

# Southwest Michigan Planning Commission



## Title VI Non-Discrimination Plan

**December 15, 2020**

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Southwest Michigan Planning Commission  
Title VI Non-Discrimination Plan

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## **Section I: Introduction**

This document will serve as the Southwest Michigan Planning commission's policy and action on any and all Title VI Non-discrimination activities.

### **Historical Sketch and Overview**

#### **Planning and Development Region IV**

The Southwest Michigan Planning Commission (SWMPC) is one of 14 Regional Planning and Development Regions created in 1968 by Governor George Romney. This step was taken in response to a growing number of federal programs (housing, water quality, economic development, and transportation) that recognized the area-wide nature of many problems. The regional boundaries were established as a consistent geographic area upon which not only planning activities, but also the delivery of services could be based. Berrien, Cass, and Van Buren Counties were established as "Planning and Development Region IV."

The Southwest Michigan Planning Commission was organized officially in 1973 by resolutions of the Boards of Commissioners of Berrien, Cass, and Van Buren Counties, but was not formally staffed until 1974. The organization was known as the Southwestern Michigan Regional Planning Commission. Prior to that time, Berrien and Cass Counties were members of the Michiana Area Council of Governments, based in South Bend, and serving communities in both Michigan and Indiana at that time. Van Buren County had no regional affiliation.

The original board was made up of county commissioners and mayors. Over the years, additional representation has been added from townships and the general public, with the intent of having a representation that reflects a variety of special interests, ethnic diversity, and that meets the District designation requirements of the U.S. Economic Development Administration.

#### **SWMPC – Evolving to meet Regional needs**

As the membership of the Board has evolved since 1974, so has the mix of programs offered by the Commission. Originally, SWMPC was conceived as an organization that would complete those planning documents necessary to retain the eligibility of Southwestern Michigan's communities for federal funding. The member communities worked together to develop sets of policies and procedures governing the location of sewer and water treatment systems, transportation facilities, publicly funded housing, comprehensive planning, and other related activities.

The Commission's second phase of evolution began in the late 1970's after the majority of the policy planning documents had been developed. Although regional planning and development regions have no implementation powers, the Commission chose to move from the policy planning stage to the development of implementation plans. Specifically, this movement entailed building consensus among the area communities for specific projects, which would lead to the realization of the policies previously adopted. Among the products of the second phase process were the Criminal Justice Training Program, the activities of the Southwestern Michigan Business Promotion Program, the development of the Southwestern Michigan Tourist Council (now an independent organization), and the implementation of well-log mapping projects in the three counties.

At approximately the same time, a series of outside decisions began to have an impact on the provision of services in southwestern Michigan and elsewhere. As the late 1970's and early 1980's progressed, federal funding was reduced for a number of program areas. This reduction came at a time when inflation made provision of services increasingly expensive, and applied not only to planning activities but technical services as well. Thus, SWMPC took on a number of activities designed to lessen the impact of such funding reductions on Southwestern Michigan. These activities took several forms. A management agreement was begun with the Human Resources Commission in which the Commission provided staff services for administering substance abuse services programs. This was accomplished at a reduction of approximately 15 percent in administrative costs. At the same time, the Commission began seeking contracts to provide planning and management services to other agencies and units of government. Among these activities were the administration of coastal management grants and projects on behalf of Hagar Township, the City of Bridgman and others; provision of planning services to Berrien County Action, Inc.; and the staffing of the Southwestern Michigan Development Company, Inc.

It was during this period that Southwestern Michigan Regional Planning Commission voted to change its name to Southwestern Michigan Commission. This action was taken in recognition of the fact that the Commission had become less a planning body and more of a management, administration, and contract agency.

The third evolution of the SWMPC came in 1982 when the Commission experienced a substantial downsizing. At this time, the organization returned to its role of planning and coordination. The late 1980's brought requests for assistance in grant writing, grant management, policy planning and other similar activities to be conducted on behalf of agencies and local units of government. A "Local Technical Assistance Program" was formalized in 1987.

Another evolutionary phase has been the one reflecting the Age of Information and Technology, which has fostered the incorporation of computers and their applications in areas affecting the operations of the Commission. The collection of the substance abuse service provider's raw data was the first phase of computerization, followed by the accounting system. By the early 90's, every staff person was assigned a desktop system. The necessary hardware and software to create maps via geographic information systems was obtained in 1990. Also during this time the Commission became a designated Census Information Center. The SWMPC established a library that included print as well as CD ROM material, in response to providing information becoming a key role of the Commission.

The millennium finds SWMPC in an age of collaboration and co-partnering brought on by shrinking resources and more need. The Commission co-sponsors workshops, and is a participant in many discussion or work groups relating to various topics. The topics generally relate to the continuing program areas that the Commission undertakes such as transportation, economic development, land use/growth management, solid waste, and resource management. Essentially, this is an age of much greater demands on time while few new funding sources are available.

Within the last decade, the SWMPC underwent changes brought about by implementation of a new transportation planning process and its emphasis on greater technical support. A strategy was developed to incorporate that support within the Information Center of the agency in order to efficiently serve all agency programs and outside users of our planning and information services. Eventually this information role led to the development of the website. An important role in writing and administering

Community Development Block Grants also continues. New grant programs added in 2000 were the Rideshare coordination program and the US 31 Corridor Preservation Project. Rideshare continues and other transit projects have become part of overall efforts to benefit residents beyond the Metropolitan Planning Organizations.

Another name change occurred in January 2004 with the adoption of Southwest Michigan Planning Commission. However, the change was not fully implemented with a new logo, stationery, and website until April 2007.

### **Beyond our Borders**

Watershed planning for the St. Joseph, Dowagiac, Galien, and Paw Paw Rivers has led to collaboration with neighboring counties and national environmental organizations. Oversight of Heritage Routes US 12 and I-69 have been assigned to SWMPC as well as development of a nine county non-motorized map and plan. The Commission participates in Great Lakes watershed activities as well as economic and transportation endeavors of interstate interest.

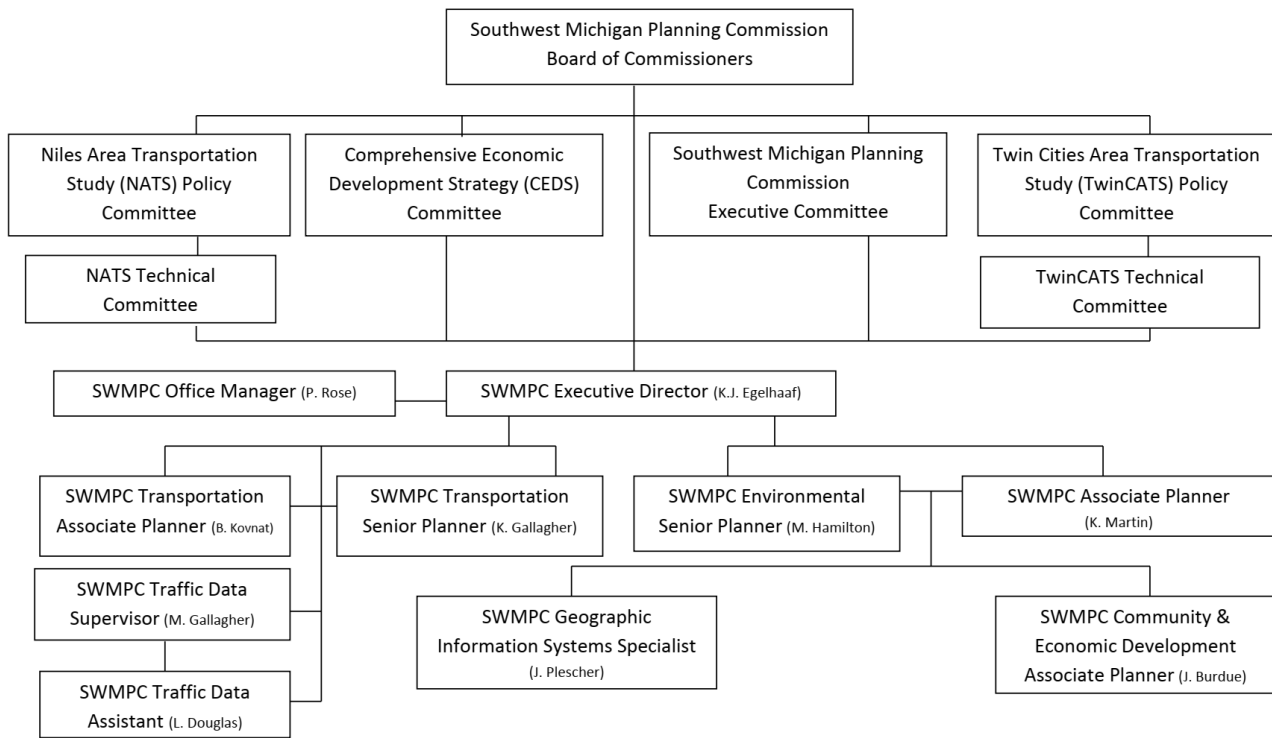
### **Public Participation**

SWMPC is committed to an engagement model that fosters shared problem-solving and supportive partnerships. The main goal of SWMPC's public participation is to ensure that the actions undertaken by SWMPC reflect the wishes and best interests of the public.

