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# Title VI Plan

Washington State Department of Transportation  
Office of Equity and Civil Rights

FFY2024



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## Washington State Department of Transportation Title VI Plan

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# WSDOT

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### Introduction

The vision of Washington State Department of Transportation (WSDOT) is to deliver safe, reliable, and cost-effective transportation options to improve communities and economic vitality. WSDOT works diligently to further that mission through inclusion, practical solutions, and workforce development. As a recipient of federal financial assistance from the U.S. Department of Transportation (USDOT), WSDOT is required to comply with Title VI of the Civil Rights Act of 1964, which provides:

No person in the United States, on the ground of race, color, or national origin, shall 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 U.S. Department of Justice (USDOJ), as the federal government's coordinating agency for Title VI, implemented its Title VI program in 28 C.F.R. Part 42. All federal agencies are directed to enact "rules, regulations, or orders of general applicability" to achieve the statute's objectives. USDOT implemented its Title VI program in 49 C.F.R. Part 21.

WSDOT, as a state transportation agency which receives federal assistance, must establish a Title VI compliance program for all sub-recipients who obtain federal assistance through it. WSDOT's Office of Equity and Civil Rights (OECR) is responsible for initiating and monitoring Title VI activities, preparing required reports, and enforcing other state transportation agency responsibilities.

All WSDOT personnel will assist WSDOT's Title VI Program Coordinator in the effective implementation of the Title VI Program.

WSDOT's Title VI Program Coordinator may be contacted as follows:

### Contact Information

Jackie Bayne  
Title VI Program Coordinator  
310 Maple Park Avenue SE  
P.O. Box 47314  
Olympia, WA 98504-7314  
(360) 705-7090  
[TitleVI@wsdot.wa.gov](mailto:TitleVI@wsdot.wa.gov)  
Fax 360-705-6801  
Washington State Relay at 711

## Title VI Policy Statement

It is the Washington State Department of Transportation's (WSDOT) policy to assure that no person shall, on the grounds of race, color, or national origin, as provided by Title VI of the Civil Rights Act of 1964, be excluded from participation in, be denied the benefits of, or be otherwise discriminated against under any of its federally funded programs and activities. This is also reflected in WSDOT Executive Order 1087. Any person who believes his/her Title VI protection has been violated, may file a complaint with WSDOT's Office of Equity and Civil Rights (OECR). For additional information regarding Title VI complaint procedures and/or information regarding our non-discrimination obligations, please contact OECR's Title VI Coordinator at (360) 705-7090.

## Americans with Disabilities Act (ADA) Information

This material can be made available in an alternate format by emailing the Office of Equity and Civil Rights at [wsdotada@wsdot.wa.gov](mailto:wsdotada@wsdot.wa.gov) or by calling toll free, 855-362-4ADA(4232). Persons who are deaf or hard of hearing may make a request by calling the Washington State Relay at 711.

## Notificación de Título VI al Público

La política del Departamento de Transporte del Estado de Washington (Washington State Department of Transportation, WSDOT) es garantizar que ninguna persona, por motivos de raza, color u origen nacional, según lo dispuesto en el Título VI de la Ley de Derechos Civiles de 1964, sea excluida de la participación, se le nieguen los beneficios o se le discrimine de otro modo en cualquiera de sus programas y actividades. Cualquier persona que considere que se ha violado su protección del Título VI puede presentar una queja ante la Oficina de Equidad y Derechos Civiles (Office of Equity and Civil Rights, OECR) del WSDOT. Para obtener más información sobre los procedimientos de queja del Título VI o información sobre nuestras obligaciones contra la discriminación, comuníquese con el coordinador del Título VI de la OECR al (360) 705-7090.

## Información del Acta de estadounidenses con Discapacidades

Este material puede estar disponible en un formato alternativo al enviar un correo electrónico a la Oficina de Equidad y Derechos Civiles a [wsdotada@wsdot.wa.gov](mailto:wsdotada@wsdot.wa.gov) o llamando a la línea sin cargo 855-362-4ADA(4232). Personas sordas o con discapacidad auditiva pueden solicitar la misma información llamando al Washington State Relay al 711.

## 제6조 관련 공지사항

워싱턴 주 교통부(WSDOT)는 1964년 민권법 타이틀 VI 규정에 따라, 누구도 인종, 피부색 또는 출신 국가를 근거로 본 부서의 모든 프로그램 및 활동에 대한 참여가 배제되거나 혜택이 거부되거나, 또는 달리 차별받지 않도록 하는 것을 정책으로 하고 있습니다. 타이틀 VI에 따른 그/그녀에 대한 보호 조항이 위반되었다고 생각된다면 누구든지 WSDOT의 평등 및 민권 사무국(OECR)에 민원을 제기할 수 있습니다. 타이틀 VI에 따른 민원 처리 절차에 관한 보다 자세한 정보 및/또는 본 부서의 차별금지 의무에 관한 정보를 원하신다면, (360) 705-7090으로 OECR의 타이틀 VI 담당자에게 연락해주시십시오.

## 미국 장애인법(ADA) 정보

본 자료는 또한 평등 및 민권 사무국에 이메일 [wsdotada@wsdot.wa.gov](mailto:wsdotada@wsdot.wa.gov) 을 보내시거나 무료 전화 855-362-4ADA(4232)로 연락하셔서 대체 형식으로 받아보실 수 있습니다. 청각 장애인은 워싱턴주 중계 711로 전화하여 요청하실 수 있습니다.

## Раздел VI Общественное заявление

Политика Департамента транспорта штата Вашингтон (WSDOT) заключается в том, чтобы исключить любые случаи дискриминации по признаку расы, цвета кожи или национального происхождения, как это предусмотрено Разделом VI Закона о гражданских правах 1964 года, а также случаи недопущения участия, лишения льгот или другие формы дискриминации в рамках любой из своих программ и мероприятий. Любое лицо, которое считает, что его средства защиты в рамках раздела VI были нарушены, может подать жалобу в Ведомство по вопросам равенства и гражданских прав WSDOT (OECR). Для дополнительной информации о процедуре подачи жалобы на несоблюдение требований раздела VI, а также получения информации о наших обязательствах по борьбе с дискриминацией, пожалуйста, свяжитесь с координатором OECR по разделу VI по телефону (360) 705-7090.

## Закон США о защите прав граждан с ограниченными возможностями (ADA)

Эту информацию можно получить в альтернативном формате, отправив электронное письмо в Ведомство по вопросам равенства и гражданских прав по адресу [wsdotada@wsdot.wa.gov](mailto:wsdotada@wsdot.wa.gov) или позвонив по бесплатному телефону 855-362-4ADA(4232). Глухие и слабослышащие лица могут сделать запрос, позвонив в специальную диспетчерскую службу штата Вашингтон по номеру 711.

## Thông báo Khoản VI dành cho công chúng

Chính sách của Sở Giao Thông Vận Tải Tiểu Bang Washington (WSDOT) là bảo đảm không để cho ai bị loại khỏi sự tham gia, bị từ khước quyền lợi, hoặc bị kỳ thị trong bất cứ chương trình hay hoạt động nào vì lý do chủng tộc, màu da, hoặc nguồn gốc quốc gia, theo như quy định trong Mục VI của Đạo Luật Dân Quyền năm 1964. Bất cứ ai tin rằng quyền bảo vệ trong Mục VI của họ bị vi phạm, đều có thể nộp đơn khiếu nại cho Văn Phòng Bảo Vệ Dân Quyền và Bình Đẳng (OECR) của WSDOT. Muốn biết thêm chi tiết liên quan đến thủ tục khiếu nại Mục VI và/hoặc chi tiết liên quan đến trách nhiệm không kỳ thị của chúng tôi, xin liên lạc với Phối Trí Viên Mục VI của OECR số (360) 705-7090.

## Thông tin về Đạo luật Người Mỹ tàn tật (Americans with Disabilities Act, ADA)

Tài liệu này có thể thực hiện bằng một hình thức khác bằng cách email cho Văn Phòng Bảo Vệ Dân Quyền và Bình Đẳng [wsdotada@wsdot.wa.gov](mailto:wsdotada@wsdot.wa.gov) hoặc gọi điện thoại miễn phí số, 855-362-4ADA(4232). Người điếc hoặc khiếm thính có thể yêu cầu bằng cách gọi cho Dịch vụ Tiếp âm Tiểu bang Washington theo số 711.

### العنوان 6 إشعار للجمهور

تتمثل سياسة إدارة النقل بولاية واشنطن (WSDOT) في ضمان عدم استبعاد أي شخص على أساس العرق أو اللون أو الأصل القومي أو الجنس، وفق ما يُنص عليه في العنوان 6 من قانون الحقوق المدنية لعام 1964، من المشاركة في، أو الحرمان من فوائد، أو التعرض للتمييز في أي من برامجها وأنشطتها. ويمكن لأي شخص يعتقد بأنه قد تم انتهاك حمايته التي يضمنها له العنوان 6 من القانون سالف الذكر، تقديم شكوى إلى مكتب المساواة والحقوق المدنية (OECR) التابع لإدارة النقل بولاية واشنطن (WSDOT). للحصول على معلومات إضافية بشأن إجراءات الشكاوى المتعلقة بالعنوان 6 من القانون سالف الذكر و/أو الحصول على المعلومات المتعلقة بالتزاماتنا ذات الصلة بعدم التمييز، يُرجى الاتصال بالمنسق المعني بشؤون العنوان 6 من القانون سالف الذكر في مكتب تكافؤ الفرص على الرقم 705-7090 (360).

