Poverty by County (Source: 2009-2013 American Community Survey-5-year Estimates)

Area	Persons with a Disability	% Persons with a Disability
Monongalia County	22,060	22%

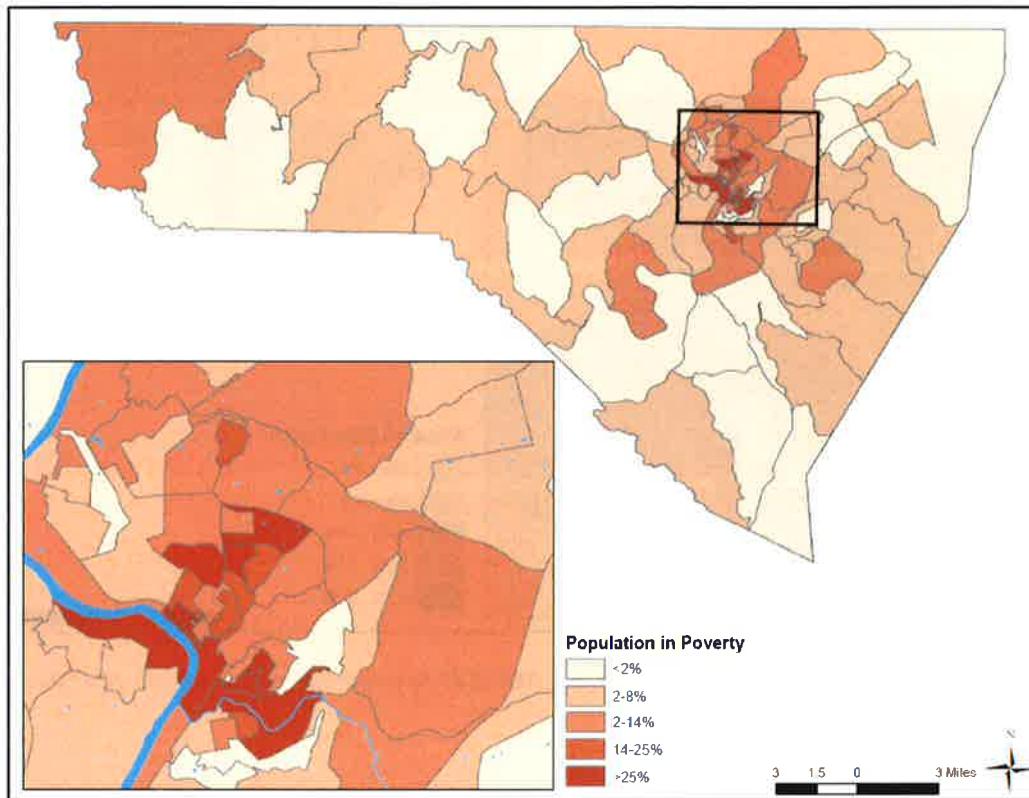


Figure 4: Population in Poverty for the MMMPO Region (Source: 2009-2013 American Community Survey-5-year Estimates)

Four-Factor Analysis

In accordance with Title VI of the Civil Rights Act and the US Department of Transportation Circular FTA C 4702.1B “Title VI Requirements for Federal Transit Administration Recipients,” recipients are required to take “reasonable steps” to ensure meaningful access to their programs and activities by LEP persons.” The guidance recommends that the following four-factor analysis be used to determine how to ensure reasonable access to MMMPO activities.

- 1) The number and proportion of LEP persons eligible to be served or likely to be encountered by the program or recipient.
- 2) The frequency with which LEP persons come into contact with the program.
- 3) The nature and importance of the program, activity, or service provided by the program to people’s lives.
- 4) The resources available to recipient for outreach, as well as the costs associated with that outreach.

1. Number and Proportion

The MMMPO utilized American Community Survey data to understand the language profile of LEP individuals in the MMMPO region. Individuals who speak English less than “very well” are considered to be part of the LEP population in the community. As shown in the table below 4.3% of Monongalia County’s population over 5 years old qualifies as LEP. There were 4,836 County residents who report that they speak a language beside English at home. Approximately 22% (1,061) of those residents reside outside of the urban core. The highest density area for this population is in the vicinity of the WVU campus. The most common non-English languages spoken in the County are Spanish, Chinese, and French.

Table 5: Primary Language (Source: 2009-2013 American Community Survey-5-year Estimates)

	Total	Percentage
Population 5 and over:	95,519	
Speak Only English:	90,357	94.60%
Spanish:	1,330	1.39%
Chinese:	907	0.95%
Vietnamese:	45	0.05%
French:	331	0.35%
Other Asian languages:	167	0.17%
Russian:	40	0.04%
Serbo-Croatian:	0	0.00%
Korean:	210	0.22%
German:	167	0.17%
African Languages:	193	0.20%
Tagalog:	60	0.06%
Arabic:	500	0.52%
Portuguese:	72	0.08%
Gujarti:	52	0.05%
Hungarian:	35	0.04%

2. Frequency

Due to the relatively small size of the LEP population in Monongalia County and the nature of the services the MMMPO provides there is infrequent interaction with the LEP community. To date, there have been no requests for services or information by either individuals or groups.

3. Importance

The MMMPO approves the use of federal funds for long and short term transportation projects and transit services. The MMMPO does not own or operate roads, or buses and therefore does not provide any services that requires vital, immediate or emergency assistance such as medical treatment or services for basic needs such as food or housing. Involvement with the MMMPO or its subcommittee's is strictly voluntary.

HEPMPO provides opportunities for the public to comment on the use of federal funds for the key activities summarized below:

- Short range planning
- Transportation Improvement Program (TIP)
- Traffic Data
- Long Range Transportation Plan
- GIS
- Service
- Transit
- Special Studies
- Administration

The results of transportation improvements resulting from these actions may impact all residents and efforts are made to explain the process and provide opportunities to comment. The MMMPO is concerned with gathering input from all stakeholders and every effort is made to make the planning process as inclusive as possible.

Through, the regional transportation planning process, selected projects receive approval for Federal funding. The implementation process including project planning and construction come

under the responsibility of the West Virginia Department of Transportation or local jurisdictions or agencies. These state and local agencies or jurisdictions are required to have their own policies in place to ensure opportunities for LEP individuals to participate in the project implementation process.

4. Resources

Because the LEP population is not a large part of the community at this time and the cost of translating the large number documents the MMMPO produces is high, the MMMPO has determined that full translation of regional transportation plans is not the most efficient use of limited funds. However, as the region grows and attracts a diverse population and given that the MMMPO values diversity in the area as well as the importance of full participation in the transportation decision-making process, the MMMPO will continue to ensure access and participation for all who may be impacted by the MMMPO's plans and policies.

LEP Implementation Plan

-Free online translation services including that powered by Google Translate, is available on the MMMPO's website by clicking "translate" at the top right of any page of the site. As requested the MMMPO will assist in identifying other free translation services available in the community.

-Translation of select materials. Because the number and proportion of the LEP individuals in Monongalia County is low and because the cost of translation services is high (15 to 20 cents per word), translation of all materials is neither warranted or affordable. MMMPO will translate select materials such as the Title VI Policy and Complaint Form in Spanish online at the MMMPO Office.

-Oral translation. Should the need for oral translation arise the MMMPO will make a reasonable attempt to provide translation services.

-Use of language identification cards. Designated staff members at the MMMPO office will be prepared to use language identification cards when first encountering individuals with limited English proficiency. These point to your language cards or posters help to identify the language the individual speaks.

