



TITLE VI

NON-DISCRIMINATION PLAN

FEBRUARY 2018

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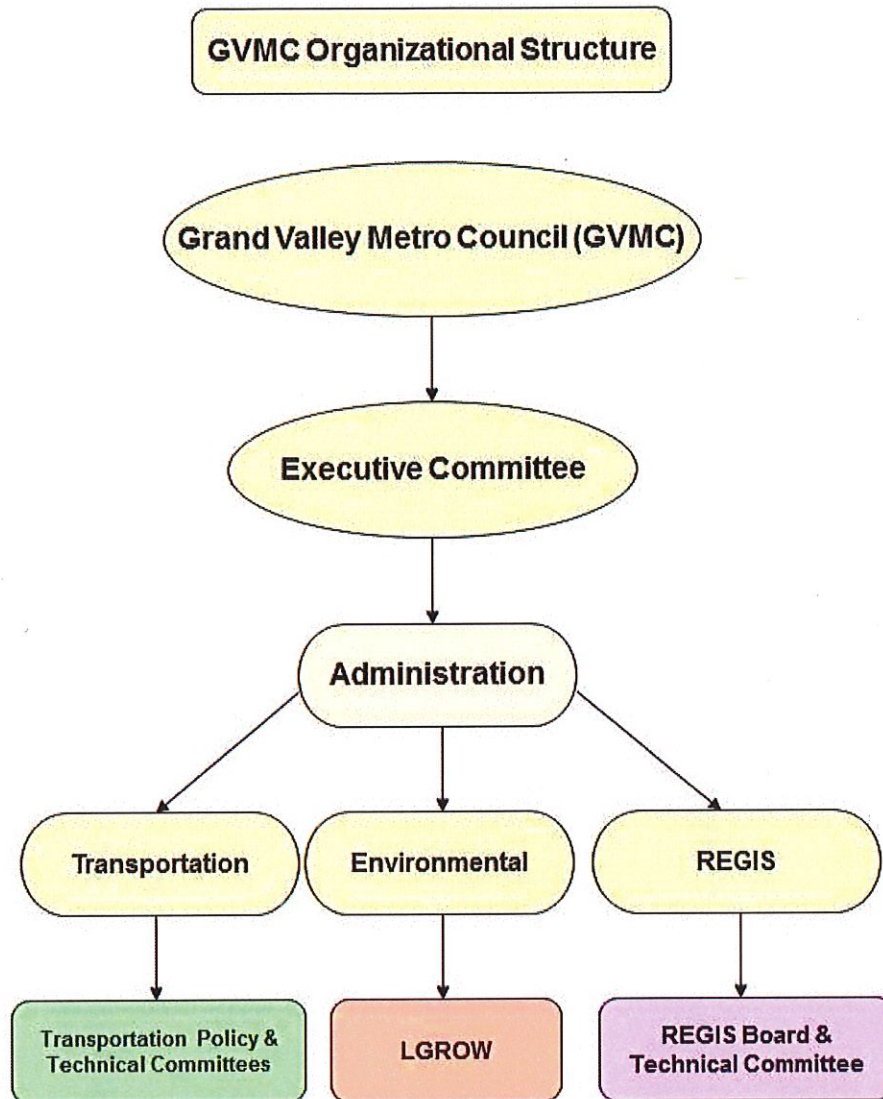
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Grand Valley Metropolitan Council Organizational Structure



Introduction

The Grand Valley Metropolitan Council (GVMC) is an alliance of governmental units in the Grand Rapids, Michigan, metropolitan area appointed to plan for growth and development, improve the quality of life in communities, and coordinate governmental services. The GVMC is the federally designated Metropolitan Planning Organization (MPO) for the area consisting of Kent County, including the cities of Grand Rapids, Wyoming, Kentwood, Walker, Grandville, East Grand Rapids, Rockford, Cedar Springs, and Lowell. In addition, eastern Ottawa County is represented by the City of Hudsonville and the townships of Jamestown, Georgetown, Allendale, and Tallmadge. As the MPO, GVMC is responsible for carrying out all transportation-related planning activities, including the preparation of a Unified Work Program (UWP), Transportation Improvement Program (TIP), and the development of the Metropolitan Transportation Plan (MTP). The planning efforts of GVMC serve all residents and nonresidents of the MPO area, including minority populations, low-income populations, the elderly, people with disabilities, and those who traverse the MPO area. GVMC recognizes its responsibility to provide fairness and equity in all of its programs, services, and activities, and that it must abide by federal and state civil rights legislation relating to transportation.

Title VI of the Civil Rights Act of 1964 is the overarching civil rights law prohibiting discrimination based on race, color, or national origin in any program, service or activity that receives federal assistance. Specifically, Title VI assures 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 benefit of, or be otherwise subjected to discrimination under any program or activities receiving federal assistance.” Title VI has been broadened by related statutes, regulations and executive orders. Section 324 of the Federal-Aid Highway Act—the enabling legislation of the Federal Highway Administration (FHWA)—prohibits discrimination based on sex. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 prohibits unfair and inequitable treatment of persons as a result of projects undertaken with Federal financial assistance. The Civil Rights Restoration Act of 1987 clarified the intent of Title VI to include all programs and activities of federal-aid recipients and contractors whether those programs and activities are federally funded or not.