To support the commitment described above, SWMPC makes the following promises to the public and our partners.

- Allow everyone to have meaningful input in the planning process
- Respect all people and all ideas
- Seek out feedback on our actives so we can continuously improve our processes
- Make special efforts to involve persons and groups typically under-represented in planning or with special needs, including low-income, minority, elderly, and disabled populations
- Make providing feedback simple and easy
- Make all efforts for our plans to reflect the feedback from the public
- Treat the public as an equal partner in our process
- Continuously update our public participation methods based on public feedback and effectiveness

# SWMPC Organizational Structure-2020



## Non-Discrimination Policy Statement

SWMPC is committed to compliance with Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, and all related regulations and statutes. Section 601 of Title VI of the Civil Rights Act of 1964 declares it to be the policy of the United 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”. Consistent with this policy, and in accordance with section 602 of Title VI, codified as amended at 42 U.S.C. § 2000d-1, the Department of Justice promulgated regulations prohibiting recipients of federal funds from “utilizing criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respects individuals of a particular race, color, or national origin.” 28 C.F.R. § 42.104(b)(2). The United States Department of Transportation later promulgated nearly identical regulations - See 49 C.F.R. § 21.5(b)(vii) (2).

Since the Civil Rights Act of 1964, other nondiscrimination laws have been enacted to expand the range and scope of Title VI coverage and applicability:

THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970 - which prohibits unfair and inequitable treatment of persons displaced or whose property will be acquired as a result of federal and federal-aid programs and projects.

THE FEDERAL AID HIGHWAY ACT OF 1973 - which states that no person shall, on the grounds of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal assistance under this title or carried on under this title.

SECTION 504 OF THE REHABILITATION ACT OF 1973 - which states that no qualified disabled person shall, solely by reason of his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity that receives or benefits from federal financial assistance. This Act protects qualified individuals from discrimination based on their disability.

THE AGE DISCRIMINATION ACT OF 1975 - which states that no person shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. This act prohibits age discrimination in Federally Assisted Programs.

THE CIVIL RIGHTS RESTORATION ACT OF 1987, P.L.100-209 amends Title VI of the 1964 Civil Rights Act - which made it clear that discrimination is prohibited throughout an entire agency if any part of the agency receives federal assistance.

THE AMERICAN DISABILITIES ACT (ADA) OF 1990 - which prohibits discrimination against people with disabilities in employment, transportation, public accommodation, communications, and governmental activities.

Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency -



which requires each federal agency to examine its programs and activities and to develop and to implement plans by which LEP persons can meaningfully access those programs and activities.

23 CFR PART 200 – Federal Highway Administration regulations Title VI Program and Related Statutes – which address Implementation and Review Procedures.

SWMPC assures that no person or groups(s) of persons shall, on the grounds of race, color, sex, age, national origin, disability/ handicap, and income status, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs, services, or activities administered by the SWMPC, regardless of whether those programs and activities are federally funded or not.

SWMPC 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, SWMPC will provide meaningful access to services for persons with Limited English Proficiency.

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

SWMPC Title VI Coordinator - current Executive Director - is responsible for initiating and monitoring Title VI activities, preparing reports and other responsibilities as required by 23 Code of Federal Regulations (CFR) 200 and 49 CFR 21.

**Title VI Coordinator:** K. John Egelhaaf, Executive Director  
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Signature

K. John Egelhaaf, Executive Director

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Date

*Resolution of Support can be found in Attachment A*

## Title VI Assurances

The Southwest Michigan Planning Commission (SWMPC) in the State of Michigan (hereinafter referred to as the Recipient) HEREBY AGREES THAT, as a condition to receiving any federal financial assistance from the U. S. Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 42 U.S.C. 2000d-4 (hereinafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted Programs of the U.S. Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the Regulations), and other pertinent directives to the end that, in accordance with the Act, regulations, and other pertinent directives, no person in the United States shall, on the grounds of race, color, sex, age, national origin, disability/handicap, or income status, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance through the Michigan Department of Transportation, including the U.S. Department of Transportation and the Federal Highway Administration; and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement. This assurance is required by Subsection 21.7(a)(1) of the Regulations.

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

1. That the Recipient agrees that each “program” and each “facility,” as defined in Subsections 21.23(e) and 21.23(b) of the Regulations, will be (with regard to a “program”) conducted, or will be (with regard to a “facility”) operated in compliance with all requirements imposed by, or pursuant to, the Regulations.

2. That the Recipient shall insert the following notification in all solicitations for bids for work or materials subject to the regulations and made in connection with the Federal-aid Highway Program and, in adapted form, in all proposals for negotiated agreements:

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

3. That the Recipient shall insert the clauses of Attachment B of this assurance in every contract subject to the Act and the Regulations.

4. That the Recipient shall insert the clauses of Attachment C of this assurance, as a covenant running with the land, in any deed from the United States effecting a transfer of real property, structures, or improvements thereon, or interest therein.

5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the assurance shall extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the assurance shall extend to rights to space on, over, or under such property.
7. That the Recipient shall include the appropriate clauses set forth in Attachment D of this assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Recipient with other parties: (a) for the subsequent transfer of real property acquired or improved under the Federal-aid Highway Program; and (b) for the construction or use of, or access to space on, over, or under, real property acquired or improved under the Federal-aid Highway Program.
8. That this assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property or interest therein, or structures or improvements thereon, in which case the assurance obligates the Recipient or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the Recipient retains ownership or possession of the property.
9. The Recipient shall provide for such methods of administration for the program as are found by the Secretary of Transportation, or the official to whom he or she delegates specific authority, to give reasonable guarantee that it, other recipients, sub-grantees, contractors, subcontractors, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed by or pursuant to the Act, the Regulations, and this assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and this assurance.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all federal grants, loans, contracts, property, discounts, or other Federal financial assistance extended after the date hereof to the Recipient by the U.S. Department of Transportation under the Federal-aid Highway Program and is binding on it, other recipients, sub-grantees, 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.

Recipient: Southwest Michigan Planning Commission

\_\_\_\_\_  
Signature

K. John Egelhaaf, Executive Director

\_\_\_\_\_  
Date

## **Title VI Authorities**

Title VI of the Civil Rights Act of 1964, 42 USC 2000d to 2000d-4; 42 USC 4601 to 4655; 23 USC 109(h);

**Title VI of 1964 Civil Rights Act** and related statutes (as amended) provides that no person in the United States shall, on the grounds of race, color, national origin, limited English proficiency, sex, disability, creed, or age be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal assistance (23 CFR 200.9 and 49 CFR 21). Related statutes have broadened the grounds to include low income.

**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 and activities of Federal Aid recipients, sub-recipients, and contractors, whether such programs and activities are federally assisted or not (Public Law 100-259 [S.557] March 22, 1988).

**Federal Aid Highway Act of 1973, 23 USC 324:** No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal assistance under this title or carried on under this title.

**Age Discrimination Act of 1975, 42 USC 6101:** No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving federal financial assistance.

