

Southwest Michigan Planning Commission



Title VI Non-Discrimination Plan

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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

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 desk top 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.

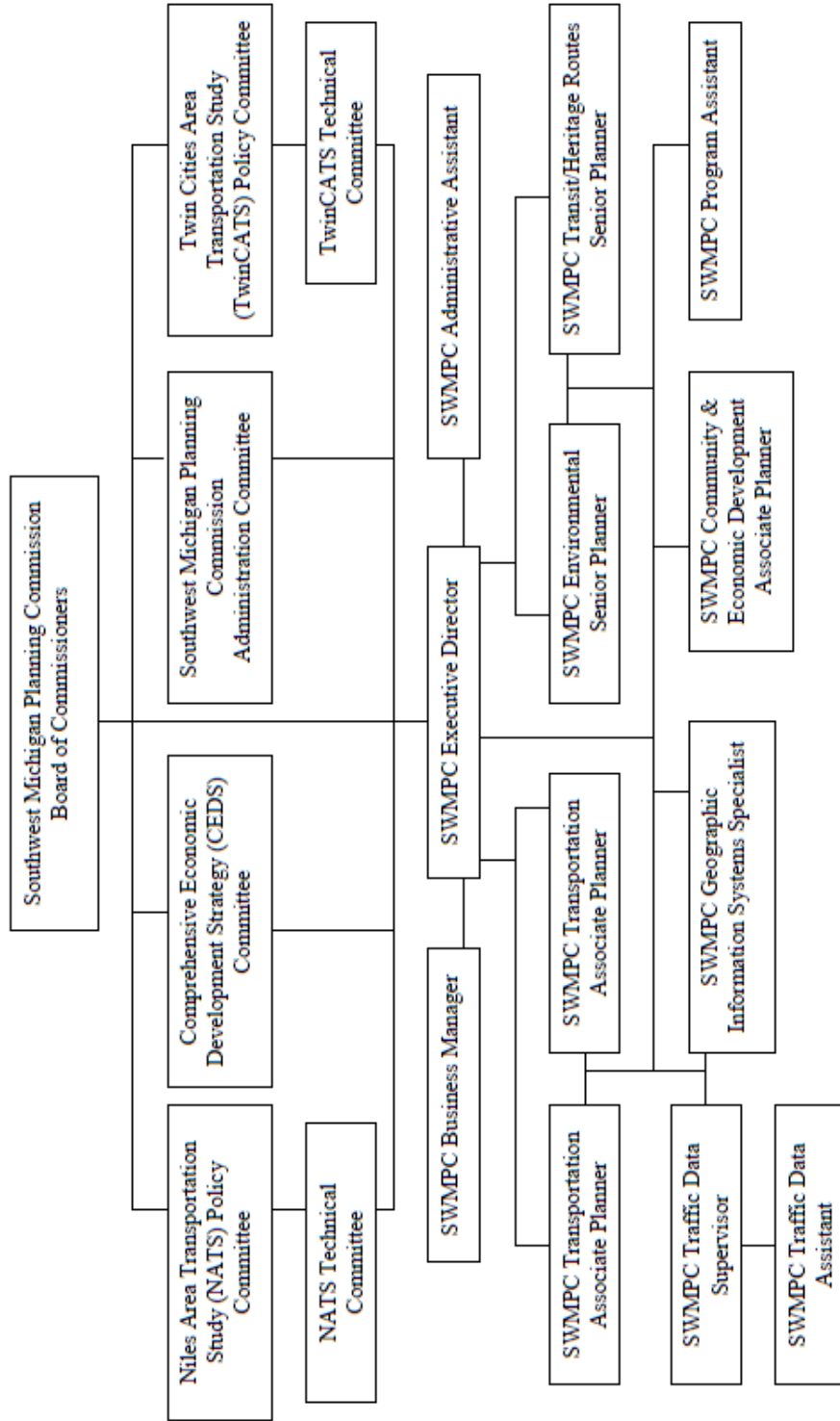
Another name change occurred in January 2004 with the adoption of Southwest Michigan Planning Commission. However, the change was not fully implemented with a new logo, stationery, and website until April 2007.

