



Metropolitan Washington  
Council of Governments

# Metropolitan Washington Council of Governments

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## **Title VI Plan**

**To Ensure Nondiscrimination in all Programs and Activities**

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Draft of July 7, 2010

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Alternative formats of this document can be made available. Phone: 202.962.3300 or 202-962.3213 (TDD) Email: [accommodations@mwkog.org](mailto:accommodations@mwkog.org). Allow 7 working days for preparation of the material. Electronic versions are available at: [www.mwkog.org](http://www.mwkog.org).

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## Introduction

The Metropolitan Washington Council of Governments (COG) was established in 1957 by local cities and counties to deal with regional concerns including growth, housing, the environment, public health and safety - as well as transportation. COG is an independent, nonprofit association. COG facilitates the coordination and integration of regional issues among local governments in two States (Maryland and Virginia) and the District of Columbia.

COG is comprised of 21 local governments surrounding our nation's capital, plus area members of the Maryland and Virginia legislatures, the U.S. Senate, and the U.S. House of Representatives. COG member jurisdictions are shown in Figure 1 below. The Metropolitan Washington region covers approximately 3,000 square miles and includes over 5.2 million people and over 3.2 million jobs.



COG is committed to assuring that no person shall, on the grounds of race, color, national origin, or sex, as provided by Title VI of the Civil Rights Act of 1964 and the Civil Rights Restoration Act of 1987 (PL 100.259), be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination under any program or activity. COG further assures that every effort will be made to ensure nondiscrimination in all of its programs and activities whether those programs and activities are federally funded or not.

This plan was developed to document the efforts COG undertakes on a continual basis to ensure compliance with Title VI and related statutes regarding nondiscrimination and environmental justice.

### RELATIONSHIP BETWEEN COG AND TPB

COG is an independent, nonprofit association. It is supported by financial contributions from its participating local governments, federal and state grants and contracts, and donations from foundations and the private sector. Policies are set

by the full membership acting through its board of directors, which meets monthly to discuss area issues.

COG serves as the administrative agent for the National Capital Region Transportation Planning Board (TPB) under an agreement with the Transportation Departments of Maryland, Virginia, and the District of Columbia. The TPB was created in 1965 by the region's local and state governments to respond to federal highway legislation in 1962 that required the establishment of a "continuing, comprehensive and coordinated" transportation planning process in every urbanized area in the United States. The TPB is designated as this region's Metropolitan Planning Organization (MPO) by the governors of Virginia and Maryland and the mayor of Washington, D.C. based upon an agreement among the local governments. Although the TPB is an independent body, its staff is provided by COG's Department of Transportation Planning. COG administers a Unified Planning Work Program (UPWP) in conjunction with the TPB in accordance with the requirements of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) (Pub.L. 109-59)

## POLICY STATEMENT

THE METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS ASSURES THAT NO PERSON SHALL, ON THE GROUNDS OF RACE, COLOR, NATIONAL ORIGIN, OR SEX, AS PROVIDED BY TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 AND THE CIVIL RIGHTS RESTORATION ACT OF 1987 (PL 100.259), BE EXCLUDED FROM PARTICIPATION IN, DENIED THE BENEFITS OF, OR BE OTHERWISE SUBJECTED TO DISCRIMINATION UNDER ANY PROGRAM OR ACTIVITY. COG FURTHER ASSURES THAT EVERY EFFORT WILL BE MADE TO ENSURE NONDISCRIMINATION IN ALL OF ITS PROGRAMS AND ACTIVITIES WHETHER THOSE PROGRAMS AND ACTIVITIES ARE FEDERALLY FUNDED OR NOT. IN THE EVENT COG DISTRIBUTES FEDERAL AID FUNDS TO ANOTHER GOVERNMENTAL ENTITY, COG WILL INCLUDE TITLE VI LANGUAGE IN ALL WRITTEN AGREEMENTS AND WILL MONITOR FOR COMPLIANCE. COG'S TITLE VI OFFICER IS RESPONSIBLE FOR INITIATING AND MONITORING TITLE VI ACTIVITIES, OVERSEEING THE PREPARATION OF REQUIRED REPORTS AND OVERSEEING OTHER COG RESPONSIBILITIES AS REQUIRED BY TITLE 23 CODE OF FEDERAL REGULATIONS (CFR) PART 200 AND TITLE 49 CFR PART 21.

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DAVID ROBERTSON, EXECUTIVE DIRECTOR

DATE

## TITLE VI ASSURANCES

### COG's Title VI Assurances

The Metropolitan Washington Council of Governments ("Recipient), HEREBY AGREES THAT as a condition to receiving any federal financial assistance, it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000d, *et seq.* ("Act"), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, no person in the United States shall, on the grounds of race, color, sex, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives federal financial assistance, and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement.

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

1. That the Recipient agrees that each "program" and each "facility", as defined in the Regulations, will be (with regard to a "program") conducted or will be (with regard to a "facility") operated in compliance with all requirements imposed by, or pursuant to, the Regulations.
2. That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Regulations made in connection with federal aid assisted programs, and in adapted form in all proposals for negotiated agreements:

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

3. That where the Recipient receives federal financial assistance to construct a facility, or part of a facility, the Assurance shall extend to the entire facility and facilities operated in connection therewith.
4. That where the Recipient received federal financial assistance in the form, or for the acquisition of real property, or an interest in real property, the Assurance shall extend rights to space on, over, or under such property.



5. That the Recipient shall include the appropriate clauses regarding a covenant running with the land, in any future deeds, leases, permits, licenses and similar agreements entered into by the Recipient with other parties: (a) for the subsequent transfer of real property acquired or improved under federal aid-assisted programs; and (b) for the construction or use of, or access to space on, over, or under real property acquired or improved under federal aid-assisted programs.
6. That this Assurance obligates the Recipient for the period during which federal financial assistance is extended to the program, or is in the form of personal property, or real property or interest therein or structures or improvements thereon, in which case the Assurance obligates the Recipient or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which the federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the Recipient retains ownership or possession of the property.
7. The Recipient shall provide for such methods of administration for the program, as are found by the official to whom s/he delegates specific authority, to give reasonable guarantee that it, other recipients, subgrantees, contractors, subcontractors, transferees, successors in interest, and other participants of federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations, and this Assurance.
8. The Recipient agrees that the United States has a right to seek judicial endorsement with regard to any matter arising under the Act, the Regulations, and this Assurance.

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

David Robertson, Executive Director

Date

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## Organization and Compliance Responsibilities

### COG'S ROLE AND MEMBERS

COG is a regional organization of Washington area local governments and coordinates regional issues among two States (Maryland and Virginia) and the District of Columbia. COG is comprised of 21 local governments surrounding our nation's capital, plus area members of the Maryland and Virginia legislatures, the U.S. Senate, and the U.S. House of Representatives. COG member jurisdictions are shown in Figure 1 below. COG provides a focus for action and develops sound regional responses to such issues as the environment, affordable housing, economic development, health and family concerns, human services, population growth, public safety, and transportation.

TPB's staff is provided by COG's Department of Transportation Planning and COG serves as the administrative agent for TPB and administers a Unified Planning Work Program (UPWP) in conjunction with the TPB in accordance with the requirements of Federal laws.

COG is responsible for agency policies, human resources management, administrative services including contracting, financial and legal services, technology services and programs, community planning, environmental programs, public safety and health programs. The TPB is an independent board responsible for transportation planning and programs. The Metropolitan Washington Air Quality Committee (MWAQC) is also an independent board responsible for coordinating planning to reduce pollutant emissions.

#### **COG'S MISSION STATEMENT**

ENHANCE THE QUALITY OF LIFE AND COMPETITIVE ADVANTAGES OF THE WASHINGTON METROPOLITAN REGION IN THE GLOBAL ECONOMY BY PROVIDING A FORUM FOR CONSENSUS BUILDING AND POLICY-MAKING; IMPLEMENTING INTERGOVERNMENTAL POLICIES, PLANS, AND PROGRAMS; AND SUPPORTING THE REGION AS AN EXPERT INFORMATION RESOURCE.

Figure 1: Map of COG Member Jurisdictions



## TPB'S ROLE AND MEMBERS

The National Capital Region Transportation Planning Board (TPB) is the federally designated Metropolitan Planning Organization (MPO) for the region, and plays an important role as the regional forum for transportation planning. The TPB is a multi-state MPO involving Maryland, Virginia and the District of Columbia.

The TPB was created in 1965 by the region's local and state governments to respond to federal highway legislation in 1962 that required the establishment of a "continuing, comprehensive and coordinated" transportation planning process in every urbanized area in the United States. The TPB is designated as this region's MPO by the governors of Virginia and Maryland and the mayor of Washington, D.C. based upon an agreement among the local governments.

Members of the TPB are shown in Figure 2 below and include representatives of local governments; state transportation agencies; the Maryland and Virginia General Assemblies; the Washington Metropolitan Area Transit Authority; and non-voting members from the Metropolitan Washington Airports Authority and federal agencies.

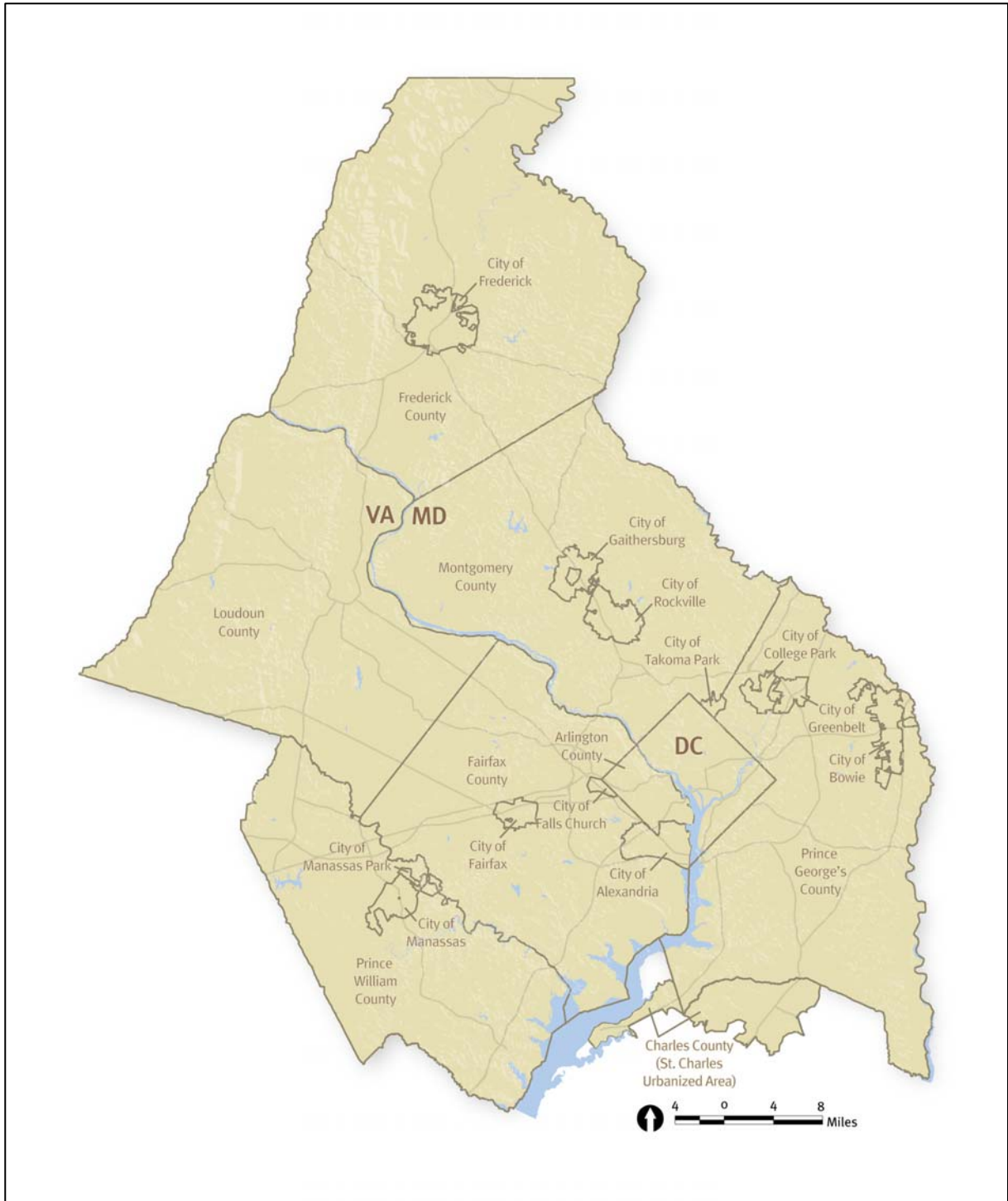
The TPB prepares plans and programs that the federal government must approve in order for federal-aid transportation funds to flow to the National Capital region. In particular, federal law and regulations relating to the work of MPOs require the TPB to adopt a long-range transportation plan, which is known as the Financially Constrained Long-Range Transportation Plan (CLRP) in the National Capital region, and a six-year Transportation Improvement Program (TIP). The TPB must also ensure compliance with other federal laws and requirements, including federal air quality conformity requirements and planning factors specified in SAFETEA-LU. The TPB has an extensive public involvement process, and provides a 30-day public comment period before taking action on plans and programs.

In addition to ensuring compliance with federal laws and requirements, the TPB performs many other functions, including providing a regional forum for coordination of policy-making, and providing technical resources for transportation decision-making. The TPB receives input and guidance from advisory committees comprised of members of the public, special interest groups, and jurisdictional staff. The TPB's committee structure is provided in Attachment C.

### THE TPB VISION STATEMENT

IN THE 21ST CENTURY, THE WASHINGTON METROPOLITAN REGION REMAINS A VIBRANT WORLD CAPITAL, WITH A TRANSPORTATION SYSTEM THAT PROVIDES EFFICIENT MOVEMENT OF PEOPLE AND GOODS. THIS SYSTEM PROMOTES THE REGION'S ECONOMY AND ENVIRONMENTAL QUALITY, AND OPERATES IN AN ATTRACTIVE AND SAFE SETTING--IT IS A SYSTEM THAT SERVES EVERYONE. THE SYSTEM IS FISCALLY SUSTAINABLE, PROMOTES AREAS OF CONCENTRATED GROWTH, MANAGES BOTH DEMAND AND CAPACITY, EMPLOYS THE BEST TECHNOLOGY, AND JOINS RAIL, ROADWAY, BUS, AIR, WATER, PEDESTRIAN AND BICYCLE FACILITIES INTO A FULLY INTERCONNECTED NETWORK.

Figure 2: Map of TPB Member Jurisdictions



## STAFF RESPONSIBILITIES

To ensure the implementation of the Title VI Plan, the following responsibilities have been identified for the Title VI Officer and the Title VI Coordinators. Organizational Charts for executive staff and key departments within COG can be found in Attachment B.

### RESPONSIBILITIES OF THE TITLE VI OFFICER

The COG Title VI Officer is generally responsible for overseeing compliance with applicable nondiscrimination authorities in each Department.

The Executive Director, as the Title VI Officer, is responsible for:

- Meeting with appropriate staff members to monitor and discuss progress, implementation, and compliance issues related to the COG Title VI Plan;
- Periodically reviewing the COG Title VI Plan to assess whether administrative procedures are effective, staffing is appropriate, and adequate resources are available to ensure compliance; and
- Working with Title VI Coordinators, determine if any revisions or updates are needed to the Title VI Plan.

### RESPONSIBILITIES OF THE TITLE VI COORDINATORS

Each Department or Office within COG that has Title VI responsibilities has a Title VI Coordinator. The Title VI Coordinators are responsible for:

- Familiarizing themselves and staff with Federal and state nondiscrimination regulations and procedures in respective subject areas;
- Supervising staff activities pertaining to nondiscrimination regulations and procedures set forth in federal guidance and in accordance with the COG Title VI Plan. The Title VI coordinators may designate supervised employees to be additional Title VI coordinators for his/her Department or Office; and
- Ensuring that their respective Offices/Departments adhere to the COG Title VI Plan.

### **General Counsel**

- Identifying, investigating and working with the Title VI Coordinators to eliminate discrimination when it is found to exist;
- Acting as lead investigator on all discrimination complaints received by COG pursuant to this Plan. Any individual may exercise his or her right to file a complaint with COG, if that person believes that he or she or any other program beneficiaries have been subjected to discrimination, in their receipt of benefits/services or on the grounds of race, color, national origin, sex, handicap, age, or income status. COG will make a concerted effort to resolve complaints in accordance with Non-Discrimination Complaint Procedures; and
- Organizing an annual meeting of the Title VI Coordinators on behalf of the Title VI Officer to review the Title VI Plan, review any new Title VI non-discrimination regulations or guidance, discuss Title VI-related agency issues and activities, and determine if revisions are needed to the Title VI Plan.

### **Director of Office of Human Resources**

- Maintaining a list of Interpretation Service Providers;
- Disseminating the COG Title VI Plan to COG employees;
- Identifying and promote opportunities for COG staff to receive Title VI training;
- Maintaining a list of employees who have received Title VI training; and
- Reviewing important issues related to nondiscrimination with the Executive Director, as needed.

### **Contracts Manager**

- Ensuring that COG contractors and sub-recipients are aware of COG's Title VI Policy;
- Working with staff involved with consultant contracts and the sub-recipients found to be noncompliant to resolve the deficiency status and write a remedial action if necessary, as described in the Consultant Contracts section of this document;
- Ensuring proper Title VI Language is in all contracts;
- Ensuring that DBE Policy is followed; and
- Reviewing important issues related to nondiscrimination with the Executive Director, as needed.

#### **Director of the Office of Public Affairs**

- Ensuring that the COG website includes the Nondiscrimination Complaint Procedure;
- Ensuring that key publications have Title VI Notice and accommodations language; and
- Reviewing important issues related to nondiscrimination with the Executive Director, as needed.

#### **Director of the Department of Transportation Planning**

- Ensuring that all of the activities of the National Capital Region Transportation Planning Board (TPB) adhere to the Title VI Plan;
- Coordinating with appropriate federal and state transportation agencies entities to periodically provide TPB staff with training opportunities regarding nondiscrimination; and
- Reviewing important issues related to nondiscrimination with the Executive Director, as needed.

#### **Director of the Department of Environmental Programs**

- Ensuring that all of the activities of the Metropolitan Washington Air Quality Committee (MWAQC) adhere to the Title VI Plan; and
- Reviewing important issues related to nondiscrimination with the Executive Director, as needed.

#### **Director of the Department of Public Safety and Health**

- Reviewing important issues related to nondiscrimination with the Executive Director, as needed.

#### **Director of the Department of Community Planning and Services**

- Reviewing important issues related to nondiscrimination with the Executive Director, as needed.



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## CONTRACTING, TRAINING AND POLICIES

### CONSULTANT CONTRACTS

COG is responsible for the selection, negotiation and administration of its consultant contracts and manages these functions under internal contract procedures as well as all relevant federal and state laws. The COG Purchasing Office is responsible for:

- Ensuring nondiscrimination language is included in contracts and Requests for Proposals (RFPs);
- Reviewing consultant compliance.

COG ensures that consultants are monitoring and verifying compliance with nondiscrimination authorities, procedures and requirements within the workplace and in the conduct of grant-funded activities.

If a recipient or sub-recipient is found to be not in compliance with the nondiscrimination authorities, the Title VI Officer and appropriate staff will work with the recipient or sub-recipient to resolve the deficiency and prepare remedial actions as necessary.

Reviewing outreach activities to ensure small, disadvantaged, minority, women and disabled veteran owned businesses are not excluded from opportunities to compete for consulting contracts.

### Nondiscrimination Clauses

The following nondiscrimination clauses are included in all COG Requests for Proposals and other solicitations for bid:

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

The following nondiscrimination clauses are included in all COG contracts and subgrant agreements:

**Civil Rights Requirements** – 29 U.S.C. § 62, 42 U.S.C. § 2000, 42 U.S.C. § 602, 42 U.S.C. § 12112, 42 U.S.C. § 12132, 49 U.S.C. § 5332

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

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

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

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

**Age** – In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and other applicable law, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements the funding federal agency may issue.