Communications and Public Involvement

The MMMPO recognizes that public involvement is a crucial part of its mission. As a public agency the Morgantown Monongalia Metropolitan Planning Organization (MMMPO) is required

to maintain a “...continuous, comprehensive and cooperative planning process.” (23 USC 104) This means the MMMPO is committed to providing a proactive, open, and transparent public involvement process that actively seeks engagement from stakeholders and the public at large. The MPO strives to engage underrepresented communities and stakeholders as well as the public at large as part of its continuous process to create an open decision-making process.

Public Participation Plan

The MPO’s Public Participation plan may be found at the website:

<http://plantogether.org/Public%20Involvement%20Policy-Adopted11-19-15.pdf>

The Public Involvement Policy also recognizes that there is a need to develop appropriate protocols to address the communities identified in Title VI, Executive Orders 12898, 13166 and other policies as previously noted. This Plan, as recognized in the Public Involvement Plan identifies the actions the MMMPO is taking now and will take in the future to address these issues.

Monitoring Process and Complaint Procedures

Any person who believes he or she has been discriminated against by the MMMPO on the basis of race, color, national origin, or other applicable criteria under current law may file a Title VI complaint by completing and mailing or delivering the MMMPO’s Title VI Complaint Form, found in Appendix X and online at the MMMPO’s website www.plantogether.org . The Complaint should be addressed to the MMMPO’s Title VI Coordinator at the address below:

Morgantown Monongalia MPO

Attention Title VI Coordinator

82 Hart Field Road Suite 105

Morgantown, WV 26505

A formal complaint must be submitted in writing within 180 days of the alleged occurrence or when the discrimination became known to the complainant. MMMPO’s will process complete complaints.

Complaint Procedures

1. Once the complaint is received, MMMPO will acknowledge the receipt of the complaint within 5 business days. The MMMPO will review the complaint to determine if it has jurisdiction over the complaint. The Complainant will receive a letter notifying her/him

whether the complaint will be investigated by the MMMPO. The MMMPO has 30 days to investigate the complaint.

2. If more information is needed to resolve the case, the MMMPO may contact the Complainant. The Complainant has 30 business days from the date of the letter to send the requested information to the MMMPO's Title VI Coordinator. If the Title VI Coordinator is not contacted by the Complainant or does not receive the additional information within 30 business days, MMMPO can administratively close the case. A case can also be administratively closed if a Complainant expresses a desire to no longer pursue their case.
3. After the Title VI Coordinator reviews the complaint, she/he will issue one of two letters to the Complainant: a closure letter or a letter of finding (LOF). A closure letter summarizes the allegations and states that there was not a Title VI violation and the case will be closed. An LOF summarizes the allegations and details plans for remediation actions to provide redress. The written response shall be issued not later than 90 calendar days after the complaint is received.
4. If the Complainant wishes to appeal the decision, she/he has 30 days after the date of the LOF to do so.

If the Complainant is dissatisfied with the MMMPO's resolution of the complaint, he/she may also submit a complaint to the West Virginia Department of Transportation for investigation in accordance with Chapter VII, Title VI/Non-Discrimination Complaints, of Federal Transit Administration Circular 4702.1A, such a complaint must be submitted within 180 days of the alleged discrimination. Chapter IX of the FTA Circular 4702.1A, which contain the complaint process is available online at www.fta.dot.gov. Paper copies of the circular may also be obtained by calling FTA's Administrative Services Help Desk at 202-366-4865.

A person may also file a complaint directly to the Federal Transit Administration, at:

FTA Office of Civil Rights

Chief Investigations and Adjunction

400 7th Street SW, Room 4132

Washington, DC 20590

Title VI Assurances

The Morgantown Monongalia Metropolitan Planning Organization (“Recipient”), HEREBY AGREES THAT as a condition to receiving any federal financial assistance, it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000d, et seq. (“Act”), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, no person in the United States shall, on the grounds of race, color, sex, 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, and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement.

More specifically and without limiting the above general assurance, the Recipient hereby gives the following specific assurances regarding its federal aid assisted programs:

1. That the Recipient agrees that each “program” and each “facility”, as defined in the Regulations, will be (with regard to a “program”) conducted or will be (with regard to a “facility”) operated in compliance with all requirements imposed by, or pursuant to, the Regulations.

2. That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Regulations made in connection with federal aid assisted programs, and in adapted form in all proposals for negotiated agreements:

“The Morgantown Monongalia Metropolitan Planning Organization, in accordance with Title VI of the Civil Rights Act of 1964 and 78 Stat. 252, 42 USC 2000d, et seq., and Title 49, Code of Federal Regulations hereby notifies all bidders that it will affirmatively ensure that any contract entered pursuant to this advertisement will afford minority business enterprises full opportunity to submit bids in response to this invitation, and will not discriminate on the grounds of race, color, sex or national origin in consideration for an award.”

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

4. That where the Recipient received federal financial assistance in the form, or for the acquisition of real property, or an interest in real property, the Assurance shall extend rights to space on, over, or under such property.


5. That the Recipient shall include the appropriate clauses regarding a covenant running with the land, in any future deeds, leases, permits, licenses and similar agreements entered into by the Recipient with other parties: (a) for the subsequent transfer of real property acquired or improved under federal aid-assisted programs; and (b) for the construction or use of, or access to space on, over, or under real property acquired or improved under federal aid-assisted programs.

6. That this Assurance obligates the Recipient for the period during which federal financial assistance is extended to the program, or is in the form of personal property, or real property or interest therein or structures or improvements thereon, in which case the Assurance obligates the Recipient or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which the federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the Recipient retains ownership or possession of the property.

7. The Recipient shall provide for such methods of administration for the program, as are found by the official to whom s/he delegates specific authority, to give reasonable guarantee that it, other recipients, subgrantees, contractors, subcontractors, transferees, successors in interest, and other participants of federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations, and this Assurance.

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

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



J. William B. Austin, Executive Director



Date

Appendix A: Authorities

FEDERAL STATUTES

Title VI of the Civil Rights Act of 1964, Pub. L. No. 88-352, 78 Stat. 252 (1964) (42 U.S.C. §§ 2000d-2000d-7) – provides 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 subjected to discrimination under any program or activity receiving Federal financial assistance.

The Age Discrimination Act of 1975 (42 U.S.C §§ 6101-6107) – prohibits age discrimination in Federally Assisted Programs.

The Federal-Aid Highway Act, (49 U.S.C. § 306) – Outlines responsibilities of the U.S. DOT and the Secretary’s authority to determine compliance with applicable Civil Rights statutes.

The Federal-Aid Highway Act, Pub. L. No. 97-449, 96 Stat. 2421 (1983) (codified as amended at 49 U.S.C. § 306) – added the requirement that there be no discrimination on the grounds of sex in DOT financial assistance programs.

The 1973 Federal-Aid Highway Act, Pub. L. No. 93-87, 87 Stat. 250 (1973) (23 U.S.C. § 324) – added the requirement that there be no discrimination on the grounds of sex in Title 23 programs.

The Civil Rights Restoration Act of 1987, Pub L. No 100-259, 102 Stat. 28 (1988) – restored the broad, institution-wide scope and coverage of the nondiscrimination statutes to include all programs and activities of Federal-aid recipients, sub-recipients and contractors, whether such programs and activities are federally assisted or not.

The Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, Pub. L. No. 91-646, 84 Stat. 1894 (1971) (codified as amended at 42 U.S.C. §§ 4601-4638) – provides for fair treatment of persons displaced by Federal and Federal-aid programs and projects.

The Uniform Relocation Act Amendments of 1987, Pub. L. No. 101- 246 – Updated the 1970 Act and clarified the intent of Congress in programs and projects which cause displacement.

Rehabilitation Act Amendments of 1986, Pub L. No. 99-506, 100 Stat. 1807 (1986) (42 U.S.C. § 2000d-7) – abrogated recipient state sovereign immunity from suit under Title VI.