**Americans With Disabilities Act of 1990 PL 101-336:** No qualified individual with a disability shall, by reason of his/her disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination by a department, agency, special purpose district or other instrumentality of a state or local government.

**Section 504 of the Rehabilitation Act of 1973:** No qualified individual with a disability shall, solely by reason of his/her disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity that receives or benefits from federal assistance.

### **Additional Authorities and Citations**

Department of Transportation Order 1050.2; Executive Order 12250, Executive Order 12898 (Environmental Justice); 28 Code of Federal Regulation 50.3; and Executive Order 13166 (LEP)

## **Section II: Non-Discrimination Responsibilities**

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

1. Process the disposition of Title VI complaints received by SWMPC.
2. Collect Statistical data (race, color, sex, age, disability, or national origin) of participants in and beneficiaries of state highway programs, e.g. affected citizens and impacted communities.
3. Conduct annual Title VI reviews to determine the effectiveness of program activities at all levels.
4. Conduct Title VI reviews of consultant contractors and other recipients of federal-aid highway fund contracts administered through the SWMPC.
5. Review SWMPC program directives. Where applicable, include Title VI language and related requirements.
6. Conduct training programs on Title VI and other related statutes for SWMPC employees and recipients of federal highway funds. Post a copy of the Title VI Plan on the SWMPC website. Post the Title VI Plan on employee bulletin boards at SWMPC worksite. Inform all employees that a copy of the Title VI Plan is available upon request. Instruct all new employees about the Title VI Plan during orientation.
7. Prepare a yearly report of Title VI accomplishments and goals, as required.
8. Develop Title VI information for dissemination to the general public and, where appropriate, in languages other than English. Post the Title VI Plan on the SWMPC website.
9. Conduct post-grant reviews of SWMPC programs and applicants for compliance with Title VI requirements.
10. Identify and take corrective action to help eliminate discrimination.
11. Establish procedures to promptly resolve identified Title deficiencies. Document remedial actions agreed to be necessary. Provide remedial actions within 90 days of identification of a deficiency.

## **Title VI Coordinator Contact Information**

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## **Prevention of Discrimination**

Procedures will be implemented to detect and eliminate discrimination when found to exist, including, but not limited to issues of accessibility of training to all qualified SWMPC employees, utilization of Minority/Women/Disadvantaged Business Enterprises (DBE) contractors, public involvement and material acquisition.

## **Data Collection**

Statistical data on race, color, national origin, sex, and other pertinent demographics of participants in, and beneficiaries of SWMPC programs, i.e. impacted citizens and affected communities, will be gathered by SWMPC staff and submitted to the Title VI Coordinator. All SWMPC program areas and activities will maintain data to be included in the Title VI Annual Update. The data gathering process will be reviewed regularly to ensure sufficiency of meeting the requirements of the Title VI program administration.

## **Training Program**

Title VI training will be made available to SWMPC staff on an annual basis. After the 2020 Title VI Plan meets approval from the necessary agencies, SWMPC will have a training session to highlight the Plan's benchmarks that SWMPC has set. The training will provide comprehensive information on Title VI provisions, its application to the program operations, identification of Title VI issues and resolution of complaints. A summary of training received will be reported in the annual update.

- Employee Title VI Training Form - Attachment E
- Receipt of Title VI Plan Form - Attachment E

## **Annual Reports**

The Executive Director will be responsible for ensuring that the following annual reporting measures are sent to program oversight agencies, such as the Michigan Department of Transportation's Title VI designated coordinator by October 1 of each year. All programs will be reviewed annually to assess effectiveness in their compliance of Title VI provisions. This is in addition to the day-to-day monitoring. The Executive Director of SWMPC will coordinate efforts to ensure the equal participation in all their activities and programs at all levels. MDOT will be notified of any complaint filed at the SWMPC involving Title VI issues.

- MDOT Title VI Program or Activity Annual Certification Form - Attachment F
- Title VI Accomplishments for the reporting year

## **Section III: Remedial Action & Complaints**

### **Remedial Actions**

The SWMPC will actively pursue the prevention of any Title VI deficiencies or violations and will take the necessary steps to ensure compliance through a program review with the program administrative requirements. If irregularities occur in the administration of the programs operation, procedures will be promptly implemented to resolve Title VI issues and reduce to writing remedial action agreed to be necessary, all within a period not to exceed 90 days.

Programs or activities placed in deficiency status will be given reasonable time, not to exceed 90 days after receipt of the deficiency letter, to voluntarily correct the deficiencies.

SWMPC will seek cooperation of those conducting the program or activity in correcting any deficiencies found during the review. SWMPC will also provide the technical assistance and guidance needed to aid those conducting the program or activity to comply voluntarily.

When those conducting the program or activity fail or refuse to voluntarily comply with requirements within the time frame allotted, SWMPC will submit to the primary funding agency, or appropriate oversight agency, two copies of the case file and a recommendation that that program or activity be found in noncompliance.

A follow-up review will be conducted within 180 days of the initial review to ensure that those conducting the program or activity have complied with the Title VI Plan requirements in correcting deficiencies previously identified.

## Complaint Procedures

If any individual believes that they or any other program beneficiaries have been subjected to unequal treatment or discrimination as a recipient of benefits and/or services, or on the grounds of race, color, national origin, sex, disability, creed or age they may exercise the right to file a complaint with SWMPC. SWMPC has developed the following process:

These procedures cover all complaints filed under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Civil Rights Restoration Act of 1987, and the Americans with Disabilities Act of 1990, relating to any program or activity administered by the Southwest Michigan Planning Commission as to sub-recipients, consultants, contractors, or other persons or entities associated with the ongoing work of the SWMPC.

Intimidation or retaliation of any kind is prohibited by law.

Every effort will be made to obtain early resolution of complaints at the lowest level possible. The option of informal mediation meeting(s) between the affected parties and the Title VI Coordinator may be utilized for resolution. Further, these procedures do not deny the right of the complainant to file formal complaints with other state or federal agencies or to seek private counsel for complaints alleging discrimination.

### ***1. Filing a Complaint***

Any individual, group of individuals or entity that believes they have been subjected to discrimination prohibited by Title VI non-discrimination provisions may file a written complaint with SWMPC. A formal complaint must be filed within **180 calendar days** of the alleged occurrence. If the complainant could not reasonably be expected to know that discrimination had occurred, an additional 60 days are permitted.

### ***2. Complaint Forms***

Complaint forms are available from the SWMPC website ([www.swmpc.org](http://www.swmpc.org)) and in the SWMPC reception area of the office. A copy of the complaint form can be found in Attachment C of this document.

- ✓ Forms must be signed by complainant or legal representative.
- ✓ Assistance may be given by staff or other available individual in filling out form.
- ✓ The Original Complaint Form must be signed and sent to SWMPC Office – by mail or hand delivered.
- ✓ If the Complaint is filed by email or fax, the Original Complaint Form **MUST** be mailed or hand delivered to SWMPC.
- ✓ Original signed Complaint Forms will be delivered to the Title VI Coordinator



### **3. *Complaint Procedure***

Upon receipt of the complaint, SWMPC will determine its jurisdiction, acceptability, and need for additional information. In cases where the complaint is against SWMPC or one of its programs or activities of federal funds, SWMPC will forward the complaint to the Title VI oversight office of the proper funding agency such as the Michigan Department of Transportation Office of Equal Opportunity. Additionally, a copy of the complaint will be forwarded to SWMPC attorney for review.

If a complaint is against an agency that SWMPC does not have jurisdiction over, contact will be made with the appropriate agency and the complaint sent to their civil Rights office. The complainant will be advised that this action has been taken.

### **4. *Complaint Collection***

A date stamped copy will be filed in the Southwest Michigan Planning Commission Title VI Complaint binder in the reception area. Copies of related materials will be attached as produced. Electronic copies will also be made and saved within the main SWMPC electronic storage. Either of these filings will be available upon request. A summary of complaints received will be compiled annually and included in any required reports.

- A copy of the signed form will be sent to the appropriate primary funding source's Civil Rights office within 10 business days.
- A letter of acknowledgment will be sent to the complainant within 10 business days.
- Response from the investigative agency will be provided to the complainant. Any action directed by that agency will be implemented.
- Appeals will be available according to the primary funding source's regulations.