**Disabilities** – In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act”, 29 CFR Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements the funding federal agency may issue.

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

### **DBE Policy and Outreach**

COG has developed a DBE policy that is available on the COG website. COG maintains a DBE program that is updated as needed and a DBE participation goal that is reviewed annually. The full text of the COG DBE Policy is available in Attachment I (EYE).

COG, through its Purchasing Office, maintains a list of DBEs that receive all notifications when it releases solicitations. The solicitation notifications are also published in a national publication and posted on the COG website. The DBE list includes Minority Institutions of Higher Education (MIHE) and Historically Black Colleges and Universities (HBCU).

## **EDUCATION AND TRAINING**

The Office of Human Resources Management Training Coordinator shall be responsible for advising COG staff about available training in support of Title VI. Lists of training related training such as diversity and EEO/Affirmative Action shall be made well known through email, flyers and brochure.

The OHRM Training Coordinator shall do special outreach to program directors and to individual staff whose functions involve dealing with Title VI. Tracking and management reports as they relate to types of training provided and number of employees who took the training shall be maintained by the Training Coordinator, along with appropriate demographic breakdowns.

It is the responsibility of the OHRM Training Coordinator to schedule training in such a way that appropriate notices and announcements are posted in a timely fashion. Consistent with the COG policy, reasonable accommodation for persons with disabilities shall be provided such as a sign language interpreter.

### **Employee Training**

All COG employees are encouraged to participate in professional development and training within and outside of COG.

Internally, COG offers a variety of training for staff development and in support of various programmatic goals of each department. COG-wide training involves a variety of topics, such as performance management, supervisory training, diversity, technical/computer related training and other subjects in response to departmental or COG-wide training needs.

COG also offers the Regional Development Program under the Institute for Regional Excellence (IRE). Under this program, staff members of COG and member-jurisdictions participate in a 12-month program that prepares them to assume higher level leadership positions. IRE is open to all managers, senior managers and department heads and selection is based on meeting the requirements of the program. Participants of this program come from various jurisdictions and are of diverse backgrounds based on gender, race, positions and professional backgrounds.

#### ***Specific Title VI Transportation Planning Related Training***

In an effort to continuously improve the TPB's overall compliance posture, nondiscrimination training will be coordinated with the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), the Virginia Department of Transportation (VDOT), the Maryland Department of Transportation (MDOT) and the District Department of Transportation (DDOT), and made available to COG staff on an ongoing basis to ensure up to date knowledge of Title VI and other nondiscrimination statutes. The DTP Title VI Coordinators are responsible to train DTP staff on the Title VI Plan, including but not limited to public participation and outreach requirements, limited English proficiency, and analysis of the long range plan for disproportionately high and adverse impacts.

### **EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION POLICY**

In accordance with COG's HR Policy, 5.A-B the COG Executive Director, in cooperation with department heads, the Director of Human Resources, and the Equal Employment Opportunity Committee, shall administer the policy set forth in this chapter for affirmative action and equal employment opportunity.

It is the intent and purpose of this policy to insure equal employment opportunity and treatment for all employees, contractors, and applicants for employment without regard to race, color, sex, sexual orientation, age, marital status, personal appearance, family responsibilities, matriculation, status as a Vietnam era or special disabled veteran, religion, national origin, political affiliation, disability.

The policy of equal employment applies to every aspect of COG employment and contracts, except where prohibited by law.

Title VII issues are not addressed in this Plan and are handled through the COG Office of Human Resources Management (OHRM). COG has a well established equal employment and Affirmative action policies and procedures in all aspects of employment. COG also has an EEO Committee comprised of employee representatives, a EEO Counselor and a the staff of OHRM working together to ensure Title VII issues are addressed proactively and promptly. A formal complaint procedure is also in place to address Title VII-related complaints.

The OHRM also prepares an annual Affirmative Action report to maintain and ensure continuous progress in providing equal employment opportunity to current and prospective employees.

Attachment H includes the Equal Employment Opportunity and Affirmative Action Policy and Harassment Policy.

### ACCOMMODATIONS POLICY

It is COG policy to provide equal access for individuals with disabilities and those with limited English proficiency to programs, meetings, publications, and activities. Special accommodations will be provided by COG upon request. Reasonable accommodations may include modifications or adjustments to a program, publication, activity, or the way things usually are done, to enable an individual with a disability or with limited English skills to participate. Attachment G includes the Accommodations policy.

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## Nondiscrimination Complaint Procedures

These procedures apply to all complaints filed under Title VI of the Civil Rights Act of 1964 (including its Disadvantaged Business Enterprises (DBE) and Equal Employment Opportunity (EEO) components), Section 504 of the Rehabilitation Act of 1973, the Civil Rights Restoration Act of 1987, and the Americans with Disabilities Act of 1990, relating to any program or activity administered by COG or its sub-recipients, consultants, and/or contractors, intimidation or retaliation of any kind is prohibited by law. They do not apply to complaints related to employment conditions, actions, or decisions reflecting COG's status as employer. Such complaints should be initiated under policies administered by COG's Office of Human Resource Management.

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. These procedures are part of an administrative process that does not provide for remedies that include punitive damages or compensatory remuneration for the complainant.

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 Officer or the appropriate Title VI Coordinator may be utilized for resolution, at any stage of the process. The Title VI Officer will make every effort to pursue a resolution to the complaint. Initial interviews with the complainant and the respondent will request information regarding specifically requested relief and settlement opportunities.

### Procedures

1. Any individual, group of individuals, or entity that believes he/she, they, or it have been subjected to discrimination prohibited by Title VI nondiscrimination procedures may file a written complaint with COG's Title VI Officer. A formal complaint must be filed within 180 calendar days of the alleged occurrence or when the alleged discrimination became known to the complainant. The complaint must meet the following requirements:
  - a. Complaint shall be in writing and signed by the complainant(s).
  - b. Include the date of the alleged act of discrimination (date when the complainant(s) became aware of the alleged discrimination; or the date on which that conduct was discontinued or the latest instance of the conduct).
  - c. Present a detailed description of the issues, including names and job titles of those individuals perceived as parties in the complained-of incident.

- d. Allegations received by fax or e-mail will be acknowledged and processed, once the identity(ies) of the complainant(s) and the intent to proceed with the complaint have been established. For this, the complainant is required to mail a signed, original copy of the fax or e-mail transmittal for COG to be able to process it.
    - e. Complaints received by telephone will be entered into a log listing time, date, and complainant. Complainants will be informed to file a complaint in writing and will be directed to the website or other templates suggesting complaint form.
  2. Upon receipt of the complaint, the Title VI Officer will refer the matter to the General Counsel who will determine its jurisdiction, acceptability, and need for additional information, as well as investigate the merit of the complaint. In cases where the complaint is against one of COG's sub-recipients of federal funds, COG will assume jurisdiction and will investigate and adjudicate the case. Complaints against COG or TPB will be referred by the General Counsel to the appropriate state or federal agencies for proper disposition pursuant to their procedures. In special cases warranting intervention to ensure equity, these agencies may assume jurisdiction and either complete or obtain services to review or investigate matters.
  3. In order to be accepted, a complaint must meet the following criteria:
    - a. The complaint must be filed within 180 calendar days of the alleged occurrence or when the alleged discrimination became known to the complainant.
    - b. The allegation(s) must involve a covered basis such as race, color, natural origin, gender, disability, or retaliation.
    - c. The allegation(s) must involve a program or activity of a Federal-aid recipient, sub-recipient, or contractor, or, in the case of ADA allegations, an entity open to the public.
    - d. The complainant(s) must accept reasonable resolution based on COG's administrative authority (reasonability to be determined by COG).
  4. A complaint may be dismissed for the following reasons:
    - a. The complainant requests the withdrawal of the complaint.
    - b. The complainant fails to respond to repeated requests for additional information needed to process the complaint.
    - c. The complainant cannot be located after reasonable attempts.
  5. Once COG or a state or federal agency decides to accept the complaint for investigation, the complainant and the respondent will be notified in writing of such determination within five calendar days. The complaint will receive a case number and will then be logged in the records of COG or the agency

referred to identifying its basis and alleged harm, and the race, color, national origin, and gender of the complainant.

6. In cases where COG assumes the investigation of the complaint, COG will provide the respondent with the opportunity to respond to the allegations in writing. The respondent will have 10 calendar days from the date of COG's written notification of acceptance of the complaint to furnish his/her response to the allegations.
7. In cases where COG assumes the investigation of the complaint, within 40 calendar days of the acceptance of the complaint, the General Counsel, with assistance from the appropriate Title VI Coordinator will prepare an investigative report for review by the Executive Director. The report shall include a narrative description of the incident, identification of persons interviewed, findings, and recommendations for disposition.
8. The General Counsel and the appropriate Title VI Coordinator will discuss the report and recommendations with the Executive Director within 10 calendar days. The report will be modified as needed and made final for its release.
9. COG's final investigative report and a copy of the complaint will be forwarded to the appropriate state agency within 60 calendar days of the acceptance of the complaint.
10. COG will notify the parties of its preliminary findings, which may be subject to concurrence from the appropriate state agency.
11. Once a state agency issues its final decision, COG will notify all parties involved about such determination. State determinations are not subject to an appeal.



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## TPB's Title VI Components

### DATA AND ANALYSIS

#### Demographic Profile

Data from the US Census is used to develop a demographic profile of the metropolitan planning area and identify the locations and needs of socioeconomic groups, including low-income, disabled, limited-English proficiency, and minority populations.

For the current profile, go to: [www.mwcog.org/clrp/performance/EJ/EJintro.asp](http://www.mwcog.org/clrp/performance/EJ/EJintro.asp).

#### Mapping of CLRP Improvements with Locations of Traditionally-Disadvantaged Population Groups

TPB staff regularly produces maps displaying the geographic distributions of the population groups, listed below, relative to major highway, HOV, and transit improvements from CLRP and Census data. The demographic profile, the maps and the analysis listed below are presented and reviewed by the Access for All Advisory Committee. To view the maps, go to [www.mwcog.org/clrp/performance/EJ/EJintro.asp](http://www.mwcog.org/clrp/performance/EJ/EJintro.asp)

- African American
- Asian
- Hispanic/Latino
- Low-Income
- Persons with a Disability
- Older adult
- Persons with limited English proficiency

#### Evaluation of the TPB's Financially Constrained Long-Range Transportation Plan (CLRP) for Disparate Impacts

The TPB regularly conducts an analysis of how the benefits and burdens of the long-range plan are distributed among low-income, minority and disabled populations versus the general population. The performance analysis for the CLRP includes an analysis of the accessibility gains and losses across minority, low-income and disabled population groups. The analysis utilizes the demographic profile described above. Accessibility is measured in terms of the number of jobs accessible within 45 minutes by auto, transit, and transit specifically accessible by walking. This analysis specifically looks at how accessibility will change between the current condition and the planning horizon year as a result of the implementation of the CLRP. The accessibility changes resulting from the CLRP are analyzed for disproportionate

adverse impacts on transportation-disadvantaged groups. Accessibility to retail jobs is also examined, because these jobs are correlated with shopping opportunities and entry-level employment, the latter of which may be of particular interest to the low-income population. The TPB's Access for All Advisory Committee reviews the analysis and provides comments. The analysis can be found at: [www.mwcog.org/clrp/performance/EJ/EJintro.asp](http://www.mwcog.org/clrp/performance/EJ/EJintro.asp)

## OUTREACH AND COMMUNICATIONS

IT IS THE POLICY OF COG AND THE TPB TO PROVIDE PUBLIC ACCESS AND INVOLVEMENT UNDER A TRUE COLLABORATIVE PLANNING PROCESS IN WHICH THE INTERESTS OF ALL STAKEHOLDERS— PUBLIC AND PRIVATE—ARE REFLECTED AND CONSIDERED. ACCORDINGLY, THE TPB MAKES BOTH ITS POLICY AND TECHNICAL PROCESS INCLUSIVE OF AND ACCESSIBLE TO ALL STAKEHOLDERS. MANY ADDITIONAL OPPORTUNITIES FOR ACCESS AND INVOLVEMENT EXIST AT THE STATE AND LOCAL JURISDICTIONAL LEVELS THROUGH LOCAL, SUBREGIONAL, AND STATE SPONSORED ACTIVITIES ASSOCIATED WITH TRANSPORTATION PLANNING IN THE WASHINGTON REGION.

-TPB PARTICIPATION PLAN

The TPB believes that public input into its process is valuable and makes its products better. Regional transportation planning cannot, and should not, be based simply upon technical analysis. The qualitative information derived from citizen involvement is essential to good decision-making.

As a matter of long-standing TPB policy and a requirement of federal law, the regional transportation planning process must make special efforts to consider the concerns of traditionally underserved communities, including low-income and minority communities and people with disabilities.

COG and the TPB use extensive standard and electronic mailing lists to disseminate information and give notice for public comment opportunities. Both mailing lists include hundreds of community groups that represent Title VI protected groups

throughout the Washington Region. Press releases are also sent to newspapers published by and for Title VI protected groups.

The TPB *Citizens Guide*, updated in 2008, provides the residents of the region with an all-encompassing overview of the TPB's role in regional transportation planning. This tool has been instrumental in providing new committee members, informed constituencies, and TPB members with a thorough overview of the TPB process. For more information on the TPB Citizen's Guide, please see: <http://www.mwcog.org/transportation/involved/>

### **TPB Participation Plan**

The Participation Plan, provided as Attachment E, articulates the TPB's commitment to a transparent interface with the public and with relevant public agencies to support the regional transportation planning process, including the development of the Financially Constrained Long-Range Transportation Plan (CLRP) and the Transportation Improvement Program (TIP). The Participation Plan document provides an overall framework for participation in the TPB process.

The Participation Plan was required by the 2005 federal transportation reauthorization legislation SAFETEA-LU. It builds on previous efforts designed to encourage participation in the TPB process and provide reasonable opportunities for citizens and other interested agencies to be involved with the metropolitan transportation planning process. As required by federal regulation, the plan was developed in consultation with affected parties and was released 45-day public comment period before adoption by the TPB in December 2007.

The Participation Plan contains the above policy statement, as well as participation goals and strategies, including the facilitation of communication with and involvement by diverse participants, and open access to information and participation.

The SAFETEA-LU regulations require that MPOs define a process for providing interested parties with reasonable opportunities to be involved in the metropolitan transportation planning process. The regulations define these constituencies as: citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties.

The TPB defined the following three broad constituencies around which to develop future participation activities, with the federally defined interested parties in mind:

***The Involved Public*** is both knowledgeable about transportation policy issues in general, as well as the TPB's role in the regional transportation planning process

and the regional challenges raised by the TPB. These individuals and organizations already participate in the regional transportation planning dialogue.

***The Informed Public*** has some knowledge of transportation policy issues, but is not familiar with the TPB's role in the regional transportation planning process. They also may not be fully aware of the regional context underlying the transportation challenges experienced throughout the region.

***The Interested Public*** has an inherent interest in transportation challenges, but possesses little direct knowledge of transportation policy issues.

Each of these different types of constituencies includes a wide spectrum of members, including individuals, interest groups, community leaders, and elected officials. This strategy recognizes that transportation planning can be very complex and technical, and many individuals will never have enough time to develop a full understanding of the TPB process. Therefore, the strategy seeks to identify tools that will be appropriate for people with limited time whose input and opinions are valuable nonetheless.

The TPB believes that implementing this strategy of tailoring communications and opportunities for input to interested parties with varying levels of knowledge about TPB processes has facilitated greater and more substantive access and participation by diverse groups.

#### **TPB Access For All Advisory Committee (AFA)**

In order to proactively address Title VI and Environmental Justice, the TPB created the Access for All (AFA) Advisory Committee in 2001 to ensure that the TPB was involving protected classes in its planning process. The AFA advises the TPB on transportation issues, programs, policies, and services that are important to low-income communities, minority communities and people with disabilities. The mission of this committee is to identify concerns of low-income and minority populations and persons with disabilities, and to determine whether and how these issues might be addressed within the TPB process. The committee is very active and is comprised of approximately 15 community leaders and also has ex-officio representation from the major transportation agencies in the region. The AFA is chaired by a TPB member who makes reports to the TPB on AFA issues and concerns.

#### **TPB Citizens Advisory Committee**

The Citizens Advisory Committee (CAC) to the TPB is a group of 15 people from throughout the Washington metropolitan region who represent diverse viewpoints on long-term transportation policy. The mission of the CAC is to promote public involvement in transportation planning for the National Capital Region; and to

provide independent, region-oriented citizen advice to the TPB on transportation plans, programs, and issues in the Region, including responding to requests from the TPB for comment on specific issues or subject matter.

Nine members of the CAC are appointed annually by the TPB. The other six members are elected by the previous year's CAC. The membership is evenly divided between the District of Columbia, Suburban Maryland and Northern Virginia. Meetings are held on Thursdays preceding the regular meetings of the TPB.

### **Efforts Related to Limited English Proficiency (LEP) Populations**

Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English can be Limited English Proficient or "LEP." For an LEP individual, language can present a barrier to accessing benefits and services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by federally funded programs and activities. These individuals may be entitled to language assistance at no cost to them with respect to a particular type of service, benefit, or encounter.

As associations of municipalities, county governments, state agencies, and other entities, that serve as forums for developing policies and making decisions about regional growth and transportation issues, COG and the TPB do not provide direct projects or services to the population of the Washington Region. However, COG and TPB are committed to ensure that LEP individuals have access to key documents and can participate in public meetings.

The TPB has a Language Assistance Plan (Attachment F) and follows the COG accommodations policy (Attachment G) for people with disabilities and LEP persons to ensure access to documents and meetings.

## REQUIRED TITLE VI REPORTING

### **District Department of Transportation**

DDOT has not yet provided input on their reporting requirements.

### **Maryland Department of Transportation**

Each year the Maryland State Highway Administration requests that TPB respond to a Title VI Compliance Review questionnaire for activities in the fiscal year. SHA also periodically reviews the elements required of TPB under the Title VI program, including its accommodations policy, affirmative action plan, and participation plan, and contracting policies.

### **Virginia Department of Transportation**

Each year the Virginia Department of Transportation requests that TPB respond to a Title VI Compliance Review questionnaire for activities in the fiscal year. VDOT also periodically reviews the elements required of TPB under the Title VI program, including its accommodations policy, affirmative action plan, participation plan, and contracting policies.

## JOB ACCESS REVERSE COMMUTE (JARC) AND NEW FREEDOM TITLE VI RELATED ELEMENTS

### **Competitive Selection Process**

The TPB, as the designated recipient of Federal Transit Administration (FTA) JARC and New Freedom funds, created a Human Service Transportation Coordination Task Force ("Task Force") to develop the Coordinated Human Service Transportation Plan ("Coordinated Plan") and criteria for the competitive selection of projects. The Task Force membership includes human service agency representatives and public transit representatives from TPB member jurisdictions as well as private providers and consumers who provide insight into local transportation needs and strategies for improvement.

The TPB approved the competitive section criteria and the Coordinated Plan in 2007. The TPB approved the competitive selection criteria to emphasize responsiveness to the strategies in the Coordinated Plan; coordination; innovation; feasibility; and involvement of private sector partners. The TPB convenes an independent, arms-length selection committee of local and national subject matter

experts, chaired ex-officio by a TPB member, to review and score applications, and to make funding recommendations. Those recommendations are then presented to the TPB for final approval.

### **Applications Received and Funded**

The JARC and New Freedom Grants Manager maintains records on the submission of funding requests including applications received, selection committee scoring sheets, TPB resolutions approving the recommended projects, award notification letters, subgrant agreements and project status reports.

### **Assistance to Sub-recipients in Applying for JARC and New Freedom Funding**

The TPB conducts extensive outreach on the annual solicitation for JARC and New Freedom projects by using its public outreach networks to advertise the grant opportunities to nonprofit agencies and transportation providers. This outreach is targeted to the agencies that work with persons with disabilities and low-income populations. During each annual solicitation for projects, TPB staff conducts mandatory pre-application conferences at transit-accessible locations. At these conferences, staff reviews the application for funding with prospective applicants and provides comprehensive instructions on completing the application.