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.

SWMPC Organizational Structure-2011

Organizational Structure
As of August 2011



Non-Discrimination Policy Statement

Title VI of the Civil Rights Act of 1964 and related statutes (as amended) prohibit discrimination on the basis of race, color, national origin, sex, disability, creed or age in programs and activities receiving Federal financial assistance. Specifically, Title VI provides 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 otherwise subjected to discrimination under any program or activity receiving Federal financial assistance”(42 U.S.C. Section 2000d).

In the event SWMPC distributes federal aid funds to another entity, SWMPC will include Title VI language in all written agreements and will monitor compliance.

SWMPC is responsible for initiating and monitoring Title VI activities, and all other responsibilities as required by 23 Code of Federal Regulation 200 and 49 Code of Federal Regulation 21.

This plan was developed to guide the SWMPC in its administration and management of Title VI-related activities

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K. John Egelhaaf, Executive Director

Date

Linda Preston, Chairman

Date

This policy was adopted by the Twin Cities Area Transportation Study Policy Board on _____

Resolution of Support can be found in Attachment A

This policy was adopted by the Niles-Buchanan-Cass Area Transportation Study Policy Board on _____

**Resolution of Support can be found in Attachment A*

Title VI Authorities

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, 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).

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).

Additional Authorities and Citations

Title VI of the Civil Rights Act of 1964, 42 United States Code 2000d to 2000d-4; United States Code 4601 to 4655; 23 United States Code 109(h); 23 United States Code 324; 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 Executive Director of the Southwest Michigan Planning Commission (SWMPC) is responsible the administration of the SWMPC Title VI Plan. As the SWMPC Title VI Coordinator, the Executive Director will oversee implementing, monitoring, and ensuring compliance with the Title VI regulations.

Title VI Coordinator Contact Information:

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Information Availability

Public Dissemination

The SWMPC will disseminate Title VI Program information to its employees, all programs and activities, as well as the general public. Public dissemination will include:

- Posting of public statements
- Inclusion of Title VI language in contracts
- Announcement of hearings, and meetings in minority newspapers when determined necessary and funding is available
- Make available on the SWMPC website at www.swmpc.org with multiple links to be found at www.swmpc.org/board.asp and www.swmpc.org/transportation.asp
- Make available in the SWMPC quarterly newsletter
- Make available on the SWMPC Facebook page

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 quarterly (4 times a year) SWMPC Board Meetings -- traditionally on the third Tuesday of the first month of each quarter
- Conducts monthly (12 times a year) Transportation Study Area meetings in Benton Harbor (on the 3rd Monday of each month at the Southwest Michigan Regional Airport beginning at 9:30 a.m.) and in Niles (on the 4th Tuesday of each month at the City of Niles Chambers beginning at 1:30 p.m.)
- Has a website 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 and are also in each employee manual along with posting at the front reception desk at the SWMPC office located at 185 E. Main St., Suite 701 Benton Harbor, MI 49022

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 2011 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 B
- Receipt of Title VI Plan Form Attachment B

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) 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.

Section IV: Environmental Justice

The following material was developed specifically for the SWMPC Metropolitan Planning Organization Twin Cities Area Transportation Study and, until a complete study of the entire region is available based on the 2010 US Census, indicates the extent of the need to address this issue in the area.

Environmental Justice (EJ) is a federal directive (Executive Order 12898, enacted in 1994) requiring all federal programs to identify and address, as appropriate, disproportionately high and adverse human health or environmental effects as the result of its programs, policies, and activities on minority populations and low-income populations. Populations which require special consideration include historically under-represented populations like African Americans, Asian Americans, Native Americans, or Hispanic Americans, the elderly and low-income households.

In addition to the general EJ mandate, the US DOT published its own Order (5610.2) in the Federal Register on April 15, 1997. This Order requires the incorporation of EJ principles in all US DOT programs, policies and activities. The US DOT integrates the goals of the Executive Order through a process developed within the framework of existing requirements, primarily the National Environmental Policy Act of 1969 (NEPA), Title VI of the Civil Rights Act of 1964 (to ensure that no person is excluded from participation in, denied the benefits of, or is subjected to, discrimination).

