



Mid-Ohio Regional  
Planning Commission

# Title VI/Non-Discrimination Program at MORPC

(Focus on Metropolitan Planning Organization)

## November 2015

- Mid-Ohio Regional Planning Commission
- FTA Recipient ID: 1310
- Columbus, Ohio

**Title VI<sup>1</sup>/Non-Discrimination Program**  
**at the**  
**Mid-Ohio Regional Planning Commission**  
**(Focus on Metropolitan Planning Organization)**

**Report Prepared by MORPC**

**November 2015**

This report was prepared by the Mid-Ohio Regional Planning Commission (MORPC), 111 Liberty St., Columbus, Ohio 43215, 614-228-2663. Funding was provided by the Federal Highway Administration, Federal Transit Administration, Ohio Department of Transportation, and Delaware, Fairfield, Franklin, Licking and Union Counties. The report reflects the views and policies of the Mid-Ohio Regional Planning Commission.

In accordance with requirements of the U.S. Department of Transportation, MORPC does not discriminate on the basis of age, race, color, national origin, gender, sexual orientation, familial status, ancestry, military status, religion or disability in programs, services or in employment. Information on non-discrimination and related MORPC policies and procedures is available at [www.morpc.org](http://www.morpc.org) under About MORPC/Policies.

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<sup>1</sup> Title VI of the U.S. Civil Rights Act of 1964

**There are many forms of illegal discrimination based on race, color, or national origin that can limit the opportunity of minorities to gain equal access to services and programs. Among other things, in operating a federally-assisted program, a recipient cannot, on the basis of race, color, or national origin, either directly or through contractual means:**

- **Deny program services, aids, or benefits;**
- **Provide a different service, aid, or benefit, or provide them in a manner different than they are provided to others; or**
- **Segregate or separately treat individuals in any matter related to the receipt of any service, aid, or benefit.**

U.S. Department of Justice

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## Links to Title VI/Non-Discrimination Program Appendices

Appendix A – Civil Rights and Non-Discrimination Related Links:

[www.morpc.org/Assets/MORPC/files/Appendix%20A%20Civil%20Rights%20and%20Non%20Dis%20related%20links.pdf](http://www.morpc.org/Assets/MORPC/files/Appendix%20A%20Civil%20Rights%20and%20Non%20Dis%20related%20links.pdf)

Appendix B – Non-Discrimination Clause in MORPC ODOT Agreement:

[www.morpc.org/Assets/MORPC/files/Appendix%20B%20Non%20Discrimination%20Clause%20in%20MORPC%20ODOT%20Agreement.pdf](http://www.morpc.org/Assets/MORPC/files/Appendix%20B%20Non%20Discrimination%20Clause%20in%20MORPC%20ODOT%20Agreement.pdf)

Appendix C – Title Assurances, Self-Certification of Process, Contractors' Requirements:

[www.morpc.org/Assets/MORPC/files/2015AssuranceDocuments.pdf](http://www.morpc.org/Assets/MORPC/files/2015AssuranceDocuments.pdf)

Appendix D – ODOT Title VI Baseline Assessment Tool – FY2016:

[www.morpc.org/Assets/MORPC/files/Appendix%20D%20ODOT%20Title%20VI%20Baseline%20Assessment%20Tool\\_Updated%20Version\\_FY2016.pdf](http://www.morpc.org/Assets/MORPC/files/Appendix%20D%20ODOT%20Title%20VI%20Baseline%20Assessment%20Tool_Updated%20Version_FY2016.pdf)

Appendix E – Non-Discrimination Complaint Procedure:

[www.morpc.org/Assets/MORPC/files/Appendix%20E%20Non%20Discrimination%20Complaint%20Procedure.pdf](http://www.morpc.org/Assets/MORPC/files/Appendix%20E%20Non%20Discrimination%20Complaint%20Procedure.pdf)

Appendix F – Responsibilities for Title VI Compliance at MORPC:

[www.morpc.org/Assets/MORPC/files/Appendix%20F%20Responsibilities%20for%20Title%20VI%20Compliance%20at%20MORPC.pdf](http://www.morpc.org/Assets/MORPC/files/Appendix%20F%20Responsibilities%20for%20Title%20VI%20Compliance%20at%20MORPC.pdf)

Appendix G – Public Involvement Plan:

[www.morpc.org/Assets/MORPC/files/110415%202015%20Transportation%20Public%20Involvement%20Plan.pdf](http://www.morpc.org/Assets/MORPC/files/110415%202015%20Transportation%20Public%20Involvement%20Plan.pdf)

Appendix H – Environmental Justice Analysis TIP:

[www.morpc.org/Assets/MORPC/files/Appendix%20H%20Environmental%20Justice%20Analysis%20TIP.pdf](http://www.morpc.org/Assets/MORPC/files/Appendix%20H%20Environmental%20Justice%20Analysis%20TIP.pdf)

Appendix I – Limited English Proficiency Plan:

[http://morpc.org/Assets/MORPC/files/MORPC\\_LEPP.pdf](http://morpc.org/Assets/MORPC/files/MORPC_LEPP.pdf)

Attachments to Appendix I: [www.morpc.org/Assets/MORPC/files/Appendix%20I%20-%20Attachments%20to%20Appendix%20I.pdf](http://www.morpc.org/Assets/MORPC/files/Appendix%20I%20-%20Attachments%20to%20Appendix%20I.pdf)

Appendix K – 2015 Final MORPC 5310 Program Management Plan:

[www.morpc.org/Assets/MORPC/files/Appendix%20K%202015%20Final%20MORPC%205310%20PMP.pdf](http://www.morpc.org/Assets/MORPC/files/Appendix%20K%202015%20Final%20MORPC%205310%20PMP.pdf)

Appendix L – Title VI Notice: [www.morpc.org/Assets/MORPC/files/Appendix%20L%20Title%20VI%20Notice.pdf](http://www.morpc.org/Assets/MORPC/files/Appendix%20L%20Title%20VI%20Notice.pdf)

Appendix M – 2014 MORPC FHWA FTA Certification Questions with Answers:

[www.morpc.org/Assets/MORPC/files/Appendix%20M%202014%20MORPC%20FHWA%20FTA%20Certification%20Questions%20with%20Answers.pdf](http://www.morpc.org/Assets/MORPC/files/Appendix%20M%202014%20MORPC%20FHWA%20FTA%20Certification%20Questions%20with%20Answers.pdf)

Appendix N – Diversity and Inclusion Plan: [www.morpc.org/Assets/MORPC/files/DiversityWorkPlan2015-FINAL.pdf](http://www.morpc.org/Assets/MORPC/files/DiversityWorkPlan2015-FINAL.pdf)