### معلومات قانون الأمريكيين ذوي الإعاقة (ADA)

يمكن طلب توفير هذه المواد في تنسيق بديل عن طريق إرسال بريد إلكتروني إلى مكتب المساواة والحقوق المدنية على عنوان البريد الإلكتروني [wsdotada@wsdot.wa.gov](mailto:wsdotada@wsdot.wa.gov) أو عن طريق الاتصال على الرقم المجاني 855-362-4ADA(4232). يمكن للأشخاص الصم أو ضعاف السمع تقديم طلب عن طريق الاتصال بخدمة Washington State Relay على الرقم 711.

### 《权利法案》Title VI 公告

〈華盛頓州交通部 (WSDOT) 政策規定，按照《1964 年民權法案》第六篇規定，確保無人因種族、膚色或國籍而被排除在 WSDOT 任何計畫和活動之外，被剝奪相關權益或以其他方式遭到歧視。如任何人認為其第六篇保護權益遭到侵犯，則可向 WSDOT 的公平和民權辦公室 (OECR) 提交投訴。如需關於第六篇投訴程式的更多資訊和/或關於我們非歧視義務的資訊，請聯絡 OECR 的第六篇協調員，電話 (360) 705-7090。

### 《美国残疾人法案》(ADA) 信息

可向公平和民權辦公室發送電子郵件 [wsdotada@wsdot.wa.gov](mailto:wsdotada@wsdot.wa.gov) 或撥打免費電話 855-362-4ADA(4232)，以其他格式獲取此資料。听力丧失或听觉障碍人士可拨打711联系 Washington 州转接站。



## Ciwaanka VI Ogeysiiska Dadweynaha

Waa siyaasada Waaxda Gaadiidka Gobolka Washington (WSDOT) in la xaqiijiyo in aan qofna, ayadoo la cuskanaayo sababo la xariira isir, midab, ama wadanku kasoo jeedo, sida ku qoran Title VI (Qodobka VI) ee Sharciga Xaquuqda Madaniga ah ah oo soo baxay 1964, laga saarin ka qaybgalka, loo diidin faa'iidooyinka, ama si kale loogu takoorin barnaamijyadeeda iyo shaqooyinkeeda. Qof kasta oo aaminsan in difaaciisa Title VI la jebiyay, ayaa cabasho u gudbin kara Xafiiska Sinaanta iyo Xaquuqda Madaniga ah (OECR) ee WSDOT. Si aad u hesho xog dheeraad ah oo ku saabsan hanaannada cabashada Title VI iyo/ama xogta la xariirta waajibbaadkeena ka caagan takoorka, fadlan la xariir Iskuduwaha Title VI ee OECR oo aad ka wacayso (360) 705-7090.

## Macluumaadka Xeerka Naafada Marykanka (ADA)

Agabkaan ayaad ku heli kartaa qaab kale adoo iimeel u diraaaya Xafiiska Sinaanta iyo Xaquuqda Madaniga ah oo aad ka helayso [wsdotada@wsdot.wa.gov](mailto:wsdotada@wsdot.wa.gov) ama adoo wacaaya laynka bilaashka ah, 855-362-4ADA(4232). Dadka naafada maqalka ama maqalku ku adag yahay waxay ku codsan karaan wicitaanka Adeega Gudbinta Gobolka Washington 711.

### Translation Services

If you have difficulty understanding English, you may, free of charge, request language assistanceservices by calling (360) 705-7090 or email us at: [TitleVI@WSDOT.WA.GOV](mailto:TitleVI@WSDOT.WA.GOV).

### Español - Spanish

#### servicios de traducción

Aviso a personas con dominio limitado del idioma inglés: Si usted tiene alguna dificultad en entender el idioma inglés, puede, sin costo alguno, solicitar asistencia lingüística con respecto a esta información llamando al (360) 705-7090, o envíe un mensaje de correo electrónico a: [TitleVI@WSDOT.WA.GOV](mailto:TitleVI@WSDOT.WA.GOV).

### 中文 – Chinese

#### 翻译服务

如果您难以理解英文，则请致电：(360) 705-7090，或给我们发送电子邮件：[TitleVI@WSDOT.WA.GOV](mailto:TitleVI@WSDOT.WA.GOV)，请求获取免费语言援助服务。

## tiếng Việt-Vietnamese

các dịch vụ dịch thuật

Nếu quý vị không hiểu tiếng Anh, quý vị có thể yêu cầu dịch vụ trợ giúp ngôn ngữ, miễn phí, bằng cách gọi số (360) 705-7090 hoặc email cho chúng tôi tại: [TitleVI@WSDOT.WA.GOV](mailto:TitleVI@WSDOT.WA.GOV).

## 한국어-Korean

번역 서비스

영어로 소통하는 것이 불편하시다면, (360) 705-7090으로 전화하시거나 다음 이메일로 연락하셔서 무료 언어 지원 서비스를 요청하실 수 있습니다: [TitleVI@WSDOT.WA.GOV](mailto:TitleVI@WSDOT.WA.GOV).

## Af-soomaaliga - Somali

Adeegyada Turjumaada

Haddii ay kugu adag tahay inaad fahamtid Ingiriisida, waxaad, bilaash, ku codsan kartaa adeegyada caawimada luuqada adoo wacaaya (360) 705-7090 ama iimayl noogu soo dir: [TitleVI@WSDOT.WA.GOV](mailto:TitleVI@WSDOT.WA.GOV).

## русский-Russian

Услуги перевода

Если вам трудно понимать английский язык, вы можете запросить бесплатные языковые услуги, позвонив по телефону (360) 705-7090 или написав нам на электронную почту: [TitleVI@WSDOT.WA.GOV](mailto:TitleVI@WSDOT.WA.GOV).

العَرَبِيَّةُ - Arabic  
خدمات الترجمة

إذا كنت تجد صعوبة في فهم اللغة الإنجليزية، فيمكنك مجاناً طلب خدمات المساعدة اللغوية عن طريق الاتصال بالرقم (360) 705-7090، أو مراسلتنا عبر البريد الإلكتروني: [TitleVI@WSDOT.WA.GOV](mailto:TitleVI@WSDOT.WA.GOV).

## Standard DOT Title VI Assurances

23 C.F.R. § 200.9 (a) (1) requires assurances from WSDOT 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 otherwise be subjected to discrimination under any program or activity for which the recipient receives federal assistance from the U.S. Department of Transportation (USDOT).

The nondiscrimination statement signed by Secretary of Transportation, Roger Millar, is included as Appendix 1. The DOT Standard Title VI Assurances, signed by Secretary Millar, are included as Appendix 2.

### Title VI Requirements

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 benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance. Under Title VI and the Civil Rights Restoration Act of 1987, federal financial assistance recipients must take affirmative steps to ensure that prohibited discrimination does not occur in any of the recipient's programs or activities, regardless of funding source. To that end, WSDOT is committed to:

- Adopting policies and procedures that support the development and implementation of a functional Title VI program.
- Ensuring meaningful public participation in transportation decision-making, consistent with the guiding principles/strategies outlined in WSDOT's Community Engagement Plan (CEP).
- Preventing, minimizing, mitigating, or correcting high and adverse impacts resulting from WSDOT's programs or activities.
- Monitoring the activities of local public agencies and other sub-recipients by conducting annual desk reviews and periodic onsite reviews to ensure their compliance with all Title VI requirements.
- Ensuring that our operations, services, and programs, are accessible to all WSDOT's customers.
- Providing meaningful language access services, as appropriate, to LEP individuals.
- Incorporating the principles of Environmental Justice (EJ) into its programs, policies, and activities.
- Conducting department federal program area reviews to collect and analyze data that may be useful in identifying and addressing any trends or patterns of discrimination.
- Processing Title VI complaints in a timely manner.

### Organization and Staffing

The WSDOT Secretary of Transportation is responsible for ensuring the implementation of the Agency's Title VI program. In agreement with 23 C.F.R. § 200.9 (b), the secretary has established and staffed OECR to fulfill and implement all federal civil rights requirements.

The Director of the OECR is responsible for the overall management and implementation of the Title VI program on behalf of the secretary. The day-to-day administration of the program lies with the Title VI specialists under the direct supervision of the Title VI Coordinator. The Title VI Coordinator reports directly to the Director of OECR and has access and interaction with the secretary of WSDOT on all matters pertaining to the Title VI program. Organizationally and functionally, the OECR is a part of the Office of the Secretary.

The organizational charts located in Appendix 4 and Appendix 5 reflect the structure of OECR and the organizational structure of WSDOT.

Compliance specialists are on staff in program groups responsible for compliance. The director of OECR assigns program staff a specific portfolio of responsibilities for compliance and monitoring.

#### **Title VI Program**

The Title VI Program group is responsible for the administration of the statewide Title VI program. Internally, the unit is responsible for statewide guidance, technical assistance, and training on Title VI, as well as the development and implementation of WSDOT's FHWA corrective action plan items, special emphasis areas (e.g., a FHWA/FTA placed emphasis on any special program), language assistance policy for Limited English Proficiency (LEP) and Environmental Justice (EJ). Externally, WSDOT's Title VI unit provides guidance, technical assistance and training to local public agency managers, contractors, and other sub-recipients, as well as monitors these entities for compliance with federal guidelines. Title VI program staff is comprised of a Title VI Coordinator located at WSDOT's HQ and Title VI specialists located in HQ and Shoreline. The specialists handle the day-to-day Title VI responsibilities of monitoring compliance, conducting training, and gathering Title VI data for the Annual Goals and Accomplishments (G&A) Report.

#### **Title VI Coordinator Responsibilities**

The Title VI Coordinator works to ensure there is a demonstrated commitment on the part of WSDOT to enforce Title VI and is responsible for overall program implementation. Specifically, the position has the authority and responsibility to implement the Title VI program by:

- Preparing the Title VI Implementation Plan and the Annual G&A report that details the WSDOT's future goals and accomplishments.
- Developing a Language Access Plan (LAP) to include precisely how WSDOT assesses the language needs of the public that it serves, both project by project, and programmatically.
- Ensuring that the procedures for collecting and analyzing Title VI statistical data (by WSDOT program area) are properly executed.