In addition to statutory authorities, Executive Order 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,” signed in February of 1994, requires federal agencies to achieve Environmental Justice as part of its mission by identifying disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations. Environmental Justice initiatives are accomplished by involving the potentially affected public in the development of transportation projects within their communities without sacrificing safety or mobility. In 1997, the U.S. Department of Transportation (USDOT) issued its DOT Order to Address Environmental Justice in Minority Populations and Low-Income Populations to summarize and expand upon the requirements of Executive Order 12898. Also, Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency (LEP),” provides that no person shall be subjected to discrimination on the basis of race, color, or national origin under any program or activity that receives Federal financial assistance.

As a recipient of federal financial assistances, GVMC must provide access to individuals with limited ability to speak, write, or understand the English language. GVMC must not restrict an individual in any way from the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under its programs or projects. Individuals may not be subjected to criteria or methods of administration causing adverse impact due to their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program because of race, color, or national origin. Therefore, the primary goals of GVMC’s Title VI Program are:

1. To assign roles, responsibilities, and procedures for ensuring compliance with Title VI of the Civil Rights Act of 1964 and related regulations and directives.
2. To ensure people affected by GVMC programs and projects receive the services, benefits, and opportunities to which they are entitled without regard to race, color, national origin, age, sex, or disability.
3. To prevent discrimination in GVMC programs and activities, whether those programs are federally funded or not.
4. To establish procedures for identifying impacts in any program, service, or activity that may create an illegal adverse impact on any person because of race, color, national origin, age, sex, or disability; or on minority populations, low-income populations, the elderly, and persons with disabilities.
5. To establish procedures to annually review the Title VI compliance.
6. To set forth procedures for filing complaints by persons who believe they have been subjected to illegal discrimination under Title VI in a GVMC service, program, or activity.

Discrimination under Title VI

There are two types of discrimination prohibited under Title VI and its related statutes. One type of discrimination that may or may not be intentional is “disparate treatment.” Disparate treatment is defined as treating similarly situated persons differently because of their race, color, national origin, sex, age, or disability.

The second type of discrimination is “disparate impact.” Disparate impact occurs when a “neutral procedure or practice” results in fewer services or benefits, or inferior services or benefits, to members of a protected group. With disparate impact, the focus is on the consequences of a decision, policy or practice rather than the intent.

The GVMC’s efforts to prevent such discrimination must address, but not be limited to, a program’s impacts, access, benefits, participation, treatment, services, contracting opportunities, training, investigation of complaints, allocation of funds, prioritization of projects, and the overarching functions of planning, project development and delivery, right-of-way, construction, and research.

The GVMC has developed this Title VI Plan to assure that services, programs, and activities of the Council are offered, conducted, and administered fairly, without regard to race, color, national origin, sex, age, or disability of the participants or beneficiaries of federally funded programs, services, or activities (see Title VI Assurances).

Grand Valley Metropolitan Council Title VI Non-Discrimination Policy Statement

The GVMC reaffirms its policy to allow all individuals the opportunity to participate in federal financially assisted services and adopts the following provision:

“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.” In applying this policy, the GVMC and its sub-recipients of federal funds shall not:

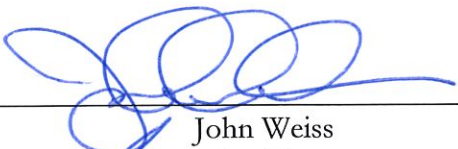
1. Deny any individual any services, opportunity, or other benefit for which such individual is otherwise qualified;
2. Provide any individual with any service or other benefit which is inferior (in quantity or quality) to, or which is provided in a different manner from, that which is provided to others;
3. Subject any individual to segregated or disparate treatment in any manner related to such individual's receipt of services or benefits;
4. Restrict an individual in any way from the enjoyment of services, facilities or any other advantage, privilege or other benefit provided to others;
5. Adopt or use methods of administration which would limit participation by any group of recipients or subject any individual to discrimination;
6. Address any individual in a manner that denotes inferiority because of race, color, or national origin;
7. Permit discriminatory activity in a facility built in whole or in part with federal funds;
8. Deny any segment of the population the opportunity to participate in the operations of a planning or advisory body that is an integral part of a federally funded program;
9. Fail to provide information in a language other than English to potential or actual beneficiaries who are of limited English speaking ability, when requested and as appropriate;
10. Subject an individual to discriminatory employment practices under any federally funded program whose objective is to provide employment;
11. Locate a facility in any way which would limit or impede access to a federally-funded service or benefit.

The GVMC will actively pursue the prevention of any Title VI deficiencies or violations and will take the necessary steps to ensure compliance. If irregularities occur in the administration of the program's operation, procedures will be promptly implemented to resolve Title VI issues all within a period not to exceed 90 days.