The American with Disabilities Act, Pub. L. 101-336 – provides enforceable standards to address discrimination against individuals with disabilities.

The American with Disabilities Act, Pub. L. No. 101-336, 104 Stat. 327 (1990) (codified as amended at 42 U.S.C. § 12101 et seq.) – added the requirement that there be no discrimination on the grounds of disability, abrogated sovereign immunity, and provided enforceable standards to address discrimination against individuals with disabilities.

The Civil Rights Act of 1991, Pub. L. No. 102-166, 105 Stat. 1071 (1991) (codified in part at 42 U.S.C. §1981) – in part, amended Section 1981 of 42 U.S.C. to provide a definition for the term “make and enforce contracts”, and to provide protection of the rights protected by this section against impairment by nongovernmental discrimination under color of State law.

Title VIII of the 1968 Civil Rights Act, Pub. L. No. 90-284, 82 Stat. 81 (1968) (codified as amended at 42 U.S.C. § 3601 et seq) – Requires fair housing practices in the sale or rental of housing, and zoning and planning by localities.

The National Environmental Policy Act of 1969, Pub. L. No. 91-190, 83 Stat. 852 (1969) (42 U.S.C. § 4321) – Requires the preparation of environmental impact statements for major federal agency actions affecting the human environment. Under NEPA, federal agencies and federal aid recipients are required to consider several alternative actions, including the “no-action” alternative, and to consider social, environmental and economic impacts, public involvement.

Title IX of the Education Amendments of 1972, Pub. L. No. 92-318, 86 Stat. 374 (1972) (20 U.S.C.A. § 1682) – makes financial assistance available to institutions of higher education.

Transportation Equity Act for the 21st Century, Pub. L. No. 105–178, 112 Stat. 107 (1999) (codified in part at 23 U.S.C. § 101) – in part, mandates expenditures in federally assisted transportation programs through Disadvantaged Business Enterprises.

EXECUTIVE ORDERS

E.O. 12250, 28 C.F.R. Pt. 41, App. A (1980) – Orders DOJ Leadership and Coordination of Nondiscrimination Laws.

E.O. 12259, 46 Fed. Reg. 1253 (1980) – Orders HUD Leadership and Coordination of Federal Fair Housing Programs.

E.O. 12898, 59 Fed. Reg. 7629 (1994) – Orders Federal actions to address Environmental Justice in minority populations and low-income populations.

E.O. 13160, 65 Fed. Reg. 39775 (2000) – Orders nondiscrimination on the basis of race, sex, color, national origin, disability, religion, age, sexual orientation, and status as a parent in federally conducted education and training programs.

E.O. 13166, 65 Fed. Reg. 50121 (2000) – Orders Federal agencies and their recipients to improve access to federally sponsored programs for persons with Limited English Proficiency (LEP).

E.O. 13175, 65 Fed. Reg. 218 (2000) – Orders Consultation and Coordination with Indian Tribal Governments.

REGULATIONS

23 C.F.R. §200 – FHWA’s Title VI Program Implementation and Review Procedures.

23 C.F.R. Part 420.121(h) – part of FHWA’s planning regulations that specify the applicability of Title VI of the 1964 Civil Rights Act and Restoration Act of 1987 to FHWA funded planning and research activities.

23 C.F.R. Part 450 –Federal Highway Administration’s Statewide and Metropolitan Planning Regulations.

23 C.F.R. Part 450.316(b) (2) & (3) – requires that the metropolitan planning process be consistent with Title VI of the 1964 Civil Rights Act and the recipient’s Title VI Assurances.

23 C.F.R. Part 633, Subpart A – specifies required contract provisions to be included in all Federal-aid construction contracts under Title VI and other federal provisions.

23 C.F.R. Part 633, Subpart B, Appendix A – specifies the types of contracts to which Title VI of the 1964 Civil Rights Act applies.

23 C.F.R. Part 771.105(f)—FHWA’s Policy on Title VI – expands on 23 C.F.R. 200.7 and names categories covered with wording similar to Title VI of the Civil Rights Act of 1964 – race, color, national origin, age, sex, handicap.

28 C.F.R. Part 35 – DOJ regulations governing nondiscrimination on the basis of disability in State and local government services.

28 C.F.R. Part 41 – Requires DOJ to coordinate the implementation of Section 504 of the Rehabilitation Act, and provides guidelines for determining discretionary practices.

28 C.F.R. Part 42, Subpart C – DOJ’s implementation of Title VI of the Civil Rights Act of 1964.

28 C.F.R. Part 42.200, Subpart D – “Nondiscrimination in Federally assisted Programs – Implementation of Section 815 (c) (1) of the Justice System Improvement Act of 1979” –implements E.O. 12138.

28 C.F.R. Part 50.3 – DOJ’s guidelines for the enforcement of Title VI, Civil Rights Act of 1964.

49 C.F.R. Part 21 – DOT’s implementation of Title VI of the Civil Rights Act of 1964.

49 C.F.R. Part 24 – DOT’s implementation of the Uniform Relocation and Real Property Acquisition Act for Federal and federally assisted programs requiring compliance with Nondiscrimination Statutes and Executive Orders.

49 C.F.R. Part 25 – DOT’s implementation of Title IX of the Education Amendments Act of 1972.

49 C.F.R. Part 26 – DOT’s implementation of Participation by Disadvantaged Business Enterprises in DOT Financial Assistance Programs.

49 C.F.R. Part 27 – DOT’s implementation of Section 504 of the Rehabilitation Act of 1973 as amended.

49 C.F.R. Part 28 – Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation.

49 C.F.R. Part 37 – Transportation Services for Individuals with Disabilities, implementing the transportation and related provisions of Title II and III of the ADA proscriptions included in Form FHWA 1273.

ADMINISTRATIVE GUIDANCE

DOT Order 1000.12 – Implementation of the Department of Transportation Title VI Program.

DOT Order 1050.2 – Standard Title VI Assurances.

DOT Order 5610.2 – U.S. Department of Transportation Order to Address Environmental Justice in Minority Populations and Low-Income Populations.

FHWA Order 4710.1 – Right-of-Way Title VI Review Program.

FHWA Order 4710.2 – Civil Rights Compliance Reviews of Location Procedures.

FHWA Order 4720.6 – Civil Rights Restoration Act of 1987 in FHWA Programs.

FHWA Order 6640.23 – Actions to Address Environmental Justice in Minority Populations and Low- Income Populations.

Joint FHWA/FTA Memorandum dated October 7, 1999 – Guidance on Implementing Title VI in Metropolitan and Statewide Planning.

DOJ Policy Guidance Document dated January 11, 2002 – Memo re: E.O. 13166, Improving Access to Services for persons with Limited English Proficiency.

DOJ Policy Guidance Document dated January 18, 2002 – Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons.

DOT Policy Guidance Document dated December 14, 2005 – Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient (LEP) persons.

FTA C 4702.1B (October 1, 2012) –“Title VI Requirements and Guidelines for Federal Transit Administration Recipients.” Provides FTA financial assistance recipients with guidance on implementing Title VI regulations.

