



TITLE VI
NON-DISCRIMINATION PLAN

November 2020

PREPARED BY:
THE CITY OF WEST FARGO'S PLANNING & ZONING,
ENGINEERING, AND COMMUNICATIONS DEPARTMENTS
ADOPTION: November 2, 2020
800 Fourth Ave. E, Ste. 1
West Fargo, ND 58078

Resolution Approving City of West Fargo's Title VI Non-Discrimination Plan

WHEREAS Title VI of the Civil Rights Act of 1964 and U.S. Department of Transportation (USDOT) regulations to implement the law (49 CFR, Part 21) require all recipients and sub-recipients of Federal transportation funds such as the City of West Fargo to establish and maintain a Title VI Program that carries out the regulations and integrates the activities and considerations outlined in the USDOT's Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient (LEP) Persons (70 FR 74087, December 14, 2005) ; and

WHEREAS the Federal Transit Administration (FTA) issued Circular FTA 4702.1B, Title VI Requirements and Guidelines for FTA Recipients, on October 12, 2012 providing further guidance and instructions necessary to carry the USDOT Title VI regulations and policy guidance related to LEP persons; and

WHEREAS a Title VI Non-Discrimination Plan has been developed for the City of West Fargo as its administrative and fiscal agent, which aims to meet these requirements; and

WHEREAS the Title VI Program includes an updated Limited English Proficiency (LEP) Plan; and

WHEREAS the City of West Fargo intends that no person shall, on the grounds of race, color, and/or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any City of West Fargo program or activity, regardless of funding source; and

WHEREAS the City of West Fargo as its agent intends that, any agencies or firms with whom the City contracts will comply with the Title VI Program as appropriate and the City of West Fargo will take reasonable steps to ensure such compliance:

NOW, THEREFORE, BE IT RESOLVED that the City of West Fargo approves the Title VI Non-Discrimination Plan dated November 2 2020; and

BE IT FURTHER RESOLVED, in accordance with 23 CFR 450.334(a) the City of West Fargo hereby certifies that the transportation planning process is addressing major issues facing the planning area and is being conducted in accordance with all applicable requirements of: 1. 23 U.S.C. 134 and 49 U.S.C. 5303, and this subpart; 2. Title VI of the Civil Rights Act of 1964, as amended (42 USC 2000d-1) and 49 CFR part 21; 3. 49 USC 5332, prohibiting discrimination on the basis of race, color, creed, national origin, sex, or age in employment or business opportunity; 4. Sections 1101(b) of the Fixing America's Surface Transportation (FAST) Act (Pub. L. 114-357) and 49 CFR Part 26 regarding the involvement of disadvantaged business enterprises in the US DOT funded projects;

Bernie Dardis
President, City of West Fargo City Commission

Date

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INTRODUCTION

PURPOSE

The U.S. Department of Transportation's (USDOT) Title VI regulations require that all programs which receive funding from the Federal Highway Administration (FHWA) and/or Federal Transit Administration (FTA) must be compliant with Section 601 of Title VI of the Civil Rights Act of 1964, which states:

"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

Recipients of USDOT financial assistance are required to prepare a Title VI Program in accordance with the guidance contained in FTA Circular 4702.1B with the objective to:

- Ensure that the level and quality of transportation facilities and services are planned for and provided in a nondiscriminatory manner;
- Promote full and fair participation in transportation decision-making without regard to race, color, or national origin;
- Ensure meaningful access to transportation planning-related programs and activities by persons with Limited English Proficiency.

As a subrecipient of USDOT funding, the City of West Fargo is required to prepare a Title VI Program containing:

- City of West Fargo's Title VI notice to the public;
- Procedures for filing a discrimination complaint;
- Listing of any public transportation-related Title VI investigations, complaints, or lawsuits filed against the City of West Fargo;
- Public participation plan;
- Limited English proficiency (LEP) plan; and
- Overview of minority representation on the City of West Fargo's planning and advisory bodies.

STATUTORY AUTHORITIES

Section 601 of Title VI of the Civil Rights Act of 1964 states the following:

“ 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 subject to discrimination under any program or activity receiving Federal financial assistance.”