- Assisting program area staff with correcting/resolving identified Title VI compliance matters.
- Reviewing, evaluating, and monitoring WSDOT programs, policies/directives, and activities for compliance with Title VI; e.g., conducting annual Title VI reviews of program areas.
- Coordinating Title VI program implementation with WSDOT program area liaisons
- Conducting Title VI training sessions, learning workshops and making information available on the OECR website
- Providing technical assistance in the development and implementation of Title VI programs to sub-recipients.
- Conducting Title VI compliance reviews federal program areas, cities, counties, consultants, contractors, suppliers, colleges/universities, planning agencies and other sub-recipients of federal transportation funds.
- Developing Title VI information for dissemination to the public, including non-English versions.
- Maintaining WSDOT Title VI complaint procedures and processing complaints of discrimination or allegations of noncompliance.
- Advising the Secretary of Transportation concerning significant developments in the implementation of WSDOT's Title VI program.

### **Title VI Internal Specialist**

The Title VI Internal Specialist works to the support the Title VI Coordinator in the enforcement of Title VI. Specifically, the position has the authority and responsibility to implement the Title VI program by:

- Assisting with the gathering of Title VI data for the Annual G&A Report.
- Acting as a point-of-contact for all Title VI internal liaisons.
- Assisting with the preparation of the annual Title VI implementation plan.
- Coordinating Title VI program implementation with WSDOT program area liaisons
- Conducting Title VI training sessions, learning workshops, and making information available on the OECR website.
- Conducting internal review of internal programs, regions, and divisions.
- Reviewing Title VI plans from Metropolitan/Municipal Planning Organizations for compliance issues.
- Monitoring PTD's review of Title VI plans from public transit agencies.

### **Title VI Internal Liaisons**

Title VI internal liaisons are principally responsible for assisting the Title VI Coordinator/Title VI Specialists with Title VI compliance, including, review, collecting Title VI data, and analyzing each program area. Practicing an interdisciplinary approach and working throughout WSDOT's

program areas and regions, liaisons help implement, monitor, and evaluate WSDOT's compliance with federal guidelines. Title VI internal liaisons augment the efforts of the Title VI program group by helping the Title VI group develop policies, procedures, and practices in their respective areas of emphasis. At the direction of the Title VI Coordinator, the Title VI program staff and Title VI liaisons coordinate responsibilities, define objectives and support the implementation of WSDOT's evolving Title VI program. The internal liaisons meet quarterly with Title VI staff.

The Title VI Coordinator aims to have a Title VI liaison continually present in each of the following core departments or divisions:

- Aviation
- Business support services
- Communications
- Construction
- Consultant Services
- Design (Highway Access & Hearings)
- Environmental Services
- Ferry Division
- Local Programs
- Maintenance and Traffic Operations
- Management of Mobility
- Mega Projects (e.g., State Route 520, Interstate 405/SR 167, Gateway)
- Multimodal Planning
- Public Transportation
- Purchasing and Materials Management
- Rail, Freight and Ports Division
- Real Estate Services
- Research and Library Services
- Toll Division
- Tribal Relations
- Workforce Development Office
- Washington State Ferries
- WSDOT Regional Offices (6) (see WSDOT regions map at Appendix 8) will have a Title VI liaison who is responsible for Title VI in their respective areas.
  - Eastern Region
  - North Central Region
  - Northwest Region

- Olympic Region
- South Central Region
- Southwest Region

The internal liaisons support OECR with Title VI compliance by:

- Promoting Title VI awareness;
- Providing technical assistance to headquarters, district, and local agency personnel;
- Documenting Title VI activities identified in the plan;
- Providing the requested information to annually prepare the Title VI/Nondiscrimination Plan and Title VI/Nondiscrimination Annual G&A Report.

## 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: 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 a community’s economic vitality; destruction or disruption of the availability of public and private facilities and services; adverse employment effects; displacement of persons, 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 WSDOT programs, policies, or activities. (U.S. Department of Transportation Order 5610.2(a))

**"Affirmative action"** - A good faith effort to eliminate past and present discrimination in all federally assisted programs, and to ensure future nondiscriminatory practices. 23 CFR § 200.5 - Definitions.

**"Beneficiary"** - Any person or group of persons (other than States) entitled to receive benefits, directly or indirectly, from any federally assisted program, i.e., relocatees, impacted citizens, communities, etc. 23 CFR § 200.5 - Definitions.

**"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 and to express needs and goals. 23 CFR § 200.5 - Definitions.

**“Complaint”** – Written (and signed) or oral explanation of alleged discriminatory action(s).

**"Compliance"** - That satisfactory condition existing when a recipient has effectively implemented all of the Title VI requirements or can demonstrate that every good faith effort toward achieving this end has been made. 23 CFR § 200.5 - Definitions.



**"Deficiency status"** - The interim period during which the recipient State has been notified of deficiencies, has not voluntarily complied with Title VI Program guidelines, but has not been declared in noncompliance by the Secretary of Transportation. 23 CFR § 200.5 - Definitions.

**"Discrimination"** - That 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 United States Code (U.S.C.). 23 CFR § 200.5 - Definitions.

**"Disparate Impact"** – A facially neutral procedure/practice that has a disproportionate, adverse impact on protected individuals, while lacking a substantial legitimate justification. (recipient/sub-recipient cannot directly or through contractual/other arrangements, utilize criteria which have the effect of subjecting individuals to discrimination because of their race, color, or national origin or have the effect of defeating the objectives of the program as regards to individuals of a particular race, color, or national origin). 49 C.F.R. §21.5(b)(2); 28 C.F.R. §42.104(b).

**"Disparate Treatment"** – Similarly situated persons are treated differently because of their race, color, or national origin (No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.) 42 U.S.C. §2000d

**"Facility"** - Includes all, or any part of, structures, equipment or other real or personal property, or interests therein, and "the provision of facilities" includes the construction, expansion, renovation, remodeling, alternation or acquisition of facilities. 23 C.F.R. § 200.5

**"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) Any Federal agreement, arrangement, or other contract which has, as one of its purposes, the provision of assistance.

23 CFR § 200.5

**Language Access Plan (LAP)** - A written plan outlining meaningful access to program information, providing managers with details of the agency's language assistance services and documentation requirements.

**Limited English Proficient (LEP) Individuals** - Individuals who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English. LEP individuals may be competent in English for certain types of communication (e.g., speaking or understanding), but still be LEP for other purposes (e.g., reading or writing).

**Local Public Agency (LPA)** is any government entity in the state of Washington that is a sub-recipient of funding, including quasi-municipal corporations or special purpose districts.

**Metropolitan Planning Organization (MPO)** is the policy-making board made up of representatives from local government and transportation authorities. They are created to ensure regional collaboration in the transportation planning process for urban areas with a population over 50,000.

**"Noncompliance"** - A recipient has failed to meet prescribed requirements and has shown an apparent lack of good faith effort in implementing all of the Title VI requirements. 23 CFR § 200.5.

**"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 a regional basis. 23 CFR § 200.5

**"Program"** - Includes any highway, 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. 23 CFR § 200.5

**"State highway agency"** - That 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. 23 CFR § 200.5

**"Program area officials"** - The officials in FHWA who are responsible for carrying out technical program responsibilities. 23 CFR § 200.5

**"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. The term "recipient" does not include any ultimate beneficiary under any such program. 23 CFR § 200.5

**Regional Transportation Planning Organization (RTPO)** is an organization representing multiple counties or jurisdictions that identifies local transportation needs, assists local governments, and supports the statewide transportation planning process in non-metropolitan regions of a State.

**"Secretary"** - The Secretary of Transportation as set forth in 49 C.F.R. § 21.17 (g) (3) or the Federal Highway Administrator to whom the Secretary has delegated his authority in specific cases. 23 CFR § 200.5

**"Sub-recipient"** - an entity that receives a federal funds from WSDOT under an award; and is accountable to WSDOT for the use of the federal funds. This may be an LPA, but also could be a non-profit, educational institution, or RTPO.

**"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 other Federal statutes to the extent that they prohibit discrimination on the grounds of race, color, or national origin in programs receiving Federal financial assistance of the type subject to Title VI itself. These Federal statutes are:

- (1) Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d-d4 (49 C.F.R., Part 21; the standard DOT Title VI assurances signed by each State pursuant to DOT Order 1050.2; Executive Order 11764; 28 C.F.R. § 50.3);
- (2) Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. §§ 4601-4655) (49 C.F.R. Part 25; Pub. L. 91-646);
- (3) Title VIII of the Civil Rights Act of 1968, amended 1974 (42 U.S.C. §§ 3601-3619);
- (4) 23 U.S.C. § 109(h);
- (5) 23 U.S.C. § 324;
- (6) Subsequent Federal-Aid Highway Acts and related statutes.

23 CFR § 200.5

## WSDOT Program Areas

### Aviation Division

WSDOT's Aviation Division manages airplane registrations and licensing in Washington State. The Division is also responsible for managing 16 airports. Of these 16 state-managed airports, nine airports are state-owned, three are operated by special use permit, three are leased, and one is operated through a right of entry.

The Aviation Division fosters the development of aeronautics and the state's aviation system in helping provide access and economic vitality to communities. The division is focused on meeting aviation demand through the maintenance of existing aviation infrastructure while building a sustainable aviation system.