## SUMMARY OF MORPC ONGOING TITLE VI-RELATED ACTIVITIES

Name	Description	Date
<b>MORPC Title VI Policy Statement</b>	MORPC is required to maintain a statement signed by Executive Director (ED) stating MORPC's commitment to Title VI.	December 2015
<b>Title VI Assurances</b>	DOT Title VI assurances are required by FHWA and FTA. MORPC includes these with the annual MPO self-certification resolution.	May 2015
<b>Data Collection</b>	MORPC is required to collect and map data on Title VI-protected populations in the planning area. This is an on-going activity of the transportation department.	Ongoing
<b>Public Involvement Plan</b>	MORPC is required to proactively encourage public participation – <i>seeking out and considering the needs of those traditionally-underserved</i> – the transportation department maintains a separate public involvement plan.	September 2015
<b>Title VI External Complaint Process</b>	MORPC is required to maintain a complaint process.	Ongoing
<b>Beneficiary Title VI Notifications</b>	MORPC is required to let beneficiaries know MORPC's obligations in regards to Title VI and how complaints can be filed.	Ongoing
<b>LEP (Limited English Proficiency)</b>	MORPC is required to take <i>sound measures and reasonable steps</i> to serve the non-English speaking populations in the area. MORPC has taken some steps to better reach out to these populations and to produce some materials in different languages.	Ongoing
<b>ODOT Title VI Report</b>	ODOT requires this report annually. It is included as an appendix in the transportation planning work program document.	May 2015
<b>Contracts, RFPs, RFQs Reviews</b>	MORPC contracts, RFPs and RFQs are required to include specific Title VI related language. Individual departments and the finance director are responsible for making sure that this is done correctly.	Ongoing

## I. INTRODUCTION

### A. THIS PROGRAM

This program, in response to FTA C4702.13, provides an overview of the responsibilities that the Mid-Ohio Regional Planning Commission (MORPC) has in regards to the Civil Rights Act of 1964 (and related law) and how these responsibilities are carried out by MORPC. The program focuses primarily on Title VI of the Civil Rights Act and on the Metropolitan Planning Organization (MPO) functions at MORPC (see U.S. Code Title 23, section 134 and Title 49, section 5303). MORPC documents some of its non-discrimination-related activities in other reports and these are referenced and/or the current versions are included herein.

The information presented in this program is current as of the date of the report and will continue to provide an overview of Title VI and related non-discrimination activities and requirements. However, all of the information is subject to change and revision in accordance with new legislation, rules and policies at the federal, state, or MORPC levels, or due to MORPC updates of various documents. Therefore, it is strongly recommended that the MORPC staff or MORPC website and other internet links in Appendix A be consulted for the latest information.

This program is intended to serve three primary audiences and purposes:

- **Federal and State Oversight Agencies** – To provide information to state and federal oversight agencies on how MORPC carries out its responsibilities in regards to Title VI and related non-discrimination requirements.
- **MORPC Staff** – As a reference for MORPC staff on Title VI-related requirements and responsibilities and procedures that MORPC follows related to non-discrimination.
- **General Public** - Information for the general public on the non-discrimination regulations that MORPC is obligated to follow (due to being a federal fund recipient and a public entity) and how MORPC responds to these requirements.

It should be noted that MORPC is responsible, contractually, to various jurisdictions in carrying out and properly and sensitively following non-discrimination requirements. The state and federal governments have significant oversight responsibility for MORPC in regards to non-discrimination, and for some MORPC funding sources, local governments or other entities also may have an oversight role. Appendix B.

### B. CIVIL RIGHTS ACT OF 1964 AND TITLE VI

At a time when significant amounts of open, overt and even government-sanctioned discrimination still existed against Americans of African descent across the United States, the U.S. Congress passed the landmark Civil Rights Act of 1964. President Lyndon Johnson signed the Civil Rights Act of 1964 into law on July 2, 1964.

In considering the Title VI legislation, one senator addressed how North Carolina hospitals received substantial federal monies for construction, that such hospitals discriminated against blacks as

patients and as medical staff, and that, in the absence of legislation, judicial action was the only means to end these discriminatory practices:

*That is why we need Title VI of the Civil Rights Act, H.R. 7152 - to prevent such discrimination where Federal funds are involved. . . . Title VI is sound; it is morally right; it is legally right; it is constitutionally right. . . . What will it accomplish? It will guarantee that the money collected by colorblind tax collectors will be distributed by Federal and State administrators who are equally colorblind. Let me say it again: The title has a simple purpose - to eliminate discrimination in Federally-financed programs.*

Full integration and equal rights for blacks had reached an unstoppable momentum despite the lingering efforts of some governments and individuals to maintain and justify segregationist practices and policies of the past. Today, discrimination against various groups, often in a less blatant way than in 1964 and usually not sanctioned by law, continues as a significant issue. Unintentional discrimination, perhaps through policies or procedures that have the unintended result of discriminating against particular persons or groups, is also an issue today.

The Civil Rights Act of 1964 included eleven titles. Title VI, the primary focus of this program because of its particular applicability to the MPO and MORPC, addressed discrimination in federally-funded programs and activities. A widely-used passage related to Title VI sums up what the title is about:

*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 otherwise subjected to discrimination under any program or activity receiving federal financial assistance (42 USC 2000 Section 601).*

This made entities that receive federal funding, such as MORPC, directly subject to the federal Civil Rights Act and requirements to operate in accordance with federal non-discrimination law. Current Title VI law requires non-discrimination in all programs and activities, whether federally-funded or not, of those who receive federal funds.

The term "program or activity" and the term "program" mean all of the operations of:

- a. A department, agency, special purpose district, or other instrumentality of a state or of a local government; or
- b. The entity of such state or local government that distributes such assistance and each such department or agency (and each other state or local government entity) to which the assistance is extended, in the case of assistance to a state or local government;

*Any part of which is extended federal financial assistance. 42 U.S.C. § 2000d-4a(1)*

In the 50-plus intervening years, following the passage of the 1964 Civil Rights Act, the specific applicability of the Act has been clarified or expanded to include more than race, color and national origin. Discrimination protections based on age, handicap/disability, sex, religion, limited English proficiency, and income level have also been included in various federal statutes, regulations, executive orders, and policies.

MORPC and other federal fund recipients must adjust their programs and policies to conform with these requirements, as well. Federal, state and local discrimination prohibitions against lesbian, gay, bi-sexual, and transgender (LGBT) individuals also are common (e.g., see June 2010 HUD press release No. 10-119).

Many programs have two recipients. The *primary* recipient or conduit directly receives the federal financial assistance. The primary recipient then distributes the federal assistance to a *subrecipient* to carry out a program. Both the primary recipient and subrecipient must act in accordance with Title VI. MORPC is a primary and sub-recipient.