Appendix B: Memorandum of Understanding

AGREEMENT BETWEEN THE MORGANTOWN / MONONGALIA COUNTY
TRANSPORTATION PLANNING ORGANIZATION AND THE STATE OF WEST
VIRGINIA, DEPARTMENT OF TRANSPORTATION FOR URBAN TRANSPORTATION
PLANNING AND TRANSPORTATION PROGRAMS

The Morgantown / Monongalia County Transportation Planning Organization, (AGENCY), a Metropolitan Planning Organization (MPO) created pursuant to the designation of the Morgantown, West Virginia area as an Urbanized Area as a result of the 2000 Census, and in accordance with the Transportation Equity Act for the 21st Century (TEA-21), having its principal offices at 386 Spruce Street, Morgantown, West Virginia 26506 and the State of West Virginia, Department of Transportation (WVDOT) having its principal offices at 1900 Kanawha Boulevard East, Charleston, West Virginia 25305, as of the 1st day of July, 2003 agree, covenant, and contract as follows:

SECTION I: PURPOSE

The purpose of this Agreement is to implement 23 U.S.C §134 and 49 U.S.C. §1607, as may be amended, requiring designation of an MPO for the Morgantown, West Virginia Urbanized Area and for such MPO to conduct a continuing, cooperative, and comprehensive urban transportation planning process, including corridor and subarea studies, for the metropolitan area, hereinafter referred to as the "PROCESS". The PROCESS is to result in plans and programs that consider all transportation modes and supports metropolitan community development and social goals. These plans and programs shall lead to the development and operation of an integrated, intermodal transportation system that facilitates the efficient, economic movement of people and goods. It is the intent of the parties hereto that the PROCESS shall be carried forward on a continuing basis.

The further purpose of this Agreement is to conduct the transportation programs described in the exhibits to this Agreement, under the terms and provisions agreed to and as defined in those exhibits. Said exhibits are made a part hereof, and incorporated by this reference as if fully rewritten herein.

SECTION II: MPO DESIGNATION

WVDOT acting on behalf of West Virginia's Governor Bob Wise, hereby designates the Policy Committee of the Morgantown Area Transportation Study, as the Morgantown / Monongalia County Transportation Planning Organization for the Morgantown, West Virginia Urbanized Area. The Policy Committee is hereby delegated the authority and responsibility for the direction, coordination and administration of the PROCESS. Consistent with 23 CFR Part 450.306(i), the Policy Committee shall be comprised of representatives of the county, all municipalities, and operators of publicly owned transit services within the "AREA" (as defined in Section III), as

enumerated in an Agency PROSPECTUS.

This Policy Committee, as the forum for cooperative transportation decision making, shall be comprised of at least 51% locally elected officials.

The Policy Committee shall be assisted by a Technical Advisory Committee comprised as enumerated in the PROSPECTUS.

SECTION III: MPO BOUNDARY

The parties agree, the PROCESS will be conducted for the area consisting of Monongalia County, West Virginia, including the incorporated municipalities therein, which is hereinafter referred to as the "AREA", or as may be modified by mutual consent of the signatories to this Agreement. As a minimum, without need for additional written consent of the signatories to this Agreement, the AREA will consist of the Urbanized Area as defined by the U.S. Bureau of the Census and the contiguous geographic area(s) likely to be urbanized within the 25 year forecast period covered by the Transportation Plan (23 CFR Part 450.308(a)), except as may be located within the jurisdiction of another Metropolitan Planning Organization. The AGENCY shall prepare an official map of the AREA for approval by the Policy Committee and submit the same to WVDOT.

SECTION IV: TRANSPORTATION PLANNING PROCESS PRODUCTS AND SERVICES

Annually, the AGENCY shall prepare a WORK PROGRAM and budget describing the planning process and associated programs and activities to be performed under this Agreement, with the cost relating to individual work elements and the source of funding thereof. Such WORK PROGRAM and budget shall be approved by the Policy Committee, WVDOT, and other state and federal agencies as necessary, prior to the first day of July of each fiscal year. The WORK PROGRAM is made a part hereof, and incorporated by reference as if fully rewritten herein.

Specifically, the WORK PROGRAM and budget shall record the AGENCY's progress in developing and keeping current the following items, as further described in 23 CFR Part 450, as may be amended:

1. A PROSPECTUS describing the AGENCY'S organizational structure, committee bylaws, and the work to be performed in the conduct of the PROCESS. The PROSPECTUS shall document the interagency agreements and describe the respective agency roles and responsibilities for conducting the PROCESS and transportation related air quality planning.
2. A Transportation Plan, with a 25 year planning horizon, resulting from the PROCESS.
3. A biennially updated Transportation Improvement Program resulting from the PROCESS.
4. A formally adopted Public Involvement Process providing for early and continuing involvement activities in the performance of the PROCESS.
5. A semi-annual Progress Report of events, developments and accomplishments resulting

from the PROCESS.

SECTION V: COORDINATION

The AGENCY shall secure agreements of cooperation with the County, all incorporated municipalities, and the Operators of Publicly Owned Transit Services, within the AREA for carrying forward the PROCESS. If any of these entities is unwilling or unable to participate in the continuation of the PROCESS, a determination shall be made by the parties hereto as to whether the percentage of the AREA or population affected is such as to negate an effective PROCESS for the entire AREA; such determination shall be submitted by WVDOT to the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) for concurrence.

The AGENCY will make provisions for operators of other major modes or systems of transportation (airports, maritime ports, rail operators, freight operators) operating within the AREA, to participate in the PROCESS.

In areas designated as nonattainment or maintenance for mobile source pollutants under the Clean Air Act, the AGENCY shall secure agreements with the State and local air quality agencies describing the respective roles and responsibilities for addressing transportation related air quality planning in the performance of the PROCESS. If the AREA does not include the entire nonattainment or maintenance area, there shall be an agreement among the MPO, WVDOT, the State air quality agency, and other affected local agencies describing the procedures for determining the transportation conformity of the MPO Transportation Plan and Transportation Improvement Program, in accordance with the U.S. EPA Conformity Rule (40 CFR parts 51 and 93).

The AGENCY acting for itself and as agent for the County and each of the incorporated municipalities within the AREA shall continue the PROCESS for the AREA in conformance with the approved urban transportation planning PROSPECTUS and WORK PROGRAM describing the continued treatment of the elements of the PROCESS, both of which are made a part hereof, and incorporated by this reference as if fully rewritten herein, or as the same may be modified by the AGENCY with the prior approval of WVDOT in accordance with this Agreement.

SECTION VI: TIME OF PERFORMANCE

Approval of the WORK PROGRAM and budget by WVDOT shall constitute authorization to proceed. This Agreement may be terminated by either party to this Agreement upon written notice to the other party. Any such written notice of termination shall include the terminating party's reasons for electing to terminate this Agreement, and the terminating party shall send such written notice of termination by registered U.S. Mail not less than ninety (90) days prior to the effective date of termination.

This Agreement is subject to the determination by WVDOT that sufficient funds have been allocated for the purposes of this Agreement. If WVDOT determines that sufficient funds have not been allocated for the purposes of this contract, this Agreement will terminate on the date that the funding expires without any further obligation by either party.

SECTION VII: COMPENSATION

The approved WORK PROGRAM and budget therein referenced in Section IV shall determine the total compensation to be reimbursed by WVDOT to the AGENCY for professional and technical services in accordance with the terms and conditions specified in this Agreement and the Exhibits. Prior to the beginning of each fiscal year, the WORK PROGRAM and budget shall be provided to WVDOT and other state and federal agencies for their approval. Upon receipt of the WORK PROGRAM and budget, WVDOT will determine the degree of eligibility for participation in the cost of various work elements. The approved WORK PROGRAM and budget shall determine the total compensation to be reimbursed by WVDOT to the AGENCY for professional and technical services in accordance with the terms and conditions specified in this Agreement including any Exhibits attached hereto.

The AGENCY shall obtain and provide the local funds to finance its share of the work contemplated by this Agreement. The AGENCY shall initially pay all costs of the work performed.