Title VI monitoring in this program includes:

- Send out Commercial Aviation Coordinating Commission Community Engagement notes to build relationships with Community Based Organizations that will help us achieve better Title VI results.
- Making timely consultation with human resource agencies regarding race, color, or national origin of populations relative to an action's impact areas.
- Reaching out to local community leaders, tribal elders, or other suitable spokespeople early in the environmental process.
- Retaining an official record of all Title VI issues, including issues related to race and ethnicity (e.g., minority populations) raised at EIS scoping meetings or through other public involvement process(es).
- Maintaining a list of any airport-related Title VI lawsuits, complaints or investigations filed against the airport sponsor in the year preceding the date FAA plans to issue the AIP grant for this project, and outcome.
- Reviewing the implementation of the Aviation Program to ensure activities are performed in a nondiscriminatory manner.
- Providing information to the public in languages other than English based on the LEP population.
- Ensuring meaningful access to all programs and activities by LEP persons.
- Assisting the Title VI specialists in gathering and organizing the reporting data for the Aviation's portion of the Annual Title VI G&A Report.

### **Business Support Services**

The Business Support Services provides direction, services, and training for a variety of administrative, legal, policy, and improvement activities to assist WSDOT in serving the traveling public in an efficient and effective way. BSS provides a variety of services to help WSDOT with a wide range of insurance, risk and legal issues. Areas of service include:

- Recovery for damage to WSDOT highway property
- Major accident investigations
- Risk management education and expertise
- Tort liability self-insurance management
- Insurance
- WSDOT general liability claims
- Records & Information Management
- Ferries Division general liability claims
- Ferries Division on-the-job employee injury (seaman) claims
- WSDOT vehicle liability claims and vehicle property damage recovery

Title VI monitoring in this program includes:

- Documenting the number of translation requests and number of vital documents translated (noting the language and data used to determine translated language).
- Providing notice of WAC hearings in languages other than English as dictated by the area's population and ensure the hearings are accessible to all individuals.
- Continuing to raise awareness of forms management within the agency and the importance that the forms undergo all aspects of legal compliance, including accessibility by LEP persons.
- Providing information to the public in languages other than English based on the LEP population.
- Ensuring meaningful access to all programs and activities by LEP persons.
- Assisting the Title VI specialists in gathering and organizing the reporting data for the Business Support Services' portion of the Annual Title VI G&A Report.

### **Communications Office**

Communications Office staff coordinates agency communications to help inform the public about the WSDOT's activities. Communications Division staff provides information about highway construction and maintenance projects, traffic and road conditions, agency performance and much more. Communications Office staff also responds to inquiries from the public through e-mail, as well as by telephone, and refers questions to many experts within WSDOT. The WSDOT Communications Manual provides guidance for meeting ADA, LEP, and Title VI requirements.

OECR conducted its first internal review with Communications Office in October 2020. OECR discussed and reviewed with them their Title VI processes, procedures, news releases, notices, data gathering and training opportunities. This review is currently ongoing with FHWA.

Title VI monitoring in this program includes:

- Reviewing and ensure the agency website, and all relevant press releases announcing public meetings, open houses or other public events include ADA and Title VI notices.
- Adding the LEP link to the Accessibility/Title VI webpage.
- Adding "people-first" inclusive language guidance to the WSDOT Communications Manual.
- Monitoring and updating web links, to the DES master contract, information for translation and interpretive services, which are included in the online Communications Manual.
- Continuing to improve the WSDOT website to ensure it is accessible for LEP persons.
- Reviewing the implementation of the Headquarters' Communications Program to ensure activities are performed in a nondiscriminatory manner.

- Gathering Title VI information from agency's communication staff and draft HQ Communications' portion of the Annual Title VI Accomplishment and Update Report.

### **Construction Division**

The Construction Office is responsible for the administration of new construction projects. All external communications are reviewed and approved by the Region Communications Office. The Construction Office sets policy and provides guidance and oversight for the decentralized administration of transportation construction projects by the regions and the regional project engineers.

Title VI monitoring in this program includes:

- Reviewing all chapters in the construction manual to ensure they are consistent with Title VI, LEP, and Environmental Justice where required.
- Participate in the Title VI compliance review by OECR and FHWA.
- Ensuring the inclusion of Title VI Program provisions, standard assurances, and appropriate appendices in all contracts/agreements. (Including contract advertisements and award letters).
- Providing information to the public in languages other than English based on the LEP population.
- Ensuring meaningful access to all programs and activities by LEP persons.
- Assisting the Title VI specialists in gathering and organizing the reporting data for the Construction's portion of the Annual Title VI G&A Report.

### **Consultant Services Office (CSO)**

The CSO is responsible for the procurement of department-wide architectural, engineering and personal services. Personal services contracts may include, but is not limited to, contracts for transportation studies, media and public involvement.

#### **Consultant Selection Process**

Selection of consultants is made either by the Consultant Selection Board process, or from a scored and ranked register. Upon selection of consultants, the office assists the WSDOT's project managers with negotiation and administration of those contracts.

All public hearings and meetings require the development of procedures for the collection of statistical data (race, color, and national origin) on state highway program participants and beneficiaries such as relocatees, impacted citizens and affected communities. Public Involvement Forms (DOT 272-059) are available for meeting attendees to complete. This form

requests attendees to provide information on their race, ethnicity, national origin and gender. It is available in seven languages, including Spanish, Arabic, Russian, Somali, Chinese, Vietnamese, and Korean, from the Office of Equity and Civil Rights.

Title VI responsibilities in this program includes:

- Reviewing and revising directives and procedures to ensure the presence of Title VI language.
- Providing Title VI assistance in the development of Title VI compliance assurances for consultants.
- Collecting statistical information on attendees of public meetings and outreach activities to analyze and compare to population demographics for tracking how well different segments of the population are represented.
- Continuing to review and improve CSO's Consultant Information Sheet for keeping records of outreach activities and demographic information collected.
- Ensuring the inclusion of Title VI Program provisions, standard assurances, and appropriate appendices in all contracts/agreements.
- Reviewing the implementation of the Consultant Services' Program to ensure activities are performed in a nondiscriminatory manner.
- Providing information to the public in languages other than English based on the LEP population.
- Ensuring meaningful access to all programs and activities by LEP persons.
- Assisting the Title VI specialists in gathering and organizing the reporting data for the Consultant Services' portion of the Annual Title VI G&A Report.

### **Design Office (Highway Access & Hearings)**

The Design Office in the Development Division performs studies to assess various environmental factors that relate to project development. The office also provides technical support to WSDOT's regions during the project development process.

#### **Design Process**

The economic, social, topographic and environmental impacts of a proposed project are key factors when considering project location. Federal, state, local and departmental policies and procedures require that public hearings and/or informational meetings be held to give all people, including minorities and low-income populations, an opportunity to obtain project-affected information and to express their opinions on proposed project locations. Special efforts are made to inform members of minority, LEP, and low-income communities of public hearings and other public involvement activities. These efforts include public notices in minority newspapers, use of appropriate languages, and selection of accessible locations and times for public hearings.

Title VI monitoring in this program includes:

- Continuing to review and monitor the procedures, for the hearing process, to collect demographic information.
- Ensuring the processes through which project location are selected comply with Title VI nondiscrimination requirements.
- Consulting and seeking input from all affected populations, including LEP, disabled and elderly individuals.
- Ensuring equal access to public consultation forums throughout the project selection process.
- Providing notice of all public consultation forums in minority newspapers, newsletters, online media, and in languages other than English as dictated by the area's population.
- Gathering and maintaining required Title VI compliance documentation and statistical data (race, color, and national origin) at public meetings, hearings and consultation forums.
- Ensuring the inclusion of Title VI Program provisions, standard assurances, and appropriate appendices in all contracts/agreements, operational manuals and directives.
- Ensuring meaningful access to all programs and activities by LEP persons.
- Assisting the Title VI specialists in gathering and organizing the reporting data for the Design Office's portion of the Annual Title VI G&A Report.

### **Environmental Services Office (ESO)**

The ESO in the Development Division assists the regions and modes in integrating environmental considerations and regulatory requirements into WSDOT's transportation program. ESO provides technical expertise for project analysis, develops environmental policies, procedures, manuals, and training, and works with regulatory agencies to streamline the environmental permitting process. ESO's National Environmental Policy Act (NEPA)/State Environmental Policy Act (SEPA) Program provides technical support to project teams in their efforts to engage all communities that are likely to be affected by proposed transportation projects.

ESO works closely with project teams to ensure Title VI compliance for large, complex projects - these projects typically require a NEPA Environmental Assessment or NEPA/SEPA Environmental Impact Statement. ESO also reviews a subsample of NEPA Categorical Exclusions annually in accordance with the Programmatic Agreement between WSDOT and FHWA.

Title VI and EJ activities in this program include:

- Providing guidance to meet Title VI requirements during the social, economic, and environmental analysis of the NEPA/SEPA process.
- Supporting Multimodal Planning and Data Division in efforts to improve EJ and Title VI compliance for planning studies.



- Developing, improving, and maintaining web procedures for identifying and documenting project-level environmental health disparity impacts to protected populations.
- Developing, improving, and maintaining all guidance (web-based and environmental manual) necessary to comply with Title VI, LEP, and EJ during project-level environmental review (the social, economic, and environmental analysis of the NEPA and SEPA processes).
- Collaborating with OECR to create a formal database of external stakeholders of environmental justice and civil rights.
- Ensuring the inclusion of Title VI Program provisions, standard assurances, and appropriate appendices in all contracts/agreements. (Including all NEPA documents).
- Ensuring meaningful access to all programs and activities by LEP persons.
- Assisting the Title VI specialists in gathering and organizing the reporting data for ESO's portion of the Annual Title VI G&A Report.

### **Human Resources – Workforce Development Office**

The Office of Human Resources, Workforce Development Office, provides professional assistance to WSDOT employees, supervisors, managers, units and divisions by assessing, designing, administering, delivering, and/or evaluating training and organizational development efforts.

#### **Education and Training Process**

Mandatory training required by WAC, RCW and/or federal, state or agency policy or executive decision is set up in the Learning Management System (LMS) and assigned to each employee per the requirement of each training. WSDOT managers and supervisors can access and approve elective and discipline specific training in consultation with their employees and/or as recommended by others. Approval is based on a work-related need or career development within the department.