The specific Title VI-related activities discussed in this program are mostly in response to regulations and directives of the U.S. Department of Transportation (DOT), particularly the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA). DOT Title VI implementing regulations are contained in the Code of Federal Regulations, 49 CFR 21.

## C. AUTHORITIES

Most federal agencies have adopted regulations that prohibit recipients of federal funds from using criteria or methods of administering their programs that have the *effect* of subjecting individuals to discrimination based on race, color, or national origin. The Supreme Court has held that such regulations may validly prohibit practices having a disparate impact on protected groups, even if the actions or practices are not intentionally discriminatory. *Guardians*, 463 U.S. 582; *Alexander v. Choate*, 469 U.S. at 292-94; see *Elston v. Talladega County Board of Education*, 997 F.2d 1394, 1406 (11th Cir.), *reh'g denied*, 7 F.3d 242 (11th Cir. 1993).

While each federal agency extending federal financial assistance has primary responsibility for implementing Title VI with respect to its recipients, overall coordination in identifying legal and operational standards, and ensuring consistent application and enforcement, rests with the Civil Rights Division of the Department of Justice.

Title VI claims against an entity such as MORPC may be proven under two primary theories:

- Intentional discrimination/disparate treatment; and
- Disparate impact/effects.

The first refers to intentional discrimination based on race, color, or national origin. The second refers to actions that use a neutral procedure or practice that has a disparate impact on individuals of a particular race, color, or national origin, and when such a practice lacks a "substantial legitimate justification."

The documents below are some of the major federal civil rights-related legislation, regulations, executive orders, and federal agency guidance that MORPC is subject to. These are generally listed chronologically by date enacted and are not all-inclusive. See Appendix A for links to actual documents and other related information.

- ❖ [Title VI of the Civil Rights Act of 1964](#) (42 U.S.C. 2000) – prohibits discrimination on the grounds of race, color, or national origin

- ❖ [1970 Uniform Act \(42 USC 4601\)](#) – related to persons displaced/property acquired
- ❖ [Federal-aid Highway Act of 1973 \(23 U.S.C. 324\)](#) – prohibits discrimination on the basis of sex
- ❖ [Section 504 of the Rehabilitation Act of 1973 \(29 U.S.C. 794\)](#) – prohibits discrimination based on handicap/disability
- ❖ [Age Discrimination Act of 1975 \(42 U.S.C. 6101\)](#) – prohibits discrimination based on age
- ❖ [Implementing Regulations \(49 CFR 1.51, 49 CFR 21 and 23 CFR 200\)](#) – U.S. DOT and FHWA Title VI implementing regulations
- ❖ [Federal Transit Laws](#) Title 49 U.S.C. Chapter 53 as amended by MAP-21
- ❖ [Civil Rights Restoration Act of 1987 \(P.L. 100-259\)](#) – restored original intent and scope of Title VI to include all programs and activities of federal-aid recipients and contractors whether federally-funded or not
- ❖ [Fair Housing Act Amendments of 1988 \(42 U.S.C. 3601-3631\)](#) – adds religion as a protected group for relocation purposes
- ❖ [Americans with Disabilities Act of 1990 \(P.L. 101-336\)](#) – non-discrimination based on disability
- ❖ [DOT Order 1000.12](#) – implementation of DOT Title VI Program
- ❖ [Executive Order 12250](#) – (28 CFR 42.401) Department of Justice coordination of enforcement of non-discrimination in federally assisted programs
- ❖ [Executive Order 12898 \(EJ\) in 1994](#) – federal actions to address equity and fairness in minority and low-income populations (“Environmental Justice”)
- ❖ [Executive Order 13166 \(LEP\) in 2000](#) – requires meaningful access to services for people with limited English proficiency

#### D. STATE OF OHIO NON-DISCRIMINATION LAWS

The State of Ohio also includes many of the same non-discrimination requirements as the federal government in various sections of the Ohio Revised Code, Ohio Administrative Code, Executive Orders, and other documents. The location for some of this information is Section 4112 of the ORC. MORPC, in all of its functions, is also subject to following these state laws and regulations.

#### E. MORPC ORGANIZATION AND FUNDING

MORPC is organized per sections 713.21 and 713.23 of the Ohio Revised Code as a “Regional Planning Commission” (RPC) and serves member jurisdictions in the Central Ohio area. The MORPC Transportation Policy Committee acts as the “Metropolitan Planning Organization” or “MPO” for the Columbus Urbanized Area (see “Prospectus” in MORPC Transportation Planning Work Program – link in Appendix A) as designated by the Ohio Governor and U.S. Department of Transportation.

MORPC has served as the MPO (or “Transportation Study”) since 1964 and as a planning entity per the Ohio Revised Code since 1943 (under different organizational arrangements and names). The current organization, under the name “Mid-Ohio Regional Planning Commission,” was formed in 1969.

MORPC currently includes four major “production” departments: 1) Transportation Systems and Funding (the “MPO”); 2) Data and Mapping; 3) Planning and Environment; and 4) Energy and Air Quality. Energy and Air Quality includes a home weatherization and housing rehab component, and within Transportation Systems and Funding there is a separate demand management program that provides ridesharing services in 12 counties. MORPC also includes several “support” departments including Executive Management, Finance, Information Technology, and Public and Government Affairs.

MORPC is an independent, voluntary membership-run planning entity and receives part of its operations funding from member dues, which are also used to match grants. The MPO service area includes Delaware and Franklin Counties, and portions of northwest Fairfield County, southeast Union County and southwest Licking County.

The current MPO geographic area was generally established in 1973 except that portions of middle and northern Delaware County, not previously included in the MPO, were added in the early 1990s. Due to the increasing spread of urban growth beyond the central county in the past decade or so, and due to the larger 8-county U.S. Census Bureau-defined metropolitan statistical area, MPO work considers and sometimes includes, or extends into, areas beyond the MPO boundary.

MORPC is governed by a “commission” (or “board”) composed of officials appointed from member governments per MORPC bylaws and articles of agreement. The MPO is governed by the “Transportation Policy Committee” under advisement from the Transportation Advisory Committee and the Community Advisory Committee. The Transportation Policy Committee includes the members of the Commission who are from geographic areas within the MPO boundary and some additional members, per Transportation Policy Committee bylaws.