TPB also provides technical assistance to applicants who may have questions throughout the solicitation period, and advertises the availability of technical assistance by publishing staff contact information in the solicitation brochure and on the program website. TPB encourages coordination by sharing contact information among prospective applicants.

# **Attachment A**

## **Definitions, Abbreviations and Authorities (Statutes, Regulations and Guidance)**



## DEFINITIONS

**Affirmative Action** – A good faith effort to eliminate past and present discrimination in all federally assisted programs and to ensure future non-discriminatory practices.

**Annual Work Plan** – This is an outline of monitoring and review activities determined for the next planning year and respective target dates, as well as a list of personnel assigned to activities.

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

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

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

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

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

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

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

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

Federal Assistance – includes:

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

**“Good Faith Effort”** - affirmative action measures designed to implement the established objectives of a program or program requirements.

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

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

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

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

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

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

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

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

1.) The category *white*, (not of Hispanic origin); All persons having origins in any of the original peoples of Europe, North Africa, the Middle East, or the Indian Subcontinent.

2.) The category *black* (not of Hispanic origin); All persons having origins in any of the Black racial groups.

3.) The category *Hispanic*; All persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.

4.) The category *Asian or Pacific Islanders*: All persons having origins in any of the original peoples of the Far East, Southeast Asia, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa.

5.) The category *American Indian or Alaskan Native*: All persons having origins in any of the original peoples of North America.

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

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

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

**Timetable** – a measure relating to calendar days.

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

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

**Title VI Liaison Team** – a team made up of representatives from each office that has Title VI responsibilities, who supports the Title VI program and serve as the link between the Title VI program and the Office of Equal Opportunity.

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

## ABBREVIATIONS

AAP	Affirmative Action Plan
CAC	Citizens Advisory Committee
CFR	Code of Federal Regulations
CLRP	Constrained Long Range Plan
COG	Metropolitan Washington Council of Governments
DDOT	District of Columbia Department of Transportation
EEO	Equal Employment Opportunity
EEOC	Equal Employment Opportunity Commission
EIS	Environmental Impact Statement
EJ	Environmental Justice
EO	Equal Opportunity
E.O.	Executive Order
FHWA	Federal Highway Administration
FTA	Federal Transit Administration
GFE	Good Faith Efforts
ISTEA	Intermodal Surface Transportation Efficiency Act of 1991
LEP	Limited English Proficiency
MARC	Maryland Rail Commuter trains
MDOT	Maryland Department of Transportation
MPO	Metropolitan Planning Organization
MTA	Maryland Transit Administration
MWAA	Metropolitan Washington Airports Authority
MWAQC	Metropolitan Washington Air Quality Committee
NCPC	National Capital Planning Commission
NEPA	National Environmental Policy Act
NTP	Notice to Proceed
NVTA	Northern Virginia Transportation Authority
NVTC	Northern Virginia Transportation Commission
OEO	Office of Equal Opportunity
PRTC	Potomac and Rappahannock Transportation Commission
SAFETEA-LU	Safe, Accountable, Flexible, Efficient Transportation Equity Act; A Legacy for Users

SIP	State Implementation Plan (air quality)
TEA-21	Transportation Equity Act for the 21st Century
TERMs	Transportation Emissions Reductions Measures
TIP	Transportation Improvement Program
TPB	National Capital Region Transportation Planning Board
USC	United States Code
USDOJ	United States Department of Justice
USDOL	United States Department of Labor
USDOT	United States Department of Transportation
VDOT	Virginia Department of Transportation
VDRPT	Virginia Department of Rail and Public Transportation
VRE	Virginia Railway Express
WMATA	Washington Metropolitan Area Transit Authority

## AUTHORITIES

### NONDISCRIMINATION STATUTES

**Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-4)** – provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

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

**The Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970** (42 U.S.C 4601) – provides for fair treatment of persons displaced by Federal and Federal-aid programs and projects.

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

**The 1973 Federal-Aid Highway Act** (23 U.S.C 324) – added the requirement that there be no discrimination on the grounds of sex.

**The Civil Rights Restoration Act of 1987, P.L.100-209** – restores the broad, institution-wide scope and coverage of the nondiscrimination statutes to include all programs and activities of Federal-aid recipients, sub-recipients and contractors, whether such programs and activities are federally assisted or not.

**The Uniform Relocation Act Amendments of 1987, P.L. 101-246** – Updated the 1970 Act and clarified the intent of Congress in programs and projects which cause displacement.

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

**The Civil Rights Act of 1991**, in part, amended Section 1981 of 42 U.S.C. to provide a definition for the term "make and enforce contracts", and to provide protection of the rights protected by this section against impairment by non-governmental discrimination under color of State law.

**Title VIII of the 1968 Civil Rights Act** (42 U.S.C. 3601) – Prohibits discrimination in the sale or rental of housing, FHWA and States under Title VI are responsible for preventing discrimination in the function of Right-of-Way.

**The National Environmental Policy Act of 1969** (42 U.S.C. 4321) – Requires the consideration of alternatives, including the "no-build" alternative, consideration of social, environmental and economic impacts, public involvement, and use of a systematic interdisciplinary approach at each decision-making stage of Federal-aid project development.

**Title IX of the Education Amendments of 1972** – makes financial assistance available to institutions of higher education.

**Section 504 of the Rehabilitation Act of 1973** (29 U.S.C. 790) – prohibits discrimination based on physical or mental handicap.

## NONDISCRIMINATION EXECUTIVE ORDERS

**E.O. 12250** (issued November 2, 1980) – DOJ Leadership and Coordination of Nondiscrimination Laws

**E.O. 12259** – HUD Leadership and Coordination of Federal Fair Housing Programs

**E.O. 12292** – Amended E.O. 12259 – affirmatively furthers fair housing in all Federal programs and activities relating to housing and urban development throughout the U.S.

**E.O. 12898** (issued February 11, 1994) – initiated Federal actions to address Environmental Justice in minority populations and low-income populations.

**E.O. 13160** – nondiscrimination on the basis of race, sex, color, national origin, disability, religion, age, sexual orientation, and status as a parent in federally conducted education and training programs

**E.O. 13166** (issued August 11, 2000) – requires Federal agencies and their recipients to improve access to federally sponsored programs for persons with Limited English Proficiency (LEP)

**E.O. 13175** – Consultation and Coordination with Indian Tribal Governments

## NONDISCRIMINATION REGULATIONS

**23 CFR §200** – Federal Highway Administration’s Title VI Program Implementation and Review Procedures

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

**23 CFR Part 450** –Federal Highway Administration’s Statewide and Metropolitan Planning Regulations

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

**23 CFR Part 633, Subpart A** – specifies required contract provisions to be included in all Federal-aid construction contracts, including Title VI and other proscriptions included in Form FHWA 1273



**23 CFR Part 633, Subpart B, Appendix A** – specifies the types of contracts to which Title VI of the 1964 Civil Rights Act applies

**23 CFR Part 771.105(f)**—Federal Highway Administration’s Policy on Title VI – expands on 23 CFR 200.7 and names categories covered with wording similar to Title VI of the Civil Rights Act of 1964 – race, color, national origin, age, sex, handicap

**28 CFR Part 35** – the Department of Justice’s regulations governing Nondiscrimination on the basis of disability in State and local government services

**28 CFR Part 41** – requires the Department of Justice to coordinate the implementation of Section 504 of the Rehabilitation Act (Provides guidelines for determining discretionary practices)

**28 CFR Part 42, Subpart C** – DOJ’s regulation implementing Title VI of the Civil Rights Act of 1964

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

**28 CFR Part 50.3** – DOJ’s Guidelines for the enforcement of Title VI, Civil Rights Act of 1964

**49 CFR Part 21** – U.S. Department of Transportation’s Implementing Regulations of Title VI of the Civil Rights Act of 1964

**49 CFR Part 24** – DOT’s regulation implementing the Uniform Relocation and Real Property Acquisition Act for Federal and federally assisted programs requiring compliance with Nondiscrimination Statutes and Executive Orders

**49 CFR Part 25** – DOT’s implementation of Title IX of the Education Amendments Act of 1972

**49 CFR Part 26** – Participation by Disadvantaged Business Enterprises in DOT Financial Assistance Programs

**49 CFR Part 27** – DOT’s regulation implementing Section 504 of the Rehabilitation Act of 1973 as amended

**49 CFR Part 28** – Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation

**49 CFR Part 37** – Transportation Services for Individuals with Disabilities, implementing the transportation and related provisions of Title II and III of the ADA

## NONDISCRIMINATION DIRECTIVES & GUIDANCE

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

**DOT Order 1050.2** – Standard Title VI Assurances

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

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

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

**FHWA Order 4720.6** – Impacts of the Civil Rights Restoration Act of 1987 on FHWA Programs

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

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

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

**DOT Order 1050.2** – Standard Title VI Assurances

**DOJ Policy Guidance Document dated October 26, 2001** – Memo re: E.O. 13166, Improving Access to Services for persons with Limited English Proficiency

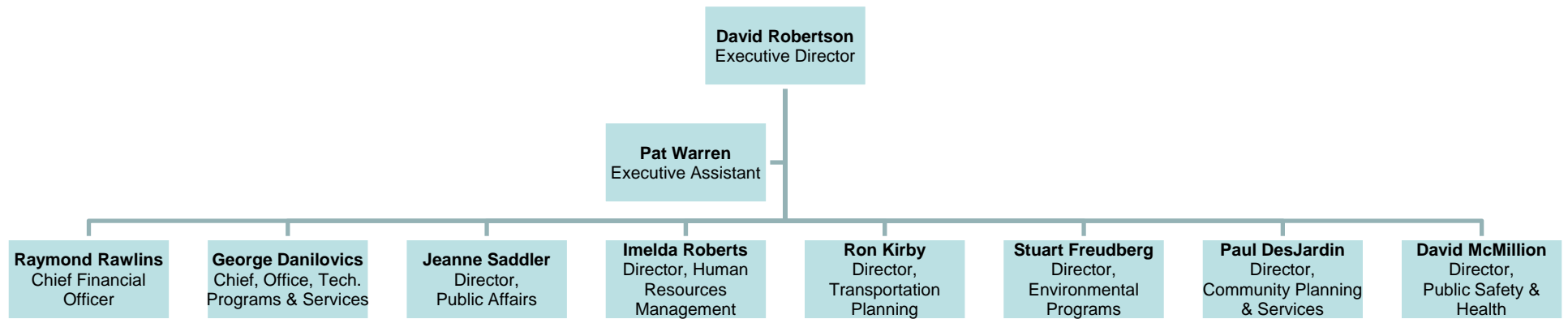
**DOJ Policy Guidance Document dated January 11, 2002** – Memo re: E.O. 13166, Improving Access to Services for persons with Limited English Proficiency

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

# **Attachment B**

## **Organization Charts**

# Metropolitan Washington Council of Governments



Executive Staff Organization Chart 2010

**ORGANIZATION CHART**  
 Department of Transportation Planning  
 Metropolitan Washington Council of Governments

June 2010

**DIRECTOR**  
 Ronald Kirby

**TEAM "E" LEADER**  
 Gerald Miller  
 Program Coordination Director

**TEAM "F" LEADER**  
 Andrew Meese,  
 Systems Management Planning Director

**ADMINISTRATIVE STAFF**  
 Deborah Leigh  
 Administrative Assistant III  
 Deborah Etheridge  
 Administrative Assistant III  
 Stacey Walker  
 Administrative Assistant II

Wendy Klancher Principal Trans Planner	Eric Randall Senior Trans Eng
John Swanson Senior Trans Planner	Haillemariam Abai Senior Budget Analyst
Andrew Austin Transportation Planner IV	Mark Pfoutz Transportation Planner III
Beth Newman Transportation Planner III	Sarah Crawford Transportation Planner III
Monica Bansal Transportation Planner III	Darren Smith Transportation Planner III
Rex Hodgson Transportation Planner III	Deborah Bilek Transportation Planner III

Jim Yin Transportation Eng IV
Michael Farrell Transportation Planner IV
Karin Foster Transportation Planner III
Wenjing Pu Transportation Planner III

**TEAM "A" LEADER**  
 Ron Milone  
 Travel Forecasting Program Director

**TEAM "B" LEADER**  
 Michael Clifford  
 Systems Planning Application Director

**TEAM "C" LEADER**  
 Nicholas Ramfos  
 Alternative Commute Programs  
 Director

**TEAM "D" LEADER**  
 Robert Griffiths  
 Technical Services, Director  
 Data, Technology Development

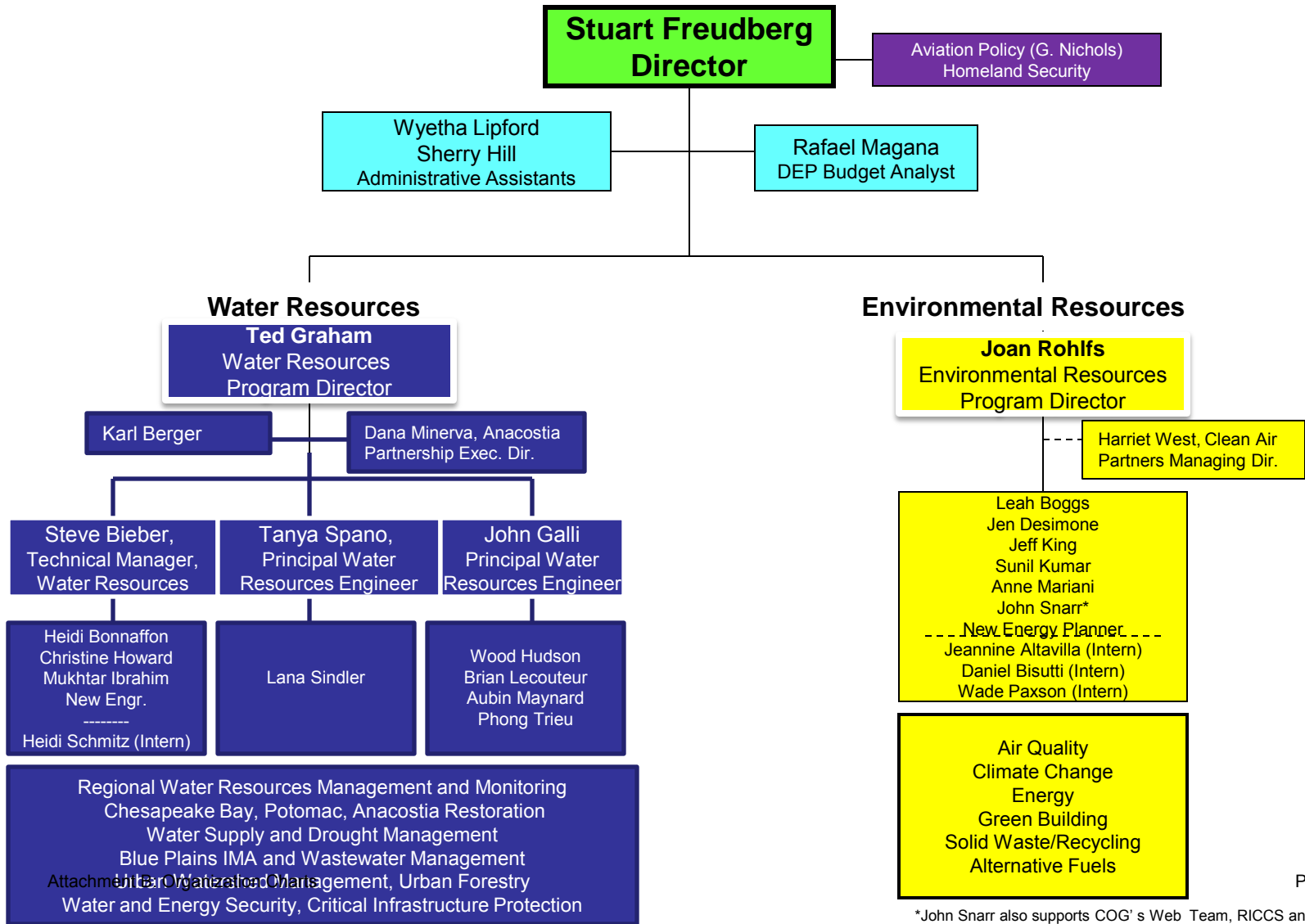
Robert Snead Principal Trans Eng	Mark Moran Principal Trans Eng
Wanda Hamlin Senior Trans Eng	Hamid Humeida Principal Trans Eng
Joe Davis Transportation Eng II	Meseret Seifu Senior Trans Eng
Mary Martchouk Transportation Eng II	

Daivamani Sivasailam Principal Trans Eng	Jane Posey Senior Trans Eng
Jinchul Park Senior Trans Eng	Eulalie Lucas Senior Trans Eng
Dusan Vuksan Senior Trans Eng	Anant Choudhary Transportation Eng III
Bill Bacon Transportation Eng III	Erin Morrow Transportation Eng III
Feng Xie Transportation Eng II	Yu Gao Transportation Eng II
Daniel Son Transportation Eng II	

Ross Edgar Senior GIS Analyst	Douglas Franklin TDM Marketing Specialist IV
Carlos Tovar Budget Analyst	Stephen Finafrock Commuter Operations Specialist III
Mark Hersey TDM Specialist II	Jose Herrera Commuter Operat Tech II
Fe Carino Commuter Operat Assist II	Paul Straw Commuter Operat Assist II
Rahath Sultana Commuter Program Specialist II	Danielle Peak Intern

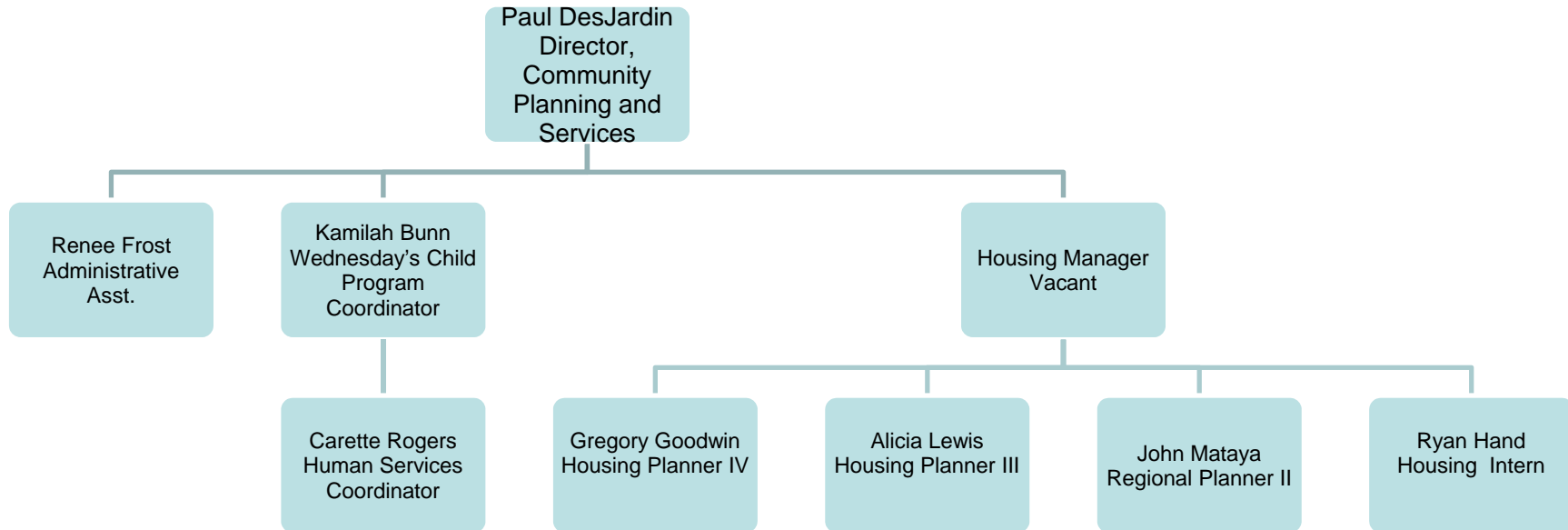
Martha Kile Principal Analyst - GIS	Timothy Canan Principal Planner
Charlene Howard Principal GIS Analyst	Patrick Zilliacus Principal Trans Eng
Yew Yuan Senior GIS Analyst	Abdul Mohammed Senior Trans Eng
Sean Sullivan GIS Analyst II	Clara Reschovsky Survey Analyst IV
Charlie Grier Transportation Planner II	Andrew Burke Transportation Eng III