Reimbursement for AGENCY WORK PROGRAM expenses funded through this Agreement will be based on AGENCY initiated actual expense invoices. The AGENCY shall submit periodic billings, not more frequently than monthly, to WVDOT for reimbursement for those charges which are eligible for reimbursement in accordance with WVDOT's Standard Operating Procedure as may be modified. Said Standard Operating Procedures is made a part hereof, and incorporated by this reference as if fully rewritten herein.

WVDOT shall process the AGENCY's invoices within a reasonable period, normally 30 days, following submission and shall be obligated to pay the AGENCY that amount determined by WVDOT to be eligible for payment by WVDOT; or, if the invoice is not acceptable, WVDOT shall promptly provide the AGENCY a clear statement regarding its ineligibility, or the deficiencies to be eliminated prior to acceptance and processing.

In no instance shall reimbursement payments for the cost of the work to be performed exceed the maximum cost shown in the approved WORK PROGRAM and budget without prior approval of WVDOT. Any expenditure in excess of the budget, without prior written approval from WVDOT, will be the exclusive responsibility of the AGENCY.

No expenditure shall be included in the cost of the work performed and no part of any funds reimbursed to the AGENCY shall be used by the AGENCY for expenditures or charges that are (1) contrary to the provisions of this Agreement, (2) not directly related to the work performed, or (3) incurred without the consent of WVDOT after written notice or the suspension or termination of any or all of the AGENCY's obligation under this Agreement.

In the event that funding generally made available to WVDOT by the U.S. DOT is limited either in scope or magnitude, WVDOT reserves the right to mutually negotiate with the AGENCY, a revision to this Agreement as an alternative to termination.

SECTION VIII: AUDIT

The AGENCY shall have an audit performed on an annual basis in accordance with the U.S. Office of Management and Budget Circular A-133 and WVDOT's Guidelines, as each may be

modified, and any other applicable regulation. Completion or termination of this Agreement shall not alter this obligation.

SECTION IX: INSPECTION OF WORK

As often as deemed necessary by WVDOT, or U.S. DOT, the AGENCY shall permit WVDOT, or U.S. DOT, or both, or any of their duly authorized representatives, upon reasonable notice, provide proper facilities for the review and inspection of the work performed under this Agreement and any records in support of the work performed. This will include provision for office space for WVDOT's representative. The AGENCY shall include in all its subcontracts under this Agreement a provision that WVDOT, U.S. DOT, or any of their duly authorized representatives, shall have full access to and the right to examine any pertinent books, documents, papers, and records of any contractor involving transactions related to this Agreement for three years from the final payment under this Agreement.

SECTION X: PERSONNEL

The AGENCY represents that it has, or will secure, all personnel required to perform the services under this Agreement. The AGENCY shall submit to WVDOT a listing of such personnel, salary ranges, and man-hours allocated to each Work Element in the approved WORK PROGRAM and budget to WVDOT. All services required in the approved WORK PROGRAM will be performed by the AGENCY or by its subcontractors. None of the AGENCY's personnel or any of its subcontractors may be employees of WVDOT.

SECTION XI: REPORTS, INFORMATION, AND RIGHTS IN DATA

The AGENCY's progress in completing the WORK PROGRAM will be monitored through semiannual AGENCY Progress Reports. Each Progress Report shall include a narrative description and financial expenditure summary, for each Work Element in the approved WORK PROGRAM and budget. WVDOT and U.S. DOT will review the Progress Reports to assure the AGENCY is making satisfactory progress toward meeting the WORK PROGRAM commitments to justify reimbursement payments. If the Progress Reports demonstrate the AGENCY is not satisfactorily advancing a WORK PROGRAM product or activity, WVDOT will notify the AGENCY in writing and work with the AGENCY to identify corrective actions. The Agency will have one month from the date of WVDOT's written notification to begin good faith efforts to correct the deficiency. Whenever WVDOT and the AGENCY are unable to agree on corrective actions and the situation is such, in the opinion of WVDOT, that it indicates there has been gross malfeasance, misfeasance, or nonfeasance by the AGENCY, WVDOT may withhold funds until the AGENCY takes corrective actions.

Publication of reports is limited to those shown in the approved WORK PROGRAM unless otherwise authorized by WVDOT or U.S. DOT and only after satisfactory resolution of all comments made by WVDOT or U.S. DOT. Acknowledgment of the cooperative effort of appropriate parties shall be made in each report; for example "Prepared in cooperation with the U.S. Department of Transportation's Federal Highway Administration and Federal Transit Administration, the West Virginia Department of Transportation, and local communities."

A disclaimer statement, where appropriate and requested by WVDOT shall also be included; for

example "The contents of this report reflect the views of the AGENCY/author, which is responsible for the facts and accuracy of the data presented herein. The contents do not necessarily reflect the official view and policies of WVDOT and/or the U.S. Department of Transportation. This report does not constitute a standard specification or regulation."

The foregoing limitations are not applicable to dissemination of data necessary to perform a service function of the AGENCY such dissemination of data shall be made in accordance with the AGENCY's established policy contained in the approved WORK PROGRAM.

The ownership of all data, drawings, charts, etc. which are prepared or produced under this Agreement, shall be vested in the parties to this Agreement. Such drawings, data, charts, etc. shall be retained in the quarters of the producing party or parties unless the transfer to the other parties is necessary for further processing or use.

No material produced in whole or in part under this Agreement shall be subject to copyright in the United States or in any other country, and no other property right of any kind shall arise from any activity carried out pursuant to this Agreement. It is the intention that all rights hereunder shall be irrevocably vested in WVDOT and U.S. DOT. WVDOT and U.S. DOT shall have unrestricted authority to publish, disclose, distribute, and otherwise use, in whole or in part, any reports, data, or other materials prepared under this Agreement.

The patent rights provisions of 41 CFR 1-9.1 regarding rights to inventions are made a part hereof, and incorporated by this reference as if fully rewritten herein.

SECTION XII: NON-DISCRIMINATION

To effectuate Title VI of the Civil Rights Act of 1964, the following notice to contractor's compliance with Title VI of the Civil Rights Act of 1964 for federal aid contracts applies.

During the performance of this Agreement, the AGENCY for itself, its assignees, and successors in interest agrees as follows:

1. Compliance with Regulations: The AGENCY will comply with the regulations of the U.S. Department of Transportation relative to nondiscrimination in federally-assisted programs of the Department of Commerce, Title 49, Code of Federal Regulations, Part 21, (REGULATIONS), which are made a part hereof, and incorporated by this reference as if fully rewritten herein.
2. Nondiscrimination: The AGENCY, with regard to the work performed by it after the award of this contract work and prior to its completion, will not discriminate on the grounds of race, color, or national origin, in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The AGENCY will not participate either directly or indirectly in the discrimination prohibited by Section 8.4 of the REGULATIONS, including employment practices when the contract covers the program set forth in Appendix A-11 of the REGULATIONS.
3. Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations, either by competition or negotiation, made by the AGENCY for work to be

- performed under a contract, including procurement of materials or equipment, each potential subcontractor or supplier shall be notified by the AGENCY of the AGENCY's obligations under this Agreement and the REGULATIONS relative to nondiscrimination on the grounds of race, color, or national origin.
4. Information and Reports: The AGENCY will provide all information and reports required by the REGULATIONS, or any orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by WVDOT, the FHWA, or FTA to be pertinent to ascertain compliance with such REGULATIONS, orders, and instructions. Where any information required of an AGENCY is in the exclusive possession of another who fails or refuses to furnish this information, the AGENCY shall certify to WVDOT, FHWA, or FTA, as appropriate such fact about another's possession of information, and such certification shall set forth what efforts the AGENCY has made to obtain the information.
 5. Sanctions for Noncompliance: In the event of the AGENCY's noncompliance with the nondiscrimination provisions of this contract, WVDOT shall impose such contract sanctions as WVDOT, the FHWA, or FTA may determine to be appropriate, including but not limited to:
 - a. Withholding any payments to the AGENCY under the agreement until the AGENCY complies, and/or
 - b. Cancellation, termination, or suspension of the agreement in whole or in part.
 6. Incorporation of Provisions: The AGENCY shall include the provision of the five preceding paragraphs in every subcontract including procurement of materials and leases of equipment unless exempt by the REGULATIONS, orders or instructions issued pursuant thereto. The AGENCY will take such action with respect to any subcontracts or procurement as WVDOT, the FHWA or FTA may direct as a means of enforcing such provisions, including sanctions for noncompliance, provided, however, that in the event the AGENCY becomes involved in, or is threatened with litigation with a subcontractor or supplier as a result of such direction, the contractor may request WVDOT to enter such litigation to protect the interest of WVDOT, and, in addition, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

SECTION XIII: DISADVANTAGED BUSINESS ENTERPRISE

It is the policy of the U.S. Department of Transportation that disadvantaged business enterprises as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds under this Agreement. Consequently, the DBE requirements of 49 CFR Part 26 apply to this Agreement.