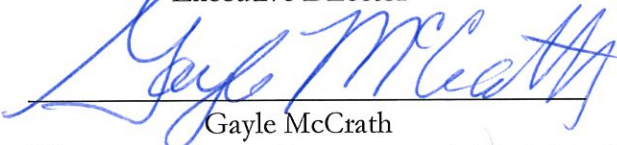
The GVMC designates Gayle McCrath, Director of Human Resources and Administration, as the Title VI Coordinator. The Director of Human Resources and Administration will be

responsible for initiating and monitoring Title VI activities and other required matters, ensuring that the GVMC complies with the Title VI regulations and pursues prevention of Title VI deficiencies or violations. Inquiries concerning the GVMC and Title VI may be directed to:

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John Weiss
Executive Director



Gayle McCrath
Director of Human Resources and Administration/Title VI Coordinator

Grand Valley Metropolitan Council Title VI Assurances

The GVMC (hereinafter referred to as the "Recipient") hereby agrees that, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000d-42 USC 2000d-4 (hereinafter referred to as the "Act"), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-Assisted Programs for the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the "Regulations") and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, no person in the United States shall, on the grounds of gender, race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient received Federal financial assistance from the Department of Transportation, including the Federal Highway Administration, and hereby gives assurances that it will promptly take any measures necessary to effectuate this agreement. This assurance is required by subsection 21.7 (a) (1) and (b) of the Regulations.

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

1. That the Recipient agrees that each "program" and each "facility," as defined in subsections 21.23(e) and 21.23(b) of the Regulations, will be (with regard to a "program") conducted, or will be (with regard to a "facility") operated, in compliance with all requirements imposed by, or pursuant to, the Regulations.
2. That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Regulations and made in connection with all Federal Aid Highway Programs and, in adapted form in all proposals for negotiated agreements:

"The (Recipient), in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office the Secretary, Part 21, Nondiscrimination in Federally assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."
3. That the Recipient shall insert the clauses of Appendix A of this assurance in every contract subject to the Act and the Regulations.
4. That the Recipient shall insert the clauses of Appendix B of this assurance, as a covenant running with the land, in any deed from the United States effecting a transfer of real property, structures, or improvements thereon, or interest therein.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the assurance shall extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the assurance shall extend to rights to space on, over or under such property.

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

This assurance is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Recipient under the Federal Aid Highway Program and is binding on it, other recipients, sub-grantees, contractors, sub-contractors, 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.

Grand Valley Metropolitan Council



John Weiss
Executive Director



Date

Authorities

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

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

The Civil Rights Restoration Act of 1987 also broadened the scope of Title VI coverage by expanding the definition of terms “programs or activities” to include all programs or activities of Federal Aid recipients, sub-recipients, and contractors, whether such programs and activities are federally assisted or not (Public Law 100-259 [S. 557] March 22, 1988).

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

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

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

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

USDOT Order 1050.2: Standard Title VI Assurances

EO12250: Department of Justice Leadership and coordination of Non-discrimination Laws.

EO12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.

28 CFR 50.3: Guidelines for the enforcement of Title VI of the Civil Rights Act of 1964.

EO13166: Improving Access to Services for Persons with Limited English Proficiency.

Regulatory Requirements

GVMC, as a recipient and distributor of federal funds, must take affirmative steps to ensure that discrimination, as addressed by Title VI, does not occur, and must perform the following actions in order to comply with federal requirements under 23 CFR Part 200 and 49 CFR Part 21:

1. **23 CFR 200.9(b)(2)** – Adequately staff the civil rights unit to effectively implement state civil rights requirements.
2. **23 CFR 200.9(b)(3)** – Develop procedures for prompt processing and disposition of Title VI and Title VII complaints.
3. **23 CFR 200.9(b)(4)** – Develop procedures for the collection of statistical data (race, color, religion, sex, and national origin) of participants in, and beneficiaries of, state highway programs, i.e., relocatees, impacted citizens and affected communities.
4. **23 CFR 200.9(b)(5)** – Develop a program to conduct Title VI reviews of program areas, i.e., Transportation Planning.
5. **23 CFR 200.9(b)(6)** – Conduct Title VI reviews of special emphasis areas to determine the effectiveness.
6. **23 CFR 200.9(b)(9)** – Conduct training programs on Title VI and related statutes.
7. **23 CFR 200.9(b)(11)** – Submit updated Title VI implementing plan to MDOT.
8. **23 CFR 200.9(b)(12)** – Develop Title VI information for dissemination to the general public, where appropriate, in languages other than English.
9. **23 CFR 200.9(b)(13)** – Establish procedures for pre-grant and post-grant approval reviews of state programs and applicants for compliance with Title VI requirements.
10. **23 CFR 200.9(b)(14)** – Establish procedures to identify and eliminate discrimination where found.
11. **Executive Order 12898** – Ensure that Environmental Justice principles are integrated into procedures and programs.
12. **Executive Order 13166** – Ensure that appropriate LEP processes and procedures are implemented.