Title VI monitoring activities in this program include:

- Annually reviewing and revising Workforce Development Division directives and manuals to ensure adherence with Title VI requirements and activities are performed in a nondiscriminatory manner.
- Supporting training efforts related to Title VI, Limited English Proficiency, and Environmental Justice, through training system support for training created and/or loaded in The Learning Center, as well as work performed in support of the agency's strategic plan goals.
- Working with OECR to develop content for needed training and create it in an engaging format utilizing training software solutions.
- Working with OECR to provide all employees with annual Title VI training in TLC.
- Exploring methods to survey participants of Title VI and related subjects, workshops, trainings, webinars, orientations and/or seminars, in order to gather demographic data of public employees who have taken these orientations.

- Ensuring that all employees have equal access to training.
- Ensuring the inclusion of Title VI Program provisions, standard assurances, and appropriate appendices in all contracts/agreements.
- Maintaining Title VI training records and data, including attendance data, for courses administered by the TLC.
- Provide information to the public in languages other than English based on the LEP population.
- Ensure meaningful access to all programs and activities by LEP persons.
- Coordinating and organizing the reporting data for the Workforce Development portion of the Annual Title VI G&A Report.

### Local Programs Division

The WSDOT Local Programs (LP) Division assists OECR with the Title VI responsibility to ensure that cities, counties, and Metropolitan/Municipal Planning Organizations (MPOs) comply with the federal requirements tied to their receipt of federal funds. Local Programs works directly with roughly 150 to 250 Washington local agencies to ensure reasonable compliance in delivering projects administered through their office on behalf of WSDOT.

Title VI monitoring in this program area includes, but is not limited to:

- Ensure LPAs have Title VI compliance documents in place before awarding funds.
- Review LP Division's procedures/criteria used for all projects and activities, including those associated with LTAP training and oversight of LPAs/other subrecipients, to ensure Title VI compliance.
- Review LP Division's procedures associated with NEPA, including the public involvement process, to ensure Title VI compliance (e.g., disparate treatment/disparate impact does not result).
- Perform Project Management Reviews (PMR) to ensure local agencies adhere to Title VI requirements.
- Report any findings, recommendations, and corrective actions to OECR.
- Advise and assist the local agencies in the management of Title VI complaints.
- Ensure the inclusion of Title VI Program provisions, standard assurances, and appropriate appendices in all contracts/agreements.
- Collect, analyze, and document demographic data to determine if one protected class is disproportionately impacted compared to other groups.
- Provide information to the public in languages other than English based on the LEP population.
- Ensure meaningful access to all programs and activities by LEP persons.

### Management of Mobility Division

The Management of Mobility Division works with internal and external partners to create innovative solutions that safely and efficiently move people and goods around the Puget Sound region. Some of the work this division does includes:

- Integrating mobility and technology by developing policies and programs to manage major incidents, transportation system changes and future construction coordination in the Seattle/Tacoma metro area. We work to bridge the gap between planning and implementation.
- Addressing system challenges and issues in the Puget Sound region by focusing on regional transportation planning and policy. Our efforts focus on HOV policy and long-range planning for the I-5 system. We also serve as the agency's liaison to the Puget Sound Regional Council.
- Implementing corridor level practical solutions to provide safe and reliable mobility choices in the Puget Sound area. We are conducting multimodal corridor planning studies and developing plans as directed by the Legislature; local agency plan review and collaboration; and working with partners to provide an integrated multimodal system.

Title VI monitoring in this program area includes, but is not limited to:

- Ensure the inclusion of Title VI Program provisions, standard assurances, and appropriate appendices in all contracts/agreements.
- Review the implementation of the Management of Mobility division to ensure activities are performed in a nondiscriminatory manner.
- Provide information to the public in languages other than English based on the LEP population.
- Ensure meaningful access to all programs and activities by LEP persons.
- Assist the Title VI specialists in gathering and organizing the reporting data for the Management of Mobility Division's portion of the Annual Title VI Goals and Accomplishment Report

### Maintenance Operations Division

The Maintenance Operations Division oversees the day-to-day needs of maintaining the state's highway system including its highway lane miles, bridges, mountain passes and Safety Rest Areas (SRA). SRAs provide highway travelers safe and convenient facilities to rest before continuing with their journey. WSDOT owns and operates 47 SRAs within the state, 28 of these are located on the interstate system. With the exception of three of the smaller sites, these facilities are open to the public 24 hours a day, 7 days a week. The SRA program provides signage at rest room facilities that use universal symbols for men and women, as well as a Braille translation. All SRAs provide universal access for rest, traveler information, and restroom facilities.

Title VI monitoring in this program includes:

- Monitoring and reviewing all maintenance operations to ensure nondiscrimination in all projects, activities, and services, including disseminating information about services in languages other than English.
- Conducting an equity analysis of where work is being performed.
- Working towards an ARCGIS map that will overlay demographic data to determine if any protected classes are disproportionality impacted compared to other groups.
- Conducting a customer satisfaction survey to gather feedback from the public on how Maintenance is doing and include demographic questions.
- Working to ensure any additional proper translations are provided for the 72-hour notice to vacate homeless encampments on WSDOT right of way.
- Ensuring that all field staff are trained to use WSDOT's language access card.
- Providing information to the public in languages other than English based on the LEP population.
- Ensuring meaningful access to all programs and activities by LEP persons.
- Coordinating the gathering of maintenance project information and organizing the information for WSDOT's Annual Title VI G&A Report.

### **Megaprograms Division**

Megaprograms are the four programs, in the Puget Sound area that are making multi-modal investments in partnership with local agencies on WSDOT's facilities. Megaprograms include the I-405/SR 167 Corridor, Puget Sound Gateway, SR 520 Bridge Replacement and HOV, and Alaskan Way Viaduct Replacement. We are made up of integrated teams with both WSDOT and consultant staff, and work across WSDOT with Multimodal Development & Delivery, Northwest Region, Olympic Region, Regional Transit Coordination, Toll Division and Management of Mobility to plan and implement investments.

During the environmental review process, the program includes an EJ analysis and engagement for each project-specific National Environmental Policy Act (NEPA) Environmental Assessment (EA), as well as EJ analysis and determinations for project-specific NEPA Categorical Exclusions (CE). Project-specific community engagement plans during design and construction include meaningful engagement with underserved communities.

Title VI monitoring activities in this program include:

- Continually conduct outreach to the community to keep constituents updated on Program activities, travel, and neighborhood construction effects, and on potential contract opportunities and address community questions or concerns.
- Develop a communications plan including specific EJ communication strategies for continuous and meaningful involvement.
- Document methodology, findings, and public involvement.

- Provide documentation of Title VI activities identified in the plan.
- Introduce project team members to community members at the start of projects.
- Conduct environmental review processes including Environmental Impact Statements (EISs), NEPA reevaluations, and other public environmental processes/documents.
- Ensure the inclusion of Title VI Program provisions, standard assurances, and appropriate appendices in all contracts/agreements.
- Review the implementation of the Mega Project's division to ensure activities are performed in a nondiscriminatory manner.
- Provide information to the public in languages other than English based on the LEP population.
- Ensure meaningful access to all programs and activities by LEP persons.
- Assist the Title VI specialists in gathering and organizing the reporting data for the Mega Projects Division's portion of the Annual Title VI G&A Report.

### **Multimodal Planning Division**

The Multimodal Planning and Data Division (MPDD) is responsible for developing transportation plans, providing technical advice to regions for planning studies, and overseeing the Metropolitan Planning Organizations and Regional Transportation Planning Organizations. One of the plans developed by MPDD is the agency's federally compliant public involvement plan, which we call the Community Engagement Plan. This plan applies to all areas of WSDOT.

#### **Data Collection**

MPDD guides collection and use of demographic data for engagement purposes in chapter 3 of the Community Engagement Plan. This guidance includes direction to identify the size and location of low-income and minority populations groups, and to assess any disproportionate burdens or failure of the transportation system to meet their needs. The plan directs staff to develop individual outreach plans including demographic analysis that pays special attention to protected populations including minority, low-income, and non-English speaking populations and identifying how the agency will engage with these protected populations.

The plan suggests the U.S. Environmental Protection Agency's EJ Screen tool as an effective tool for this. EJ Screen uses data from the U.S. Census Bureau and the American Community Survey to calculate demographic data through a geospatial map interface. As a secondary source, the Community Engagement Plan directs staff to school demographic data from the Office of Superintendent of Public Instruction.

### **Dissemination of Title VI information**

The Multimodal Planning and Data Division include Title VI information in publications, web pages, meeting materials, outreach materials, open house announcements, event sign-in sheets, and other products disseminated to the public. Eastern Region recently began providing Title VI information in large poster format at community engagement sign-in tables. The WSDOT Community Engagement Plan is presented during public meetings and the Title VI program specialists are introduced whenever possible.

### **Planning Process**

A comprehensive transportation planning process is used to incorporate input from the public. The Community Engagement Plan is used to guide community engagement efforts. MPDD also coordinates with MPOs, RTPOs, and other planning partners to provide Title VI related information. MPDD coordinates closely with WSDOT's Office of Equity and Civil Rights and Environmental Services Office on Title VI, ADA, and Environmental Justice topics, guidance, policy, and best practices.

MPDD and regions engage the public via attendance at community meetings and events. They host planning and project development workshops, open houses and meetings, and present planning and project development on WSDOT, neighborhood, MPO, RTPO, TTPO, and local agency websites and social pages.