### **5. *Complaint Resolution***

SWMPC will comply with whatever the primary funding source agency's Title VI requirements and response procedures. A full outline of the Michigan Department of Transportation's Title VI Complaint Procedures can be found in Attachment D. MDOT's Title VI Non-Discrimination Plan can be found by visiting [http://www.michigan.gov/mdot/0,4616,7-151-9621\\_31783---,00.html](http://www.michigan.gov/mdot/0,4616,7-151-9621_31783---,00.html).

## Section IV: Contracts

The following nondiscrimination clauses are included in SWMPC Requests for Proposals and other solicitations for submission, subject to requirements by the Michigan Department of Transportation.

DBE – The Southwest Michigan Planning Commission, in accordance with Title VI of the Civil Rights Act of 1964 and 78 Stat. 252, 42 USC 2000d – 42 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.

The following nondiscrimination clauses are included in FTA-funded procurements or where DBE is otherwise assessed:

DBE Assurance – The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

The following nondiscrimination clauses are included in SWMPC contracts and sub-grant agreements:

- Civil Rights Requirements – 29 U.S.C. § 62, 42 U.S.C. § 2000, 42 U.S.C. § 602, 42 U.S.C. § 12112, 42 U.S.C. § 12132, 49 U.S.C. § 5332
- Nondiscrimination – In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and all other provisions of Federal law, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations.

- Equal Employment Opportunity – The following equal employment opportunity requirements apply to the underlying contract:

- Race, Color, Creed, National Origin, Sex – In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” 41 CFR Parts 60 et seq., (which implement Executive Order No. 11246, “Equal Employment Opportunity”, as amended by Executive Order No. 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” as amended by Executive Order No. 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” 42 U.S.C. § 2000e note), and with any applicable Federal Statutes, executive orders, regulations, and Federal policies that may in the future affect activities undertaken in the course of this Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements the funding federal agency may issue.
- Age – In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and other applicable law, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements the funding federal agency may issue.
- Disabilities – In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act”, 29 CFR Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements the funding federal agency may issue.

The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal Assistance, modified only if necessary to identify the affected parties.

## Section V: Limited English Proficiency Plan

### Plan Summary

The purpose of this Limited English Proficiency Policy guidance is to clarify the responsibilities of recipients of federal financial assistance from the U.S. Department of Transportation (DOT) and assist them in fulfilling their responsibilities to Limited English Proficient (LEP) persons, pursuant to Title VI of the Civil Rights Act of 1964 and implementing regulations. It was prepared in accordance with Title VI of the Civil Rights Act of 1964, 42 U.S.C 2000d, et seq., and implementing regulations provided that no person shall be subjected to discrimination on the basis of race, color, or national origin under any program or activity that receives federal financial assistance.

#### Executive Order 13166

Executive Order 13166 “improving Access to Services for Persons with Limited English Proficiency,” reprinted at 65 FR 50121 (August 16, 2000), directs each Federal agency that is subject to the requirements of Title VI to publish guidance for its respective recipients clarifying that obligation. Executive Order 13166 further directs that all such guidance documents are consistent with the compliance standards and framework detailed in the Department of Justice’s (DOJ’s) Policy Guidance entitled “Enforcement of Title VI of the Civil Rights Act of 1964-National Origin Discrimination against Persons with Limited English Proficiency.” (See 65 FR 20123, August 16, 2000 DOJ’s General LEP Guidance). Different treatment based upon a person’s inability to speak, read, write, or understand English maybe a type of national origin discrimination.

Executive Order 13166 applies to all federal agencies and all programs and operations of entities that receive funding from the federal government, including state agencies, local agencies such as the Southwest Michigan Planning Commission and government, private and non-profit entities, and sub-recipients.

**LEP Coordinator:** K. John Egelhaaf, Executive Director  
376 W. Main St., Suite 130  
Benton Harbor, MI 49022  
Phone: 269-925-1137 x 1512  
Fax: 269-925-0288  
Email: [egelhaafj@swmpc.org](mailto:egelhaafj@swmpc.org)

SWMPC has developed this LEP plan to help identify reasonable steps to provide language assistance for LEP persons seeking meaningful access to SWMPC services as required by Executive Order 13166. A LEP person is one who does not speak English as their primary language and who has limited ability to read, speak, write, or understand English.

This plan details procedures on how to identify a person who may need language assistance, the ways in which assistance may be provided, training staff, how to notify LEP persons that assistance is available, and information for future plan updates.

In developing the plan while determining the extent of obligation for SWMPC to provide LEP services, a U.S. Department of Transportation four factor LEP analysis was undertaken. It considers the following:

1. The number or proportion of LEP persons eligible in SWMPC's service area who maybe served or likely to encounter a SWMPC program, activity, or services
2. The frequency with which LEP individual come in contact with SWMPC services
3. The nature and importance of the program, activity or service provided by SWMPC to the LEP population
4. The resources available to SWMPC and overall costs to provide LEP assistance

## Four Factor Analysis

- 1. Determine the number of LEP persons eligible to be served or likely to be encountered by a program, activity, or service.**

### Population by Race in Southwest Michigan

|  | <b>Berrien</b> | <b>Cass</b> | <b>Van Buren</b> | <b>Total</b> | <b>Percentage</b> |
|--|----------------|-------------|------------------|--------------|-------------------|
| Total Population                                 | 154,807        | 51,460      | 75,272           | 281,539      | 100%              |
| Non-Hispanic White                               | 115,938        | 44,351      | 61,212           | 221,501      | 78.7%             |
| Hispanic   | 7,336          | 1,790       | 6,832            | 15,958       | 5.7%              |
| Black or African American alone                  | 22,572         | 2,533       | 2,371            | 27,476       | 9.8%              |
| American Indian and Alaska Native alone          | 605            | 555         | 302              | 1,462        | 0.5%              |
| Asian alone                                      | 3,032          | 434         | 495              | 3,961        | 1.4%              |
| Native Hawaiian and Other Pacific Islander alone | 38             | 21          | 28               | 87           | 0.0%              |
| Some other race alone                            | 223            | 71          | 66               | 360          | 0.1%              |
| Two or More Races                                | 5,063          | 1,705       | 3,966            | 10,734       | 3.8%              |

Source: ACS 2018

### Languages Spoken in Southwest Michigan by Population 5 and Older

|                                    | Berrien |            | Cass   |            | Van Buren |            |
|------------------------------------|---------|------------|--------|------------|-----------|------------|
|                                    | People  | Percentage | People | Percentage | People    | Percentage |
| Total Population 5 years and older | 145,729 | 100%       | 48,907 | 100%       | 70,712    | 100%       |
| Only English                       | 134,206 | 92.09%     | 47,351 | 96.82%     | 64,212    | 90.81%     |
| Spanish                            | 5,672   | 3.89%      | 831    | 1.70%      | 5,624     | 7.95%      |
| Indo-European Language             | 3,216   | 2.21%      | 318    | 0.65%      | 510       | 0.72%      |
| Asian or Pacific Islander Language | 1,820   | 1.25%      | 315    | 0.64%      | 300       | 0.42%      |
| Other Language                     | 815     | 0.56%      | 92     | 0.19%      | 66        | 0.09%      |

Source: ACS 2018

### Languages Spoken in Southwest Michigan by Those That Speak English Less Than Very Well

|                                      | Berrien |            | Cass   |            | Van Buren |                     |
|--------------------------------------|---------|------------|--------|------------|-----------|---------------------|
|                                      | People  | Percentage | People | Percentage | People    | Percentage of total |
| Total Population 5 years and older   | 145,729 | 100%       | 48,907 | 100%       | 70,712    | 100%                |
| Speaking English less than very well | 3,691   | 2.53%      | 342    | 0.70%      | 2,640     | 3.73%               |
| Spanish                              | 2,147   | 1.47%      | 199    | 0.41%      | 2,273     | 3.21%               |
| Indo-European Language               | 738     | 0.51%      | 41     | 0.08%      | 162       | 0.23%               |
| Asian or Pacific Islander Language   | 673     | 0.46%      | 86     | 0.18%      | 186       | 0.26%               |
| Other Language                       | 133     | 0.09%      | 16     | 0.03%      | 19        | 0.03%               |

Source: ACS 2018

According to the data gathered from the 2018 American Community Survey 4,619 people within the SWMPC region identified themselves as not being able to speak English very well. Among this Spanish is by far the most common language spoken. Individuals that identified themselves as Spanish speaking in the service area and not being able to speak English “very well” included the following:

- ✓ Berrien County 2,147 people
- ✓ Cass County 199 people
- ✓ Van Buren County 2,273 people

There is sufficient numbers to support offering materials in a second language for some SWMPC activities, especially in the counties of Berrien and Van Buren. SWMPC will do the following:

- If a request is made to make meeting materials available in Spanish 14 business days prior to a meeting-then those meeting materials will be translated into Spanish
- If a request is made at the meeting (the day of the meeting) to provide meeting materials in Spanish, then the SWMPC will have 14 business days to transcribe the meeting materials into Spanish and provide them to the requested party via email or mail. (Note the party requesting materials must provide an email address or mailing address).