Related Laws and Statutes

13. **Civil Rights Restoration Act of 1987** – Restores the original intent of Title VI to require that all programs are covered whether they are federally funded or not.
14. **Section 504 of the Rehabilitation Act of 1973** – Prohibits discrimination on the basis of a disability
15. **Americans With Disabilities Act of 1990** – Prohibits discrimination on the basis of a disability
16. **Section 324 of the Federal-Aid Highway Act** – Prohibits discrimination on the basis of sex
17. **Uniform Relocation Assistance and Real Property Acquisition Act of 1970**
18. **42 USC 6101** – Prohibits Age discrimination in any program receiving federal financial assistance
19. **49 CFR Part 21 and 23 CFR Part 200** – Describes U.S. DOT and FHWA prohibitions against discrimination

Definitions

Adverse Effects – The totality of significant individual or cumulative human health or environmental effects, including interrelated social and economic effects, which may include, but are not limited to: (See Appendix E for additional discussion of “significant”)

- Bodily impairment, infirmity, illness or death
- Air, noise and water pollution and soil contamination
- Destruction or disruption of man-made or natural resources
- Destruction or diminution of aesthetic values
- Destruction or disruption of community cohesion or community’s economic vitality
- Destruction or disruption of the availability of public and private facilities and services
- Adverse employment effects
- Displacement of person’s businesses, farms or non-profit organizations
- Increased traffic congestion, isolation, exclusion or separation of minority or low-income individuals within a given community or from the broader community
- Denial of, reduction in, or significant delay in the receipt of benefits of GVMC programs, policies and activities

Federal Assistance – Includes grants and loans of federal funds; the grant or donation of federal property and interests in property; the detail of federal personnel, 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 any federal agreement, arrangement or other contract which has, as one of its purposes, the provision of assistance.

Limited English Proficiency – Individuals with a primary or home language other than English who must, due to limited fluency in English, communicate in that primary or home language if the individuals are to have an equal opportunity to participate effectively in, or benefit from, any aid, service or benefit provided by GVMC.

Low-Income – A person whose median household income is at or below the Department of Health and Human Services poverty guidelines (see <http://aspe.hhs.gov/poverty/>).

Low-Income Population – Any readily identifiable group of low-income persons who live in geographic proximity and, if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed GVMC program, policy or activity.

Minority – A person who is:

- a. Black – A person having origins in any of the black racial groups of Africa;
- b. Hispanic – A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race;
- c. Asian American – A person having origins in any of the original people of the Far East, Southeast Asia, the Indian sub-continent, or the Pacific Islands; or
- d. American Indian and Alaskan Native – A person having origins in any of the original people of North America and who maintains cultural identification through tribal affiliation or community recognition.

Minority Population – Any readily identifiable groups of minority persons who live in geographic proximity and, if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed GVMC program, policy or activity.

Non-Compliance – A recipient has failed to meet prescribed requirements and has shown an apparent lack of good faith effort in implementing all the requirements of Title VI and related statutes.

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,” and “American Indian or Alaskan Native.” Additional sub-categories based on national origin of primary language spoken may be used, where appropriate, on either a national or a regional basis.

Program – Includes any road or park project, including planning or any activity for the provision of services, financial aid, or other benefits to individuals. This includes education or training, work opportunities, health welfare, rehabilitation 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.

Recipient - Any state, territory, possession, the District of Columbia, Puerto Rico, or any political subdivision, or instrumentality 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, but does not include any ultimate beneficiary under any such program.

Significant Adverse effects on Minority and Low-Income Populations – An adverse effect that:

- a. is predominantly borne by a minority population and/or a low-income population, or
- b. will be suffered by the minority population and/or low-income population and is shown to be appreciably more severe or greater in magnitude than the adverse effect that will be suffered by the non-minority population and/or non-low-income population.

Sub-Recipient – Any agency such as a council of governments, regional planning agency, or educational institution, for example, that received Federal Highway Administration (FHWA) funds through the State DOT and not directly from the FHWA. Other agencies, local governments, contractors, and consultants that receive these funds are all considered sub-recipients.

Structure for Organizational Oversight and Compliance

The Director of the Grand Valley Metropolitan Council is responsible for ensuring all internal program areas and external recipients of federal funds are in compliance with Title VI and related statutes. The Director has appointed the Director of Human Resources & Administration as the Title VI Program Coordinator and Equal Employment Opportunity Officer (hereinafter referred to as the GVMC Title VI Coordinator and EEO Officer) for the implementation and management of the Title VI Program. The GVMC Title VI Coordinator and EEO Officer will provide oversight for the coordination of the day-to-day administration of the Title VI Program and will report to the Director on all related matters.

Programmatic Roles and Responsibilities

GVMC Title VI Coordinator and EEO Officer

The GVMC Director of Human Resources & Administration (or GVMC Title VI Coordinator and EEO Officer) is responsible for ensuring the implementation of the GVMC Title VI Plan and ensuring Equal Employment Opportunities. The GVMC Title VI Coordinator and EEO Officer is responsible for the overall management of the day-to-day administration of the Title VI Plan, including implementing, monitoring, and ensuring GVMC compliance with the Title VI regulations.