**Board Diversity** – To understand and effectively serve the needs of a diverse population, an organization’s board needs to have the perspective of diverse voices at the table. In 2014, MORPC conducted a survey of its Board members which also requested racial and ethnic minority representation. Out of a total of 106 respondents:

- 30% female
- 70% male
- 8% racial/ethnic minority combined
- 34% between the ages of 25-44
- 52% between the ages of 45-64
- 15% the age of 65 or older

MORPC operates differently from most public entities in that agency funding comes not from a committed or dedicated tax source but from the voluntary participation of local governments, and from performing work associated with various grants and agreements, which can change over time. These grants and agreements are from federal agencies, the State of Ohio, local governments, utility

companies, foundations, and from other public and private entities, to perform, implement or administer specific programs, services or studies.

The funding for a large portion of this work comes directly or indirectly from the federal government, often through state agency recipients. Sometimes these funds come through other subrecipients. The primary federal agencies that provide funding to MORPC include the Department of Transportation (DOT), the Department of Housing and Urban Development (HUD), the Department of Energy (DOE), and the Department of Health and Human Services (HHS). MORPC currently operates three major programs, which normally provide the bulk of federal funding to the agency:

- Transportation/MPO functions funded by the DOT
- Home Weatherization program funded by the DOE & HHS
- Housing programs funded by HUD

### Section 5310 Funds

#### **PROVIDING ASSISTANCE TO SUBRECIPIENTS Chapter III, 11**

MORPC is the Designated and Primary Recipient of FTA Section 5310 funds in the Columbus, Ohio urbanized area. MORPC passes Section 5310 funds through to subrecipients as required by the grant program. MORPC is in the process of developing agreements/contracts using FFY 2013 funds executed with FTA with the following subrecipients.

- The Alpha Group of Delaware County
- Canal Winchester Senior Transportation Services
- Franklin County Board of Developmental Disabilities
- Clintonville Beechwold Community Resource Center
- Heritage Day Health Centers
- LifeCare Alliance
- The Council of Older Adults of Delaware County
- Association for the Developmentally Disabled

Subrecipients are to be held to the same non-discrimination standards and accountable to the FTA Master Agreement as well as more defined guidelines based on their particular projects as MORPC when using these funds. Each subrecipient is also responsible to complete FTA's Certification and Assurances each federal fiscal year as they become available.

Subrecipients can access MORPC's Title VI notice of rights, complaint form and procedures and adopted policies at [www.morpc.org/about-morpc/overview/policies](http://www.morpc.org/about-morpc/overview/policies). All Title VI complaints regarding services provided with Section 5310 funds are to be addressed to MORPC as well as the recipient using MORPC's complaint procedures.

Sample notices, procedures, demographic and other information will be coordinated and provided by MORPC to assist subrecipients in their Title VI compliance.

#### **MONITORING SUBRECIPIENTS Chapter III, 12**

MORPC will develop a process and schedule to track subrecipient's Title VI Program compliance and submissions. MORPC's grant administrator will perform site visits as appropriate to each

subrecipient to ensure their projects are in compliance with the signed agreement and FTA standards. The administrator will receive monthly or quarterly reports that will be entered into FTA TEAM quarterly.

As required by the project, selected subrecipients will submit invoices to MORPC for reimbursement. Additional information may be requested in the event documentation is needed for reimbursement to ensure they are in compliance.

### **Conduct Equity Analysis for Determination of Site or Location of Facilities Chapter III, 13**

MORPC and its subrecipients do not use FTA funds to determine the location of a new facility or make renovations to existing facility. No projects require an equity analysis for land acquisition and the displacement of persons from their residences or businesses.

### **Procedures MORPC uses to pass through FTA financial assistance to subrecipients in a non-discriminatory manner Chapter VI, 2, c (2)**

MORPC has a Section 5310 Program Management Plan (PMP) approved by FTA. The PMP documents the pass through of FTA financial assistance to subrecipients in a nondiscriminatory manner. As part of the Section 5310 funding request process, Title VI data collection and general reporting requirements, Limited English Proficiency Requirements and FTA Certification and Assurances is required. A description of procedures to request funding is also included in the PMP. See Appendix K.

When funding becomes available, MORPC submits a press release, posts on MORPC's website, and social media, sends email blasts and mails post cards to potential subrecipients. MORPC's email and USPS mailing lists are inclusive of minority population organizations.

Each applicant is required as part of its Section 5310 funding request to provide information relating to the clientele to be served by the project, including the number of minority individuals broken down by Black, Hispanic, Asian or Pacific Islander, Native American, and Asian-Indian population groups. MORPC's Title VI complaint process will be used to solicit any complaints based on perceived discrimination based on race, color, or national origin. As a Designated and Primary Recipient, MORPC will monitor subrecipients with regard to Title VI.

### **Procedures MORPC uses to provide assistance to potential subrecipients applying for funding, including its efforts to assist applicants that would serve predominantly minority populations. Chapter VI, 2, c (3)**

As stated in MORPC's PMP when the funding cycles are announced the selection process is open and transparent, and every effort will be made to reach multiple agencies that provide services to the primary target populations, ensuring equity of access to the benefits of the grant programs among eligible groups, as required by Title VI of the Civil Rights Act.

MORPC contacts interested parties representing all segments of the study area, including advocates for people with disabilities, the elderly and minority populations have been maintained. In addition to mailing announcements and web postings, funding availability will be communicated using MORPC's Transportation Public Involvement Plan. Appendix G.

The selection process includes an informational workshop where outlining the development of project and criteria is offered. The workshop and assistance in developing proposals are advertised and offered to all interested parties.

## II. TITLE VI ORGANIZATION AT MORPC

### A. INTRODUCTION

In general, routine Title VI and related non-discrimination responsibilities at MORPC are handled in a decentralized manner, being primarily the responsibility of individual departments. This reflects the reality that MORPC operates through many different agreements, contracts and programs, and each of them may have somewhat different requirements and responsibilities relating to Title VI and non-discrimination.

Though MORPC is one entity, each production department operates their programs in different functional areas, somewhat independently utilizing different funding sources and agreements, and under varying requirements, roles, and constraints, which individual departments are most familiar with. This affects how Title VI responsibilities are organized at MORPC.

It should be noted that all of MORPC, without exception and across all departments, is subject to following federal Title VI and non-discrimination requirements. In that MORPC receives any federal funds, it is subject to these regulations, but in fact, MORPC receives significant amounts of federal funds that infiltrate every activity and operation of MORPC. This makes the entire agency subject to the related federal laws in all its operations.

### B. KEY STAFF RESPONSIBILITIES

As shown in the MORPC Title VI organization chart in Appendix F, the agency Executive Director, who is hired by the Commission, has overall responsibility for non-discrimination and implementation of the Title VI program. Directly reporting to the Executive Director on non-discrimination and civil rights issues is the Director of Human Resources, Administrative Services and Information Technology who serves as the overall agency “Title VI Coordinator.”