## **2. Determine the frequency with which LEP persons come in contact with the program**

SWMPC programs and projects are evaluated in relationship to the number of persons who are within the program or project area and the number of times they frequent the activities. For public meetings, a sign-in sheet has traditionally been used to determine public participation.

Programs, services, and activities of SWMPC that have the potential to impact LEP persons in the SWMPC region include, but are not limited to:

- development activities for the 20-year transportation plan and Transportation Improvement Program, including public engagement meetings and/or hearings;
- SWMPC website presence;
- development activities for the Public Participation Plan and other programs of SWMPC;
- development activities for comprehensive and recreation plans;
- phone and email communications with the SWMPC office; and
- in-person interaction with the SWMPC staff.

## **3. Determine the importance of the program, activity or service to people's lives.**

The plans and programs of SWMPC are considered important to all residents in the service area covered by the specific plan (including LEP persons) because the federally funded services they can expect to utilize in the future are selected for implementation and funding through the SWMPC program.

## **4. Determine the resources available and cost.**

The majority of the 281,539 residents in the SWMPC service area identified themselves as speaking only English (221,501). Those that identified themselves as speaking English less than very well is a small population of 4,619. The population of those not speaking English less than very well is located mainly in Berrien and Van Buren Counties. If a translator is requested for a public meeting, that request must be made 14 business days prior to the meeting. SWMPC's LEP Coordinator will contact the translator resources listed below and make a request for a translator to be available for the requested meeting. Berrien County and Van Buren County has translator resources at the following locations:

### Berrien County

- Andrews University (269) 471-3181 (Berrien Springs)
- Amigos en Accion (269) 461-4181 (Eau Claire)

### Van Buren County

- Connie's Translating Service (269) 424-9952 (Hartford)
- Good Samaritan Baptist Church (269) 427-0110 (Lawrence)

## **Safe Harbor Stipulation**

SWMPC will use the Department of Justice's Safe Harbor provisions for determining circumstances for 'safe harbor' for translations of written materials for LEP populations. LEP populations that constitute 5% or 1,000 persons whichever is less of the total population of persons eligible to be serviced or likely to be affected or encountered, then such action will be considered strong evidence to warrant LEP specific translation services. Translation of non-vital documents, will be provided orally if needed. If there are fewer than 50 persons in the language group that does not reach the 5% trigger, SWMPC will provide translation services as needed.

## **Language Assistance Measures**

### **Tools for Identifying a LEP Person in need of Language Assistance**

Examine records for any language assistance request from past meetings and events to anticipate the possible need for assistance at upcoming meetings.

- When SWMPC or one of its programs or activities host meetings, conferences or workshops, a sign in table staffed by SWMPC staff will greet and briefly speak to each attendee. To informally gauge the attendee's ability to speak and understand English, ask a question that requires a full sentence reply.
- "I Speak Cards" (Attachment I) will be available at these meetings at the sign in table. While staff may not be able to provide translation assistance at the meeting, the cards are an excellent tool to identify language needs for future meetings. The cards available at the office.
- Instruct all SWMPC staff to report any occurrence where they experienced direct or indirect contact with LEP individuals to the LEP Coordinator.

### **SWMPC LEP Assistance**

SWMPC will offer the following LEP procedures to people who have identified themselves as not speaking English at least "well":

- "I Speak Cards" will be located at the front counter at the SWMPC office located at 376 West Main St. Suite 130, Benton Harbor, MI 49022. SWMPC will also include "I Speak Cards" in all meeting binders so when SWMPC staff attends meetings the cards will be readily available.
- If a translator is requested for a public meeting, that request must be made 14 business days prior to the meeting. SWMPC's LEP Coordinator will contact the translator resources listed below and make a request for a translator to be available for the requested meeting.
- If a request is made to make meeting materials available in Spanish 14 business days prior to a meeting-then those meeting materials will be translated into Spanish
- If a request is made at the meeting (the day of the meeting) to provide meeting materials in Spanish, then the SWMPC will have 14 business days to transcribe the meeting materials into Spanish and provide them to the requested party via email or mail. (Note the party requesting materials must provide an email address or mailing address).
- SWMPC website, reading and language translator is currently being developed by the SWMPC's website host and will be available soon.

### **SWMPC Staff Training**

All SWMPC staff will be provided with the LEP Plan and will be educated on procedures to follow. This information will also be part of the staff orientation process for new hires. Training topics are listed below:



- Understanding the Title VI policy and LEP responsibilities;
- What language assistance services SWMPC offers;
- Use of LEP “I Speak Cards”;
- Documentation of language assistance requests;
- How to handle a Title VI and/or LEP complaint

### **Outreach Techniques**

The following are options that SWMPC will incorporate when and/or if the need arises for LEP outreach:

- If staff knows that they will be presenting a topic that could be of potential importance to an LEP person or if staff will be hosting a meeting or workshops in a geographic location with a known concentration of LEP persons, meeting notices, fliers, advertisements, and agenda will be printed in an alternative language, based on known LEP population in the area.
- When running a general public meeting notice, staff will insert the clause, based on the LEP population and when relevant, that translates into **“Documents and meeting materials can be produced in Spanish upon request”**.
- Key printed materials including meeting notices, meeting minutes and meeting documents can be translated into Spanish upon request. This request must be made 14 business days prior to the scheduled meeting or can be made on the date of the scheduled meeting.
- If the request is made on the date of the meeting then SWMPC will have 14 business days to translate all meeting materials into Spanish and email or mail the items to the requested party.

### **Monitoring and Updating the LEP Plan**

This plan is designed to be flexible and be easily updated. At a minimum, SWMPC will follow the Title VI Program update schedule for the LEP Plan. It is expected that major updates will not occur until the full release of the 2010 Census data or unless SWMPC finds it necessary and critical for an update before such time.

Each update should examine all plan components such as:

- ✓ How many LEP persons were encountered?
- ✓ Were their needs met?
- ✓ What is the current LEP population in the SWMPC service area?
- ✓ Has there been a change in the types of languages where translation services are needed?
- ✓ Is there still a need for continued language assistance for previously identified SWMPC programs? Are there other programs that should be included?
- ✓ Have available resources, such as technology and staff changed?
- ✓ Has SWMPC fulfilled the goals for the LEP Plan?
- ✓ Were any complaints received?

## **Dissemination of SWMPC Limited English Proficiency Plan**

SWMPC will include the LEP Plan on the website [www.swmpc.org](http://www.swmpc.org), [www.swmpc.org/transportation.asp](http://www.swmpc.org/transportation.asp), together with its Title VI Policy and Complaint Procedures. The SWMPC Notice of Rights under Title VI to the public will be posted in the office and in selected printed materials also refers to the LEP Plan's availability.

Any person, including social service, nonprofit, and law enforcement agencies and other community partners with Internet access will be able to access the plan.

Copies of the LEP Plan will be provided, on request, to any person(s) requesting the documents via phone, in person, by mail or email. LEP persons may obtain copies/translation of the plan upon request.