Within the TwinCATS area, efforts are undertaken to ensure that transportation system improvements that are implemented do not have disproportionately negative effects on minority and low-income populations. In addition, system investments must provide for an equitable distribution of benefits to the areas that are traditionally underrepresented in the planning process. In order to ensure that TwinCATS transportation investments are equitably benefiting (and not having a disproportionately negative affect) all of the region's diverse populations, the following procedures described below were undertaken.

Methodology to Identify Environmental Justice Populations

In June of 2007, the SWMPC revisited its procedures by which TwinCATS EJ populations were identified. Staff turned to representatives from MDOT to determine the procedures used at the state level for EJ analysis. The methodology described below outlines the procedures used for TwinCATS EJ analysis and parallels what is being used at the State level.

Minority group population numbers were assembled from the following 2000 US Census sources:

- Total Population (Summary File 1, P003001);
- Black or African American alone (Summary File 1, P003004);
- American Indian and Alaskan Native alone (Summary File 1, P003005);
- Asian alone (Summary File 1, P003006); and
- Hispanic or Latino (Summary File 1, P004002).

All but Hispanic or Latino population numbers were drawn from populations of one race. Since the US Census does not consider Hispanic or Latino to be a race designation, there can be, by definition, individuals who identified themselves as two or more races within the Hispanic or Latino designation.

Low-income population numbers were drawn from the following 2000 US Census sources: Population for whom poverty status is determined (Summary File 3, PCT049001) and Income in 1999 below poverty level (Summary File 3, PCT049002).

Despite the fact that more current poverty data is available from the US Department of Health and Human Services, the 2000 US Census was used in order to keep the poverty data in sync chronologically with the minority data. This means that Environmental Justice areas will not vary from year to year based on poverty.

Census Block Groups were used because they are the smallest geographic summary areas for which minority and poverty data are available. The advantage of utilizing Block Groups over Census Tracts is that the smaller geographical unit is more effective in identifying concentrations of targeted populations.

Once the EJ populations were identified, the population of the targeted group was compared to the overall population of the entire TwinCATS area. The EJ areas were then mapped along with the 2008-2011 TIP and LRTP projects to determine potential impacts to EJ populations. These maps can be found in Appendix K.

Conclusion

After reviewing the EJ maps with the project locations, it has been determined that there will be no adverse effects on EJ targeted populations and that EJ populations have not been excluded from the benefits to be derived from projects in their area.

Section V: Contracts

Assurances

Federal Requirements for Transportation Funding

The Southwest Michigan Planning Commission (hereinafter referred to as the “Recipient”), HEREBY AGREES THAT as a condition to receiving any federal financial assistance from the United States Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000d to 42 USC 2000d-4 (hereinafter referred to as the “Act”), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation Subtitle A, Office of the Secretary Part 21, Non-discrimination in Federally Assisted Programs of the Department of Transportation – Effectuation of the 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, 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. 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 to its federally funded programs:

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 conducted (with regard to a “program”), or will be operated (with regard to a “facility”) in compliance with all requirements imposed by, or pursuant to, the Regulations.

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 the Federal Aid Program, and in adapted form in all proposals for negotiated agreements:

The Southwest Michigan Planning Commission in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000d-d4 and Title 49, Code of Federal Regulations, Department of Transportation Subtitle A, Office of the Secretary part 21, Non-discrimination in Federally Assisted Programs of Department of Transportation, and all requirements issued pursuant to such Act, hereby notifies all bidders that minority 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 or national origin in consideration for an award.

That the Recipient shall insert clauses of the contract as found in the following "Contract Language" section in every contract subject to the Act and the Regulations.

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.

The Recipient shall provide for such methods of administration for the plan as are found by the Secretary of Transportation, or the official to whom s/he 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 plan will comply with all requirements imposed or pursuant to the Act, the Regulations and this Assurance.

The Recipient agrees that the United States has the 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 by the Department of Transportation under the Federal Aid Highway or Transit Program, and is binding on it, other recipients, sub-grantees, contractors, subcontractors, transferees, successors in interest, and other participants in the Federal Aid Highway or Transit Program. The person or persons whose signatures appear below are authorized to sign this Assurance on behalf of the Recipient.