This person is the key contact person that has general responsibility over civil rights-related and non-discrimination issues that may arise within the agency. This person is also responsible for employment and hiring and for the agency’s Equal Employment Opportunity reporting.

Two other key staff members related to Title VI, who also report directly to the Executive Director, are the Chief of Staff & Finance Director and the Director of Public and Government Affairs. The Chief of Staff & Finance Director is responsible for helping to make sure the agency meets Title VI requirements in purchasing and in professional service or other contracts. The Director of Public and Government Affairs is responsible for Title VI as it relates to public outreach and Title VI notifications.

MORPC has also established a “Diversity Committee.” The committee was created to learn more about diversity issues at MORPC and how to improve diversity. While not specifically designated to address federal Title VI compliance issues, this committee may have involvement in this in the future. Ultimately though, most of the on-going responsibility for meeting program-related Title VI requirements at MORPC rests with each department director.

### III. KEY MPO TITLE VI ACTIVITIES

#### A. INTRODUCTION

MORPC conducts various activities to address and respond to Title VI-related issues, concerns, and requirements, Section III focuses on the primary Transportation Systems and Funding/MPO and related departments activities regarding Title VI and includes planning sub-sections on data collection.

#### B. PLANNING PROCESS

##### 1. INTRODUCTION

The MORPC Transportation Systems and Funding Department carries out a *comprehensive, cooperative and continuing* planning process in accordance with the Code of Federal Regulations, Title 23, Section 450. The principal products of this process are the Metropolitan Transportation Plan and the Transportation Improvement Program. MORPC must continually monitor the impacts of its planning to avoid, minimize or mitigate disproportional impacts on Title VI-protected populations.

Title VI affects the MORPC planning process in important ways. These are described in more detail in subsections 2, and 3:

- Data collection
- Public involvement

The primary responsibility for ensuring that these tasks are appropriately and sensitively carried-out lies with the Transportation Systems and Funding Director, while the specific tasks are normally sub-delegated within the Transportation Systems and Funding Department. The MORPC Director of Public and Government Affairs also has a significant role in the public involvement and notification responsibilities.

The MORPC Transportation Systems and Funding Department also has often performed special activities or planning studies that are specifically directed to the Title VI-protected populations. Examples include the MPO's frequent past involvement with (and ongoing interest in) developing and maintaining the

- human services transportation planning, mobility, job access for the transportation-disadvantaged, related to the *Coordinated Plan*.
- *Transportation Demand Management Plan* incorporates mobility management.
- *Planning Framework for the Evacuation of the Transportation Needs Populations in Central Ohio*.
- *insight2050* to proactively plan for development and growth over the next 30+ years. This report considers changing demographics and impacts to the mobility of the transportation system.

- **Minority Mobility Needs:** During our outreach and analysis we did not identify any transportation needs specific to minority populations. Their needs were similar to the needs of the general population; access to jobs and other services and generally have adequate mobility throughout the region. Our planning process continuously reaches out to minority populations. To date we have not identified that minority populations in our region have transportation needs different from the population as a whole. These are: access to jobs and other services; improve the safety of the transportation system; minimize congestion; and increasingly over the last several years access to more options including improved transit services and providing more biking and walking infrastructure to create better and more sustainable neighborhoods. Our transportation planning process includes minority population groups and viewpoints.
- **Impacts of State and Federal funds:** MORPC's analysis of the impact of the distribution of State and Federal funds is shown in figures IV-1 to IV-32 on pages 20- 34 of the Environmental Justice documentation. The charts identify the impacts of the TIP projects with respect to particular measures on various populations groups which specially include minority and non minority populations groups. A disparate impact would show up in these graphs if the trends depicted on the graph would be different between minority and non minority population. In all measures the trend lines of minority and non minority population follow a similar pattern as a result of the TIP projects when compared to the no build situation. More details can be derived by the paragraph associated with each measure. See Appendix H.

This type of work is done periodically in addition to the standard MPO activities discussed below.

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## 2. DATA COLLECTION

MORPC is a major collector, user and generator of economic, demographic, land use, transportation, and other data. Collecting some data is a regulatory requirement: *Develop procedures for the collection of statistical data (race, color, sex, age, disability, and national origin) of participants in, and beneficiaries of State highway programs, i.e., relocates, impacted citizens and affected communities (23 CFR 200.9(b)(4)).* Some of the purposes identified for collecting data, include:

To Identify:

- Impacts and persons/businesses impacted
- Transportation needs of all persons/groups within plans or project area
- People to include in the decision-making process
- Leaders/"Champion(s)" for various modes and transportation options
- Benchmark and monitor MORPC diversity efforts

Historically, the major need for data at MORPC has been related to the travel demand modeling component of the transportation work program and is a core part of MORPC's ongoing work. The need for data, however, goes beyond modeling and permeates most planning and service outreach activities at MORPC.

The MPO provides forecasts of population, housing, economic and transportation trends that provide the basis for addressing current issues and exploring future needs. MORPC also serves as a center for the collection, analysis, and dissemination of information in Central Ohio.

Some data is important to the planning process and Title VI because it helps identify the geographic locations and extent of traditionally-underserved populations that are protected through Title VI.

Demographic data regarding characteristics of these target populations for the metropolitan planning area is gathered and distributed into MORPC's traffic analysis zones. This is done so that the data can be further analyzed through the travel demand model. The analyses result in the identification of planning measurements that can be used to identify geographic areas of high densities of target populations.

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### 3. PUBLIC INVOLVEMENT

An effective public involvement process is a cornerstone to due process protection under the law. The rationale is the desire for a public involvement process that proactively seeks and is open to addressing the needs of all persons, including those traditionally-underserved. Furthermore, the rationale is to provide public access and the opportunity for input in the development of agency programming.

The public participation, consultation and notification requirements of MPOs are described in the Code of Federal Regulations Title 23, Section 450.316. CFR 450.316 (1) (vii): *Seeking out and considering the needs of those traditionally underserved by existing transportation systems, such as low-income and minority households, who may face challenges accessing employment and other services.*

Public involvement is defined as the *process by which interested and affected individuals or entities are consulted and included in decision-making process.* The public involvement process includes:

- Information dissemination (timely and relevant)
- Consultation (honest and open exchanges)
- "Stakeholder" participation (collaborative engagement)

Communication and public outreach are important to most MORPC programs and activities. Planning studies conducted by staff often need to include participation by a broad spectrum of area residents. Services offered by the housing or weatherization programs particularly, must reach lower and moderate-income groups, minorities, non-English speaking persons, and others. Results of the public participation efforts are included in the Public Involvement Appendix of each document. The Diversity and Inclusion plan also benchmarks the effectiveness of reaching out to these populations. See Focus Area: Service to Diverse Populations in the Diversity and Inclusion Plan. See Appendix N.