### **Community Outreach**

Community Outreach is a requirement of Title VI. As an agency receiving federal financial assistance, the SWMPC has made the following community outreach efforts available and open to the public:

- Conducts bi-monthly (6 times a year) SWMPC Board Meetings -- traditionally on the third Tuesday beginning in February.
- Conducts monthly (12 times a year) Transportation Study Area meetings in Benton Harbor (on the 3<sup>rd</sup> Monday of each month at Kinexus 499 W. Main St. Benton Harbor beginning at 9:30 a.m.) and in Niles (on the 4<sup>th</sup> Tuesday of each month at the Niles District Library Community Room 620 E. Main St. Niles beginning at 1:30 p.m.)
- Has a website [www.swmpc.org](http://www.swmpc.org) listing any and all public meetings including date, time and location that shows the next 30 days worth of events
- Title VI statements are posted on the SWMPC homepage [www.swmpc.org](http://www.swmpc.org) and are also in each employee manual along with availability at the SWMPC office located at 376 W. Main St., Suite 130 Benton Harbor, MI 49022

### **LEP Complaint Procedure**

The LEP Complaint Procedure can be found in Section III of this document. Title VI complaints and LEP Complaints will be handled the same way as outlined in Section III of this document.

Any questions or comments regarding this plan should be directed to:

**LEP Coordinator:** K. John Egelhaaf, Executive Director  
376 W. Main St., Suite 130  
Benton Harbor, MI 49022  
Phone: 269-925-1137 x 1512  
Fax: 269-925-0288  
Email: [egelhaafj@swmpc.org](mailto:egelhaafj@swmpc.org)

## **Attachment A: SWMPC Resolutions of Support for Title VI and LEP Plans**



## **RESOLUTION 2022-5**

### **METROPOLITAN TRANSPORTATION PLANNING PROCESS CERTIFICATION (for Nonattainment and Maintenance Areas)**

In accordance with 23 CFR 450.334, the Michigan Department of Transportation, the Twin Cities Area Transportation Study (TwinCATS), and the Southwest Michigan Planning Commission, the Metropolitan Planning Organization for Benton Harbor-St. Joseph Michigan urbanized area, hereby certify, as part of the TIP submittal, that the transportation planning process is addressing the major issues in the metropolitan planning area and is being conducted in accordance with all applicable requirements of:

- I. 23 U.S.C. 134 and 135, 49 U.S.C. 5303 and 5304, and this part;
- II. Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d-1) and 49 CFR part 21;
- III. 49 U.S.C. 5332, prohibiting discrimination on the basis of race, color, creed, national origin, sex, or age in employment or business opportunity;
- IV. Section 1101(b) of the FAST Act (Pub. L. 114-357) and 49 CFR part 26 regarding the involvement of disadvantaged business enterprises in USDOT funded projects;
- V. 23 CFR part 230, regarding the implementation of an equal employment opportunity program on Federal and Federal-aid highway construction contracts;
- VI. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and 49 CFR parts 27, 37, and 38;
- VII. The Older Americans Act, as amended (42 U.S.C. 6101), prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance;
- VII. 23 U.S.C. 324, regarding the prohibition of discrimination based on gender; and
- IX. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and 49 CFR part 27 regarding discrimination against individuals with disabilities.

Roseann Marchetti  
Roseann Marchetti, Chair  
Southwest Michigan Planning Commission

21 June 2022  
Date

\_\_\_\_\_  
Todd White, Administrator  
Bureau of Transportation Planning

\_\_\_\_\_  
Date



## **RESOLUTION 2022-6**

### **METROPOLITAN TRANSPORTATION PLANNING PROCESS CERTIFICATION (for Nonattainment and Maintenance Areas)**

In accordance with 23 CFR 450.334, the Michigan Department of Transportation, the Niles-Buchanan-Cass Area Transportation Study (NATS), and the Southwest Michigan Planning Commission, the Metropolitan Planning Organization for South Bend, IN - MI urbanized area, Michigan urbanized area, hereby certify, as part of the TIP submittal, that the transportation planning process is addressing the major issues in the metropolitan planning area and is being conducted in accordance with all applicable requirements of:

- I. 23 U.S.C. 134 and 135, 49 U.S.C. 5303 and 5304, and this part;
- II. Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d-1) and 49 CFR part 21;
- III. 49 U.S.C. 5332, prohibiting discrimination on the basis of race, color, creed, national origin, sex, or age in employment or business opportunity;
- IV. Section 1101(b) of the FAST Act (Pub. L. 114-357) and 49 CFR part 26 regarding the involvement of disadvantaged business enterprises in USDOT funded projects;
- V. 23 CFR part 230, regarding the implementation of an equal employment opportunity program on Federal and Federal-aid highway construction contracts;
- VI. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and 49 CFR parts 27, 37, and 38;
- VII. The Older Americans Act, as amended (42 U.S.C. 6101), prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance;
- VII. 23 U.S.C. 324, regarding the prohibition of discrimination based on gender; and
- IX. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and 49 CFR part 27 regarding discrimination against individuals with disabilities.

Roseann Marchetti

Roseann Marchetti, Chair  
Southwest Michigan Planning Commission

21 June 2022

Date

Todd White, Administrator  
Bureau of Transportation Planning

Date



## **Attachment B: Title VI Contract Language**

The following shall be included as part of all SWMPC federally funded contracts to ensure that Title VI provisions and assurances are followed:

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest, (hereinafter referred to as the “contractor”) agrees as follows:

**1. Compliance with Regulations**

The contractor shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter referred to as DOT), Title 49, Code of Federal Regulations, part 21 (hereinafter referred to as the Regulations), as they may be amended from time to time, herein incorporated by reference and made a part of this contract.

**2. Nondiscrimination**

The contractor, with regard to the work performed during the contract, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall not participate either directly or indirectly in discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in the Regulations.

**3. Solicitations for Subcontracts, including Procurement of Materials and Equipment**

In all solicitations either by competitive bidding or negotiations made by the contractor for work to be performed under a subcontract, including procurement of material for leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor’s obligations under this contract and the Regulations relative to nondiscrimination on the ground of race, color, sex, or national origin.

**4. Information and Reports**

The contractor shall provide all information and reports required by the Regulation or directives issue pursuant thereto, and shall permit access to books, records, accounts, other sources of information and its facilities as many be determined by the SWMPC, MDOT, or appropriate Federal Agency to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the MDOT or the appropriate Federal Agency as needed, and shall set forth what efforts it has made to obtain the information.

**5. Sanctions for Noncompliance**

In the event of the contractor’s noncompliance with the nondiscrimination provisions of this contract, the SWMPC shall impose such contract sanctions as the MDOT may determine be appropriate, including, but not limited to:

- i. Withholding of payments to the contractor under contract until the contractor complies and/or
- ii. Cancellation, termination, or suspension of the contract, in whole or in part.



**6. Incorporations of Provisions**

The contractor shall include the provisions of paragraphs one (1) through five (5) in every subcontract, including procurement of materials and leases of equipment, unless exempt by Regulations or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontractor or procurement as the SWMPC, MDOT, or appropriate Federal Agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

## **Attachment C: Transfer of Property**

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

### **Granting Clause**

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

### **Habendum Clause**

TO HAVE AND TO HOLD said lands and interests therein unto the Michigan Department of Transportation, and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and shall be binding on the Michigan Department of Transportation, its successors and assigns. The Michigan Department of Transportation, in consideration of the conveyance of said lands and interest in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person shall on the grounds of race, color, sex, disability, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part, on over, or under such lands hereby conveyed, and\* (2) that the Michigan Department of Transportation, Subtitle A, Office of the Secretary, part 21, Nondiscrimination in Federally assisted programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended, and (3) that in the event of breach of any of the above mentioned nondiscrimination conditions, the Department shall have a right to re-enter said lands and facilities on said land, and the above described land and facilities shall thereon revert to and vest in and become the absolute property of the Department of Transportation and its assigns as such interest existed prior to this inscription.\*

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

## Attachment D: Permits, Leases and Licenses

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

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

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

That in the event of breach of any of the above nondiscrimination covenants, the Michigan Department of Transportation shall have the right to terminate the [license, lease, permit, etc.] and to reenter and repossess said land and the facilities thereon, and hold the same as if said [license, lease, permit, etc.] has never been made or issued.