# COG/DEP Program Management Structure Effective June, 2010

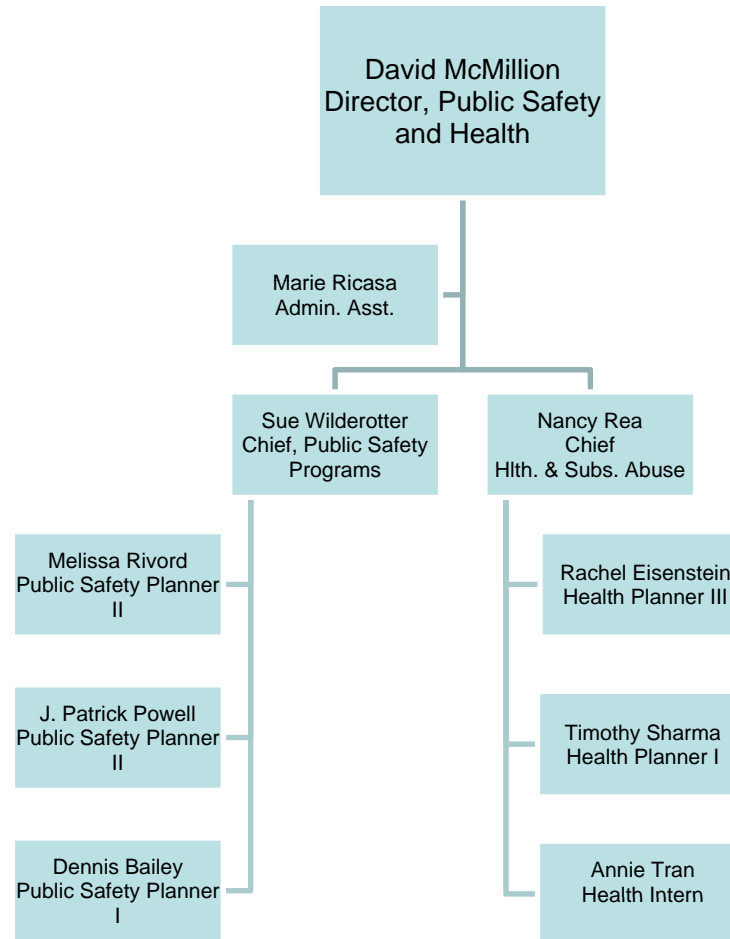


\*John Snarr also supports COG's Web Team, RICCS and Emergency Debris Management

# Metropolitan Washington Council of Governments Community Planning and Services Staff Organization Chart



# Metropolitan Washington Council of Governments Public Safety and Health Department Staff Organization Chart

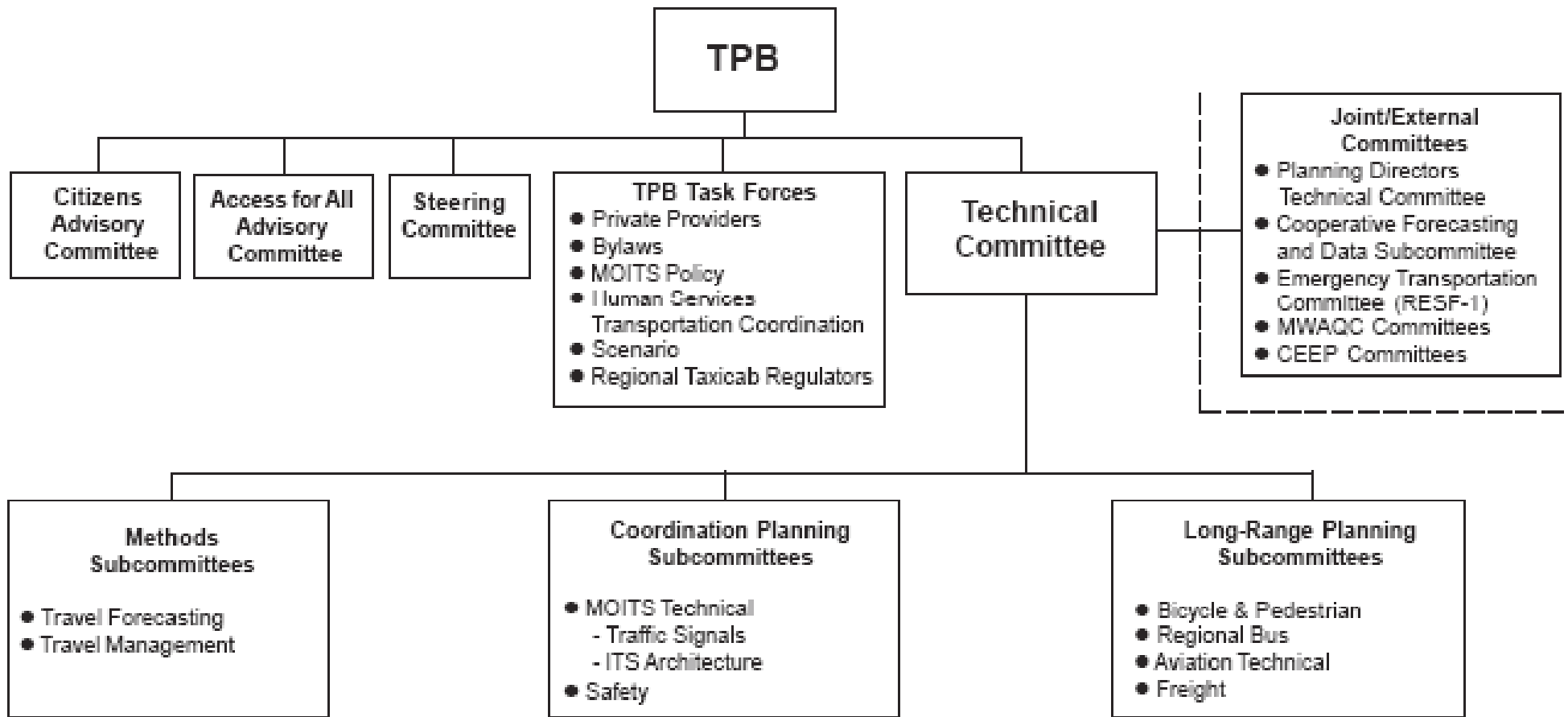




# **Attachment C**

## **TPB Committee Structure**

## Attachment C TPB Committee Structure



# **Attachment D**

## **Title VI Notice to the Public**

## ATTACHMENT D: Title VI Notice to the Public

In order to comply with 49 CFR Section 21.9(d), the COG shall provide information to the public regarding their Title VI obligations and apprise members of the public of the protections against discrimination afforded to them by Title VI. The paragraph below will be inserted into all significant publications that are distributed to the public. The text will be placed permanently on the COG website ([www.mwcog.org](http://www.mwcog.org)).

*"The Metropolitan Washington Council of Governments (COG) fully complies with Title VI of the Civil Rights Act of 1964 and related statutes and regulations in all programs and activities. For more information, or to file a Title VI related complaint, see [www.mwcog.org](http://www.mwcog.org) or call (202) 962-3200. Para información en español, llame al (202) 962-3300."*

# **Attachment E**

## **Participation Plan**

# Participation Plan

National Capital Region Transportation Planning Board

Metropolitan Washington Council of Governments



**ADOPTED BY THE TRANSPORTATION PLANNING BOARD**

**DECEMBER 19, 2007**

## **ACKNOWLEDGEMENTS**

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**Special Thanks To:**  
TPB committees and other stakeholders, especially the  
Citizens Advisory Committee and Access for All Advisory Committee

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Alternative formats of this publication can be made available for persons with  
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Email: [accommodations@mwkog.org](mailto:accommodations@mwkog.org). For details: [www.mwcog.org](http://www.mwcog.org).

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## **PREFACE**

This Participation Plan articulates the TPB’s commitment to a transparent interface with the public and with relevant public agencies to support the regional transportation planning process, including the development of the Financially Constrained Long-Range Transportation Plan (CLRP) and the Transportation Improvement Program (TIP).

This document provides an overall framework for participation in the TPB process. The TPB will implement the Participation Plan through the development of an annual Participation Program.

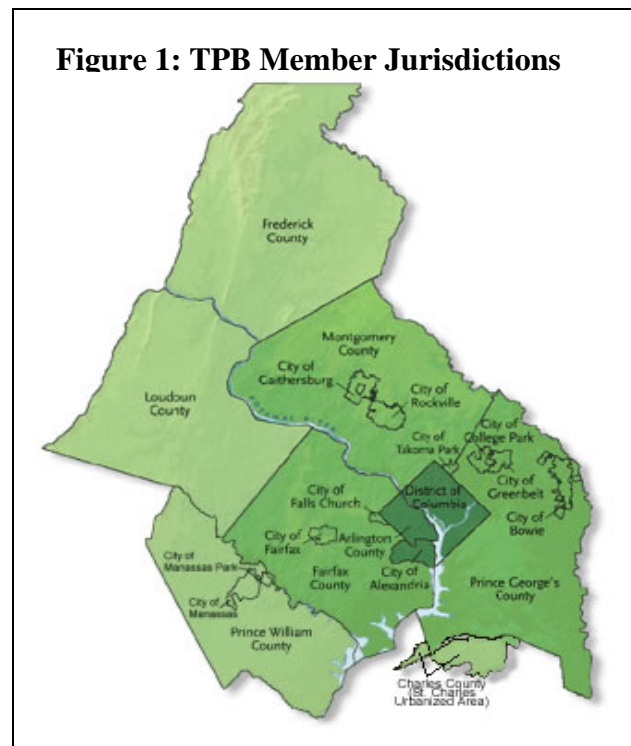
## **I. BACKGROUND**

The National Capital Region Transportation Planning Board (TPB) is designated under federal law as the Metropolitan Planning Organization (MPO) for the Washington region. As an MPO, the TPB brings together key decision-makers to coordinate planning and funding for the region’s transportation system. The TPB relies on advisory committees and participation from interested parties in order to make informed decisions.

This Participation Plan is required by the 2005 federal transportation reauthorization legislation, known as the *Safe, Accountable, Flexible, and Efficient Transportation Equity Act—A Legacy for Users* (SAFETEA-LU). The Participation Plan builds on previous efforts designed to encourage participation in the TPB process and provide reasonable opportunities for citizens and other interested agencies to be involved with the metropolitan transportation planning process.

As required by federal regulation, the plan has been developed in consultation with affected parties. In addition, federal regulations require the plan to be released for a minimum public comment period of 45 calendar days before it is adopted by the TPB, which is scheduled for the fall of 2007.

**Figure 1: TPB Member Jurisdictions**



## **Transportation Planning Board**

The TPB was created in 1965 by the region's local and state governments to respond to federal highway legislation in 1962 that required the establishment of a "continuing, comprehensive and coordinated" transportation planning process in every urbanized area in the United States. The TPB's membership is comprised of the key transportation decision-makers in the metropolitan Washington region. The board includes local officials— mayors, city council members, county board members and others—as well as representatives from the state transportation agencies, the Washington Metropolitan Area Transit Authority (WMATA) and the state legislatures. The TPB also includes non-voting representatives from key federal agencies, the Metropolitan Washington Airports Authority and the TPB's Private Providers Task Force.

The TPB became associated with the Metropolitan Washington Council of Governments (COG) in 1966. COG was established in 1957 by local cities and counties to deal with regional concerns including growth, housing, environment, public health and safety—as well as transportation. Although the TPB is an independent body, its staff is provided by COG's Department of Transportation Planning.

The TPB prepares plans and programs that the federal government must approve in order for federal-aid transportation funds to flow to the Washington region. In particular, federal law and regulations relating to the work of MPOs require the TPB to adopt a long-range transportation plan, which is known as the Financially Constrained Long-Range Transportation Plan (CLRP) in the Washington region, and a six-year Transportation Improvement Program (TIP). The TPB must also ensure compliance with other federal laws and requirements, including federal air quality conformity requirements and planning factors specified in SAFETEA-LU.

In addition to ensuring compliance with federal laws and requirements, the TPB performs many other functions, including providing a regional forum for coordination of policy-making, and providing technical resources for transportation decision-making. The TPB receives input and guidance from advisory committees comprised of members of the public, special interest groups, and jurisdictional staff.

## **Previous Public Involvement Process Documents**

The TPB first adopted a Public Involvement Process in 1994 to fulfill the requirements of the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991. The TPB amended this document in 1999 in response to the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21) of 1998. The 1999 Public Involvement Process includes a policy statement and general requirements for public involvement in the TPB process. It also contains a list of 14 specific activities designed to solicit participation and provide support for the policy statement and general requirements and criteria. The requirements of the 2005 federal transportation act, SAFETEA-LU, necessitated the development of a Participation Plan, which will replace the previous Public Involvement Process.

## **Federal Requirements**

This Participation Plan is intended to fulfill the current federal requirements for a Participation Plan outlined in the federal transportation reauthorization legislation of 2005 (SAFETEA-LU) and further detailed in the Metropolitan Transportation Planning Regulations that were published in the Federal Register on February 14, 2007. The federal regulations are provided in Appendix A of this document.

For the first time, SAFETEA-LU called for metropolitan planning organizations, including the TPB, to develop a Participation Plan. The new law stipulated that this plan will be developed in consultation with “interested parties.”

In addition to requiring a Participation Plan, SAFETEA-LU expanded earlier versions of federal transportation law to include the following guidelines and requirements related to public participation:

- Broaden the definition of “interested parties” to be engaged in metropolitan transportation planning.
- Publish or make available for public view transportation plans and Transportation Improvement Plan.
- Hold public meetings at convenient and accessible times and locations.
- Make information available in electronically accessible formats to the maximum extent possible.
- Employ visualization techniques to depict metropolitan transportation plans.

These guidelines and requirements have all been addressed in this Participation Plan.

## **2007 Evaluation of Public Involvement Activities**

To provide strategic input for this Participation Plan, the TPB in 2006 procured the services of the firm Circle Point to conduct a review of public involvement activities and offer recommendations for updating the TPB’s official public participation policies to meet the new federal guidelines under SAFETEA-LU. This was the second time the TPB has contracted with a consultant to evaluate its public involvement activities; an independent review in 1998 informed the amendments to the Public Involvement Process in 1999.

The Circle Point report, “Evaluation of the National Capital Region Transportation Planning Board Public Involvement Activities,” contains an overview of best practices in participation from Metropolitan Planning Organizations (MPOs) across the country, synthesizes TPB stakeholder interviews on public involvement activities, and provides recommendations for improving many of the current TPB outreach activities and refining TPB materials in order to inspire participation from stakeholders.

Among the many comments found in the Circle Point report, TPB staff has identified several key recommendations, which have been addressed in the Participation Plan:

- **Strategically plan outreach activities.** The TPB should be more strategic and deliberate in determining which activities to pursue and which tools to use. Specific and measurable goals that are tailored to each constituency are important for an effective participation program.
- **Improve integration of public involvement activities.** The TPB has made a number of recent enhancements in public participation, but it needs to comprehensively examine how various public involvement activities fit together and to identify where gaps remain.
- **Move beyond a “one size fits all” approach.** Different types of audiences and constituencies need different types of participation tools. Each TPB constituency has different information needs and opportunities for involvement.
- **Work toward developing an integrated regional transportation “story” that is clear and compelling.** The TPB needs to explain how regional transportation challenges affect the lives of everyone in the region – from central D.C. to the outer suburbs. This “regional transportation story” would show how the TPB plays a coordinating role in tying together actions and policies that are pursued at many levels of government and address many different considerations, including land use, the environment and other factors.
- **Evaluation of involvement efforts and strategies should occur more frequently.** This could include self-appraisal by TPB staff and as-needed evaluation of program effectiveness by third parties.

## Addressing Continuing Challenges

In addition to responding to the recommendations noted above, this Participation Plan acknowledges and addresses a number of continuing challenges that reflect the transportation planning context in the Washington region.

***Expectations for public participation in the TPB process.*** Given the fact that project-level planning usually occurs at the state and local levels, the TPB’s plans and processes are often not the appropriate or most effective venues for public involvement. The TPB must work to align expectations for public involvement with the actual decision-making process. Through publications such as the Citizen’s Guide and outreach events such as the Community Leadership Institute, the TPB in recent years has improved the information provided to the public and other constituencies about where and how transportation decisions are made. This Participation Plan is designed to tailor the ways in which staff can go further in building public knowledge about the transportation planning process to encourage meaningful public involvement at various stages of that process.

***The annual nature of the TPB planning cycle.*** Although federal law requires updates only every four years, in practice the TPB’s primary documents, the Financially Constrained Long-

Range Transportation Plan (CLRP) and the Transportation Improvement Program (TIP), are updated every year to incorporate project submissions from the state departments of transportation and local jurisdictions. The specific practice by the TPB and the region's implementing agencies of treating the CLRP and TIP as "living documents" has implications for public involvement strategies. The TPB and TPB staff recognize that this continuous update cycle for regional plans can make it difficult for members of the public and other constituencies to understand when public comment is being solicited and for what purposes. To a large degree, public participation tools and activities must encourage citizen involvement on an ongoing basis.

***Limited resources.*** The demand for public involvement and outreach will always be greater than the TPB's available resources. This Participation Plan recognizes that the TPB must be strategic in designing a public participation program that is cognizant of the fact that people in the region have varying levels of understanding about and interest in regional transportation planning, and consequently different informational needs.

***Special needs of traditionally underserved communities.*** As a matter of long-standing TPB policy and a requirement of federal law, the regional transportation planning process must make special efforts to consider the concerns of traditionally underserved communities, including low-income and minority communities and people with disabilities. To ensure these concerns are heard, the TPB established the Access for All Advisory Committee in 2001. This Participation Plan seeks to maintain and enhance the TPB's outreach to these communities.

## **II. PARTICIPATION POLICY**

### **Policy Statement**

It is the policy of the TPB to provide public access and involvement under a true collaborative planning process in which the interests of all stakeholders— public and private—are reflected and considered. Accordingly, it is the TPB's intent to make both its policy and technical process inclusive of and accessible to all stakeholders. The TPB notes in structuring this Participation Plan that many additional opportunities for access and involvement exist at the state and local jurisdictional levels through local, subregional, and state sponsored activities associated with transportation planning in the Washington region.

### **Policy Goals**

The TPB believes that public input into its process is valuable and makes its products better. Regional transportation planning cannot, and should not, be based simply upon technical analysis. The qualitative information derived from citizen involvement is essential to good decision-making.

The TPB Participation Plan is designed to be goal-oriented. The Policy Statement provides a philosophy around which to build a regional transportation participation program that will accomplish the following goals:

- *Effective communication and messaging of information leading to knowledgeable, informed constituencies.* The TPB will disseminate information about programs and projects through a variety of conduits. Information will be presented in a manner that is clear and tailored to each of the TPB's constituencies.
- *Involvement from diverse participants and opportunities for constituency building.* The TPB will continue to encourage participation from diverse constituencies and to provide forums for discussion about transportation issues that are responsive to the interests of different constituencies.
- *Open access to information and participation.* The TPB will work to improve access to technical and planning documents and where appropriate, tailor these documents to be accessible to more constituencies. Opportunities for participation in TPB meetings and in committee meetings will be clearly defined and provided for at each meeting.
- *Receipt of public comment and provision of meaningful feedback to constituencies.* The TPB will provide information on how comments will be considered in the planning process, including the development of the CLRP and TIP, and acknowledge that comments were received and considered.

- *Develop a “regional story” that is clear and compelling.* The TPB will communicate how regional transportation planning plays a vital role in coordinating planning activities on many levels.