The AGENCY agrees to ensure that disadvantaged business enterprises as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal funds provided under this Agreement. In this regard all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that minority business enterprises have the maximum opportunity to compete for

and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of federally assisted contracts.

SECTION XIV: RESTRICTION OF GIFTS

The AGENCY, its officers, representatives, agents, subcontractors or employees agree not to give any gift of money or other thing of value, or gratuity in any form whatsoever to any employee of WVDOT or the U.S. DOT, or any of their respective agents, representatives, or relatives.

SECTION XV: PROHIBITED INTEREST

No member, officer, or employee of WVDOT shall have any personal interest, direct or indirect, in this Agreement or the proceeds thereof.

SECTION XVI: INTEREST OF MEMBERS OF CONGRESS

No member of the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefits arising therefrom.

SECTION XVII: DRUG-FREE WORKPLACE

The AGENCY agrees to comply with all applicable state and federal laws regarding drug-free workplace. The AGENCY shall make a good faith effort to ensure that all AGENCY employees, while working will not purchase, transfer, use or possess illegal drugs or alcohol, or abuse prescription drugs in any way.

SECTION XVIII: CONDUCT, ETHICS AND INTEGRITY

The AGENCY is prohibited from engaging in activities which may create, or be perceived to create, conflicts of interest, either real or apparent, in compliance with all federal and state ethics laws. The AGENCY must not have engaged, or be engaged currently in behavior which has threatened or potentially threatens the integrity of federally-assisted and administered programs. Further, the AGENCY, certifies by its signature hereto that to the best of its knowledge, information, and belief, that it will not engage, or otherwise employ or utilize or award contracts to contractors that, or have principals who:

1. Are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or State of West Virginia department or agency;
2. Within a three year period immediately preceding the date on which this Agreement was executed have been convicted of or had a civil judgement against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public transaction or contract under public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;

3. Are presently indicted for or otherwise criminally or civilly charged by a government entity with commission of any of the offenses enumerated in paragraph 2 above; or

4. Within a three year period immediately preceding the date on which this Agreement was executed have had one or more public transactions terminated for cause or default. The AGENCY certifies or affirms the truthfulness and accuracy of the contents of the statements submitted by this certification and understands that the provisions of 31 U.S.C. Sections 3801 et seq., are applicable thereto.

SECTION XIX: RESTRICTIONS ON LOBBYING

The AGENCY agrees to comply with the provisions of 31 U.S.C. Section 1352, which prohibit the use of federal funds to lobby any official or employee of any federal agency, or member or employee of Congress; and to disclose any lobbying activities in connection with federal funds.

The AGENCY certifies by its signature hereto that:

1. No funds appropriated by the United States have been paid or will be paid by or on behalf of the AGENCY, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with awarding of any federal contract, making any federal grant, making any federal loan, entering into any cooperative agreement, and extending, continuing, renewing, amending or modifying of any federal contract, grant, loan or cooperative agreement.

2. If funds, other than those appropriated by the United States, have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the AGENCY shall complete and submit Standard Form "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The AGENCY shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance will be placed when this Agreement is made or entered into. The AGENCY's certification is a prerequisite, imposed by 31 U.S.C. Section 1352, for making or entering into this Agreement. Any agency that fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

SECTION XX: SAVE HARMLESS

The AGENCY shall save WVDOT and all other governmental agencies absolutely harmless against all claims and liabilities arising from any acts or omissions of the AGENCY or its contractors, subcontractors, agents, or employees.

SECTION XXI: DISPUTES

The AGENCY agrees that all disputes concerning questions of fact in connection with the work and not otherwise disposed of by the specific terms of this Agreement or by mutual agreement among the parties hereto shall be resolved as follows:

The AGENCY shall notify WVDOT in writing within 60 days following any determination by WVDOT, which in the estimation of the AGENCY is in material conflict with facts concerning the subject matter. In such notification, the AGENCY shall present evidentiary matters as may support the AGENCY's position and shall request a review of said previous determination. Within a reasonable period of time, WVDOT shall cause the circumstances and facts be reappraised for the purposes of re-determination.

The AGENCY hereby agrees that WVDOT will decide such questions which may arise including, for example, the quality or acceptability of materials furnished and work performed, the rate of progress of the work, the acceptable fulfillment of the agreement on the part of the AGENCY, matters concerning compensation, and all other matters in dispute relating to facts in connection with this Agreement and the services or work to be performed thereunder.

SECTION XXII: COMPLIANCE WITH LAWS AND PERMITS

The AGENCY shall give all notices and comply with all existing and future federal, state and municipal laws, ordinances, rules regulations, and orders of any public authority bearing on the performance of this Agreement, including but not limited to, the laws referred to in these provisions of this Agreement and the other documents. If the agreement documents are at variance therewith in any respect, any necessary changes shall be incorporated by appropriate modification. Upon request, the AGENCY shall furnish to WVDOT certificates of compliance with all such laws, orders, and regulations.

SECTION XXIII: COUNTERPARTS

This Agreement may be executed in more than one (1) counterpart, and each counterpart shall be deemed and considered an original instrument for any and all purposes.

SECTION XXIV: CHANGE OR MODIFICATION

This Agreement constitutes the entire agreement and contract between the contracting parties, and no variance or modification thereof shall be valid and enforceable, except by supplemental agreement in writing, executed and approved in the same manner as this Agreement.

IN WITNESS WHEREOF, the parties hereto have hereunto set their signatures by their respective officers or officials.

Attest:



Morgantown / Monongalia County
Transportation Planning Organization



Attest:




Executive Assistant to
Deputy Commissioner

West Virginia Department of Transportation



DEPUTY SECRETARY/DEPUTY
COMMISSIONER

APPROVED AS TO FORM THIS
3rd DAY OF July 2005

ATTORNEY LEGAL DIVISION
WEST VIRGINIA DEPARTMENT
OF TRANSPORTATION
DIVISION OF HIGHWAYS

Appendix C: Table of Minority Representation on Boards

Minority Representation on the MMMPO Board and Committees

Body	Total	Black/ African American	Hispanic	Asian
MPO Policy Board	11	0	0	0
Technical Advisory Committee	10	1	0	0
Citizens Advisory Committee	9	0	0	0

Appendix D: Complaint Forms

Complaint Form

Section I:				
Name:				
Address:				
Telephone (Home):			Telephone (Work):	
Electronic Mail Address:				
Accessible Format Requirements?	Large Print		Audio Tape	
	IDD		Other	
Section II:				
Are you filing this complaint on your own behalf?			Yes*	No
*If you answered "yes" to this question, go to Section III.				
If not, please supply the name and relationship of the person for whom you are complaining:				
Please explain why you have filed for a third party:				
Please confirm that you have obtained the permission of the aggrieved party if you are filing on behalf of a third party.			Yes	No
Section III:				
I believe the discrimination I experienced was based on (check all that apply):				
<input type="checkbox"/> Race <input type="checkbox"/> Color <input type="checkbox"/> National Origin				
<input type="checkbox"/> Other Protected Class _____				
Date of Alleged Discrimination (Month, Day, Year): _____				
Explain as clearly as possible what happened and why you believe you were discriminated against. Describe all persons who were involved. Include the name and contact information of the person(s) who discriminated against you (if known) as well as names and contact information of any witnesses.				