[Include in deeds] \*

That in the event of breach of any of the above nondiscrimination covenants, the Michigan Department of Transportation shall have the right to reenter said land and facilities thereon, and the above described land and facilities shall thereupon revert to and vest in and become the absolute property of the Michigan Department of Transportation and assigns.

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

## **Attachment E: SWMPC Title VI and LEP Employee Training Form**

I \_\_\_\_\_(insert name) have received a copy of the SWMPC Title VI Plan and Limited English Proficiency Plan. I have had training on the Title VI Plan and LEP Plan contents and what is required to meet the SWMPC Title VI Plan benchmarks. SWMPC Title VI Coordinator K. John Egelhaaf provided training to me on \_\_\_\_\_(insert date). I also acknowledge that I have a copy of the Title VI Plan and LEP Plan in my employee manual.

**Date:**\_\_\_\_\_

**Name:**\_\_\_\_\_  
**Print name here**

**Sign:**\_\_\_\_\_

## Attachment F: SWMPC Title VI Complaint Form

Title VI of the 1964 Civil Rights Act requires that "no person in the United States shall, on the ground of race, color or national origin, sex, disability, creed, or age shall be excluded from participation in, be denied benefit of, or be subjected to discrimination under any program or activity receiving federal financial assistance."

### SWMPC Complaint Procedures

- Complaint forms are available from the website and in the reception area of the office.
- Form must be signed by the complainant or legal representative.
- Assistance may be given by staff or other available individual in filling out form.
- Original signed form must be sent to SWMPC Office -- mailed or hand delivered.
- *The original of a form faxed or submitted electronically must still be provided.*
- Original signed form must be delivered to the SWMPC Title VI Coordinator.
- A copy will be filed in the Southwest Michigan Planning Commission Title VI Complaint binder in the reception area. Copies of related materials will be attached as produced. Electronic copies will be made and saved within the main SWMPC electronic storage. Either of these filings will be available upon request. A summary of complaints received will be compiled annually and included in any required reports.
- A copy of the signed form will be sent to the appropriate primary funding source's Civil Rights office within 10 business days.
- A letter of acknowledgment will be sent to the complainant within 10 business days.
- Response from the investigative agency will be provided to the complainant. Any action directed by that agency will be implemented.
- Appeals will be available according to the primary funding source's regulations.

If you feel you have been discriminated against in any service provided by the Southwest Michigan Planning Commission (SWMPC or "Commission") or any program or activity under the jurisdiction of the Commission, such as, but not limited to, Twin Cities Area Transportation Study (TwinCATS), Niles/Buchanan/Cass Area Transportation Study (NATS), please provide the following information in order to assist us in processing your complaint. Your signed report will be sent to the appropriate primary funding source's Civil Rights office.

**PLEASE PRINT CLEARLY**

\*NAME \_\_\_\_\_  
(Person making complaint)

\*ADDRESS \_\_\_\_\_

\_\_\_\_\_  
*Please include city, state and ZIP code*

Telephone number:  
\_\_\_\_\_ (home) \_\_\_\_\_ (cell) \_\_\_\_\_ (other)

**Complaint Information**

Person(s) discriminated against: \_\_\_\_\_

\_\_\_\_\_  
Address of person(s) discriminated against \_\_\_\_\_

\_\_\_\_\_  
*Please include city, state and ZIP code*

Please indicate what you believe to be the basis of the discrimination:

\_\_\_ race or color      \_\_\_ national origin      \_\_\_ disability

\_\_\_ sex      \_\_\_ creed      \_\_\_ age

Other \_\_\_\_\_

Date(s) of alleged discrimination \_\_\_\_\_

\_\_\_\_\_  
Location of the alleged discrimination \_\_\_\_\_

\_\_\_\_\_  
*Please include city, state and ZIP code*

Please describe circumstances as you saw it \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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*Attach additional sheets if needed*

**Complaint Information** *continued*

Please list any and all witnesses' names, addresses or other reliable contact information:

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*Attach additional sheets if needed*

Please list any actions you may have taken before submitting this form to bring the problem to the attention of SWMPC

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*Attach additional sheets if needed*

Corrective action suggested \_\_\_\_\_

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---

Please attach any supportive documents or additional material.

\*SIGN and date this form, and send to:

Mr. K. John Egelhaaf, Executive Director  
Southwest Michigan Planning Commission  
376 W. Main Street, Suite 130  
Benton Harbor, MI 49022

\_\_\_\_\_  
*\*your signature*

**REQUIRED**

\_\_\_\_\_  
*date*

\_\_\_\_\_  
*print your name*

**\*REQUIRED** [*submission by fax or any electronic means must still provide original document with signature*]

For SWMPC office use only

Date arrived \_\_\_\_\_

By: US Postal System \_\_\_\_ Personal delivery \_\_\_\_ other \_\_\_\_\_

Signed yes \_\_\_\_ no \_\_\_\_

Date acknowledgment sent \_\_\_\_\_

Date sent to primary funding source CR office \_\_\_\_\_

List all other related materials and dates received:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



## **Attachment G: Michigan Department of Transportation's Procedure for Title VI Complaints**

Procedures for a complaint forwarded to the MDOT EEO Officer/Title VI Coordinator:

- a. When the complaint is forwarded to Michigan Department of Transportation Office of Equal Opportunity, the Title VI Coordinator will notify the individual, group of individuals or entity that believes they have been subjected to discrimination within ten calendar days.
- b. Upon receipt of any complaint, the Title VI Coordinator will keep record of all correspondence received regarding that complaint.
- c. Any comments or recommendations from legal counsel will be reviewed by the Title VI Coordinator. The Title VI Coordinator will discuss the recommendations with SWMPC's Executive Director.
- d. Once SWMPC is notified of Michigan Department of Transportation Office of Equal Opportunity investigative report findings, SWMPC will adopt a final resolution.
- e. SWMPC, the complainant, FHWA and any other appropriate party will be properly notified of the outcome and appeal rights of the Michigan Department of Transportation Office of Equal Opportunity report.
- f. If the complainant is not satisfied with the results of the investigation of the alleged discriminatory practice(s), s/he shall be advised of their rights to appeal MDOT Title VI Coordinator's decision. Appeals must be filed within 180 days after notification of the final resolution. Unless new facts not previously considered come to light, reconsideration of this determination will not be available.

## **Attachment H: Primary Funding Source Title VI Coordinator Contact Information**

### **State of Michigan Department of Transportation**

Orlando T. Curry, MSA

VI Coordinator

425 West Ottawa

Lansing, Michigan 48909

(517) 241-7462- Work

(517) 335-0945 - Fax

(517) 373-8841 - TTY

Website: [www.michigan.gov/titlevi](http://www.michigan.gov/titlevi)

### **OTHER SWMPC FUNDING SOURCES**

#### **Environmental Protection Agency**

Kurt Thiede, Regional Administrator

Office of Civil Rights

77 West Jackson Boulevard

Chicago, IL 60604-3507

Phone: (312) 353-2000

Fax: (312) 353-4135

Toll free within Region 5: (800) 621-8431

#### **Federal Transit Administration**

##### **(FTA Region 5)**

Kelley Brookins, Regional Administrator

U.S. Department of Transportation

Federal Transit Administration

Region V

Regional Civil Rights Officer

200 West Adams St. Suite 320

Chicago, IL 60606

(312) 353-2789 Phone

(312) 886-0351 Fax

<https://www.transit.dot.gov/about/regional-offices/region-5/region-5>

#### **Federal Highway Administration (FHWA)**

Traci Baker – Civil Rights Specialist

200 West Adams St. Suite 330

Chicago, IL 60606

Phone: (217) 492 – 4732

email: [traci.baker@dot.gov](mailto:traci.baker@dot.gov)

# Attachment F: MDOT Title VI Sub-Recipient Annual Certification Form (Form #0179)

[Clear Form](#)

Michigan Department  
of Transportation  
0179 (10/19)

## TITLE VI SUB-RECIPIENT ANNUAL CERTIFICATION FORM

Page 1 of 2

This form is to certify compliance with Title VI of the Civil Rights Act of 1964. If your Title VI Plan has been approved by the Michigan Department of Transportation (MDOT), all changes to the organization's Title VI Plan which occurred during the current fiscal year (October 1st through September 30th) must be reported on this form. Please attach additional pages, as necessary, to provide a complete response to each question.