The MORPC public participation plan, which is updated periodically, helps to guide the engagement and outreach efforts for the transportation planning process. The current version of this plan is in Appendix G.

Some of the tools that MORPC uses to help keep the public informed include the following:

- ❖ **Website** – MORPC maintains an extensive website which is updated frequently. The site includes information on the agency’s responsibilities, policies, programs, publications, on-going activities, and press releases. Direct staff links are provided for most of the information on the website.
- ❖ **Social Media** – MORPC’s social media efforts include Facebook, Twitter, Vimeo, LinkedIn and Instagram.
- ❖ **Publications** – Each year, MORPC issues a multitude of publications, reports, and maps as part of the agency work, and responds to and processes a large number of data requests. Much of this can be accessed through the website. The publications are also distributed to the metropolitan libraries located within the transportation planning area.
- ❖ **Press Releases** – Press releases are routinely sent to more than 150 media contacts, including daily and weekly newspapers, and television and radio stations throughout the Central Ohio area. These include numerous Title VI-protected groups. The press releases are also placed on the website in the Press Center.
- ❖ **Meetings Open to the Public** – All MORPC board and committee meetings are open to the public. Meeting dates, times and agendas for board and major committee meetings are posted well in-advance on the agency’s website.
- ❖ **Opportunities for Public Comment** – MORPC routinely provides opportunities for public comment through email, U.S. mail, fax, phone, and through public comment at meetings. MORPC responds to all comments received.
- ❖ **Staff is Accessible** – Staff is accessible in person, on the phone, by mail, by fax, and by email. Contact information for many staff members is included on the agency website.
- ❖ **Mailings** – MORPC routinely uses direct mail and email to keep the public informed of the agency’s services, programs, public comment periods, meetings, and publications. These mailings include a large number of community groups, some of which represent Title VI protected groups. MORPC also sends press releases to newspapers that are published by and for traditionally underserved populations.
- ❖ **Events** – Events such as workshops, open houses, and forums are held regularly, as needed. MORPC routinely offers the following different ways for people to comment on activities, programs, and decisions made at the agency, as follows:
- ❖ **Comments are Accepted at Any Time** – Comments are accepted by phone, fax, email, U.S. mail, from the interactive maps on the website and in person at any board, committee or public meeting.
- ❖ **Formal Public Comment Periods for Major Activities** – Formal public comment and review periods are used to solicit comments on major planning and programming activities. This includes major amendments to the transportation plan or transportation improvement program and changes to important MORPC policies such as the public participation plan.

MORPC also has an active Community Advisory Committee that is a major component of the public involvement process and provides public input and recommendations to the Transportation Policy Committee. It is the responsibility of Public and Government Affairs to make sure that the Community Advisory Committee has representation from Title VI-relevant populations.

The Community Advisory Committee presently has 19 members, including 3 minority, and 1 person with a disability. MORPC consistently recruits for new committee members. MORPC also reviews and requires that project-specific committees include representation of diverse populations from the study areas.

**The Transportation Advisory Committee serves as the technical component of the public involvement process and provides recommendations to the Transportation Policy Committee. The Transportation Advisory Committee (TAC) presently has 23 members. A survey is currently being conducted for the members to self-identify their racial, ethnic or national origin status. Once the survey is completed, the Title VI program will be updated with the information. Membership will include the opportunity for proposed members to self identify. MORPC is in the process of updating the TAC By-laws and the 2015 Diversity and Inclusion Plan. Updated TAC By-laws and Diversity and Inclusion Plan will encourage minority participation on MORPC committees.**

In recent years, MORPC has taken steps to reach out to the growing non-English speaking communities in Central Ohio. MORPC has some of its information translated into Spanish and it also routinely distributes information to Spanish and Somali publications in the region. The MORPC website is translatable into various languages. MORPC also has under contract various agencies that provide interpretation, translation and services for the hearing impaired. This information is available to all staff on the intranet site and at the front desk in the lobby. See additional information in the Diversity and Inclusion plan under Focus Area: Service to Diverse Populations. See Appendix N.

Additional information on public involvement is included on the MORPC website. See the MORPC “public involvement” and “Metropolitan Transportation Plan” links in Appendix A.

## C. DIVERSITY AND INCLUSION PLAN

In 2009 MORPC formed the Diversity & Inclusion Committee to investigate the agency’s approach to diversity. The committee inventoried each department’s policies in serving diverse populations. The committee also hired a consultant, Multiethnic Advocates for Cultural Competence (MACC), to help MORPC enhance its diversity efforts.

In 2013, MORPC created the first MORPC Diversity & Inclusion Work Plan. The plan utilized the suggestions from MACC based on surveys and focus group interviews with staff and board members, as well as information provided from a MORPC self-assessment for cultural competence in the workplace completed for United Way.

The goal of the yearly work plans is to cultivate a work environment that is welcoming and inclusive; provide services and programs to the Central Ohio community creating a special place to live, work, and raise a family; and create a place for businesses to want to locate. The work plans assist MORPC

in its planning and decision-making, establishing priorities, providing relevancy to the MORPC region, building capacity, maintaining accountability, allocating resources and improving services to the Central Ohio community.

MORPC's commitment to diversity is evident in its Diversity Statement:

*"Diversity refers to the differences that make us unique. MORPC recognizes, values, embraces and celebrates diversity by respecting and utilizing all of our differences to enhance our lives and our society."*

The 2015 Diversity Work Plan intends to enhance and improve upon the six focus areas identified in the 2013 and 2014 plans. Each focus area includes demographics or references to relevant data as well as any MACC or United Way Assessment recommendations appropriate for that area.

The matrices, sorted by focus area, identifies: the process in which to achieve desired outcomes (Infrastructure); the capability to implement the processes (Competency); and the MORPC Team Member(s) responsible for the specific infrastructure (Staff). The matrix provides an area for reporting results (Outcome).

The 2015 Work Plan will continue to measure the six focus areas identified in the 2014 plan with changes to the goals in some areas.

- **Workforce** (WF) – Commit to the preparation of a culturally competent workforce.
- **Workplace** (WP) – Improve accessibility and accommodations for minorities, people with disabilities and GBLT.
- **Diversity Spend** (DS) – Increase diverse vendors spend to 10 percent.
- **Service to Diverse Populations** (SD) – Increase/enhance service to diverse populations.
- **Diversity Requirements** (DR) – Continue to meet the federal requirements for DBE and Section 3 HUD monitoring and reporting.
- **Diversity Communications** (DC) – Increase the promotion of MORPC's services and programs to diverse audiences, and increase the awareness of MORPC's Diversity & Inclusion efforts.