Section IV:		
Have you previously filed a Title VI complaint with this agency?	Yes	No
Section V:		
Have you filed this complaint with any other Federal, State, or local agency, or with any Federal or State court?		
<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, check all that apply: <input type="checkbox"/> Federal Agency: _____ <input type="checkbox"/> Federal Court _____ <input type="checkbox"/> State Agency _____ <input type="checkbox"/> State Court _____ <input type="checkbox"/> Local Agency _____		
Please provide information about a contact person at the agency/court where the complaint was filed.		
Name:		
Title:		
Agency:		
Address:		
Telephone:		
Section VI:		
Name of agency complaint is against:		
Contact person:		
Title:		
Telephone number:		

You may attach any written materials or other information that you think is relevant to your complaint.

Signature and date required below

Signature

Date

Please submit this form to the Morgantown Monongalia MPO Title VI Coordinator at:

J. William B. Austin, AICP
 Executive Director
 Morgantown Monongalia MPO
 82 Hart Field Road Suite 105
 Morgantown, WV 26505
 (304)291-9571

Formulario de Quejas

Sección I:			
Nombre:			
Dirección:			
Teléfono (Hogar):		Teléfono (Trabajo):	
Correo Electrónico:			
Requisitos de formato accesible	Tipografía grande		Cinta de audio
	TDD		Otro
Sección II:			
¿Está presentando esta queja en su propio nombre?		Sí*	No
* Si su respuesta es "sí" a esta pregunta, vaya a la Sección III.			
Si su respuesta es "no", por favor provea el nombre y la relación de la persona por la que usted está sometiendo esta querrela:			
Por favor explique por qué usted ha sometido una querrela por otra persona:			
Por favor confirme que ha obtenido permiso de la parte perjudicada si usted está sometiendo la queja a nombre de otra persona.		Sí	No
Sección III:			
Creo que la discriminación que experimenté estuvo basada en (marque todas las respuestas correspondientes):			
<input type="checkbox"/> Raza <input type="checkbox"/> Color <input type="checkbox"/> Origen Nacional			
<input type="checkbox"/> Otra Clase Protegida _____			
Fecha de la discriminación alegada (día, mes, año): _____			
<p>Explique lo más claramente posible lo que sucedió y por qué cree que experimentó discrimen. Describa a todas las personas que estuvieron involucradas. Incluya el nombre y la información de contacto de la(s) persona (s) que discriminó o discriminaron contra usted (si se conoce), así como los nombres y la información de contacto de cualquier testigo(s).</p>			

Sección IV:		
¿Ha presentado una queja del Título VI con esta agencia previamente?	Sí	No
Sección V:		
¿Ha presentado esta queja previamente con cualquier otra agencia federal, estatal o local, o con cualquier corte federal o estatal?		
<input type="checkbox"/> Sí <input type="checkbox"/> No		
Si su respuesta es "sí", marque todas las entidades correspondientes:		
<input type="checkbox"/> Agencia Federal _____		
<input type="checkbox"/> Corte Federal _____ <input type="checkbox"/> Agencia Estatal _____		
<input type="checkbox"/> Corte Estatal _____ <input type="checkbox"/> Agencia Local _____		
Por favor provea información sobre una persona de contacto en la agencia / tribunal donde se presentó la queja.		
Nombre:		
Título:		
Agencia:		
Dirección:		
Teléfono:		
Sección VI:		
Nombre de la agencia en contra de quien es la queja:		
Punto de contacto:		
Título:		
Teléfono:		

Usted puede adjuntar cualquier material escrito u otra información que crea que es relevante a su queja.

Su firma y la fecha se requieren a continuación

Firma

Fecha

Por favor envíe este formulario al Coordinador de Título VI a:

J. William B. Austin, AICP
 Executive Director
 Morgantown Monongalia MPO
 82 Hart Field Road Suite 105
 Morgantown, WV 26505
 (304)291-9571
 baustin@labyrinth.net

Appendix E: Public Notice

Title VI Notice to the Public

In order to comply with 49 CFR Section 21.9(d), MMMPO shall provide information to the public regarding their Title VI obligations and apprise members of the public of the protections against discrimination afforded to them by Title VI. For more information on MMMPO's nondiscrimination obligations, contact MMMPO's Title VI Coordinator, William B. Austin at baustin@labyrinth.net or (304)291-9571. The paragraph below will be inserted into all significant publications that are distributed to the public. The text will be placed permanently on the MMMPO website and in public areas of MMMPO's offices.

"The Morgantown Monongalia Metropolitan Planning Organization (MMMPO) fully complies with Title VI of the Civil Rights Act of 1964 and related statutes and regulations prohibiting discrimination in all programs and activities. For more information, or to file a Title VI related complaint, see www.plantogether.org or call (304)291-9571."

Any individual, group of individuals, or entity that believes he/she, they, or it have been subjected to discrimination prohibited by Title VI may file a formal complaint with MMMPO's Title VI Coordinator by completing MMMPO's Title VI Complaint Form and mailing it to Morgantown Monongalia MPO,

82 Hart Field Road Suite 105 Morgantown, WV 26505. A formal complaint must be submitted in writing within 180 calendar days of the alleged occurrence or when the alleged discrimination became known to the complainant. MMMPO will process complaints that are complete.

1. Once the complaint is received, MMMPO will acknowledge receipt of the complaint within 5 business days and will review it to determine if MMMPO has jurisdiction. The Complainant will receive an acknowledgement letter informing her/him whether the complaint will be investigated by MMMPO. MMMPO has 30 days to investigate the complaint.

2. If more information is needed to resolve the case, MMMPO may contact the Complainant. The Complainant has 30 business days from the date of the letter to send requested information to MMMPO's Title VI Coordinator. If the Title VI Coordinator is not contacted by the Complainant or does not receive the additional information within 30 business days, MMMPO can administratively close the case. A case can also be administratively closed if the Complainant no longer wishes to pursue their case.

3. After the Title VI Coordinator reviews the complaint, she/he will issue one of two letters to the

Complainant: a closure letter or a letter of finding (LOF). A closure letter summarizes the allegations and states that there was not a Title VI violation and that the case will be closed. An LOF summarizes the allegations and details plans for remedial actions to provide redress. The written response shall be issued no later than 90 calendar days after the date the complaint is received.

4. If the Complainant wishes to appeal the decision, she/he has 30 days after the date of the LOF to do so. A person may also file a complaint directly with the Federal Transit Administration, at FTA Office of Civil Rights, 1200 New Jersey Ave., SE, Washington, DC 20590; or with the Federal Highway Administration, at

FHWA Office of Civil Rights, Chief Investigations and Adjunction, 400 7th Street SW, Room 4132, Washington DC 20590; or with the appropriate state agency at the following:



WV Department of Transportation

EEO Division

1900 Kanawha Boulevard, East Building 5 Room 948 A Charleston, WV 25305

Telephone: 304-558-3931

Appendix F: List of Investigations

LIST OF TRANSIT-RELATED TITLE VI INVESTIGATIONS, COMPLAINTS, AND LAWSUITS (GENERAL REQUIREMENT)

Background

All recipients shall prepare and maintain a list of any of the following that allege discrimination on the basis of race, color, or national origin:

- Active investigations conducted by FTA and entities other than FTA;
- Lawsuits; and
- Complaints naming the recipient.