## **Participation Activities**

It is the policy of the TPB to carry out the following specific activities in support of the above policy statement and policy goals:

### ***Procedures***

- Ensure that the TPB follows federal requirements for public involvement, including a public comment period of at least 30 days prior to the approval of the Financially Constrained Long-Range Transportation Plan (CLRP), Transportation Improvement Program (TIP) and other major documents, and the development and consideration of written responses to comments received.
  - The TPB shall provide an additional opportunity for public comment, if the final CLRP or TIP differs significantly from the version that was made available for public comment by the TPB and raises new material issues which interested parties could not reasonably have foreseen from the public involvement efforts.
  - When significant written and oral comments are received on the draft CLRP and TIP (including the financial plans) as a result of the participation process in this section or the interagency consultation process required under the EPA transportation conformity regulations (40 CFR part 93), a summary, analysis, and report on the disposition of comments shall be made as part of the final metropolitan transportation plan and TIP.
- Dedicate a period of time at the beginning of each TPB meeting for public comment by interested citizens and groups on transportation issues under consideration by the TPB, and provide follow-up acknowledgment and response as appropriate.
- Offer opportunities on the TPB website for public comment.
- Provide access to the technical and policy activities of the TPB through open attendance at meetings of the TPB, the TPB Technical Committee and its Subcommittees.
- Ensure that reasonable public access is provided to technical and policy information used in the TPB process through the following activities:
  - Invite members of the public to review reports and other technical information (other than proprietary software or legally confidential data). The TPB will encourage dissemination of information through the following means:

- Post all publicly available TPB documents on the TPB website, and otherwise seek opportunities to make suitable reports and technical information available through the TPB website.
  - Distribute relevant reports and technical information free of charge at meetings of the TPB and its committees and subcommittees.
  - At times other than the meetings of the TPB and its committees and subcommittees, fulfill requests for reports and technical information on an "at cost" basis, including duplication costs and staff time associated with responding to the requests. For state and local agencies, and WMATA, miscellaneous services budgets specified in the Unified Planning Work Program (UPWP) may be used to cover these costs.
- Develop information and materials about regional transportation issues and the TPB process, including comprehensive descriptions of technical and policy procedures, in a manner that all members of the public can understand. Work with partners to distribute these materials at appropriate locations and public meetings across the region.
  - Invite members of the public to participate in the review of technical work programs and analysis results through attendance at the appropriate technical committee and subcommittee meetings, and the TPB meetings. In addition to the opportunities provided through participation in these meetings, concerns and issues on such technical work can be raised formally with the TPB either through the Citizens Advisory Committee or during the public comment period provided at each TPB meeting.
- Consult with agencies and officials responsible for other planning activities within the metropolitan planning area that are affected by transportation (including state and local planned growth, economic development, environmental protection, airport operations, and freight movements), and coordinate the planning process for developing the TIP and CLRP to the maximum extent practicable with such planning activities.
    - The TPB will expand environmental participation efforts to include engagement and consultation with affected land-use management, natural resources, environmental protection, conservation, and historic preservation state and local agencies regarding the development of the CLRP, and conducted annually as part of the regular CLRP update.
    - The TPB will hold discussions on environmental mitigation efforts with federal, state, and local land management, wildlife, and regulatory agencies. These discussions will identify potential activities to moderate, reduce, or avoid the environmental impacts of the CLRP as a whole, rather than at the project level.
  - Provide at least one formal public meeting during the development process for the TIP.



- Maintain active communication and consultation with the COG Board of Directors and other interested COG committees.
- Establish a mechanism for continuing evaluation of the TPB public involvement activities.

### ***Committees***

- Maintain and support the Citizens Advisory Committee (CAC), with the participation of individual citizens and representatives of environmental, business, and civic interests concerned with regional transportation matters as well as representatives of minority, low-income, and disabled groups.
- Maintain the Access for All Advisory Committee (AFA), which advises the TPB on transportation issues, programs, policies and services that are important to low-income communities, minority communities and people with disabilities.

### ***Website and Publications***

- Maintain and expand the COG/TPB website to provide comprehensive information on TPB activities and regional transportation planning issues.
- Prepare and update as necessary reports, guidebooks, brochures and other publications to explain the regional transportation planning process and key issues facing the TPB.
- Publish and distribute the monthly TPB newsletter to inform as broad a regional audience as possible of the activities of the TPB.

### ***Meetings and Trainings***

- Conduct and develop training workshops, such as the TPB's Community Leadership Institute, to engage members of the informed and interested public who have not been extensively involved in the regional transportation planning process.
- Conduct and participate in public forums and workshops across the region to provide information to citizens and obtain comment on key regional transportation issues. When appropriate, TPB staff will incorporate interactive techniques into public forums to more fully engage participants.
- Seek participation by TPB members and staff in meetings of citizen, business, environmental, and other organizations interested in regional transportation matters.

### ***General Activities***

- Publicize special TPB meetings, forums, and workshops prominently in appropriate newspapers and on radio and TV.

- Seek media coverage of issues before the TPB.
- Use representative polling techniques, well-designed focus groups, and the Internet to obtain the views of the public on key regional transportation issues.

### **III. PARTICIPATION STRATEGY**

The key method for the implementation of this Participation Plan is the identification of different types of constituencies who possess varying levels of knowledge about transportation and the TPB process. The Participation Strategy provides a framework for tailoring public involvement tools and activities to serve the diverse needs of these constituencies.

#### **Constituencies**

The SAFETEA-LU regulations require that MPOs define a process for providing interested parties with reasonable opportunities to be involved in the metropolitan transportation planning process. The regulations define these constituencies as: citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties.

The TPB has defined the following three broad constituencies around which to develop future participation activities, with the federally defined interested parties in mind:

- ***The Involved Public*** is both knowledgeable about transportation policy issues in general, as well as the TPB's role in the regional transportation planning process and the regional challenges raised by the TPB. These individuals and organizations already participate in the regional transportation planning dialogue.
- ***The Informed Public*** has some knowledge of transportation policy issues, but is not familiar with the TPB's role in the regional transportation planning process. They also may not be fully aware of the regional context underlying the transportation challenges experienced throughout the region.
- ***The Interested Public*** has an inherent interest in transportation challenges, but possesses little direct knowledge of transportation policy issues.

Each of these different types of constituencies includes a wide spectrum of members, including individuals, interest groups, community leaders, and elected officials. This strategy recognizes that transportation planning can be very complex and technical, and many individuals will never have enough time to develop a full understanding of the TPB process. Therefore, the strategy seeks to identify tools that will be appropriate for people with limited time whose input and opinions are valuable nonetheless.

## **Serving Different Constituencies**

### ***1. The Involved Public***

#### ***Who they are:***

This category of the public includes interest groups and citizens who already actively participate in the TPB process and have a thorough understanding of regional transportation issues and policy. Among others, this category includes the TPB's Citizens Advisory Committee and the Access for All Advisory Committee.

#### ***Goals for serving this constituency:***

The TPB will seek to:

- Recognize and support the vital contributions of citizens who are already active in the TPB process.
- Utilize the expertise and commitment of involved individuals and groups to inform the TPB's decision-making.
- Support these individuals and groups in their efforts to disseminate information about regional transportation planning to their communities.

#### ***Tools for serving the “involved public”:***

The TPB will continue to provide the following existing tools, and in some cases enhance these mechanisms and activities, in order to serve members of the public who are already involved in the TPB process. For more information on these tools, see Appendix F.

#### **Procedures**

- *Access to Information*
  - Provide pertinent documents in a clear location on the website.
  - Ensure documents are available with enough time for review.
- *Public comment process*
  - Provide information on how comments will be considered in the planning process.
  - Acknowledge that comments have been received.

#### **Committees**

- *Citizens Advisory Committee (CAC)*
  - Support the CAC in its continuing efforts to provide clear, region-oriented advice to the TPB.
  - Encourage a broad membership on the CAC so that a variety of interests are represented.
- *Access for All Advisory Committee (AFA)*
  - Support the AFA in its continuing efforts to advise the TPB on the transportation concerns of low-income and minority communities and people with disabilities.

### Website and Publications

- Provide information that is pertinent to the involved public.
- Regularly assess whether the information needs of involved citizens are being met through the TPB's publications.

### Meetings and Trainings

- Encourage already involved citizens to attend public meetings and share their knowledge with their peers.

## **2. The Informed Public**

### ***Who they are:***

For the purposes of this Participation Plan, the term “informed public” represents individuals and groups who are not currently involved in the regional transportation planning process, although they are knowledgeable about transportation policy issues. In many cases, they may be active as community leaders at the local or state level.

### ***Goals for serving this constituency:***

The TPB will seek to:

- Provide information and knowledge about regional transportation issues that will empower members of the informed public to positively affect transportation decision-making at the local and state levels.
- Utilize the informed public and community leaders as conduits to disseminate information about regional transportation issues at the grassroots level.
- Encourage the informed public to get involved in the regional transportation planning process at the TPB.
- Provide opportunities for cross-jurisdictional networking.

### ***Tools for serving the “informed public”:***

The TPB will use the following tools to assist informed citizens to more effectively influence decision making in their communities and to encourage these citizens to get involved in the TPB process. For more information on tools, see Appendix F.

### Procedures

- *Access to Information*
  - Ensure that information on the web and provided in public documents is clearly labeled.
- *Public Comment*
  - Encourage informed citizens who are not typically heard at the TPB to participate in public comment processes, especially the public comment period preceding every TPB meeting.

## Committees

- *Citizens Advisory Committee (CAC)*
  - Ensure that the CAC reflects new and fresh perspectives by recruiting informed citizens to become committee members.
  - Provide individualized support to new CAC members who may need help in understanding the TPB process.
- *Access for All (AFA) Advisory Committee*
  - Continue to recruit informed community leaders to serve on the Access for All Advisory Committee.
  - Provide individualized support to new AFA members who may need help in understanding the TPB process.

## Website and Publications

- Develop simple and compelling documents and web material that help informed citizens better understand the connections between regional challenges and the local issues in which they are already involved.
- Consider developing abridged versions of the TPB Citizens Guide and other materials.
- Incorporate definitional glossaries as part of all formats.

## Meetings and Trainings

- *Public Meetings*
  - Hold more forums designed to educate the informed public and solicit input from them.
  - Use community leaders and other “informed citizens” to help organize forums.
  - Document the feedback received at public meetings so that it is meaningful and useful for decision makers at the TPB and in other decision-making bodies.
- *Training workshops*
  - More frequently provide training opportunities, such as the Community Leadership Institute.
  - Follow-up with graduates of the Community Leadership Institute to encourage them to become involved in the TPB process and regional decision making.

### ***3. The Interested Public***

#### ***Who they are:***

For the purposes of this document, the “interested public” includes people with limited knowledge about specific transportation planning issues, especially the details of projects and plans. They are, however, familiar with the growing problems of getting around in the region, and they are interested in learning about possible solutions. This group includes the “general public,” but it may also include community leaders or even elected officials who have limited exposure to transportation planning at any level.

### ***Goals for serving this constituency:***

The TPB will seek to:

- Make available basic information on regional transportation and land use challenges to create a more informed public.
- Increase the capacity of interested citizens to understand transportation and land use issues so that some of them might become “informed” and even “involved.”
- Understand that most members of the general public may not have the time or inclination to become more engaged in transportation planning activities. Therefore, outreach activities for interested citizens should focus on basic issues, not planning processes or institutions.

### ***Tools for serving the “interested public”:***

The TPB will use the following tools to provide basic information and outreach opportunities to the interested public. For more information on tools, see Appendix E.

#### Procedures

- *Access to Information*
  - Ensure that interested citizens can quickly find information on the Web.
  - Ensure that staff quickly responds to requests for information and documents.
- *Public Comment*
  - Solicit input from the general public through opinion surveys or focus groups.

#### Committees

- The CAC and the AFA committees should strive to consider the interests of people who have little expertise or knowledge of the regional transportation planning process. Committee meetings are open to the public.

#### Website and Publications

- Develop brochures on regional transportation and land use challenges with easily understood text and extensive graphic imagery.
- Incorporate definitional glossaries as part of all formats.

#### Meetings and Trainings

- Be sensitive to the presence of interested citizens who have limited knowledge. Engage them as effectively as possible.
- Provide written and other visual information at meetings describing key issues and explaining acronyms.
- Seek to engage citizens and organizations on their “own turf.”

The following chart demonstrates current TPB procedures and tools used to facilitate participation in the regional planning process.

	<u>Involved Public</u>	<u>Informed Public</u>	<u>Interested Public</u>
<b>Committees</b>	TPB Technical Committee and Subcommittees		
	Citizens Advisory Committee (CAC)		
	Access for All Committee (AFA)		
<b>Documents and Publications</b>	Forecasting, Modeling, and Scenario Planning Reports		
	Financially Constrained Long-Range Transportation Plan (CLRP)		
	Visualization Techniques		
	TPB Newsletter		
	<i>The Region Magazine</i>		
	A Citizen's Guide to Transportation Decision-Making		
<b>Outreach and Education</b>	Collaboration with States and Jurisdictions		
	MWCOG / TPB Website		
		CLRP and Transportation Improvement Program (TIP) Public Hearings	
		Media and Messaging	
		Leadership Training and Development	
	Scenario Planning Presentations and Related Outreach Materials		



## **IV. IMPLEMENTATION**

Implementation of the Participation Plan will occur through an annual Participation Program that will be consistent with the Public Participation element in the TPB's Unified Planning Work Program (UPWP). The Participation Program will synthesize elements from the Policy, Goals, Activities and Strategy to guide the public involvement efforts of TPB staff on an annual basis.

The annual Participation Program will include outreach and education efforts to increase participation in the TPB process from interested and informed constituencies, as well as efforts to sustain participation from involved constituencies. Not only will this assist staff in scheduling for the year, but it will allow interested parties to understand the involvement and outreach efforts that are programmed.

The Participation Program will be developed annually in two parts:

- a. In the period from January to March, TPB staff will develop a budget and broad goals for public participation activities for inclusion in the UPWP, which the TPB typically approves in March for the fiscal year beginning on July 1.
- b. In the period from April to June, consistent with the parameters established in the UPWP, TPB staff will develop a more detailed Participation Program for the fiscal year. This program will establish an anticipated schedule of activities and products for the year. The process for developing the program will include a staff evaluation of recent public involvement activities, and discussions with TPB committees and stakeholders regarding public involvement needs and opportunities in the coming year.

Following the approval of this Participation Plan in the fall of 2007, TPB staff will develop a Participation Program for the remainder of FY2008. This program will be consistent with the Public Participation elements in the FY2008 UPWP, which the TPB approved in March 2007. Changes to the FY2008 UPWP will be recommended to the TPB if warranted.

NATIONAL CAPITAL REGION  
TRANSPORTATION PLANNING BOARD (TPB)

LANGUAGE ASSISTANCE PLAN

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Accommodating Individuals with Limited English Proficiency  
(LEP) in the Planning Process

June 2002  
Revised June 2010

National Capital Region Transportation Planning Board  
Metropolitan Washington Council of Governments  
777 North Capital Street N.E. Suite 300  
Washington, D.C. 20002  
(202)962-3200

Alternative formats of this document are available upon request. Phone: 202-962-3300 or 202-962-3213 (TDD). Email: [accommodations@mwkog.org](mailto:accommodations@mwkog.org). Please allow seven working days for preparation of the material.

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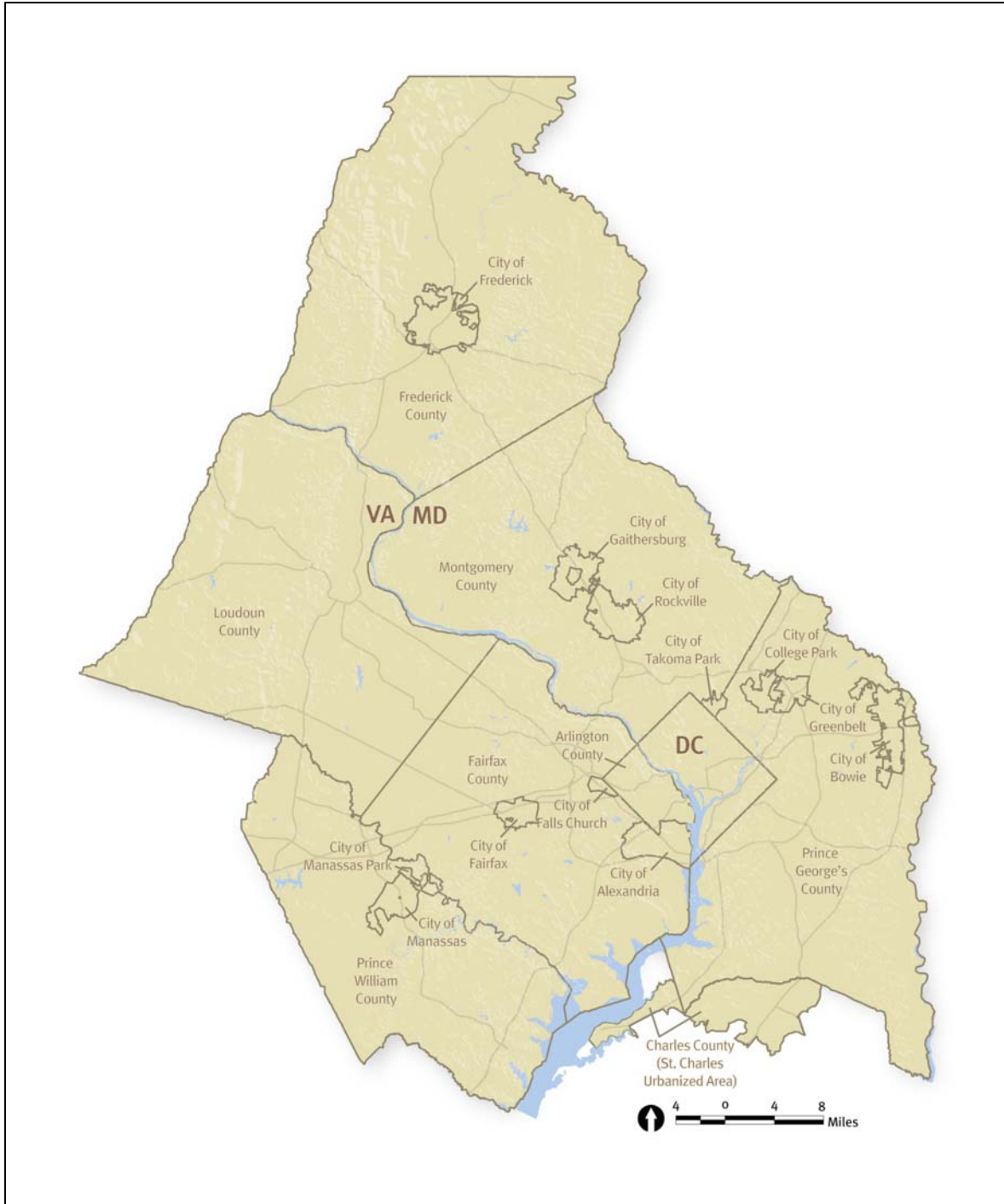
Figure 6: CLRP Website Displayed in Spanish

## I. INTRODUCTION

The National Capital Region Transportation Planning Board (TPB) is the official Metropolitan Planning Organization (MPO) for transportation planning in the metropolitan Washington region, and serves as the transportation policy committee for the Metropolitan Washington Council of Governments (COG). As the MPO for the region, the TPB carries out several important federal planning requirements, including the development of transportation plans and programs and analyzing the plans for compliance with federal regulations. The TPB Bylaws state: “the TPB shall be responsible for the development of policies of regional significance ... for the effective implementation of [the sections] of the United States Code concerning a metropolitan transportation planning process”.

The TPB plans for an area that covers approximately 3,000 square miles and includes over 5.2 million people and over 3.2 million jobs. The TPB planning area is shown in Figure 1 below and includes the District of Columbia, Suburban Maryland (Frederick County, Montgomery County, Prince George’s County, and the St. Charles urbanized area of Charles County, plus the cities of Bowie, College Park, Frederick, Gaithersburg, Greenbelt, Rockville and Takoma Park), and Northern Virginia (Arlington County, City of Alexandria, Fairfax County, Loudoun County, and Prince William County, plus the cities of Fairfax, Falls Church, Manassas and Manassas Park).