NAME OF ORGANIZATION

NAME OF TITLE VI COORDINATOR

TITLE

ADDRESS

CITY

COUNTY

STATE

ZIP CODE

TELEPHONE NO.

FAX NO.

E-MAIL ADDRESS

1. Has your Title VI Coordinator changed during the reporting period or since your last Title VI Plan was approved? If yes, please list the name and contact information for the new coordinator. ☐ No ☐ Yes

2. Has your organization had any projects that have Title VI, LEP, or EJ impacts? How many? If yes, what did you do to ensure that those populations affected by the project had meaningful access to and involvement in the development process? ☐ No ☐ Yes

3. What is the number or percentage of LEP or EJ populations who were affected by the project?

4. How many public involvement meetings did you hold during the reporting period?

5. Did you provide language assistance at any of your public meetings during the reporting period? How many persons received this assistance? ☐ No ☐ Yes

6. Did you receive any formal or informal Title VI complaints, or law suits during this reporting period? If yes, how many, and please provide details regarding each complaint or law suit and the resolution. ☐ No ☐ Yes

7. During this reporting period, how many of your employees have been educated about Title VI and their responsibility to ensure non-discrimination in any of your programs, services, or activities.

8. Please provide any comments or additional information related to the organization's Title VI Plan.

The information reported on this form is accurate and reflects all changes to the organization's Title VI Plan for the current fiscal year.

| NAME | TITLE | DATE |
|------|-------|------|
|------|-------|------|

If you have any questions regarding Title VI, contact: MDOT Title VI Coordinator (517) 241-7462, or [MDOT-TitleVI@Michigan.gov](mailto:MDOT-TitleVI@Michigan.gov). PLEASE RETURN COMPLETED FORM VIA EMAIL, OR FAX TO: (517) 335-0945.

**PLEASE SUBMIT THIS FORM BY OCTOBER 5TH OF THE REPORTING YEAR.**

## Attachment I: "I Speak Card"

| 2004 Census Test                  |   | United States Census 2010 |
|-----------------------------------|---|---------------------------|
| LANGUAGE IDENTIFICATION FLASHCARD |   |                           |
| <input type="checkbox"/>          | ضع علامة في هذا المربع إذا كنت تقرأ أو تتحدث العربية.                                 | 1. Arabic                 |
| <input type="checkbox"/>          | Խաղաղամբ հենք հայտնաբերելու արդյունաբերական, հիմնականում կամ կապիտալիզմի հարաշարժներ: | 2. Armenian               |
| <input type="checkbox"/>          | যদি আপনি বাংলা পড়েন বা বলেন তা হলে এই বাক্সে দাগ দিন।                                | 3. Bengali                |
| <input type="checkbox"/>          | លុបបញ្ចាក់ក្នុងប្រអប់នេះ បើអ្នកអាន ឬនិយាយភាសា ខ្មែរ ។                                 | 4. Cambodian              |
| <input type="checkbox"/>          | Motka i kahlon ya yangin ñntûngnu' manaltal pat ñntûngnu' kumentos Chamorro.          | 5. Chamorro               |
| <input type="checkbox"/>          | 如果你能读中文或讲中文，请选择此框。  | 6. Simplified Chinese     |
| <input type="checkbox"/>          | 如果你能讀中文或講中文，請選擇此框。  | 7. Traditional Chinese    |
| <input type="checkbox"/>          | Označite ovaj kvadratić ako čitate ili govorite hrvatski jezik.                       | 8. Croatian               |
| <input type="checkbox"/>          | Zaškrtněte tuto kolonku, pokud čtete a hovoříte česky.                                | 9. Czech                  |
| <input type="checkbox"/>          | Kruis dit vakje aan als u Nederlands kunt lezen of spreken.                           | 10. Dutch                 |
| <input type="checkbox"/>          | Mark this box if you read or speak English.   | 11. English               |
| <input type="checkbox"/>          | اگر خواندن و نوشتن فارسی بلد هستید، این مربع را علامت بزنید.                          | 12. Farsi                 |

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|                          |  |                       |
|--------------------------|--|-----------------------|
| <input type="checkbox"/> | Cocher ici si vous lisez ou parlez le français.                                      | 13. French            |
| <input type="checkbox"/> | Kreuzen Sie dieses Kästchen an, wenn Sie Deutsch lesen oder sprechen.                | 14. German            |
| <input type="checkbox"/> | Σημειώστε αυτό το πλαίσιο αν διαβάσετε ή μιλάτε Ελληνικά.                            | 15. Greek             |
| <input type="checkbox"/> | Make kazyé sa a si ou li oswa ou pale kreyòl ayisyen.                                | 16. Haitian<br>Creole |
| <input type="checkbox"/> | अगर आप हिन्दी बोलते या पढ़ सकते हैं तो इस बक्स पर चिह्न लगाएँ।                       | 17. Hindi             |
| <input type="checkbox"/> | Kos lub voj no yog koj paub twm thiab hais lus Hmoob.                                | 18. Hmong             |
| <input type="checkbox"/> | Jelölje meg ezt a kockát, ha megérti vagy beszéli a magyar nyelvet.                  | 19. Hungarian         |
| <input type="checkbox"/> | Markaam daytoy nga kahon no makabasa wenno makasaoka iti Ilocano.                    | 20. Ilocano           |
| <input type="checkbox"/> | Marchi questa casella se legge o parla italiano.                                     | 21. Italian           |
| <input type="checkbox"/> | 日本語を読んだり、話せる場合はここに印を付けてください。   | 22. Japanese          |
| <input type="checkbox"/> | 한국어를 읽거나 말할 수 있으면 이 칸에 표시하십시오.   | 23. Korean            |
| <input type="checkbox"/> | ໃບໝາຍໃສ່ຊ່ອງນີ້ ຖ້າທ່ານອ່ານຟື້ປາກພາສາລາວ.  | 24. Laotian           |
| <input type="checkbox"/> | Prosimy o zaznaczenie tego kwadratu, jeżeli posługuje się Pan/Pani językiem polskim. | 25. Polish            |

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|                          |  |                |
|--------------------------|--|----------------|
| <input type="checkbox"/> | Assinale este quadrado se você lê ou fala português.                           | 26. Portuguese |
| <input type="checkbox"/> | Însemnați această căsuță dacă citiți sau vorbiți românește.                    | 27. Romanian   |
| <input type="checkbox"/> | Пометьте этот квадратик, если вы читаете или говорите по-русски.               | 28. Russian    |
| <input type="checkbox"/> | Обележите овај квадратик уколико читате или говорите српски језик.             | 29. Serbian    |
| <input type="checkbox"/> | Označte tento štvorček, ak viete čítať alebo hovoriť po slovensky.             | 30. Slovak     |
| <input type="checkbox"/> | Marque esta casilla si lee o habla español.                                    | 31. Spanish    |
| <input type="checkbox"/> | Markahan itong kuwadrado kung kayo ay marunong magbasa o magsalita ng Tagalog. | 32. Tagalog    |
| <input type="checkbox"/> | ให้ทำเครื่องหมายลงในช่องถ้าท่านอ่านหรือพูดภาษาไทย.                             | 33. Thai       |
| <input type="checkbox"/> | Maaka 'i he puha ni kapau 'oku ke lau pe lea fakatonga.                        | 34. Tongan     |
| <input type="checkbox"/> | Відмітьте цю клітинку, якщо ви читаете або говорите українською мовою.         | 35. Ukrainian  |
| <input type="checkbox"/> | اگر آپ اردو پڑھتے یا بولتے ہیں تو اس خانے میں نشان لگائیں۔                     | 36. Urdu       |
| <input type="checkbox"/> | Xin đánh dấu vào ô này nếu quý vị biết đọc và nói được Việt Ngữ.               | 37. Vietnamese |
| <input type="checkbox"/> | באצייכנט דעם קעסטל אויב איר לייענט אדער רעדט אידיש.                            | 38. Yiddish    |

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