This list shall include the date that the transit-related Title VI investigation, lawsuit, or complaint was filed; a summary of the allegation(s); the status of the investigation, lawsuit, or complaint; and actions taken by the recipient in response, or final findings related to the investigation, lawsuit, or complaint. This list shall be included in the Title VI Program submitted to FTA every three years.

The sample below is provided for the purposes of guidance only.

	Date (Month, Day, Year)	Summary (include basis of complaint: race, color, or national origin)	Status	Action(s) Taken
Investigations				
1.				
2.				
Lawsuits				
1.				
2.				
Complaints				
1.				
2.				

Appendix G: Definitions and Acronyms

DEFINITIONS

Beneficiary – any person or group of persons (other than States) entitled to receive benefits, directly or indirectly, from any federally assisted program, i.e., relocates, impacted citizens, communities, etc.

Citizen Participation – an open process in which the rights of the community to be informed, to provide comments to the Government, and to receive a response from the Government are met through a full opportunity to be involved in the process and express the community’s needs and goals.

Compliance – condition that exists when a Recipient has effectively implemented all Title VI requirements and can demonstrate that there is no evidence of discrimination.

Deficiency Status – the interim period during which the Recipient has been notified of deficiencies, but has not voluntarily complied with Title VI.

Discrimination – the act or action, whether intentional or unintentional, through which a person in the United States, solely because of race, color, religion, sex, or national origin, has been otherwise subjected to unequal treatment under any program or activity receiving financial assistance from the Federal Highway Administration under Title 23 U.S.C.

Disparate Impact -results when rules and laws have a different and more inhibiting effect on women and minority groups than on the majority because of race, color, national origin, gender, disability or age. This type of discrimination occurs when a neutral procedure or practice results in fewer services or benefits, or inferior services or benefits, to members of a protected group such as minorities or low- income populations. With disparate impact, the focus is on the consequences of a decision, policy or practice rather than on the intent.

Environmental Justice – to avoid, minimize, or mitigate disproportionately high and adverse human health and environmental 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 the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations.

Facility – includes all, or any part of, structures, equipment or other real or personal property, or interests therein, and the provision of facilities, including the construction, expansion, renovation, remodeling, alteration or acquisition of facilities.

Federal Assistance – includes:

- 1.) Grants and loans of Federal funds,
- 2.) The grant or donation of Federal property and interests in property,

- 3.) The detail of Federal personnel,
- 4.) The sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the Recipient, or in recognition of the public interest to be served by such sale or lease to the Recipient and,
- 5.) Federal agreement, arrangement, or other contract which has, as one of its purposes, the provision of assistance.

Limited English Proficient – an individual who does not speak English as a primary language and has limited ability to read, speak, write or understand English.

Minority - Blacks, not of Hispanic origin; Hispanics; Asians or Pacific Islanders; American Indians or Alaskan Natives.

Non-compliance – the condition that exists when a Recipient has failed to meet prescribed requirements and has shown an apparent lack of “Good Faith Effort” in implementing all or some of the Title VI requirements.

Persons – where designation of persons by race, color, or national origin is required, the following designations ordinarily may be used: “White not of Hispanic origin”, “Black not of Hispanic origin”, “Hispanic”, “Asian or Pacific Islander”, “American Indian or Alaskan Native.” Additional subcategories based on national origin or primary language spoken may be used, where appropriate, on either a national or regional basis.

Person with a Disability -any person who: (a) has a physical or mental impairment which substantially limits one or more major life activities; (b) has a record of such an impairment; or (c) is regarded as having such an impairment.

Program – includes any project or activity for the provision of services, financial aid, or other benefits to individuals. This includes education or training, work opportunities, health, welfare, rehabilitation, housing, or other services, whether provided directly by the Recipient of Federal financial assistance or provided by others through contracts or other arrangements with the Recipient.

Protected Category – includes all categories of persons protected from discrimination under Title VI, including race, color, national origin, sex, age, disability, and income status.

Racial/Ethnic Identification – a person may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than one racial/ethnic category. The following group categories will be used:

- 1.) The category white, (not of Hispanic origin); All persons having origins in any of the

- original peoples of Europe, North Africa, the Middle East, or the Indian Subcontinent.
- 2.) The category black (not of Hispanic origin); All persons having origins in any of the Black racial groups.
 - 3.) The category Hispanic; All persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.
 - 4.) The category Asian or Pacific Islanders: All persons having origins in any of the original peoples of the Far East, Southeast Asia, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa.
 - 5.) The category American Indian or Alaskan Native: All persons having origins in any of the original peoples of North America.

Recipient – any State, territory, possession, the District of Columbia, Puerto Rico, or any political subdivision, or instrumentally thereof, or any public or private agency, institution, or organization, or other entity, or any individual, in any State, territory, possession, the District of Columbia, or Puerto Rico, to whom Federal assistance is extended, either directly or through another Recipient, for any program. Recipient includes any successor, assignee, or transferee thereof. The term Recipient does not include any ultimate beneficiary under any such program.

Secretary – the Secretary of Transportation as set forth in 49 CFR 21.17(g) (3) or the Federal Highway Administrator to whom the Secretary has delegated his/her authority in specific cases.

State Highway Agency – the department, commission, board, or official of any State charged by its laws with the responsibility for highway construction. The term State would be considered equivalent to State Highway Agency if the context so implies.

Timetable – a measure relating to calendar days.

Title VI Compliance Review - an evaluation and determination of a nonexempt direct Federal or Federal- Aid Recipient's compliance with the equal opportunity requirements established in the Authorities listed in Section II of this document.

Title VI Program – the system of requirements developed to implement Title VI of the Civil Rights Act of 1964. References in this part to Title VI requirements and regulations shall not be limited to only Title VI of the Civil Rights Act of 1964. Where appropriate, this term also refers to the civil rights provisions of the other Federal related statutes to the extent they prohibit discrimination on the grounds of race, color, national origin, sex, disability, and age in programs receiving Federal financial assistance.

Title VI Coordinator – MMMPO employee whose principal function is to direct the management of the Title VI Program to include developing policies, practices, procedures, and equal opportunity initiatives. The Title VI Officer provides direct support to the reviewing officers assigned to various departments within COG/TPB.

ACRONYMS

CAC Citizens Advisory Committee

CFR Code of Federal Regulations

CLRP Constrained Long Range Plan

EIS Environmental Impact Statement

EJ Environmental Justice

EO Equal Opportunity

E.O. Executive Order

FHWA Federal Highway Administration

FTA Federal Transit Administration

ISTEA Intermodal Surface Transportation Efficiency Act of 1991

LEP Limited English Proficiency

MARC Maryland Area Regional Commuter

MDOT Maryland Department of Transportation

MPO Metropolitan Planning Organization

MTA Maryland Transit Administration

NEPA National Environmental Policy Act

NTP Notice to Proceed

SAFETEA-LU Safe, Accountable, Flexible, Efficient Transportation Equity Act; A Legacy for Users

SIP State Implementation Plan (air quality)

TEA-21 Transportation Equity Act for the 21st Century

TERMs Transportation Emissions Reductions Measures

TIP Transportation Improvement Program

USC United States Code

USDOJ United States Department of Justice

USDOL United States Department of Labor

USDOT United States Department of Transportation

WVDOT West Virginia Department of Transportation