Figure 1: The TPB Planning Area



## RELATIONSHIP BETWEEN COG AND TPB

COG was established in 1957 by local cities and counties to deal with regional concerns including growth, housing, environment, public health and safety - as well as transportation. COG is an independent, nonprofit association. It is supported by financial contributions from its participating local governments, federal and state grants and contracts, and donations from foundations and the private sector. Policies are set by the full membership acting through its board of directors, which meets monthly to discuss area issues.

COG serves as the administrative agent for the National Capital Region Transportation Planning Board (TPB) under an agreement with the Transportation Departments of Maryland, Virginia, and the District of Columbia. The TPB was created in 1965 by the region's local and state governments to respond to federal highway legislation in 1962 that required the establishment of a "continuing, comprehensive and coordinated" transportation planning process in every urbanized area in the United States. The TPB is designated as this region's Metropolitan Planning Organization (MPO) by the governors of Virginia and Maryland and the mayor of Washington based upon an agreement among the local governments. Although the TPB is an independent body, its staff is provided by COG's Department of Transportation Planning. COG administers a Unified Planning Work Program (UPWP) in conjunction with the TPB in accordance with the requirements of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) (Pub.L. 109-59)

## U.S. DEPARTMENT OF TRANSPORTATION (DOT) GUIDANCE ON LEP

On August 11, 2000, President Clinton signed Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency" (65 FR 50121). This Executive Order requires that Federal agencies develop guidance on how recipients should, consistent with the DOJ LEP Guidance and Title VI of the Civil Rights Act of 1964, as amended, assess and address the needs of otherwise eligible limited English proficient (LEP) persons seeking access to the programs and activities of recipients.

The DOT issued guidance to recipients on special language services to LEP beneficiaries in the Federal Register on January 22, 2002, Vol. 66, No. 14. The purpose of the guidance "is to clarify the responsibilities of recipients of federal financial assistance from the...DOT... and assist them in fulfilling their responsibilities to limited English proficiency (LEP) persons, pursuant to Title VI of the Civil Rights Act of 1964..."<sup>1</sup> Furthermore, "Title VI and its regulations require recipients to take reasonable steps to ensure 'meaningful' access to DOT recipients' programs and activities. The key to providing meaningful access to LEP persons is to ensure that recipients and LEP beneficiaries can communicate effectively and

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<sup>1</sup> Federal Register, January 22, 2002, Vol. 66, No. 14/ Notices, page 6733

act appropriately based on that communication. Thus DOT recipients should take reasonable steps to ensure that LEP persons are given adequate information, and are able to participate effectively in recipient programs and activities, where appropriate.”<sup>2</sup> The guidance indicates that “reasonable steps” depend on a number of factors, such as the number and proportion of people who are potentially served, and the frequency and level of service provided by the recipients program.

Based on consideration of public comments received regarding the initial LEP guidance issued in 2002, the U.S. DOT published revised guidance in 2005<sup>3</sup> in order to clarify the responsibilities of recipients of federal funds. This revised guidance is meant to better convey the flexibility of the guidelines, based on the four-factor analysis set forth in DOJ’s General LEP Guidance. It states that the identification of reasonable steps to provide oral and written services in languages other than English is to be determined on a case-by-case basis through a balancing of four factors. Among the factors to be considered is the number or proportion of LEP persons in the TPB planning area, the frequency with which LEP individuals come into contact with TPB activities, the importance of the TPB activities under consideration, and the resources available to the TPB for providing such services in languages other than English.

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*Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English can be Limited English Proficient or “LEP.”*

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#### FTA CIRCULAR: TITLE VI AND TITLE VI-DEPENDANT GUIDELINES FOR FEDERAL TRANSIT ADMINISTRATION RECIPIENTS

The Federal Transit Administration (FTA) issued Circular “Title VI and Title VI-Dependant Guidelines for Federal Transit Administration Recipients” ( FTA C 4702.1A) on May 13, 2007 which requires the following of Metropolitan Planning Organizations: “In order to integrate, into metropolitan planning activities, considerations expressed in the DOT Order on Environmental Justice, MPOs should have an analytic basis in place for certifying their compliance with Title VI.”; and “Those MPOs that are direct recipients of Federal Transit Administration (FTA) shall report to FTA consistent with the reporting procedures in Chapter II part 4. Other MPOs should report to their direct recipient, the State Departments of Transportation (State DOTs), consistent with reporting procedures established by the State DOT.

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<sup>2</sup> Ibid. page 6736

<sup>3</sup> Federal Register, December 14, 2005, Vol. 70, No. 239/ Notices, page 74087



This Language Assistance Plan was developed to demonstrate the commitment of the TPB and its staff to ensure meaningful access to TPB activities by LEP persons, as mandated by Executive Order 13166.

## TPB'S PROACTIVE APPROACH TO PUBLIC INVOLVEMENT

In order to ensure that the TPB's planning process, identifies the needs of transportation-disadvantaged population groups, the TPB has developed a proactive approach to public involvement.

TPB Staff held an interactive dialogue with members of the public during development of the TPB Participation Plan<sup>4</sup>, which was adopted in December 2007. The central concept of the Participation Plan is that there are three constituencies for the TPB, each having a different level of knowledge and familiarity with the TPB and the transportation decision-making process:

The **Involved** public consists of a relatively small group of people who are familiar with the TPB and participate in its processes through professional roles, membership on a TPB committee, or as a commenter on TPB plans or at meetings.

The **Informed** public consists of people who are engaged in civic issues and have a general understanding of transportation issues – these people are often referred to as “community leaders” by virtue of their status as information conduits to larger citizen groups.

The **Interested** public is the largest group, consisting of everyone who has an interest in transportation in the region simply by the role it plays in their daily lives.

The TPB Participation Plan is based upon the fundamental premise that in order to most effectively use its resources the TPB must tailor its outreach to these three different groups. The TPB works in a number of ways to engage traditionally disadvantaged communities, including the LEP community, in these three constituency groups.

The **TPB Access for All (AFA) Advisory Committee**<sup>5</sup> was specifically created by the TPB to proactively address Title VI, Environmental Justice and involve minority communities, low-income communities and persons with disabilities, including LEP communities, in the transportation planning process.. The AFA was established in 2001 to advise the TPB on transportation issues, programs, policies, and services that are important to minority communities, low-income communities, and people with disabilities. The mission of this committee is to identify concerns for these traditionally transportation disadvantaged communities, and to determine whether and how these issues might be addressed within

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<sup>4</sup> <http://www.mwcog.org/transportation/involved/documents/ParticipationPlan-2007.pdf>

<sup>5</sup> [http://www.mwcog.org/transportation/committee/committee/default.asp?COMMITTEE\\_ID=99](http://www.mwcog.org/transportation/committee/committee/default.asp?COMMITTEE_ID=99)

the TPB process. AFA membership includes elected officials, transportation planners, community-based organizations, local advocacy groups, and interested citizens. Its diverse membership covers all three constituency groups identified in the TPB Participation Plan.

The AFA has identified needs for improved access to transit information and the TPB has helped advocate for such improvements through coordination with the Washington Metropolitan Area Transit Authority (WMATA).

The **TPB Community Leadership Institute (CLI)** is another outreach approach and it is tailored to the “informed” and “interested” constituencies identified in the TPB Participation Plan. The CLI is a workshop designed to help community activists learn how to get involved more effectively in transportation decision-making in the Washington Region. It is also intended to help the TPB reach out to communities and groups that typically have not been involved in the TPB process. The 2007 CLI session focused on engaging the LEP community and included representatives from the DC Language Access Coalition, Central American Resource Center of Washington, African Resource Center, African Political Action Committee, Caribbean Help Center, Multicultural Community Service, Hogar Hispano, Radio Fiesta, Prince George’s County Office of Community Relations, Maryland Vietnamese Mutual Association, Boat People SOS, Adelphi Langley Park Family Support, and Tenants and Workers United.

## II. NEEDS AND CAPACITY ASSESSMENT

### FOUR-FACTOR ANALYSIS

In the U.S. DOT “ Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient (LEP) Persons” published December 14, 2005, it is stated that “Recipients are required to take reasonable steps to ensure meaningful access to their programs and activities by LEP persons.” The guidance further recommends that the following four-factor analysis be used to help determine how to ensure reasonable and meaningful access to TPB activities:

- (1) The number or proportion of LEP persons eligible to be served or likely to be encountered by a program, activity, or service of the recipient or grantee;
- (2) The frequency with which LEP individuals come in contact with the program;
- (3) The nature and importance of the program, activity, or service provided by the recipient to people's lives; and
- (4) The resources available to the recipient and costs.

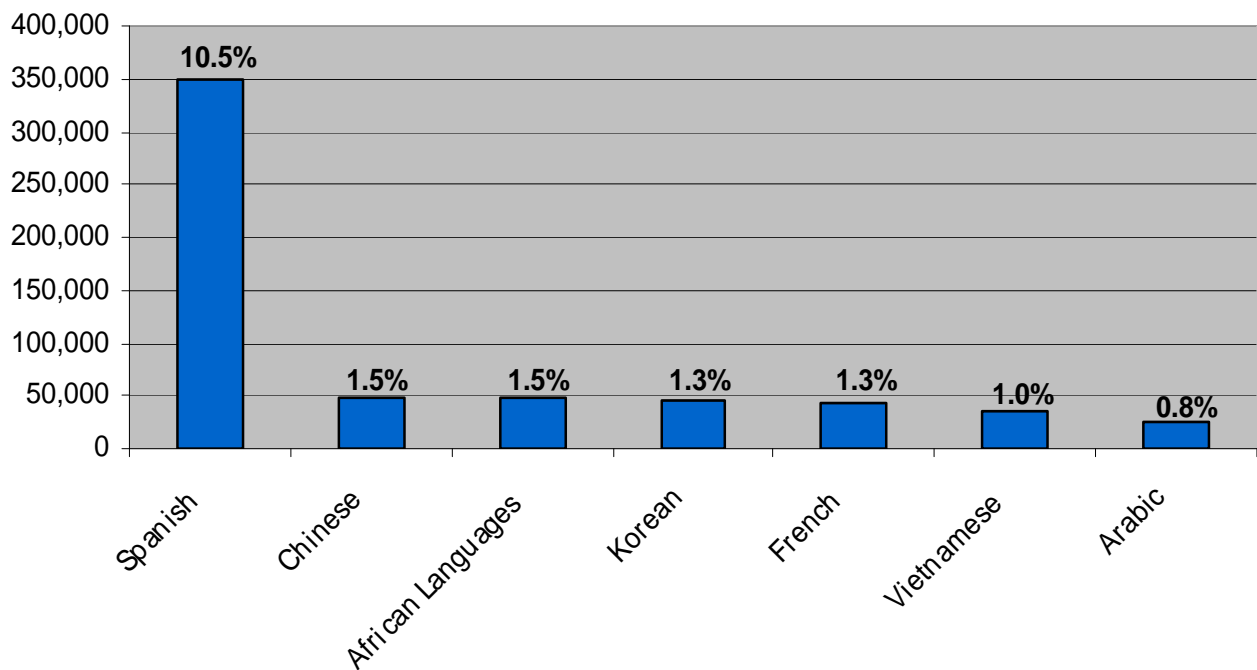
The TPB applied these four-factors to determine what language assistance measures should be put in place; these measures are described in Section III. Plan Implementation. Some of the information that fed into the analysis are provided below.

### LANGUAGES SPOKEN IN THE REGION AND LOCATIONS OF LEP INDIVIDUALS

The 2000 U.S. Census provides the best source of information on those with limited English skills. The Census asks what language is spoken at home and if English is spoken less than “very well”. Data from the Census shows that the Washington region includes more than 800,000 people who are foreign born, and also indicates that 23% of the region’s population speaks a language other than English at home, ten percent of which speak English less than “very well”. The languages other than English most often spoken at home are Spanish, Chinese, African languages<sup>6</sup> (including Amharic, the language spoken in Ethiopia), Korean, French, Vietnamese and Arabic, as shown in Figure 1.

With approximately 350,000 residents speaking Spanish at home, it is by far the most commonly spoken non-English language in the region. Based on this information, it is most likely that special language services provided would need to accommodate people who speak Spanish. However, non-English speaking groups in the region are not only diverse; they are also geographically dispersed throughout the region, as shown in Figure 2. Therefore, regional information about LEP language access may not be as useful as information from a smaller geographic area and it is necessary for transportation planning staff to understand the demographic profile of the communities they operate in within the region.

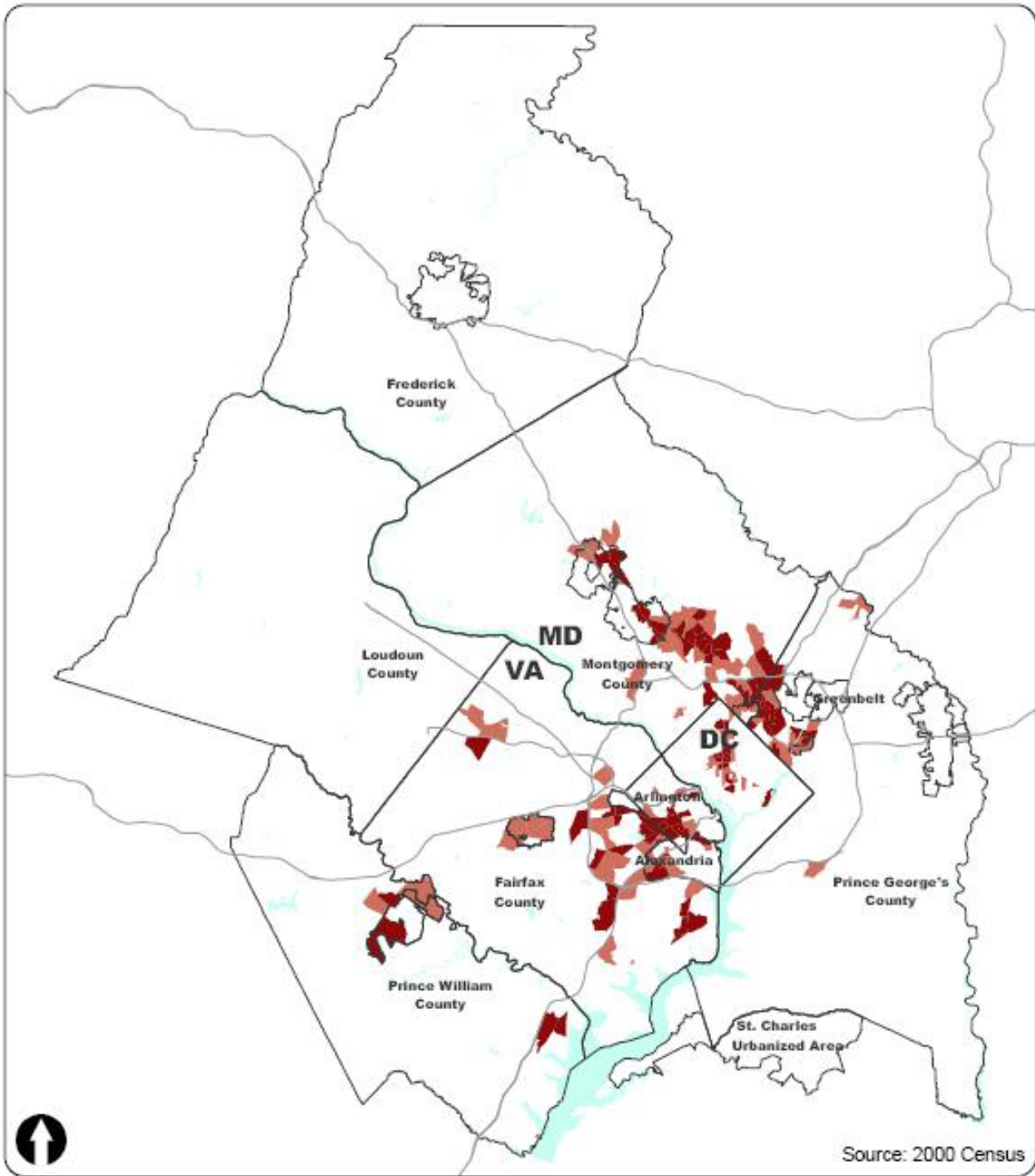
Figure 2: Languages Other Than English Most Often Spoken at Home



Source: 2000 Census. SF3. Jurisdictions include Arlington County, the City of Alexandria, the District of Columbia, the City of Fairfax, the City of Falls Church, Fairfax County, Montgomery County and Prince George’s County.

<sup>6</sup> African Languages include Amharic, Ibo, Twi, Yoruba, Bantu, Swahili, and Somali.

Figure 3: Distribution of Limited English Speaking Population by Census Tract



Limited English Speaking

5% - 10%

10% +

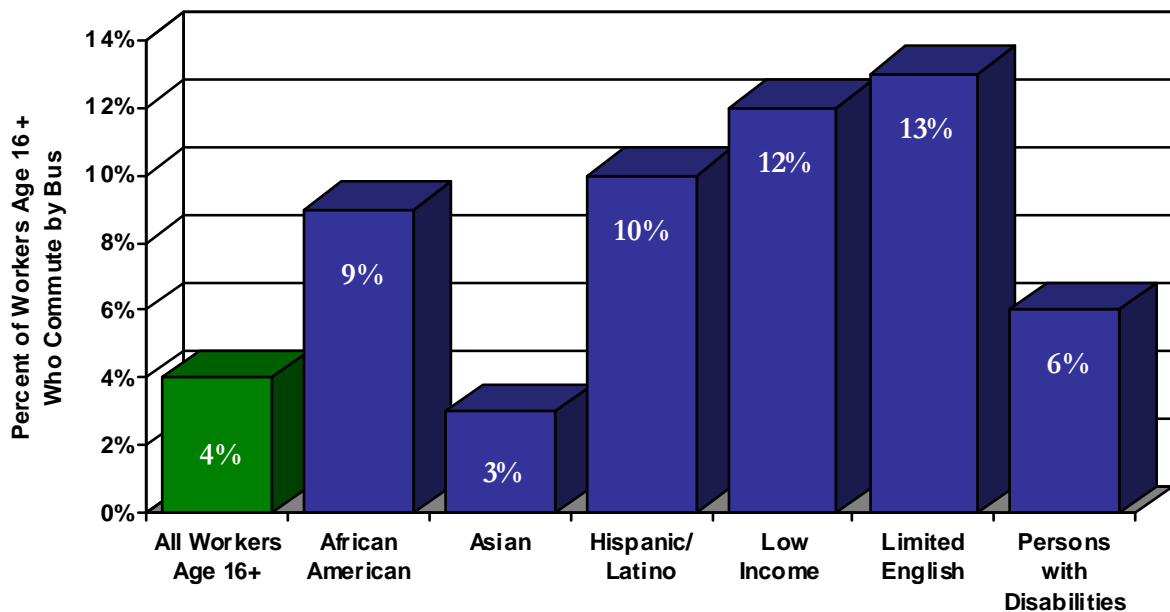
Source: 2000 Census. SF3. Limited English Speakers includes individuals who speak English “not well” or “not at all”

### TRAVEL CHARACTERISTICS OF LEP INDIVIDUALS

In 2007, the TPB Access for All (AFA) Advisory Committee released a report<sup>7</sup> to provide an overview of the major continuing barriers and the recommendations for improving access to transit for LEP communities in the short- and long-term. Analyzing data from the 2000 U.S. Census, the report found that LEP individuals are over *three times as likely* to commute to work by bus as the general population (see Figure 3). Also, limited English speakers are *half as likely* to commute by subway (3% versus 7% for the general population). Lastly, workers with limited English skills are twice as likely to walk and bicycle to work and almost three times as likely to carpool or vanpool<sup>8</sup>.