GVMC Transportation Department

The Grand Valley Metropolitan Council Metropolitan Planning Organization conducts transportation planning for all of Kent County, including the Cities of Grand Rapids, Wyoming, Kentwood, Walker, Grandville, East Grand Rapids, Rockford, Cedar Springs, and Lowell. In addition, eastern Ottawa County is represented by the City of Hudsonville, and the townships of Jamestown, Georgetown, Allendale, and Tallmadge.

A comprehensive transportation planning process is used incorporating input from the public into various Metropolitan Planning Organization (MPO) activities. The process further entails the monitoring and collection of varied data pertaining to transportation related issues. GVMC coordinates transportation planning on the Federal Aid Road Network utilizing input from the public. GVMC also provides technical support to jurisdictions and agencies when needed.

Title VI Responsibilities

1. Assist the GVMC Title VI Coordinator and EEO Officer in the development of the Title VI plan.
2. Ensure all aspects of the transportation planning process comply with Title VI and related statutes, particularly Executive Order 12898, Environmental Justice; Executive Order 13166, Limited English Proficiency; and the Americans With Disabilities Act of 1990, as Amended.
3. Ensure the opportunity for participation of a cross section of various social, economic, and ethnic interest groups throughout the public involvement process.
4. Ensure that all complaints are promptly addressed according to established GVMC Complaint Procedures.

Administration – General

Complaints: If any individual believes that he/she or any other program beneficiaries have been the object of unequal treatment or discrimination as to the receipt of benefits and/or service, or on the grounds of race, color, national origin (including Limited English Proficiency), sex, age or disability, he/she may exercise his/her right to file a complaint with GVMC. Complaints may be filed with the Title VI Coordinator. Every effort will be made to resolve complaints informally at the lowest level.

Data Collection: Statistical data on race, color, national origin, English language ability, and sex of participants in and beneficiaries of GVMC programs, e.g., impacted citizens and affected communities, will be gathered and maintained by GVMC. The gathering procedures will be reviewed annually to ensure sufficiency of the data in meeting the requirements of the Title VI program.

Program Reviews: Special emphasis program reviews will be conducted based on the annual summary of Title VI activities, accomplishments, and problems. The reviews will be conducted by the

Title VI Coordinator to assure effectiveness in their compliance of Title VI provisions. The Title VI Coordinator will coordinate efforts to ensure the equal participation in all their programs and activities at all levels. GVMC does not have any special emphasis programs at this time.

Title VI Reviews on Sub-Recipients: Title VI compliance reviews will be conducted annually by the Title VI Coordinator. Priority for conducting reviews will be given to those recipients of federal (U.S. Department of Transportation) funds with the greatest potential of impact to those groups covered by the Act. The reviews will entail examination of the recipients' adherence to all Title VI requirements. The status of each review will be reported in the annual update and reported to relevant U.S. Department of Transportation (USDOT) modes upon request.

Annual Reporting Form: The Title VI Coordinator will be responsible for coordination, compilation, and submission of the annual reporting form data to the Michigan Department of Transportation (MDOT), Civil Rights Program Unit, via the Sub-Recipient Annual Certification Form (MDOT form #0179) by October 5th.

Title VI Plan Updates: If updated, a copy of the Title VI Plan will be submitted to the MDOT, Civil Rights Program Unit, as soon as the update has been completed, or as soon as practicable, and no later than 30 days if significant changes are made.

Public Dissemination: GVMC will disseminate Title VI Program information to employees and to the general public. Title VI Program information will be submitted to sub-recipients, contractors and beneficiaries. Public dissemination will include inclusions of Title VI language in contracts and publishing the GVMC Title VI Plan within 90 days of approval on the main page of the internet website, at www.gvmc.org.

Remedial Action: GVMC, through the Title VI Coordinator, will actively pursue the prevention of Title VI deficiencies and violations and will take the necessary steps to ensure compliance with all program administrative requirements. When deficiencies are found, procedures will be promptly implemented to correct the deficiencies and to put in writing the corrective action(s). The period to determine corrective action(s) and put it/them in writing to effect compliance may not exceed 90 days from the date the deficiencies are found.

Limited English Proficiency

On August 11, 2000, President William J. Clinton signed an executive order—Executive Order 13166: Improving Access to Services for Persons with Limited English Proficiencyⁱ—to clarify Title VI of the Civil Rights Act of 1964. It had as its purpose to ensure accessibility to programs and services to otherwise eligible persons who are not proficient in the English language.

This executive order stated that individuals who do not speak English well and who have a limited ability to read, write and speak, or understand English are entitled to language assistance under Title VI of the Civil Rights Act of 1964 with respect to a particular type of service, benefit, or encounterⁱⁱ. These individuals are referred to as being limited in their ability to speak, read, write, or understand English, hence the designation, “LEP,” or Limited English Proficient. The Executive Order states that:

“Each federal agency shall prepare a plan to improve access to its federally conducted programs and activities by eligible LEP persons. Each plan shall be consistent with the standards set forth in the LEP Guidance, and shall include the steps the agency will take to ensure that eligible LEP persons can meaningfully access the agency’s programs and activities.”