See Appendix N for the complete Diversity and Inclusion Work Plan.

## IV. OTHER TITLE VI-RELATED RESPONSIBILITIES AT MORPC

### A. TITLE VI RESOLUTION, POLICY STATEMENT AND ASSURANCES

MORPC is required by the U.S. Department of Transportation to submit approval of the three-year Title VI program and to maintain a Title VI policy statement signed by the Executive Director and Title VI assurances. See Appendix J. The policy statement, included in Appendix C, is an express commitment to non-discrimination and is signed by the chief administrative officer. The policy statement is required to be circulated throughout the organization and general public.

The Title VI assurances are now included as part of the annual MPO self-certification resolution, usually adopted in May of each year. Appendix C includes a copy of this from FY 2016.

It is relevant to note that by signing an assurance, the recipient has provided documentation that may be a basis for a 'breach of contract' action. Even without such writing, courts describe Title VI obligations (and other non-discrimination laws) as similar to a contract; "the recipients' acceptance of the funds triggers coverage under the non-discrimination provision" (*Paralyzed Veterans*, 477 U.S. at 605).

Assurances serve two important purposes: they remind prospective recipients of their non-discrimination obligations, and they provide a basis for the federal government to sue to enforce compliance with these statutes.

**The notice, Notifying the Public of Rights Under Title VI, can be found on MORPC's website at [www.morpc.org/about-morpc/overview/policies/title-vi](http://www.morpc.org/about-morpc/overview/policies/title-vi), in MORPC's lobby and in the employee lounge.**

### B. ON-SITE TITLE VI FEDERAL OR STATE REVIEWS

The federal agency providing the financial assistance is primarily responsible for enforcing Title VI as it applies to its recipients. Federal agencies have several mechanisms available to *evaluate* whether recipients are in compliance with Title VI, and additional means to *enforce* or obtain compliance should a recipient's practices be found lacking. Evaluation mechanisms include pre-award reviews, post-award compliance reviews, and investigations of complaints.

MORPC is subject to on-site federal or state Title VI compliance reviews, though this would be a rare-occurrence, if it took place. On-site reviews, which would be a detailed review of how MORPC addresses Title VI compliance, can be done anytime that a federal agency director believes that such a review is warranted, or for other specific reasons. Due to the dispersion within the MPO and the agency of Title VI activities and responsibilities, any response to on-site reviews by the agency is likely to be a joint effort by various individuals and departments.

Much more common, are special Title VI reviews pertaining to one project (see next section), activity or to complaints, usually requiring a written response. Title VI issues are also usually reviewed as part of the MPO on-site certification review conducted by FHWA and FTA every four years. A copy of the 2014 Title VI and Non-discrimination questions and answers to the Certification Review are included in Appendix M. MORPC strives to comply to proper procedures and maintenance of documentation of all activities related to Title VI.

## C. SPECIAL GRANTS

It is not unusual for MORPC to apply for special grants from various federal agencies or for federal grants through state agencies. These grants may be initiated by the MPO or another department at MORPC and may be a joint effort across departments. Often, in these cases, the federal agency (or state agency representing the federal agency) will require their own Title VI assessment – primarily answering various questions (and perhaps providing documentation) regarding Title VI at MORPC. This assessment is in accordance with U.S. Justice Department - recommended procedures for federal agencies.

Completing the required forms and documentation may be a combined effort at MORPC. As noted in the previous section, MORPC having correctly followed and documented Title VI procedures in the past can make responding to these Title VI reviews less difficult. The current document also should help with this.

Federal agencies typically require that an applicant submit an *assurance* of compliance with Title VI (and other applicable non-discrimination related laws) as part of a pre- grant award review. They may request information on pending lawsuits or complaints, prior compliance determinations, ethnic makeup of staff and decision-making bodies, and other related information. As part of the federal agency internal screening process, agency civil rights officials are normally notified of potential assistance grants and are provided the opportunity to raise a "red flag" or concern about potential grant recipients, such as MORPC.

## D. COMPLAINT PROCESS

Any individual may exercise their right to file a complaint with MORPC, or oversight federal or state agencies, if that person believes that they have been subject to unequal treatment or discrimination, in their receipt of benefits/services on grounds of race, color, or national origin. MORPC adopted an external Title VI complaint process in 2004.

**Under MORPC's Requirement to Record and Report Transit-Related Investigations, Complaints, and Lawsuits, MORPC has not, in the past three years, received a Title VI complaint, investigation or lawsuit.**

MORPC makes a concerted effort to resolve complaints informally at the lowest level, using the agency's non-discrimination complaint process or other procedures. The complaint process is intended to be used for external discrimination complaints. It includes a multi-step process for resolving complaints in conjunction with the Ohio Department of Transportation and federal agencies.

MORPC is also required to make it known that discrimination-related complaints can be submitted to MORPC using this procedure or through the federal highway or transit administrations, or other federal agencies.

Per the complaint process, complaints would first be submitted to the Director of Human Resources and Administrative Services, who is the Title VI liaison for MORPC. This person will review the complaint then request assistance in the response from the appropriate department director. The current complaint process is in Appendix E and on the MORPC website.

## E. NOTIFYING BENEFICIARIES OF PROTECTION UNDER TITLE VI

In order to comply with 49 CFR Section 21.9(d) and the FTA Civil Rights Assurance (that MORPC has signed) and other requirements, recipients and subrecipients shall provide information to the public regarding their Title VI obligations and apprise members of the public of the protections against discrimination afforded them by Title VI. The information shall include:

- A statement that the agency operates programs without regard to race, color, and national origin.
- A description of the procedures that members of the public should follow in order to request additional information on the recipient's or sub-recipient's non-discrimination obligations.
- A description of the procedures that members of the public should follow in order to file a discrimination complaint against the recipient or subrecipient.

**Notices of Title VI obligations and protections against discrimination are located on MORPC's website [www.morpc.org/about-morpc/overview/policies/title-vi](http://www.morpc.org/about-morpc/overview/policies/title-vi), in MORPC's main lobby and in the employee lunchroom. The notices are written in English and Spanish. Information regarding the notices is also available in the Diversity and Inclusion Plan under Area of Focus: Workplace.**

The FTA Title VI Assurance says:

*The Mid-Ohio Regional Planning Commission will make it known to the public that the person or persons alleging discrimination on the basis of race, color, or national origin as it relates to the provision of transportation services and transit-related benefits may file a complaint with the Federal Transit Administration and/or the U.S. Department of Transportation.*

MORPC does this in the following ways:

- Website – MORPC maintains a website with a wide-range of information on discrimination-related concerns. It also includes MORPC's complaint process.
- Major Publications – In major publications, such as the Metropolitan Transportation Plan and Transportation Improvement Program, information is included in the front on MORPC's obligations related to Title VI and where to get more information.
- Brochures – the non-discrimination clause is also placed on MORPC pamphlets and brochures.