The AFA report made recommendations for three language “hot spots”, as well as system-wide recommendations. The three “hot spot” areas are Columbia Heights in D.C., Langley Park in MD and Baileys Crossroads in VA. All the recommendations have a timeframe for implementation associated with them: Short-term (within 6 months), Medium-term (within 1 year), and Long-term (1 to 3 years).

Figure 4: Commuting By Bus is Most Common for Limited English Speakers



Source: 2000 Census PUMS data

<sup>7</sup> National Capital Region Transportation Planning Board, Access for All Advisory Committee. *Improving Language Access to Transit in the National Capital Region*. Endorsed by the TPB on May 16, 2007.

<<http://www.mwcog.org/uploads/committee-documents/j1dYV1Y20070608143606.pdf>>

<sup>8</sup> These statistics are for workers 16 years and older and are provided in the report “Travel Characteristics and Accessibility Impacts of the 2004 Financially Constrained Long-Range

### III. PLAN IMPLEMENTATION – PROVIDING LANGUAGE SERVICES

#### ORAL LANGUAGE ASSISTANCE AND COMMUNICATIONS

COG's Accommodations Policy<sup>9</sup> states that translation services (including Spanish and sign language) are available upon request for meetings that are open to the public. It is expressed that requests for such services are appreciated seven business days in advance of a meeting to process the request.

The Commuter Connections program employs one full time Spanish speaking employee that is available for their call center and assists staff with in person contact and written communication in Spanish. Additionally, there is designated Spanish speaking staff in each COG department to handle calls from Spanish speakers.

The Commuter Connections program also periodically advertises their program via radio spots. These radio ads are broadcast in both English and Spanish.

#### WRITTEN LANGUAGE ASSISTANCE

Key documents of the TPB will be translated upon request. Staff arrange for the translation of materials through coordination with the Facilities Manager and Human Resources staff who maintain a list of qualified companies that provide translation services.

At certain times during our planning process it is required to publish notifications of TPB activities in local newspapers (e.g. announcement of the opportunity to comment on air quality conformity determination). When this is required, a notification is published in several newspapers, including a notification written in Spanish for the Spanish-language newspaper El Pregonero.

Outreach strategies for the annual Street Smart pedestrian and bicyclist safety campaign<sup>10</sup> that is coordinated by TPB include radio, video, newspaper and transit advertising. These advertising efforts are focused on educating motorists, pedestrians and bicyclists to improve safety. All advertising materials are produced in English and Spanish versions, with select materials also produced in Korean, Vietnamese, Chinese, and Amharic.

#### WEBSITE TRANSLATION

The website for the Metropolitan Washington Council of Governments<sup>11</sup>, including the Department of Transportation Planning's subsection of that website<sup>12</sup>, is able to be

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<sup>9</sup> <http://www.mwcog.org/accommodations>

<sup>10</sup> <http://www.bestreetsmart.net>

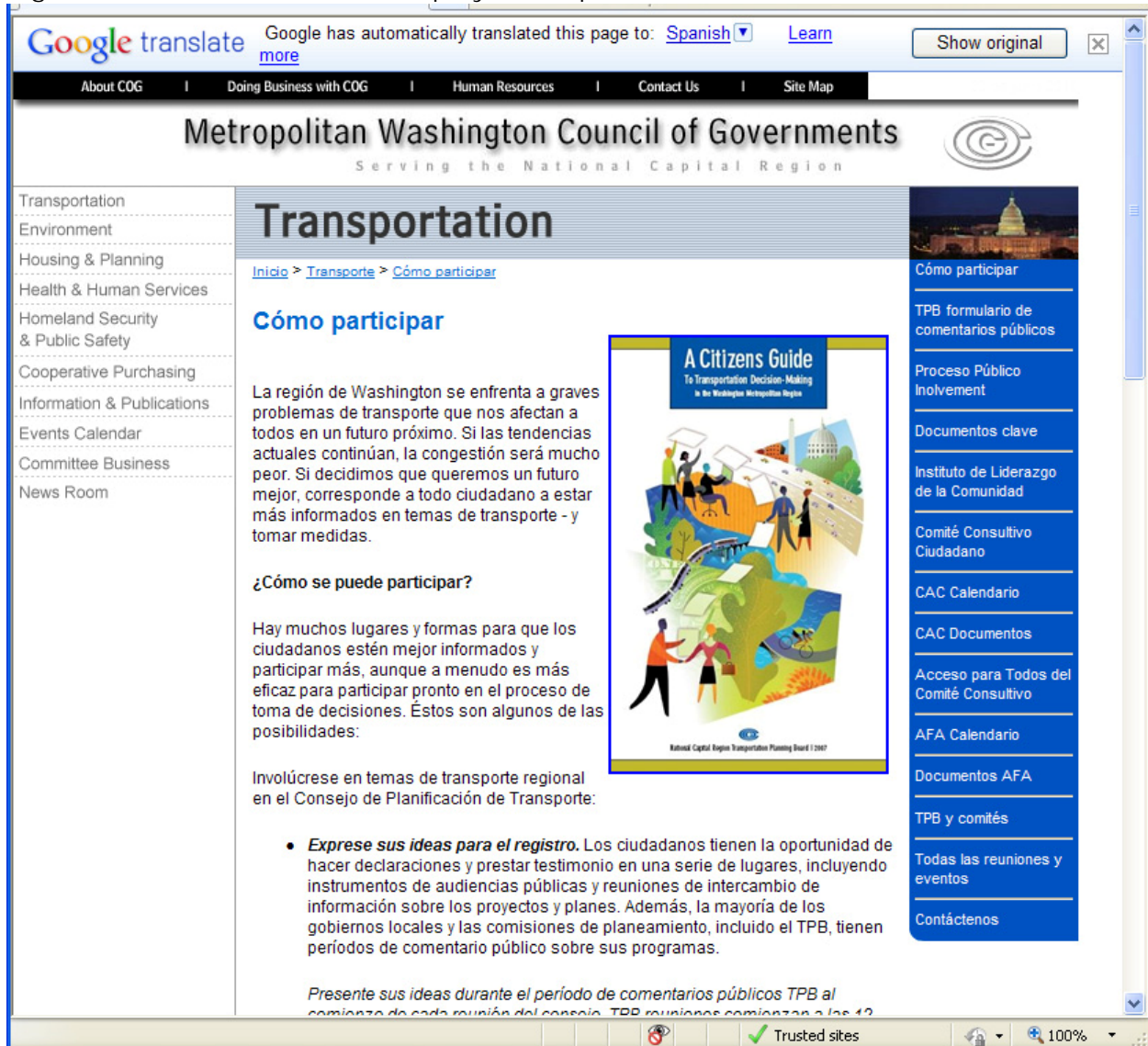
<sup>11</sup> <http://www.mwcog.org>



translated into 52 different languages. Staff incorporated Google Translate translation capability into the development of this website as a cost-efficient means of making sure that the information contained on the website is accessible to LEP stakeholders and the interested non-English speaking public.

Additionally, the website for the Financially-Constrained Long Range Transportation Plan (CLRPP) is able to be translated into numerous different languages, through incorporation of Yahoo! Babel Fish translation capability into the development of this website.

Figure 5: The TPB’s Website Displayed in Spanish



<sup>12</sup> <http://www.mwcog.org/transportation>

Figure 6: CLRP Website Displayed in Spanish



Additionally, the Commuter Connections website<sup>13</sup> is provided in Spanish, to accommodate Spanish speaking customers' participation in ridesharing and other Commuter Connections programs.

<sup>13</sup> <http://www.mwcog.org/commuter2>



## TRAINING STAFF

Most TPB staff is not in public contact positions; however those employees that do engage with the public (e.g. Program Coordination team) receive direct training from their supervisor regarding their obligations to provide meaningful access to information and services for LEP persons.

COG developed an Accommodations Policy to guide staff and outline how COG will provide certain services to accommodate people with special needs. Additionally, COG regularly provides diversity training for all of their employees.

In an effort to continuously improve the TPB's overall compliance posture, nondiscrimination and LEP-related training will be coordinated with the U.S. Department of Transportation, the Virginia Department of Transportation (VDOT), the Maryland Department of Transportation (MDOT) and the District Department of Transportation (DDOT) and made available to COG staff on an ongoing basis to ensure up to date knowledge of Title VI, other nondiscrimination statutes and LEP guidance.

## PROVIDING NOTICE TO LEP PERSONS

COG's Accommodations Policy is posted online<sup>14</sup> and states that translation services (including Spanish and sign language) are available upon request for meetings that are open to the public. It is expressed that requests for such services are appreciated seven business days in advance of a meeting to process the request. Similarly, agendas distributed for TPB meetings include the following notice in the footer indicating that alternative formats of meeting materials can be made available:

“Alternative formats of this agenda and all other meeting materials are available upon request. Phone: 202-962-3300 or 202-962-3213 (TDD). Email: [accommodations@mwcog.org](mailto:accommodations@mwcog.org). Please allow seven working days for preparation of the material.”

At certain times during our planning process it is required to publish notifications of TPB activities in local newspapers (e.g. announcement of the opportunity to comment on air quality conformity determination). When this is required, a notification is published in several newspapers, including a notification written in Spanish for the Spanish-language newspaper El Pregonero.

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<sup>14</sup> <http://www.mwcog.org/accommodations/default.asp>

### III. MONITORING AND UPDATING THE LANGUAGE ASSISTANCE PLAN

The TPB's Language Assistance Plan as part of the Metropolitan Washington Council of Government's Title VI Plan, will be reviewed annually by Title VI coordinators on the COG staff. This annual review will also include a review of whether existing assistance is meeting the needs of LEP persons, and whether new documents, programs, services, and activities need to be made accessible for LEP individuals. Such guidance will also be based on consideration of the frequency of encounters with LEP language groups and the availability of resources.

The TPB Access for All (AFA) Advisory Committee annually reviews the significant changes to CLRP and TIP projects and provides input to the TPB regarding the transportation-related concerns of the people they represent, including LEP persons, people with disabilities, older adults, and economically disadvantaged populations. As part of the annual review, the AFA will also be asked to review the Language Assistance Plan and provide feedback on which TPB activities are of most importance to LEP persons.

Additionally, as new data is made available on the demographics of the region and the resulting transportation needs (e.g., 2010 U.S. Census Data), this Language Assistance Plan will be reviewed and updated to respond to the needs of the region's growing and changing population.

# **Attachment G**

## **Accommodations Policy**

## Attachment G: COG Accommodations Policy

Published at [www.mwcog.org/accommodations/](http://www.mwcog.org/accommodations/)

The Council of Governments is committed to the principles of the Americans with Disabilities Act. It is COG's policy to provide equal access for individuals with disabilities to programs, meetings, publications, and activities including employment. Special accommodations will be provided by the Council of Governments upon request. Reasonable accommodations may include modifications or adjustments to a program, publication, activity, or the way things usually are done to enable an individual with a disability to participate. Examples include:

- Providing sign language interpreters;
- Providing materials in alternative formats (large print or electronic copies);
- Providing tables that are “higher” than normal meeting room tables for people using electric wheelchairs;
- Alerting security staff that persons with disabilities will need assistance to the meeting room;
- Alerting COG garage attendants that a person with a disability will be needing disabled parking spaces;
- Offering individuals to participate in meetings through conference calls and other accommodations as necessary.

### Meetings and Events

Translation services in sign language and Spanish are available upon request for meetings that are open to the public. Other accommodations, such as special seating requirements, can also be arranged. Please allow up to seven business days to process your request.

### Publications

Most publications are available on the website. For information on locating reports, meeting agendas, presentations and other documents, go to <http://www.mwcog.org/accommodations>.

Alternative formats of publications are also available upon request. Please allow up to seven business days to process your request.

### Advance Notice Requested for Interpreting or CART Services

An individual needing a sign language interpreter or Communication Access Real-time Translation (CART) service to participate in a meeting or event should request the interpreter service within seven days in advance of the event. If the event is more than 12 interpreting hours, such as a two day conference, COG asks that the request be made 14 days in advance. Late requests will be handled based upon the availability of service(s).

### To make a request:

Phone: 202-962-3300

TDD: 202-962-3213

Email: [accommodations@mwcog.org](mailto:accommodations@mwcog.org)

**Attachment H**

**Equal Employment Opportunity  
and Affirmative Action Policy and  
Harassment Policy**

## 5. EQUAL EMPLOYMENT OPPORTUNITY POLICY

### A. Authority and Purpose

1. The Executive Director, in cooperation with department heads, the Director of Human Resources, and the Equal Employment Opportunity Committee (see Section B of this chapter), shall administer the policy set forth in this chapter for affirmative action and equal employment opportunity.
2. It is the intent and purpose of this policy:
  - a. to insure equal employment opportunity and treatment for all employees and applicants for employment without regard to race, color, sex, sexual orientation, age, marital status, personal appearance, family responsibilities, matriculation, status as a Vietnam era or special disabled veteran, religion, national origin, political affiliation, disability; and
  - b. The policy of equal employment applies to every aspect of COG employment, except where prohibited by law.

### B. The Equal Employment Opportunity Committee (EEOC)

1. All COG managers and supervisors are responsible for creating and maintaining a work environment free from discrimination or harassment of any kind, and all COG employees are responsible for respecting the rights of their co-workers.
2. The Executive Director of COG shall appoint a chairperson and members of the EEOC. This committee shall be composed of five members including the chairperson. In any case where a complaint is brought against a committee member, the Executive Director shall appoint an alternate. Any member of the committee shall disassociate him/herself from the committee in cases where the member feels that he/she is biased in his/her judgment of the case. The committee shall meet regularly, preferably once a month. COG staff should be notified in advance of EEOC meetings.
3. The EEOC shall evaluate from time to time the sufficiency of the composition of the total agency and recommend any improvements or corrections, including remedial or disciplinary action with respect to managerial or supervisory employees who have failed in their Equal Employment Opportunity responsibilities.

## COG HUMAN RESOURCES POLICIES AND PROCEDURES

4. The EEOC has two primary responsibilities: 1) the investigation and resolution of discrimination complaints in the organization and 2) the development and monitoring of COG's cultural diversity programs. This includes:
  - a. transmittal of information to all employees in the organization concerning Equal Employment Opportunity;
  - b. assisting the Office of Human Resources Management (OHRM) in the development of an orientation program that includes EEOC outreach to new employees;
  - c. assisting OHRM in recruiting activities through identification of contacts and resources not included in the OHRM's existing resources and attending or identifying other employees to attend job fairs;
  - d. making recommendations concerning job restructuring and establishment of entry level and trainee positions to OHRM to facilitate movement among occupational areas; and
  - e. reviewing COG's affirmative action plan.
  
5. Amendments to any section of the EEOC policy chapter may be made by the EEOC with the approval of the Executive Director.

## C. Complaint Procedure

### 1. **Informal Complaint Process**

If employees believe that they have been discriminated against on the basis of race, color, sex, sexual orientation, age, religion, national origin, political affiliation, disability, personal appearance, family responsibilities, matriculation, status as a Vietnam-era or special disabled veteran or marital status: they may contact the designated EEOC counselor. An alternate counselor may also be appointed should a situation arise in which the designated EEOC counselor may have direct knowledge of the allegations. The counselor will be appointed by the Executive Director based on suggestions and criteria drawn up by the EEOC and shall be a representative of minorities, women, and other employees of the agency. The COG staff will be notified in writing of this appointment.

Employees may also complain to any supervisory-level employee (Manager Grade 9 or higher) with whom they feel comfortable, not necessarily their direct supervisor. That supervisor in turn is responsible for reporting the complaint to the EEOC counselor or the Director, Office of Human Resources Management .

## COG HUMAN RESOURCES POLICIES AND PROCEDURES

The EEOC counselor will discuss the grievance with the complainant and ascertain the nature of the case. The counselor shall investigate and act only on evidence of discrimination and/or harassment and not become involved in other personnel matters. The counselor will investigate and attempt to resolve the issue. At the same time the Executive Director will be informed about the complaint either in writing or verbally.

The counselor will be allowed ten (10) working days for resolution of the complaint. The counselor may talk with the party subject to the allegation and other persons who may have knowledge of the case. The counselor shall act only in the specific matters complained of by the complainant and shall not independently or unilaterally become involved in matters not subject to the specific act of alleged discrimination.

Any supervisor or management personnel who becomes aware during the course of their employment of any complaint of discrimination or harassment shall immediately notify the EEOC counselor (or a member of the EEOC) for appropriate follow up and investigation.

2. **Formal Complaint Process** (See chart page 5-6)

If the complaint is not resolved within ten (10) working days, the complainant may bring a formal charge to the Chairperson of the EEOC. The complaint shall be in written form and its components should include to the extent available:

- a. Statement of Complaint
- b. Names of Person(s) Involved
- c. Documentation of Facts

A member of the EEOC will be assigned as an investigator for the case. The EEOC counselor will turn over all records, testimony and documents he/she has gathered in connection with the case to the EEOC investigator. The EEOC investigator may also interview those persons having the necessary information about the case. The EEOC also may request throughout the investigation the kinds of information it needs to know. As with the EEOC counselor, the investigator shall act only in the specific matters brought by the complainant, and shall not independently or unilaterally investigate the matters not subject to the specific act of alleged discrimination. However, general patterns or practices of discrimination which may be unrelated to any specific complaint may be investigated.

Once the EEOC investigator has completed the investigation, all facts and documentation shall be submitted to the EEOC Chairperson. The Chairperson shall then convene a meeting of the Committee to discuss the case. The investigator assigned to the case shall be present at this meeting and shall answer questions for clarification but may not help decide the recommendation.



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The EEOC may also call in the complainant, the other party(ies) to the complaint and other witnesses if necessary. The EEOC shall make a determination on the case based on information provided from the investigation and any interviews that were conducted. The Executive Director will review the EEOC's determination prior to the EEOC making the appropriate notifications. If the complainant is not satisfied with the EEOC's decision, the complainant may request an appeal and a hearing will be conducted at that time.

### 3. **Hearing Procedure for the Appeals Process**

The appeals process will consist of a formal hearing as outlined below.

If an appeal is requested, the following hearing procedure will be followed:

- a. The EEOC shall be assisted by a legal advisor from the Legal Office of the Metropolitan Washington Council of Governments or other legal adviser that COG designates. The legal advisor shall advise the Chairperson and the Committee on all matters of law and procedures.
- b. In any formal complaint procedure, the complainant shall have the burden of proof. Any oral and any documentary evidence may be received, but the EEOC shall exclude irrelevant, immaterial and unduly repetitious evidence. Every party shall have the right, in person or by counsel, to present the case or defense, by oral and documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts.
- c. The EEOC shall maintain an official record of the hearing, including testimony and exhibits, which record shall be the basis for the determination by the Executive Director.
- d. Within fifteen (15) days after the closing of the record, the EEOC shall forward to the Executive Director a written report setting forth a description of the complaint, the hearing and the findings of the complaint.
- e. The documentation of the hearing shall be reproduced and placed in sealed envelopes for distribution to the following:
  - (1) The Complainant
  - (2) Office of Human Resources Management
  - (3) General Counsel
  - (4) The Department Head(s) involved
  - (5) Person(s) against whom complaint is brought.

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The Executive Director shall make a decision on the merit of the case after the receipt of the report analysis of the EEOC. He/she shall inform the complainant and the EEOC of his/her decision in writing within ten (10) days. If the complainant is not satisfied with the Executive Director's decision, the next level of redress is filing a complaint with the District of Columbia Office of Human Rights, the Federal Equal Employment Opportunity Commission, or the courts of the District of Columbia.