Not only are all federal agencies required to develop LEP plans as a condition of receiving federal financial assistance, recipients have to comply with Title VI and LEP guidelines of the federal agency from which funds are provided as well.

Federal financial assistance includes grants, training, use of equipment, donations of surplus property, and other assistance. Recipients of federal funds range from state and local agencies to nonprofits and organizations. Title VI covers a recipient's entire program or activity. This means all parts of a recipient's operations are covered, even if only one part of a recipient's organization receives the federal assistance. Simply put, any organization that receives federal financial assistance is required to follow this Executive Order.

The GVMC receives funds from the U.S. Department of Transportation via the Federal Highway Administration.

For more information regarding our policies on LEP, a copy of our LEP plan can be found on our website at www.gvmc.org or requested from:

Grand Valley Metropolitan Council
Attn: Gayle McCrath
678 Front Avenue NW
Suite 200
Grand Rapids, MI 49504
Phone: 616.776.7613
Fax: 616.774.9292
Email: mccrathg@gvmc.org

Environmental Justice

GVMC monitors projects and programs prior to implementation that may have an adverse impact on the public and communities as part of the development of the Transportation Improvement Program (TIP) and Metropolitan Transportation Plan (MTP). GVMC also regularly seeks public involvement and participation to identify, discuss, and mitigate potential adverse impacts related to the environment, air quality, congestion, and other situations from projects that may concern communities directly or indirectly as part of the planning process. The GVMC approach to Environmental Justice is reviewed during the development of both the TIP and MTP transportation planning documents and more information about GVMC methodology for addressing environmental justice may be found there.

Compliance with Title VI includes ensuring that no minority or low income population suffers “disproportionately high and adverse human health or environmental effect” due to any “programs, policies and activities” undertaken by any agency receiving federal funds. This obligation will be met by GVMC in the following ways:

- When planning specific programs or projects, identifying those populations that will be affected by a given program or project.
- If a disproportionate effect is anticipated, following mitigation procedures.
- If mitigation options do not sufficiently eliminate the disproportionate effect, discussing and, if necessary, implementing reasonable alternatives.

Disproportionate effects are those effects which are appreciably more severe for one group or predominantly borne by a single group. GVMC will use U.S. Census data to identify low income and minority populations.

Where a project impacts a small number or area of low income or minority populations, GVMC will document that:

- Other reasonable alternatives were evaluated and were eliminated for reasons such as the alternatives impacted a far greater number of people or did greater harm to the environment; etc.
- The project's impact is unavoidable;
- The benefits of the project far outweigh the overall impacts; and
- Mitigation measures are being taken to reduce the harm to low income or minority populations.

If it is concluded that no minority and/or low income population groups are present in the project area, GVMC will document how the conclusion was reached. If it is determined that one or more of these population groups are present in the area, GVMC will administer a potential disproportionate effects test.

The following steps will be taken to assess the impact of projects on minority and/or low income population groups:

STEP ONE: Determine if a minority or low income population is present within the project area. If the conclusion is that no minority and/or low income population is present within the project area, document how the conclusion was reached. If the conclusion is that there are minority population groups and/or low income population groups present, proceed to Step Two.

STEP TWO: Determine whether project impacts associated with the identified low income and minority populations are disproportionately high and adverse. In doing so, refer to the list of potential impacts and questions contained in Appendix E. If it is determined that there are disproportionately high and adverse impacts to minority and low income populations, proceed to Step Three.

STEP THREE: Propose measures that will avoid, minimize and/or mitigate disproportionately high and disproportionate adverse impacts and provide offsetting benefits and opportunities to enhance communities, neighborhoods and individuals affected by the proposed project.

STEP FOUR: If after mitigation, enhancements and offsetting benefits to the affected populations, there remains a high and disproportionate adverse impact to minority or low income populations, then the following questions must be considered:

Question 1: Are there further mitigation measures that could be employed to avoid or reduce the adverse effect to the minority or low income population?

Question 2: Are there other additional alternatives to the proposed action that would avoid or reduce the impacts to the low income or minority populations?

Question 3: Considering the overall public interest, is there a substantial need for the project?

Question 4: Will the alternatives that would satisfy the need for the project and have less impact on protected populations (a) have other social, economic or environmental impacts that are more severe than those of the proposed action (b) have increased costs of extraordinary magnitude?

STEP FIVE: Include all findings, determinations or demonstrations in the environmental document prepared for the project.

Filing a Title VI Complaint

I. Introduction

The Title VI complaint procedures are intended to provide aggrieved persons an avenue to raise complaints of discrimination regarding GVMC programs, activities, and services as required by statute.

II. Purpose

The purpose of the discrimination complaint procedures is to describe the process used by GVMC for processing complaints of discrimination under Title VI of the Civil Rights Act of 1964 and related statutes.