Title VI monitoring activities in this program include:

- Providing notices to the public, in various media formats and in languages other than English, based on the LEP population, about open houses and other opportunities to comment on the Highway System Plan and Community Engagement Plan.
- Conducting an equity analysis, as part of the Highway System Plan update, to determine the impact future funding decisions may have on communities of color, low-income populations, people with limited English proficiency, and people with disabilities.
- Conducting a review of our accessibility statements in our published reports and ensure we are meeting standards regarding LEP individuals.
- Ensuring participation of constituents impacted by the WSDOT's transportation planning processes by disseminating pertinent information to minority media and participating in roundtable meetings and other public forums in affected communities.
- Working with OECR to review the Planning Office work program, MPO Procedures Manual, process operations, and other directives to ensure compliance with Title VI program requirements and are conducted in a nondiscriminatory manner.
- Visiting Citizen Advisory Committee meetings as well as public meetings to verify the level of participation of Title VI protected group members when offered in predominantly minority communities and collect demographic data to analyze in comparison to area served.

- Providing information to the public in languages other than English based on the LEP population.
- Ensuring meaningful access to all programs and activities by LEP persons.
- Assisting the Title VI specialists in gathering and organizing the MPDD portion of the Annual Title VI G&A Report.

### **Project Development Division**

The WSDOT Project Development Division is made up of six branches that support all modes, projects, and agency programs through policy development and guidance, as well as direct support. These offices include the Design Office, Environmental Services, Bridge and Structures, Real Estate Services, Technical Services and Research.

The key branches within the Division for Title VI compliance are Environmental Services, Real Estate Services, and Technical Services offices. The other offices are insular as far as the scope of services provided being limited to supporting WSDOT internally. All procurement of services for the Division is performed through the Consultant Services Office, described above.

### **Procurement and Materials Management Office**

The Procurement and Materials Management Office buys goods and services via master contracts established by the Department of Enterprise Services. These contracts are re-bid or renewed on an annual or biennial basis.

#### **Procurement Process**

The Procurement and Materials Management Office ensures an efficient program for procurement and materials management by utilizing state resources in the most economical way for the purchase of supplies, equipment, and materials.

Title VI monitoring activities in this program include:

- Reviewing written translation annually for any changes and updates.
- Attending at least 10 public outreach events to promote transparent procurement opportunities.
- Ensuring all suppliers and citizens are aware of WSDOT procurement actions and program points of contact.
- Ensuring the inclusion of Title VI Program provisions, standard assurances, and appropriate appendices in all contracts/agreements.
- Monitoring and reviewing, as necessary, all Procurement and Materials Management division's operations and activities to ensure they are performed in a nondiscriminatory manner.
- Providing information to the public in languages other than English based on the LEP population.
- Ensuring meaningful access to all programs and activities by LEP persons.

- Coordinating the gathering of procurement process information and organizing the information for the Annual Title VI G&A Report.

### **Public Transportation Division (PTD)**

The Public Transportation Program provides transportation alternatives for people who want to ride share, use bus services, ride bicycles, or use other efficient transportation choices to get around. The program utilizes state and federal (primarily Federal Transit Authority (FTA)) funding sources to enable transit agencies and other grant sub-recipients to administer and deliver capital equipment and construction projects. The program follows state and federal rules when awarding projects using an open and competitive process while complying with all requirements including Title VI.

PTD follows WSDOT's Title VI plan administered by the OECR. PTD performs an oversight role which includes site visits and periodic review of sub-recipient projects including their Title VI plan. PTD ensures that services and related benefits are distributed in an equitable manner and that no one is discriminated against or denied a benefit based on the grounds of race, color or national origin.

Title VI monitoring in this program includes:

- Reviewing transit agency Title VI plans biannually along with OECR-Title VI staff.
- Reviewing transit agencies' quarterly statistical reports (including complaints, status and actions taken; KLEP plans, et al.
- Ensuring all externally facing documents the division produces include Spanish language, ADA, and Title IV notices.
- Ensuring the inclusion of Title VI Program provisions, standard assurances, and appropriate appendices in all contracts/agreements.
- Enhancing the current Title VI analysis procedures to include a secondary analysis using the Government Alliance for Race and Equity (GARE).
- Continuing to use the newly implemented Title VI Policy Review Checklist during biennial administrative site visits and providing associated technical assistance to subrecipients.
- Reviewing PTD's procedures for conducting Title VI reviews of FTA sub-recipients (e.g., transit agencies).
- Reviewing the processes/procedures associated with development of the Statewide Human Services Transportation Plan to ensure Title VI compliance (e.g., disparate treatment/disparate impact does not result).
- Providing grantee ongoing training and technical assistance for Title VI compliance in outreach and engagement, service planning, and Decision-making.



### **Rail, Freight and Ports Division (RF&P)**

The RF&P sponsors intercity passenger rail service, manages a short-line rail system, plans freight projects and programs, administers freight rail grant program, and delivers capital construction projects.

Title VI monitoring activities in this program include:

- Monitoring all policy, planning, marketing, public engagement, and grant operations to ensure nondiscrimination and compliance with Title VI. This applies to all work phases.
- Ensuring minorities, low-income, and LEP populations are able to provide input during the planning process of all planning projects. Statistics regarding the outreach activities will be monitored and reported.
- Working with WSDOT's Title VI office to develop strategies for conducting meaningful Project Management Reviews in the future.
- Reporting any findings, recommendations, and corrective actions to OECR.
- Ensuring the inclusion of Title VI Program provisions, standard assurances, and appropriate appendices in all contracts/agreements.
- Reviewing activities and programs to ensure that grant application and approval processes are applied uniformly and fairly.
- Providing information to the public in languages other than English based on the LEP population.
- Ensuring meaningful access to all programs and activities by LEP persons.
- Coordinating the gathering of RF&P process information and organizing the information for the Annual Title VI G&A Report.

### **Real Estate Services Office (RES)**

The RES manages and coordinates the appraisal and acquisition of real property for transportation needs, the management of excess properties, and Relocation Assistance Services. The RES is a part of the Project Development Division.

#### **Acquisition Process**

The property acquisition process follows the Right-of-Way Manual and all applicable laws and regulations, including Title VI. The right-of-way acquisition process entails appraisal of property, negotiation of terms, conditions for acquisition, and assistance in the relocation of displaced individuals, businesses, farm operations, and non-profit organizations.

#### **Dissemination of Title VI Information**

RES apprises all affected property owners, tenants, and others involved, of their rights and options regarding negotiation, relocation, condemnation, and other aspects of the acquisition process. The Relocation program collects demographic data in a Occupancy Survey from

property owners that are relocated as a result of the project. A report is generated showing the summary of the data collected.

### **Limited English Proficiency**

RES maintains brochures/letters in Spanish, Arabic, and Vietnamese that relate to the delivery of the RES program. The brochures and required relocation notices are available on the external RES website at <https://wsdot.wa.gov/engineering-standards/relocation-appraisal-acquisition>.

RES also hires interpreters as needed for projects that require translation to another language for documents, meetings with property owners/tenants, and public hearings. Translation services are dictated by project needs.

RES translates documents on a case-by-case basis when initial contact is made with the property owner at a project open house or at the during the appraisal or presentation of offer. If its determined that the property owners have limited English proficiency, or at the property owner's request, RES will then translate the documents appropriately. Translated copies, in various languages, of the Relocation Forms can be found at the following link: [Relocation, appraisal & acquisition | WSDOT \(wa.gov\)](#)

The RES template property needs and the brochure for the acquisition of property rights is currently offered in both English and Spanish.

Other Title VI monitoring activities in this program include:

- Ensuring that internal procedures are reviewed and updated as necessary to maintain Title VI Program compliance during all phases of the right-of-way process.
- Reviewing printed materials to ensure all appropriate Title VI language appears in the appropriate areas of the RES documents.
- Incorporating all translated documents to our document database for use on a statewide basis.
- Using interpreters and translators as necessary to ensure that those with LEP needs receive meaningful access to the Department's services.
- Monitoring and reviewing all program functions and activities for compliance with Title VI provisions.
- Providing guidance to ensure Title VI language and assurance statements are incorporated in all surveys of property owners and tenants after the conclusion of all business.
- Incorporating use of the Demographic Information form for all impacted property owners in the right of way process.

- Continuing to provide training to RES program staff and include the Title VI Specialist from HQ OECR to ensure compliance with Title VI requirements and to ensure dissemination of Title VI information to the region staff and the public.
- Verifying documents include conformance with USDOT Order No. 1020.2A. (Appendix B – deed from the United States and Appendix C – deeds, permits, and leases).
- Gathering and organizing the statistical data required for RES's portion of the department's Annual Title VI G&A Report, including awards to minority and female appraisers, number of relocations, etc.

### **Research and Library Services Office**

The Research and Library Services Office in the Transportation Safety and Systems Analysis Division is responsible for developing research projects that include not only engineering-related projects, but other areas such as transit, transportation and environmental studies, and socio-economic analysis.

#### **Research Development**

Projects for research are prioritized based on the WSDOT's needs and availability of funding. Approximately 98 percent of all research projects are conducted by state universities and performed by graduate students under the direction of a designated research professor. Department program personnel regularly monitor research projects to ensure they are conducted in a non-discriminatory manner.

Title VI monitoring activities in this program include:

- Verifying the use of a nondiscriminatory process for the selection of grant recipients.
- Reviewing Research Office internal operational procedures, guidelines, directives, and policies to ensure compliance with Title VI requirements.
- Documenting accomplishments and promptly correct Research Office related Title VI program area deficiencies.
- Providing official representation at all Title VI training and meetings provided by OECR.
- Sharing Title VI training information with all RLS staff after representatives attend training.
- Incorporating appropriate Title VI and Language Access notices into published final research reports to accompany ADA notices.
- Ensuring the inclusion of Title VI Program provisions, standard assurances, and appropriate appendices in all contracts/agreements.
- Reviewing the implementation of the Research Program to ensure activities are performed in a nondiscriminatory manner.
- Providing information to the public in languages other than English based on the LEP population.
- Ensuring meaningful access to all programs and activities by LEP persons.