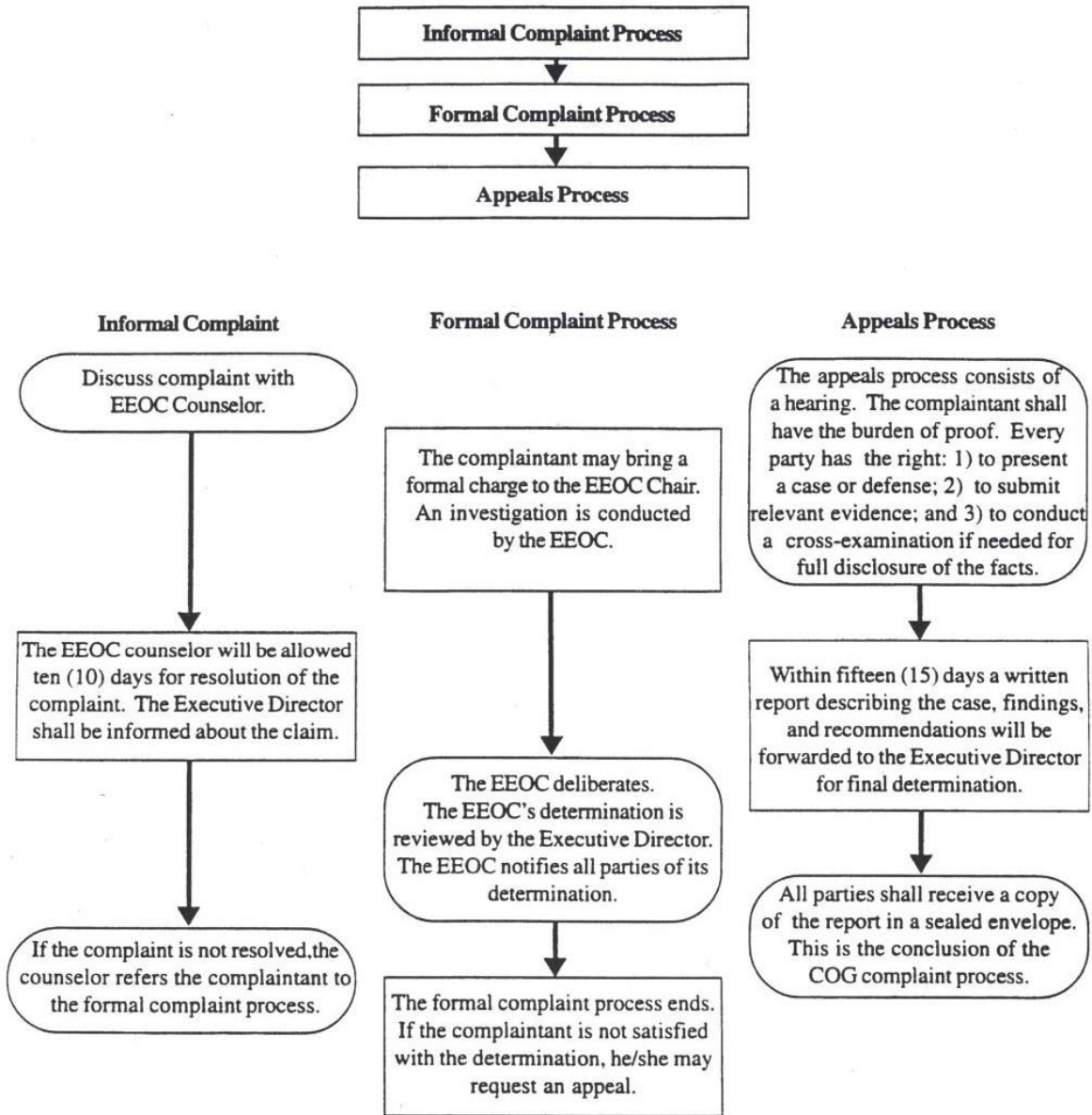
**D. Retaliation**

It is against COG policy for any employee (supervisory or otherwise) to retaliate against any employee for using the complaint procedures set forth in this Chapter. Any employee found to have engaged in prohibited retaliation will be subject to disciplinary action, up to and including dismissal

COG HUMAN RESOURCES POLICIES AND PROCEDURES

## COG'S EEOC COMPLAINT PROCEDURE

This is intended to be a general description of the complaint process. Please refer to Chapter of COG's Human Resources Policies and Procedures Manual for more detailed description of the complaint process.



*\*At anytime, an employee has the right to file a complaint with either the D.C. Council of Human Rights or the Federal EEOC.*



## 6. HARASSMENT

### A. Statement of Policy

#### 1. Policy

COG expressly prohibits any harassment of any COG employee based on race, color, religion, sex, sexual preference, national origin, age, disability, status as a Vietnam-era or special disabled veteran, or status in any group protected by state or local law. Harassment is a form of discrimination under Title VII of the Civil Rights Act of 1964 and the D.C. Human Rights Act. All managers and supervisors have been instructed to report to the Director, Office of Human Resources Management as soon as they become aware of any conduct that may constitute harassment, including sexual harassment as defined in Section B below. Any employee of COG found in violation of these rules and policies shall be subject to appropriate disciplinary action, up to and including termination.

### B. Sexual Harassment Policy & Prohibited Conduct

1. The Metropolitan Washington Council of Governments (COG) will neither accept nor condone any conduct or behavior which constitutes sexual harassment in the workplace. All managers and supervisors have been advised of their responsibilities to assure that the COG workplace is free of any such attitudes and behaviors. Any employee of COG found in violation of these rules and policies shall be subject to appropriate disciplinary action, up to and including termination.

#### 2. Definitions

Sexual harassment is discrimination under Title VII of the Civil Rights Act of 1964. The Equal Employment Opportunity Commission defines sexual harassment as "unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- a. Submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment;
- b. Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting the individual; or
- c. Such conduct has the purpose or effect of reasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment."

## COG HUMAN RESOURCES POLICIES AND PROCEDURES

**3. Prohibited Conduct**

COG's sexual harassment policy prohibits sexual harassment in the workplace, whether committed by supervisory or non-supervisory personnel. Specifically, no supervisor shall threaten or insinuate, either explicitly or implicitly, that an employee's submission to or rejection of sexual advances will in any way influence any personnel decision regarding that employee's employment, wages, advancement, assigned duties, or any other condition of employment or career development.

Other sexually harassing conduct in the workplace that may create an offensive work environment, whether it be in the form of physical or verbal harassment, and regardless of whether committed by supervisory or non-supervisory personnel, is also prohibited. This includes, but is not limited to, offensive or unwelcome advances of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual's body; sexually degrading words used to describe an individual, and the display in the workplace of sexually suggestive objects or pictures.

**C. Continuing Education**

Continuing harassment training will be provided to and required of all managers and supervisors at COG. New employees will be provided this orientation on a periodic basis as part of their orientation. The COG Equal Employment Opportunity Committee (EEOC) and the Office of Human Resources Management will continue to provide relevant informational materials on this matter to the COG staff.

**D. Complaint Procedure**

Any COG employee or applicant who believes that he/she has been harassed is encouraged to use any and all of the options listed below to address his/her concerns. The exact procedures chosen by the complainant will be based on the individual's needs and circumstances.

The following procedures may be used in any order appropriate to the individual situation:

1. Make known to the harasser at the time of the incident, or as soon thereafter as practicable, that a behavior or conduct is unwelcome.
2. Prepare a written record of occurrences for the record or to aid in the investigation of the complaint. It also may be useful to note the names of others who were present who might corroborate an incident or who may have direct knowledge of such behaviors.

## COG HUMAN RESOURCES POLICIES AND PROCEDURES

3. Contact the Office of Human Resources Management, your supervisor, or any member of COG's EEOC to discuss an occurrence and/or seek advocacy if you are experiencing any form of harassment.
4. Report any retribution or persistent behavior to the Office of Human Resources Management or a member of COG's EEOC for their assistance.

A complaint of harassment referred to the Office of Human Resources Management will be promptly, thoroughly, and where possible, confidentially investigated within three (3) working days of receipt of the complaint. Appropriate corrective actions will be taken immediately.

### **E. Disciplinary Actions**

Substantiated incidents of harassment on the part of a COG employee will be treated as disciplinary infractions, with all penalties applicable as described in Chapter 16 of the COG Human Resources Policies and Procedures Manual. Such disciplinary action may include termination when warranted by the offense.

### **F. Complaint of Sexual Harassment by a Non-COG Employee**

When any COG employee or applicant believes that he/she has been harassed by a non-COG employee while conducting COG business, the employee or applicant should immediately report their complaint to the Office of Human Resources Management for corrective action.

### **G. Retaliation**

It is against COG policy for any employee (supervisory or otherwise) to retaliate against any employee for using the complaint procedures set forth in this chapter. Anyone found to have engaged in prohibited retaliation will be subject to disciplinary action up to and including dismissal.

# **Attachment I**

## **Disadvantaged Business Enterprise Policy**



## Attachment I. Disadvantaged Business Enterprise Policy

Published at: [www.mwcog.org/doingbusiness/dbe/](http://www.mwcog.org/doingbusiness/dbe/)

It is the policy of the Metropolitan Washington Council of Governments (COG) that Disadvantaged Business Enterprises, as defined in 49 CFR Part 26, shall have the maximum opportunity to participate in the performance of contracts for COG, and specifically those financed in whole or in part with Federal funds under grants, contracts or cooperative agreements. COG's policy is to seek out and include DBEs in the procurement process for all goods and services to the maximum practicable extent. Accordingly, COG encourages DBEs to compete for COG contracts and subcontracts, and encourages joint ventures between DBE and non-DBE firms who compete for COG contracts and subcontracts.

### I. DBE PROGRAM LIAISON OFFICER

The Executive Director of COG has responsibility for implementing the DBE Program. The Director of Purchasing and Facilities is responsible for coordinating the DBE program with all COG program managers, maintaining all lists and files, as well as providing assistance to the Department Heads in reporting DBE activities to the Purchasing Office. All reports to Federal Agencies shall be coordinated by the Purchasing Office and shall be forwarded over the signature of the Executive Director.

The Executive Director, Department Heads, and all employees of COG share responsibility for encouraging and assisting DBEs in doing business with COG.

### II. DEFINITIONS

- a. "Disadvantaged Business" means a for-profit small business concern: (a) that is at least 51 percent owned by one or more socially and economically disadvantaged individuals, or, in the case of any publicly-owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
- b. "Small Business Concern" means a small business as defined in Section 3 of the Small Business Act and Small Business Administration regulations implementing the Act at 13 CFR Part 121.
- c. "Socially and Economically Disadvantaged Individuals" means those individuals who are citizens of the United States (or lawfully admitted permanent residents ) and who are: (1)"Black Americans," which includes persons having origins in any of the Black racial groups of Africa; (2)"Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race; (3) "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native

Hawaiians; (4) "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma, Vietnam, Laos, Cambodia, Thailand, Malaysia, Indonesia, Brunei, Macao, Fiji, Tonga, Kiribati, Tuvalu, Nauru, the Federated States of Micronesia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, the Commonwealth of the Northern Marianas, or Hong Kong; (5) "Asian-Indian Americans," which includes persons whose origins are from India, Pakistan and Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka; (6) "Women," regardless of race, ethnicity or origin; and (7) "Other," individuals found to be socially and economically disadvantaged by the Small Business Administration (SBA) pursuant to the Small Business Act.

There is a rebuttable presumption that individuals in the above groups are socially and economically disadvantaged. COG may determine, on a case by case basis, other individuals who are socially and economically disadvantaged.

d. "Joint Venture" means an association of a DBE firm and one or more other firms to carry out a single for-profit business enterprise for which purpose they combine their property, capital, efforts, skills and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

### **III. APPLICABILITY**

This policy applies to the following:

- a. All COG goods and services purchased through a formal procurement process by the issuance of Invitations For Bids (IFBs) or Requests for Proposals (RFPs); and
- b. All COG goods and services purchased through an informal procurement process.

### **IV. PROCEDURES**

#### **A. Identification of DBEs**

1. The Purchasing Office will maintain a list of sources for information on DBEs in the metropolitan Washington area. The list will include sources for information on local DBEs that can be obtained from the District of Columbia Department of Small and Local Business Development, the Washington Metropolitan Area Transit Authority, the Maryland Department of Transportation, the Virginia Department of Minority Business Enterprise, other COG member jurisdictions, and other organizations that maintain DBE

information relevant to COG's procurement needs. All COG staff responsible for procuring goods or services are required to confer with the Purchasing Office prior to issuing IFBs or RFPs to obtain information on identifying DBEs who are capable of providing the desired services or products.

2. With the assistance of the Purchasing Office, COG staff responsible for procuring goods or services will identify sources for information identifying DBEs prior to issuing IFBs or RFPs. COG will develop similar information before soliciting through an informal procurement process.
3. The Purchasing Office will be responsible for maintaining all records for each procurement that indicate the names of all firms who received IFBs or RFPs or informal solicitation requests, the bids or proposals received, the ranking of the bids or proposals received, and the name(s) of the firm(s) awarded the contract.
4. The COG employee responsible for any particular procurement will be responsible for coordinating the procurement with the Purchasing Office to ensure that DBEs have the maximum opportunity to submit bids or proposals.
5. Upon receipt of grants or contracts where subcontracting is required, COG will notify identified DBEs of COG's DBE Participation Policy and possible business opportunities with COG.

## **B. DBE Participation**

1. COG encourages participation by DBE firms and by joint ventures between DBE and non-DBE firms in COG contracts and subcontracts to the maximum extent practicable. COG will state this policy in its RFPs and IFBs and will state its willingness to help any non-DBE firm identify DBEs for joint venture or subcontract opportunities.
2. COG will direct DBEs to state and local government agencies that provide technical assistance and other services to facilitate DBE participation in COG contracts and subcontracts.
3. COG does not discriminate on the basis of race, color, national origin, or sex in the award and performance of any contract or in the administration of its DBE Participation Program.

## **C. DBE Certification**

1. For-profit DBEs submitting bids or proposals to COG must submit with the bid or proposal, or have on file at COG, a current (not more than one year old) notification of their certification as a DBE. The certifying agency must be a Federal, state or local government

agency that regularly provides such certifications. COG may accept certification from private, nonprofit organizations at its discretion.

2. If, before or after the contract award, a bidder or offeror wishes to substitute a non-DBE subcontractor for a DBE subcontractor, the bidder or offeror must obtain prior written approval from the COG Contracting Officer.

#### **D. Use Of DBE-Owned Financial Institutions**

COG will make reasonable efforts to use DBE-owned financial institutions, and encourages prime contractors to use such institutions.

#### **E. DBE Status Challenge Procedures**

In accordance with 49 CFR Part 26, Subpart D, COG has established a procedure to allow third-parties to challenge a firm's status as a DBE in connection with a COG procurement. The challenge procedure is as follows:

1. A third party may present evidence to COG refuting the presumption of social and economic disadvantage of a challenged party. The challenge shall be made in writing to COG's Contracting Officer. The challenging party shall include all information available to it relevant to a determination of whether the challenged party is in fact socially and economically disadvantaged.
2. On the basis of the information provided by the challenging party, COG shall determine whether there is reason to believe that the challenged party is in fact not socially and economically disadvantaged.
  - a. If COG determines from the material provided by the challenging party that there is no reason to believe that the challenged party is not socially and economically disadvantaged, COG shall so inform the challenging party in writing. This shall terminate the proceedings.
  - b. If COG determines that there is reason to believe that the challenged party is not socially and economically disadvantaged, COG shall begin a proceeding as provided in paragraphs (3), (4), and (5) of this Section.
3. COG shall notify the challenged party in writing that his or her status as a socially and economically disadvantaged individual has been challenged. The notice shall identify the challenging party and summarize the grounds for the challenge. The notice shall also require the challenged party to provide to COG, within a reasonable period of time, information sufficient to permit COG to evaluate his or her status as a socially and economically disadvantaged individual.

4. COG shall evaluate the information available to it and shall make a proposed determination of the social and economic disadvantage of the challenged party. Should COG determine that it does not have the technical expertise to make this determination, it will request that the certifying agency, described in Section V.C. above, review the material provided by the challenging party and provide COG with a determination of the social and economic disadvantage of the challenged party. COG shall notify both parties of the proposed determination in writing, setting forth the reasons for its proposed determination. COG may provide an opportunity to the parties for an informal hearing, at which they can respond to the proposed determination in writing and in person.
5. COG shall make a final determination based upon the information presented to it. COG shall inform the parties in writing of the final determination, setting forth the reasons for its decisions.
6. In making the determinations called for in (3), (4), and (5) of this Section, COG shall use the standards set forth in 49 CFR 26, Subpart D.
7. During the time the challenge under this Section is pending, the presumption that the challenged party is a socially and economically disadvantaged individual shall remain in effect.

The final determination of COG under paragraph (4) may be appealed to the U.S. Department of Transportation or the appropriate federal or state funding agency by the adversely affected party under the procedures set forth in 49 CFR 26, Subpart E.

## **V. GOALS OF THE DBE PROGRAM**

### **A. Overall DBE Participation Goals**

COG will establish overall goals for DBE participation in COG procurements at the beginning of each fiscal year. To determine the overall DBE participation goals, COG will first determine, the total amount of contracting it proposes to do for the fiscal year. COG will also review its previous record for meeting its DBE participation goals and the DBE participation goals for such contracts set by similar entities in the Washington Metropolitan region including COG member jurisdictions. COG will establish an overall DBE participation goal based upon an analysis of the above information.

### **B. DBE Subcontract Goals**

COG will set DBE goals for individual contracts that COG determines will have subcontracting possibilities. COG will determine the availability of DBEs in the fields in which subcontracts are to be awarded. COG will also review its record for meeting its DBE participation goals on past contracts and the DBE participation goals set by similar entities in the Washington Metropolitan region, including COG member jurisdictions. COG will set a subcontracting goal for each contract that has subcontracting possibilities based upon an analysis of the above information.

## **VI. IMPLEMENTATION OF DBE PARTICIPATION GOALS**

### **A. Methods For Meeting DBE Participation Goals**

1. COG will meet the maximum feasible portion of its overall DBE participation goal by using neutral means to facilitate DBE participation. Such neutral means include providing technical assistance and other services to ensure that DBEs have the maximum practicable opportunities to participate in COG procurements. COG will develop its own such neutral means or may employ means developed by COG member jurisdictions.
2. COG will establish DBE participation goals for specific contracts to meet any portion of its overall DBE participation goal that COG determines that it will not be able to meet using neutral means.

### **B. Identification of DBE Participants**

COG shall require all bidders or offerors to include a plan for meeting DBE participation goals in procurements that include DBE participation goals. Bidders and offerors must agree to make good faith efforts to meet the DBE goals in their plans. Bidders or offerors should include in their plans the names of any proposed DBE subcontractors who will participate in the contract, a description of the work each is to perform, and the value of each proposed DBE subcontract.

### **C. Contract Award Criteria**

1. COG will include the following language in all solicitations for contracts that COG has determined to have subcontracting possibilities: "The award of a contract shall be made only to a bidder/offoror who makes good faith efforts to meet COG's DBE participation goals."
2. COG may include DBE participation as an evaluation criterion in selecting bidders/offerors for award.
3. COG may not deny a contract award on the basis that a bidder/offeror failed to meet the DBE participation goal, provided that the bidder/offeror documents adequate good faith efforts to meet the DBE participation goal.

## **VII. RECORDKEEPING AND REPORTING**

COG shall maintain records on its DBE Participation Program and contracting activities. COG will make these records available to authorized officials of Federal funding agencies for review. The records shall relate to:

1. Procedures adopted to comply with Federal DBE regulations.
2. The contracts (including subcontracts) awarded to DBEs, by type of contract, the names and addresses of the participating DBEs, the

amount of each contract, and an accounting of the actual amount of expenditures for each contract. COG shall obtain reports from prime contractors and suppliers on their progress in meeting the DBE participation goals in their contracts.

3. COG's efforts to identify and make available contracting opportunities to DBEs and to demonstrate a "good faith effort" to maximize the participation of DBEs in COG procurements.

## **VIII. IMPLEMENTATION OF COG's DBE POLICY**

### **A. COG Board Resolution**

The COG Board shall affirm its commitment to this DBE Policy by resolution, and shall authorize the COG Executive Director to establish COG's annual DBE participation goals and to establish DBE participation goals for individual contracts.

### **B. Annual Report On The DBE Participation Program**

The COG Executive Director annually shall report to the COG Board the efforts COG has made to provide the maximum practicable opportunity for DBEs to participate in COG contracts, and annually shall present to the COG Board summary data on the contracts (including subcontracts) that COG has awarded to DBEs during the preceding year.