III. Roles and Responsibilities

The Title VI Coordinator has overall responsibility for the discrimination complaint process and procedures. The Title VI Coordinator may, at his/her discretion, assign a capable person to investigate the complaint.

The designated investigator will conduct an impartial and objective investigation, collect factual information, and prepare a fact-finding report based upon information obtained from the investigation.

IV. Filing a Complaint

The complainant shall make himself/herself reasonably available to the designated investigator, to ensure completion of the investigation within the timeframes set forth.

Applicability: The complaint procedures apply to the beneficiaries of GVMC programs, activities, and services, including but not limited to: the public, contractors, sub-contractors, consultants, and other sub-recipients of federal and state funds.

Eligibility: Any person who believes that he/she has been excluded from participation in, denied benefits or services of any program or activity administered by GVMC or its sub-recipients, consultants, and contractors on the basis of race, color, national origin (including Limited English Proficiency), sex, age, or disability may bring forth a complaint of discrimination under Title VI.

Time Limitation on Filing Complaints: Title VI complaints may be filed with the Title VI Coordinator's office. In all situations, the employees of GVMC must contact the Title VI Coordinator immediately upon receipt of Title VI related complaints.

Complaints must be filed within 180 days of the alleged discrimination. If the complainant could not reasonably be expected to know that the act was discriminatory within the 180 day period, he/she will have 60 additional days after becoming aware of the illegal discrimination to file the complaint.

Complaints must be in writing, and must be signed by the complainant and/or the complainant's representative. The complaint must set forth as fully as possible the facts and circumstances surrounding the claimed discrimination. In cases where the complainant is unable or incapable of providing a written statement, the complainant will be assisted in converting the verbal complaint into a written complaint. All complaints, however, must be signed by the complainant and/or by the complainant's representative.

Items that should not be considered a formal complaint: (unless the items contain a signed cover letter specifically alleging a violation of Title VI) include, but are not limited to:

1. An anonymous complaint that is too vague to obtain required information
2. Inquiries seeking advice or information
3. Courtesy copies of court pleadings
4. Newspaper articles
5. Courtesy copies of internal grievances

V. Investigation

Investigation Plan: The investigator shall prepare a written plan, which includes, but is not limited to, the following:

- Names of the complainant(s) and respondent(s)
- Basis for complaint
- Issues, events or circumstances that caused the person to believe that he/she has been discriminated against
- Information needed to address the issue
- Criteria, sources necessary to obtain the information
- Identification of key people
- Estimated investigation time line
- Remedy sought by the complainant(s)

Conducting the Investigation:

- The investigation will address only those issues relevant to the allegations in the complaint.
- Confidentiality will be maintained as much as possible.
- Interviews will be conducted to obtain facts and evidence regarding the allegations in the complaint. The investigator will ask questions to elicit information about aspects of the case.
- A chronological contact sheet is maintained in the case file throughout the investigation.
- If a Title VI complaint is received on a MDOT-related contract against the GVMC, MDOT will be responsible for conducting the investigation of the complaint. Upon receipt of a Title VI complaint filed against the GVMC, the complaint and any pertinent information should immediately be forwarded to the MDOT, Civil Rights Program Unit.

Investigation Reporting Process:

- Complaints made against a GVMC sub-recipient should be investigated by GVMC following the internal complaint process.
- Within 40 days of receiving the complaint, the investigator prepares an investigative report and submits the report and supporting documentation to the office of Gayle McCrath for review.
- The Title VI Coordinator reviews the file and investigative report. Subsequent to the review, the Executive Director makes a determination of “probable cause” or “no probable cause” and prepares the decision letter.

Retaliation:

The laws enforced by the GVMC prohibit retaliation or intimidation against anyone because that individual has either taken action or participated in action to secure rights protected by these laws. If

you experience retaliation or intimidation separate from the discrimination alleged in this complaint please contact:

Gayle McCrath, Director of Human Resources and Administration
678 Front Avenue NW, Suite 200
Grand Rapids, MI 49504
Phone: 616.776.7613
Fax: 616.774.9292
Email: mccrathg@gvmc.org

Reporting Requirements to an External Agency

A copy of the complaint, together with a copy of the investigation report and final decision letter, will be forwarded to the MDOT, Civil Rights Program Unit within 60 days of the date the complaint was received.

Records

All records and investigative working files are maintained in a confidential area. Records are kept for three years.

Appendix A—[To be Inserted in all Federal-Aid Contracts]

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

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

1. Compliance with Regulations

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

2. Nondiscrimination

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

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

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

4. Information and Reports

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

5. Sanctions for Noncompliance

In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Grand Valley Metropolitan Council shall impose such contract sanctions as the Michigan Department of Transportation may determine to be appropriate, including, but not limited to:

- a. Withholding of payments to the contractor under contract until the contractor complies, and/or

b. Cancellation, termination, or suspension of the contract, in whole or in part.

6. Incorporations of Provisions

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

Appendix B—Transfer of Property

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

(GRANTING CLAUSE)

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

(HABENDUM CLAUSE)*

TO HAVE AND TO HOLD said lands and interests therein unto the Michigan Department of Transportation, and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and shall be binding on the Michigan Department of Transportation, its successors and assigns.