- Assisting the Title VI specialists in gathering and organizing the reporting data for the Research Office portion of the Annual Title VI G&A Report.

### **Toll Division**

The Toll Division is responsible for managing traffic and funding major transportation projects and overseeing the operations of Washington State's tolled facilities. Its mission is to fund, develop and operate an integrated network of toll roadways and bridges that improve safety and reliability for state highway patrons. The Toll Division provides strategic leadership across the state for the advancement of tolling and other innovative methods of funding that improve the transportation system.

Title VI monitoring activities in this program include:

- Translating materials into several languages and posted online, information about how to pay tolls, the benefits of opening an account, and the new features and payment options available as part of new Good To Go! back-office system.
- Distributing materials at events, to community groups, service organizations, and social service providers.
- Employing best practices to encourage full participation of constituents impacted by the WSDOT's transportation management processes by disseminating program information to minority media and participating in roundtable meetings and other public forums in affected minority communities.
- Ensuring the inclusion of Title VI Program provisions, standard assurances, and appropriate appendices in all contracts/agreements.
- Reviewing the implementation of the Toll Division to ensure that, activities, and resources are performed and applied in a nondiscriminatory manner.
- Providing information to the public in languages other than English based on the LEP population.
- Ensuring meaningful access to all programs and activities by LEP persons.
- Assisting the Title VI specialists in gathering and organizing the Toll Division's portion of the Annual Title VI G&A Report.

### **Tribal Liaison Division**

The WSDOT HQ Tribal Liaison Division focuses on government-to-government relations, communications, and education to help tribes and the WSDOT work effectively with each other. The HQ Tribal Liaison Division serves as a point of contact for tribes within the state of Washington and identifies additional decision makers and technical staff who can assist tribes with their questions or issues. Work related to Title VI usually involves clarifying the applicability of Title VI and Tribal Employment Rights Ordinances (TERO) in project agreements with tribes or for projects located on or near reservations.

Title VI monitoring activities in this program include:

- Ensuring that all aspects of the government-to-government relations, communications, and education processes are conducted in a nondiscriminatory manner and comply with all provisions of Title VI.
- Ensuring all staff receive training on Title VI, LEP, and environmental justice.
- Ensuring the inclusion of applicable Title VI Program provisions, standard assurances, and appropriate appendices in all contracts/agreements.
- Assisting the Title VI coordinators in gathering and organizing the tribal liaison's portion of the Annual Title VI G&A Report.

### **WSDOT's Ferry Division (WSF)**

The WSF operates as a public entity that provides marine transportation services to state residents and visitors seeking mobility in the waters of Puget Sound. WSF operations are funded through a number of different state and federal funding sources, including the United States Department of Transportation (USDOT). Title VI of the Civil Rights Act of 1964 and the Federal-Aid Highway Act of 1973 prohibit discrimination based on race, color, and national origin, in the provision of benefits and services resulting from federally assisted programs and activities. WSF is a major recipient of USDOT funds and is therefore subject to the provisions and administrative requirements of Title VI.

The following portion of WSDOT's Title VI Plan delineates the civil rights responsibilities of WSF under the jurisdictions of FHWA and FTA. WSDOT submits a Title VI Plan (which primarily focuses on WSF's Title VI activities) to FTA every three years. It should be noted here that FTA's 2017 review of WSF's operations resulted in no negative findings related to Title VI concerns. Title VI implementation within WSF operations is divided into special emphasis program areas. Each program area represents a WSF operational element requiring assigned Title VI responsibilities.

WSF will share the same commitment to nondiscrimination as expressed in WSDOT's Title VI Policy signed by the Secretary of Transportation. Additionally, WSF will adhere to the provisions of the Standard DOT Title VI Assurances and Appendices (DOT 1050.2) as adopted by WSDOT.

All Title VI complaints originating from any of the WSF special emphasis program areas will be handled according to the approved procedures delineated in WSDOT's Title VI Plan. There are no such Title VI complaints for the current reporting period.

### **WSF 2040 LONG-RANGE PLAN**

Washington State Ferries' Long-Range Plan recommends short-, medium- and long-term actions, investments, and service enhancements to be implemented over 20 years. The WSF 2040 Long-Range Plan was completed in January 2019. As part of the Long-Range Plan, WSF conducts a demographic analysis to better understand the communities it serves and how to reach them during the planning process. This analysis aligns with WSDOT's Community Engagement Plan, Human Services Transportation Plan, and Practical Solutions approach.

Community engagement for the Long-Range Plan includes consulting with all potentially affected community members, including those who are historically-underserved such as minority, limited-English proficient (LEP), and low-income community members.

The Long-Range Plan demographic analysis and community engagement findings serve as a foundation for all subsequent community engagement plans as projects and service changes, recommended in the plan, are implemented.

### **ORIGIN-DESTINATION SURVEY**

WSF conducts a comprehensive, system-wide travel survey approximately every 7-10 years to help inform service planning to meet future travel patterns, future capital investments and how WSF can better understand and meet the needs and travel patterns of its customers. This 'origin-destination survey' includes demographic questions to help assess the characteristics of ferry riders and to support future service decisions. The survey collects data on income, age, race, gender and ethnicity for individual routes and travel corridors with the ferry system.

### **WSF VESSEL ENGINEERING AND MAINTENANCE DEPARTMENT**

The WSF's Vessel Engineering and Maintenance Department is responsible for the administration of WSF's vessel construction, preservation, and maintenance contracts with private shipyards.

#### **Construction Process**

The Vessel Engineering and Maintenance Department is responsible for developing an efficient program for vessel construction, preservation, and maintenance using human, equipment and material resources in the most economical way possible. The Vessels Department also sets policy and provides guidance and oversight for the decentralized administration of vessel construction and maintenance projects. WSF's Contracts and Legal Services Department advertises and awards all contracts to private shipyards.

Title VI monitoring activities in this program include:

- Reviewing activities and programs to ensure nondiscrimination in all aspects of vessel construction, preservation, and maintenance.
- Including appropriate Title VI provisions, standard assurances, and appropriate appendices in all projects, contract advertisement, and award letters.
- Coordinating the gathering of vessel construction/maintenance data for the Annual Title VI G&A Report.

#### **Vessel Maintenance**

The WSF Vessel Maintenance Office is responsible for the development of a program that ensures reliable and safe vessel service.

### **Maintenance Process**

The WSF's Vessel Engineering and Maintenance Department provides guidance and oversight for the administration of system-wide vessel maintenance projects. A major Department priority is to preserve existing assets and provide support to the Operations Department to provide a safe and reliable service to the public.

Title VI monitoring activities in this program include:

- Monitoring all vessel maintenance activities to ensure nondiscrimination.
- Reviewing activities and programs to ensure that vessel maintenance efforts and resources are applied uniformly and fairly.
- Reviewing all projects for the application Title VI program requirements.
- Including Title VI provisions, standard assurances, and appropriate appendices in every contract/agreement, contract advertisements and award letters.
- Providing information to the public in languages other than English based on the LEP population.
- Coordinating the gathering of vessel maintenance information for the Annual Title VI G&A Report.

### **WSF TERMINAL ENGINEERING DEPARTMENT**

WSF's Terminal Engineering Department is responsible for developing an efficient program for ferry terminal construction, preservation and maintenance using human, equipment, and material, resources in the most economical way possible. The Department also performs studies to assess various environmental factors as they relate to project development, which include social and economic elements. The Department also provides technical support to WSDOT Regions that may be involved during the project development process.

### **Design Process**

Economic, social, topographic and environmental impacts of a proposed project are key factors weighed in location consideration. Federal, state, local and departmental policies and procedures require that public hearings and/or informational meetings be held to give all citizens an opportunity to obtain information and express their opinions on proposed project locations. Special efforts will be made to inform members of minority communities of public hearings and other public involvement activities. These efforts include public notices in minority newspapers and selection of accessible locations and times for public hearings.

Title VI monitoring activities in this program include:

- Ensuring that all aspects of a project's location selection process comply with the nondiscrimination requirements of Title VI.
- Seeking input from all affected populations, including minority, and low-income persons.
- Developing mechanisms to gather demographic data to identify populations affected by WSF activities.

- Promoting equal access to public consultation forums regarding the location selection process.
- Providing notice of public consultation forums in minority newspapers, online media, newsletters, and in languages other than English based on the LEP population.
- Gathering and maintaining required Title VI compliance documentation and statistical data.
- Monitoring all project functions to ensure compliance with Title VI requirements.
- Reviewing the attendance records for public consultation forums to ensure the participation of affected minority and low-income communities.

### **Construction and Maintenance**

The Terminal Engineering Department is responsible for contract administration, construction inspection, and engineering support for ferry terminal construction, preservation, and maintenance efforts. The Department also has a responsibility to follow statewide policy as well as establish and follow policy specific to the administration of terminal construction, preservation, and maintenance contracts.

Title VI monitoring activities in this program include:

- Review activities and programs to ensure nondiscrimination in all aspects of the terminal construction and maintenance process.
- Review all federally funded projects for the application of DBE program requirements.
- Include Title VI provisions, standard assurances, and appropriate appendices in every contract/agreement, contract advertisements and award letters.
- Coordinate the gathering of Terminal Construction information for the Annual Title VI G&A Report.
- Monitoring Title VI compliance at all levels of the federally assisted terminal construction and maintenance process.

### **WSF Training and Development Department**

The WSF's Training and Development Department provides overall training program administration within WSF. The Department provides training required to comply with federal, state, and international law. The Department also provides other necessary training to enhance both the technical and general skills of WSF personnel and the safety and health of the WSF workforce. The Department interfaces with WSDOT Office of Human Resources and its Staff Development Office to provide NHI and engineering training, employee development, and management development training, as appropriate.