The Civil Rights Restoration Act of 1987 clarified the broad, institution-wide application of Title VI. Title VI covers all of the operations of covered entities without regard to whether specific portions of the covered program or activity are federally funded. The term “ program or activity” means all of the operations of a department, agency, special purpose district, or government; or the entity of such State or local government that distributes such assistance and each such department or agency to which the assistance is extended, in the case of assistance to a State or local government.

The U.S. Department of Justice (“ DOJ”) Title VI regulations can be found at 28 CFR §42.401 et seq., and 28 CFR § 50.3. The U.S. Department of Transportation (“ FOT”) Title VI implementing regulations can be found at 49 CFR part 21.

Since the Civil Rights Act of 1964, other nondiscrimination laws have been enacted that expand the range and scope of Title VI coverage and applicability. These include the following:

- THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970 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 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 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 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 to make 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 prohibits discrimination against people with disabilities in employment, transportation, public accommodation, communications, and governmental activities.

DEFINITIONS

The following are a selection of definitions applicable to the Title VI Program, which can be found in Chapter 1 of FTA Circular 4702.1B:

Discrimination: Refers to any action, or inaction, whether intentional or unintentional, in any program or activity of a Federal aid recipient, sub-recipient, or contractor that results in disparate treatment, disparate impact, or perpetuating the effects of prior discrimination based on race, color, or national origin.

Limited English Proficiency (LEP) Person: Refers to a person for whom English is not their primary language and who have a limited ability to read, write, speak, or understand English. It includes people who reported to the U.S. Census that they speak English less than very well, not well, or not at all.

Low-Income Person: A person whose median household income is at or below the U.S. Department of Health and Human Service poverty guidelines per FTA's Title VI circular.

Low Income Population: USDOT, FHWA, and FTA define a low-income population as 10 any readily identifiable group of low-income persons who live in geographic proximity, or 2) geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed program, policy, or activity.

Minority Person: Includes the following:

1. American Indian and Alaska Native, which refers to people having origins in any of the original peoples of North and South America (including Central America) and who maintain tribal affiliation or community attachment.
2. Asian, which refers to people having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
3. Black, or African American, which refers to peoples having origins in any of the Black racial groups of Africa.
4. Hispanic, or Latino, which includes persons of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.
5. Native Hawaiian or Other Pacific Islander, which refers to people having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

ABOUT THE CITY OF WEST FARGO

POPULATION AND DEMOGRAPHICS

With a rapidly growing population that has outpaced that of the metropolitan region and is expected to grow to more than 45,000 by 2040, the City of West Fargo is well positioned to be a regional leader in business, healthy living, and societal progress.

The estimated population for the city in 2018 was 36,566 according to the U.S. Census Bureau.

In 2000 West Fargo was home to 8.9 percent of the households of the Fargo ND-MN core base statistical areas. The market share of households in West Fargo has since increased to 13.2 percent of the households. The number of households is expected to increase by 8.85 percent by 2022. The median household income of West Fargo is \$73,402. This median household income places West Fargo more than 40 percent higher than the median household income of both the U.S. and North Dakota.

Approximately 51.1 percent of the city’s population is male with 48.9 percent of the population being female. The median age of West Fargo residents is 33.9 -- slightly older than the metro area but significantly lower than that of the U.S. Over 52 percent of the population of West Fargo has a degree from an institution of higher learning and 95 percent of the population is a high school graduate.

The estimated age makeup of the City of West Fargo’s population according to the U.S. Census Bureau’s 2018 American Community Survey data is as follows:

Under 5 years	8.8%
5 to 9 years	8.8%
10 to 14 years	7%
15 to 19 years	4.6%
20 to 24 years	7.2%
25 to 34 years	16.6%
35 to 44 years	15.6%
45 to 54 years	11.9%
55 to 59 years	5.9%
60 to 64 years	5.2%
65 to 74 years	5.4%
75 to 84 years	2.4%
85 years and over	0.8%

The estimated racial makeup of the City of West Fargo’s population according to the U.S. Census Bureau’s 2018 American Community Survey data is as follows:

White	92.3%
Black or African American	4.8%
Asian	2.8%
American Indian or Alaskan Native	1.5%
Some other race	1.1%

The number of people identifying as Hispanic or Latino (of any race) was 685, or about 2% of the city's population.

While the city's population is significantly white, the racial and ethnic diversification of residents has increased in recent years. Since 2016, approximately 1,277 refugees have been resettled in the city. According to the U.S. Census Bureau's 2018 American Community Survey, about 5% of the population is foreign born. A significant number of languages are spoken in the city's schools and households and a breakdown of these languages can be found in the City's Limited English Proficiency Plan later in this document.