The Michigan Department of Transportation, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person shall on the grounds of race, color, sex, disability, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part, on, over, or under such lands hereby conveyed [,] [and]* (2) that the Michigan Department of Transportation shall use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, part 21, Nondiscrimination in Federally assisted programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended [,] and (3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the Department shall have a right to re-enter said lands and facilities on said land, and the above described land and facilities shall thereon revert to and vest in and become the absolute property of the Department of Transportation and its assigns as such interest existed prior to this instruction.*

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

Appendix C—Permits, Leases and Licenses

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

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

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

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

[Include in deeds]*

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

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

Appendix D—Title VI Complaint Form

GRAND VALLEY METROPOLITAN COUNCIL TITLE VI COMPLAINT FORM

Title VI of the Civil Rights Act of 1964 states 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 benefit of, or otherwise be subjected to discrimination in any program, service, or activity receiving federal assistance.”

This form may be used to file a complaint with the GVMC based on violations of Title VI of the Civil Rights Act of 1964. You are not required to use this form; a letter that provides the same information may be submitted to file your complaint. **Complaints should be filed within 180 days of the alleged discrimination. If you could not reasonably be expected to know the act was discriminatory within a 180 day period, you have 60 days after you became aware to file your complaint.**

If you need assistance completing this form, please contact Gayle McCrath by phone at 616.776.7613 or via e-mail at mccrathg@gvmc.org.

Name: _____ Date: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ (home) _____ (work)

Individual(s) discriminated against, if different than above (use additional pages, if needed).

Name: _____ Date: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ (home) _____ (work)

Please explain your relationship with the individual(s) indicated above: _____

Name of agency and department or program that discriminated:

Agency or department name: _____

Name of individual (if known): _____

Address: _____

City: _____ State: _____ Zip: _____

Appendix E—Determine/Distinguish Significant/Non-Significant Effects

“Significant” requires considerations of both context and intensity:

- (a) *Context.* This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, nation), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the local area rather than in the world as a whole. Both short-and long-term effects are relevant.
- (b) *Intensity.* This refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action. The following should be considered in evaluating intensity:
 - (1) Impacts that may be both beneficial and adverse. A significant effect may exist even if, on balance, the effect would be beneficial.

“Non-significant effect” means no substantial change to an environmental component and this has no material bearing on the decision-making process.

Scientific, technical, institutional, the public’s value, and the local economic conditions influence the meaning of significant effect.

If an alternative would provide a beneficial effect, then the alternative would cause no significant adverse effect. If an alternative would provide an adverse effect, the effect might be significant or the effect might be non-significant.

Determinations of “significant” and “non-significant” effects will be made by the Executive Director.

Appendix F—Program Compliance/Program Review Goals for Current Plan Year

The GVMC's Title VI Plan will be communicated to each GVMC Department Head who will review the plan with departmental employees. All GVMC employees will be trained or made aware of the Title VI and LEP policies and complaint procedures.

The GVMC's Title VI Plan will be published on the main page of the GVMC's website www.gvmc.org, within 90 days of approval.

Appendix A will be included in all GVMC contracts as outlined in the Title VI Plan.

The language in Number 2 of the GVMC's Title VI Assurances will be included in all solicitations for bids for work or material subject to the Regulations and in all proposals for negotiated agreements.

The procedure(s) for responding to individuals with Limited English Proficiency will be implemented.

A review of GVMC facilities will be conducted in reference to compliance with the American Disabilities Act.

The following data will be collected and reviewed by the Title VI Coordinator and included, where appropriate, in the annual report submitted to MDOT.

Boards and Commissions: The number of vacancies; how vacancies are advertised and filled; the number of applicants; the representation of minorities will be evaluated.

Public Meetings: The number of open meetings; how meeting dates and times are communicated to the general public and to individuals directly affected by the meeting.

Construction Projects: The number of construction projects and minority contractors bidding and the number selected; verification that Title VI language was included in bids and contracts for each project.

LEP Needs: The number of requests for language assistance that were requested or required; the outcome of these requests.

Complaints: The number of Title VI complaints received; nature of the complaints; resolution of the complaints.

Timeliness of Services: The number of requests for services; amount of time from request to when service was delivered; number of requests denied.

Right of Way/Eminent Domain: The number of such actions and diversity of individual(s) affected.

Program Participants: Racial data of program participants where possible.

ⁱ The executive order verbatim can be found online at <http://www.usdoj.gov/crt/cor/Pubs/colep.htm>.

ⁱⁱ Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient (LEP) Persons. Federal Register: December 14, 2005 (Volume 70, Number 239)

ⁱⁱⁱ The DOT has also posted an abbreviated version of this guidance on their website at <http://www.dotcr.ost.dot.gov/asp/lep.asp>.

^{iv} <http://www.dotcr.ost.dot.gov/asp/lep/asp>

^v Department of Justice Final LEP Guidelines, Federal Register June 18, 2002-Vol. 67-Number 117.