K. John Egelhaaf
Executive Director

Date

Linda Preston
Chair, Southwest Michigan Planning Commission

Date

NATS Chair Policy

Date

TwinCATS Chair Policy

Date

Contract Language

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 non-discrimination 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. Non-discrimination

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 Appendix B of 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 non-discrimination 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 issued pursuant thereto, and shall permit access to it books, records, accounts, other sources of information and its facilities as may be determined by the Southwest Michigan Planning Commission, Michigan Department of Transportation 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 Michigan Department of Transportation 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 non-discrimination provisions of this contract, the Southwest Michigan Planning Commission shall impose such contract sanctions as the Michigan Department of Transportation may determine to be appropriate, including, but not limited to:

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

Incorporations of Provisions

The contractor shall include the provisions of paragraphs (1) through (5), of Section V: Contracts, Contract Language 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 Southwest Michigan Planning Commission, Michigan Department of Transportation or appropriate Federal Agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

Section VI: Limited English Proficiency Plan

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.

Plan Summary

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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**

Counties Served	Total County Populations	Speak a Language Other than English	Speak English less than very well	Speak Only English
Berrien County	156,813	10,812	3,776	141,013
Cass County	52,293	2,023	667	45,973
Van Buren County	76,258	6,304	2,804	64,741
Totals	285,364	19,139	7,247	251,727
<i>Sources</i>	<i>2010 Census</i>	<i>2000 ACS Data</i>		<i>2000 ACS Data</i>

According to the data gathered from the 2000 Census and the 2010 Census we were able to determine that in the service area, 7,247 people identified themselves as not being able to speak English very well. Individuals that identified themselves as Spanish speaking in the service area not being able to speak English “not well” or “not at all” .

- ✓ Berrien County 1,092 people
- ✓ Cass County 204 people
- ✓ Van Buren County 1,307 people

There is sufficient numbers to support offering materials in a second language for all 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 staff will keep sign in sheets and requests from individuals to provide materials in another language. This will include documenting phone inquiries and verbal inquiries.

3. **Determine the importance of the program, activity or service to people's lives.**
There currently does exist a population of non-English speaking residents in the SWMPC service area, SWMPC will still provide translation of materials upon request. See Number 1 under Four Factor Analysis.

4. **Determine the resources available and cost.**
The majority of the SWMPC service area 285,364 people identified themselves as speaking only English (251,727). Those that identified themselves as not speaking English less than very well is a small population of 7,247. The population of those not speaking English less than very well is located 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)

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 G) 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 185 E. Main St. Suite 701, 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, 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.

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
185 E. Main St., Suite 701
Benton Harbor, MI 49022
Phone: 269-925-1137 x 12
Fax: 269-925-0288
Email: egelhaafj@swmpc.org

Attachment A: MPO Resolutions of Support for Title VI and LEP Plans

DRAFT

Attachment B: 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 C: 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 _____

Attach additional sheets if needed

Complaint Information *continued*

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

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

Attach additional sheets if needed

Corrective action suggested _____

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
185 East Main Street, Suite 701
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 D: 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 E: Primary Funding Source Title VI Coordinator Contact Information

State of Michigan Department of Transportation

Cheryl J. Hudson
Equal Employment Opportunity Officer/Title VI Coordinator
425 West Ottawa
Lansing, Michigan 48909
(517) 373-0980 - Work
(517) 243-2802 - Cell
(517) 373-8841 - Fax
Website: www.michigan.gov/titlevi

OTHER SWMPC FUNDING SOURCES

Environmental Protection Agency

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)

http://www.fta.dot.gov/documents/Org_Chart.pdf
U.S. Department of Transportation
Federal Transit Administration
Region V
Regional Civil Rights Officer
Erick Allen (312-353-3855)

Federal Highway Administration (FHWA)

Mary Finch – Civil Rights Specialist
Phone: (517) 702 – 1853
email: Mary.Finch@dot.gov

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

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Attachment G: “I Speak Card”

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