GOVERNANCE AND ORGANIZATIONAL STRUCTURE

The City of West Fargo operates under the Commission form of Municipal Government, four Commissioners and a Mayor are elected at large. The Mayor serves as the President of the Board of City Commissioners. The President (Mayor) votes as a member of the board and does not have veto power. There are five portfolios designated to each member of the City Commission. Those portfolios include:

- Administration and Finance
- Police and Fire
- Streets, Sewer, and Water
- Planning, Zoning, and Engineering
- Sanitation

Every two years, after each election, a reorganization meeting is scheduled to distribute the portfolios to each Commissioner. Typically, the President holds the Finance and Administration portfolio and the remaining portfolios are assigned by the President to the four Commissioners. Each Commission is also assigned a secondary portfolio.

Additionally, the City Commission is advised by a number of boards and committees. These include:

- The Airport Authority
- The Board of Equalization
- The Economic Development Advisory Committee
- The Forestry Committee
- The Library Board
- The Liquor Control Board
- The Park Board
- The Planning & Zoning Commission
- The Public Art Advisory Committee
- The Special Assessment Commission

TITLE VI AND NON-DISCRIMINATION POLICY STATEMENT

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, and national origin. Specifically, 42 USC 2000d 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.” In addition to Title VI, there are other Nondiscrimination statutes which include: Section 162(a) of the Federal-Aid Highway Act of 1973 (23 USC 324) (sex), Age Discrimination Act of 1975 (age), and Section 504 of the Rehabilitation Act of 1973/ADA of 1990 (disability). Taken together, these requirements define an over-arching Title VI/Nondiscrimination and ADA Program. Title VI and the additional Nondiscrimination requirements are applicable to programs receiving federal financial assistance to the Civil Rights Restoration Act of 1987.

There are two Presidential Executive Orders that place further emphasis upon the Title VI protections of race and national origin. Executive Order 12898 ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations. Executive Order 13166 directs recipients of Federal financial assistance that to ensure compliance with Title VI, they must take reasonable steps to ensure that limited English proficiency persons have meaningful access to their programs.

I, as the President of the City of West Fargo City Commission, am personally committed to and support taking all steps to ensure that no person or groups of persons shall, on the grounds of race, color, national origin, sex, age, disability, limited English proficiency, or income status, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs, services, or activities administered by NDDOT, its recipients, sub recipients, and contractors.

The Transportation Engineer of the City of West Fargo is appointed as the Title VI Liaison Officer and ADA Coordinator and is granted the authority to develop, administer, and monitor the Title VI/Nondiscrimination and ADA Program as promulgated.

Further, I sub-delegate and charge the Department Directors and City Engineers with the responsibilities to ensure compliance with Title VI/Nondiscrimination and ADA Program requirements in their respective program areas.

Anyone who believes that he or she has been discriminated against should contact Andrew Wrucke, City of West Fargo Traffic Engineer, Title VI Liaison Officer and ADA Coordinator, City of West Fargo, 800 Fourth Ave. E., Suite 1, West Fargo, ND 58078 at 701-515-5250.

Bernie Dardis, Commission President

City of West Fargo

Signature

Date

TITLE VI COORDINATOR RESPONSIBILITIES

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

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

TITLE VI/ NONDISCRIMINATION COMPLAINT PROCEDURE

SCOPE OF TITLE VI / NONDISCRIMINATION COMPLAINTS

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

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

FORMAL TITLE VI COMPLAINT PROCEDURE

The City of West Fargo Title VI Policy assures that no person or groups of persons shall, on the grounds of race, color, national origin, sex, age, disability 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 City of West Fargo, its recipients, subrecipients, and contractors.

The City of West Fargo has an External Complaints of Discrimination form with instructions and procedures. The form can be found on page 24 of this document or on the City of West Fargo's website.

INFORMAL TITLE VI COMPLAINT PROCEDURE

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

TITLE VI INVESTIGATIONS

All recipients of federal financial assistance are required to maintain a list of any complaints alleging discrimination on the basis of race, color, or national origin.

As of January 2020, there have been no Title VI investigations, complaints, or lawsuits filed with the City of West Fargo.