## F. LIMITED ENGLISH PROFICIENCY (LEP) AND OTHER COMMUNICATION ISSUES

A limited English proficiency or LEP person is one who does not speak English as primary language and has limited ability to read, speak, write, or understand English. MORPC is required to implement *sound measures* and take *reasonable steps* for meaningful access to programs and activities by LEPs.

**Requirement to Provide Meaningful Access to LEP Persons: Language Assistance Plan or LEP Plan is located in Appendix I.**

Additional information on the LEP population is available in the Diversity and Inclusion Plan under Area Focus: Service to Diverse Populations and the ODOT Title VI Assessment. See [Appendix D](#).

Illiteracy is another situation that can make communication, especially written communication, difficult. MORPC staff is available to help client's complete applications for service and other documents and to take verbal comments. Public meetings are also frequently held which allow for communication verbally with staff and in written form.

## G. ANNUAL TITLE VI REPORT FOR ODOT

Annually, in May, in conjunction with developing the coming year's planning work program, MORPC updates the Title VI report required by the Ohio Department of Transportation. The MPO is mostly a subrecipient of federal transportation funds and ODOT is usually the primary recipient for MORPC.

The ODOT report, which helps to satisfy federal requirements for the primary recipient and the sub-recipient, is submitted to ODOT with the transportation work program and currently includes information related to: the composition of the MPO staff; Title VI complaints; use of minority contractors; and citizen participation activities. A copy of the most recent report is included in Appendix D and on the MORPC website.

## H. CONTRACT PROCEDURES

### Contract Procedures

MORPC's contracting and pre-contracting steps are generally done on a decentralized basis by individual departments, though all contracts are reviewed by the MORPC Chief of Staff & Finance Director. MORPC's current contracting procedures, as adopted by the Commission, are contained in the document listed in the first bullet item, above. These are general requirements that apply agency-wide.

The requirement is to include specific Title VI-related text in all MORPC requests for proposals (RFPs), requests for qualifications (RFQs) and contracts. MORPC is required to include the following language in all RFPs or RFQs:

[The following section is for projects funded by federal transportation funds.]

The Mid-Ohio Regional Planning Commission, 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,

Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, minority business enterprise 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, creed, religion, ancestry, national origin, sex or gender, sexual orientation, disability or other handicap, age, marital/familial status, income, or status with regard to public assistance in consideration for an award.

The following text is required to be included in all contracts:

The background of this Agreement is as follows:

- A. Pursuant to the SAFETEA-LU Act of 2005 and the MAP-21 Act of 2012, the Federal Highway Administration (“FHWA”) made certain funds available to the State of Ohio for surface transportation planning programs. MORPC is the sub-recipient of some of these funds (“GRANT”).
- B. The Mid-Ohio Regional Planning Commission (hereinafter referred to as the “SUBRECIPIENT”) HEREBY AGREES THAT as a condition to receiving any Federal financial assistance from the Department of Transportation it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d-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, 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 (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 persons the United States shall, on the grounds of race, color, creed, national origin, sex or gender, sexual orientation, disability, age, or income, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the SUBRECIPIENT receives Federal financial assistance from the Department of Transportation including the Ohio Department of Transportation, and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement. This assurance is required by subsection 21.71(a) of the regulations.

**§19. Non-Discrimination.**

CONSULTANT shall not discriminate on the basis of race, color, creed, national origin, sex or gender, sexual orientation, disability, age, or income in the performance of this contract. CONSULTANT shall carry out the applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by CONSULTANT 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 MORPC deems appropriate.

To effectuate Title VI of the Civil Rights Act of 1964, the following notice to the CONSULTANT’S compliance with Title VI of the Civil Rights Act of 1964 for federal aid recipients applies. MORPC has made similar notice of compliance via the GRANT agreement. During the performance of this Agreement, CONSULTANT for itself, its assignees and successors in interest agrees as follows:

- a) *Compliance with Regulations:* CONSULTANT will comply with the regulations relative to

nondiscrimination in Federally-assisted programs of the U.S. DOT Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as "Regulations"), which are herein incorporated by reference and made a part of this Agreement.

- b) *Nondiscrimination*: CONSULTANT, with regard to the work performed by it after the execution of this Agreement, will not discriminate on the grounds of race, color, creed, religion, ancestry, national origin, gender, sexual orientation, disability or other handicap, age, marital/familial status, or status with regard to public assistance in the selection and retention of contractors and consultants, including in the procurement of materials and leases of equipment. The CONSULTANT will not participate either directly or indirectly in the 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.
- c) *Solicitations for Contracts, including Procurement of Materials and Equipment*: In all solicitations either by competitive bidding or negotiation made by CONSULTANT for work to be performed under a contract, including procurement of materials or equipment, each potential contractor or supplier will be notified by CONSULTANT of the CONSULTANT's obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, creed, religion, ancestry, national origin, gender, sexual orientation, disability or other handicap, age, marital/familial status, veteran status or status with regard to public assistance.
- d) *Information and Reports*: CONSULTANT will provide all information and reports required by the Regulations or directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information and its facilities as may be determined by ODOT, FHWA, or FTA to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT will so certify to ODOT, FHWA or FTA as appropriate, and will set forth what efforts it has made to obtain the information.
- e) *Sanctions for Noncompliance*: In the event of CONSULTANT's noncompliance with the nondiscrimination provisions of this Agreement, ODOT will impose such Agreement sanctions as ODOT, FHWA, or FTA may determine to be appropriate, including, but not limited to:
  - i. Withholding of payments to CONSULTANT under this Agreement until CONSULTANT complies, and/or;
  - ii. Cancellation, termination, or suspension of this Agreement, in whole or in part.
- f) *Incorporation of Provisions*: CONSULTANT will include the provisions of the five immediately preceding paragraphs in every contract, including procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. CONSULTANT will take such action with respect to any contracts or procurement as ODOT, FHWA, or FTA may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event CONSULTANT becomes involved in, or is threatened with, litigation with a contractor, consultant, or supplier as a result of such direction, MORPC may request ODOT to enter into such litigation to protect the interests of ODOT, and, in addition, MORPC may request the United States to enter into such litigation to protect the interest of the United States.

MPO contracts also need to include the “Contractor Contractual Requirements.” This is included as part of the “Standard DOT Assurances” document, currently included as part of MORPC’s annual self-certification resolution. A copy of this is in Appendix C.