### **Education and Training Process**

A training matrix, a list of training courses that are required or recommended, has been established for every major job classification within WSF. WSF managers can access upcoming courses and register employees as training needs arise.



Non-Merit system employees will receive training appropriate to their current job duties, their safety and health, changes in policy and procedures, and to comply with all federal, state, and international laws. The WSF Training and Development Department will monitor these requirements within WSF and schedule classes when necessary.

Title VI monitoring activities in this program include:

- Ensuring that all employees have equal access to training appropriate to their position or assignment.
- Annually review and revise directives and manuals to ensure adherence with Title VI requirements.
- Creating a policy/guideline for the selection of participants interested in taking Title VI workshops, to ensure that no one is denied participation or subject to discrimination on the basis of race, color, or national origin.
- Exploring methods to survey participants of Title VI and related subjects, workshops, trainings, webinars, orientations and/or seminars, in order to gather demographic data of public employees who have taken these orientations.
- Maintaining program administration documentation and data necessary for the preparation of the Annual Title VI G&A Report, including attendance data for all formal training conducted.

### **Title VI Data Collection**

Program areas are responsible for collecting data on race, color, national origin, and language spoken other than English as it pertains to their potential interaction with the public.

To standardize data for year-to-year comparisons, each program will use the following benchmarks in its data collection:

- Number of Title VI Complaints filed with WSDOT
- Number of completed investigations with findings
- Number of planned and completed WSDOT reviews
- Number of current, planned, and completed WSDOT subrecipients
- Number of planned and completed training sessions
- Percentage of population that does not speak English proficiently
- Number of languages other than English used by the population
- Number of translation services provided
- Number of interpreter services provided
- Cost of translation and interpreter services provided
- Percentage of population living in poverty
- Percentage of population age 65 and older

- Percentage of population that identified as minority

Whenever possible, the data will be disaggregated to the regional and census tract level to ensure that Title VI compliance is occurring across all WSDOT regions and not just on a statewide basis.

Established sources of data and analysis tools used include:

- [U.S. Census Data](#)
- [EJScreen](#)
- School district information
- Direct surveys
- Management systems (pavement and congestion)
- Land use plans
- Geographic Information Systems
- MPO transportation models

### **LEP Data Collection**

WSDOT program areas regularly capture data elements or sets when implementing and/or maintaining activities, encounters, events, programs, projects, or services provided by WSDOT. Data collection includes, at a minimum:

- Primary non-English language of the population in the project impact or service area(s).
- Primary non-English language of customers served (e.g. number of drivers affected).
- Number of LEP individuals, by language group, who requested or received spoken language services.

### **Data Analysis**

Each program area is responsible for analyzing the data annually to identify and address any trends or patterns of discrimination or potential for discrimination. Each program area is also responsible for analyzing the data collected and recommending corrective action, as appropriate to OECR.

Types of analysis to address compliance with Title VI include:

- Distribution of benefits (dollars, facilities, systems, projects) by groups and communities;
- Allocation of funds by mode (highway, bus, etc.);
- Impact of investments on income, race, color, national origin, sex, age and disability groups;
- Persons included in the decision-making process;
- Projected population increases versus planned facilities and type of facilities;

- Impacts of the location of existing or proposed facilities connected with a project;

## WSDOT Regional Offices

The regional offices have oversight responsibilities to ensure that all of their special emphasis program areas comply with Title VI requirements within the region. The regional offices coordinate efforts with OECR and HQ Title VI liaisons to ensure Title VI compliance. Regional offices provide data, statistics and information regarding Title VI compliance to their respective HQ offices for inclusion in WSDOT's various Title VI monitoring, compliance and reporting activities.

## Sub-recipient Review Procedures

### Title VI Plan for LPAs

LPAs with populations of 75,000 or more must individually create a Title VI Plan in accordance with the Local Agency Guidelines (LAG) Manual, Section 28.2, available online.

Instead of a Title VI Plan, LPAs below 75,000 in population may execute a 'Letter of Intent to Comply with WSDOT Title VI Plan,' Appendix 28.92 in the [LAG Manual](#), in order to be eligible for federal funding. Execution of the Letter Intent means the entity has agreed to:

- Provide and maintain a Title VI policy statement;
- Execute a signed Standard Assurances (USDOT 1050.2a) annually, updating within 30 calendar days of leadership or Title VI organizational changes;
- Comply with WSDOT requirements in all contract documents and agreements;
- Designate an employee suitable to serve as the LPA's Title VI Coordinator;
- Provide the public notice of their rights against discrimination under Title VI and how to file a Title VI discrimination complaint (includes LEP notices, when applicable);
- Follow WSDOT policy/procedures for handling Title VI complaints, following WSDOT process for reporting informal and formal complaints to WSDOT;
- Participate in WSDOT Title VI training annually;
- Train the LPA's transportation-related staff on Title VI requirements;
- Collect statistical data (race, color or national origin) of participants/beneficiaries for the life of each program, service, facility and project;
- Stimulate and invite public involvement to assure projects/services/activities include input from minority and low-income populations within the LPA's service area; and,
- Comply with all Title VI requirements as outlined in Chapter 28 of the LAG Manual.

### *Sanctions*

In the event an LPA fails or refuses to comply with the terms of the Letter of Intent or Title VI Plan, WSDOT may take any or all of the following actions.

- Cancel, terminate or suspend the agreement completely or in part.
- Refrain from extending any further assistance to the LPA under the program from which the failure or refusal occurred, until WSDOT has satisfactory assurance of future compliance from the LPA.
- Take such other action deemed appropriate under the circumstances, until LPA complies or remedial action completed.
- Refer the case to the USDOJ for appropriate legal proceedings.

### **Subrecipient Review Process**

In addition to the internal monitoring, WSDOT is responsible for developing and implementing an effective external monitoring program. In accordance with 23 CFR, 200.9(b)(7), OECR conducts reviews of LPAs, universities, colleges, planning agencies, and other recipients of federal aid. WSDOT provides technical assistance to subrecipients in the process of achieving program compliance and periodically verifies Title VI program criteria with onsite reviews and/or desk reviews.

#### *Planning Agencies and other Subrecipients*

The Multimodal Planning Division [MPD] has oversight responsibility for federal transportation planning funds. Through an interdisciplinary approach, they foster and participate in necessary Title VI training for planning staff, MPO boards/staff, and RTPO boards/staff. OECR works with MPD by providing Title VI guidance in accordance with FTA Circular 4702.1B during RTPO/MPO scheduled reviews. Appendix A of the Circular contains a checklist of Title VI program requirements.

#### *LPAs*

The resource to assist LPAs understand and comply with the Title VI requirements is Chapter 28 of the LAG Manual.

### Onsite Compliance Review selection process

OECR will use a risk-based approach to identify a sample of LPAs receiving federal highway funds with the greatest potential to affect those groups covered by Title VI. Criteria for identifying LPAs for review may include the following:

- Complaints
- Population of agency
- Number of WSDOT Funded Projects
- Number of Limited English Proficiency Populations
- Issues frequently identified as problems faced by program beneficiaries;
- Geographical areas WSDOT targets because of known problems beneficiaries are experiencing or because that area has not been visited for some time;

- Issues raised in a complaint or identified during a complaint investigation;
- Problems identified by community organizations or advocacy groups that cite actual incidents to support their concerns;
- Problems identified by its subrecipients; and/or,
- Problems identified by other state, federal, or local civil rights agencies.

OECR works with the Local Programs Division in obtaining a list of its current local government projects and ensures the review of a diverse group with varying funding amounts.

### Notification

WSDOT notifies LPAs in writing of an onsite compliance review at least 30 calendar days in advance. The notification letter will include an itemized listing that outlines the major Title VI elements requiring supporting documentation. The LPA shall submit supporting documentation to OECR-Title VI within 30 calendar days of the date of the notice.

### Findings

The Title VI Coordinator will review the documents and information submitted by the LPA. OECR will prepare a report of findings, including corrective actions, if applicable. The LPA will be given 90 days to develop and submit to OECR a voluntary correction plan. After the LPA corrects all deficiencies, OECR will provide written notification if it is in compliance. When an LPA does not correct the deficiencies or fails to submit a corrective plan, it may be subject to sanctions including the suspension of federal funding. If there are no deficiencies, the report of findings may provide recommendations for strengthening the LPA's Title VI Program.

### Follow-up Monitoring

OECR-Title VI will determine the need for additional monitoring to obtain a compliant status and ensure ongoing compliance with Title VI/Nondiscrimination requirements. OECR may conduct follow-up reviews to ensure the LPA has complied with the noted deficiencies.

## **Data Collection/Reporting/Analysis**

Statistical data on race, color, and national origin, of participants/beneficiaries of WSDOT's programs, is gathered and analyzed by relevant program areas as a function of their Title VI, EJ, and LEP responsibilities. In addition to collecting data, each federal program area is responsible for using this data to identify and address any trends or patterns of discrimination. Data collection is vital in ensuring that transportation programs, services, facilities and projects effectively meet the needs of all persons. Data analysis is instrumental in WSDOT's efforts to ensure equitable distribution of transportation benefits/investments, avoid, minimize or mitigate disproportionate effects associated with transportation decision-making, determine language access needs (and develop appropriate communications strategies), and eliminate unlawful discrimination and mitigate protracted discriminatory effects.

Each program area is responsible for collecting Title VI/Nondiscrimination-related data and analyzing the data annually to identify and address any trends or patterns of discrimination. Data collection is key to ensuring that transportation programs, services, facilities and projects

effectively meet the needs of “all persons” without discrimination (i.e., disproportionately benefiting or harming one group over another is a violation of Title VI.) Based on Title VI implementing regulations, each program area is required to:

- Provide for the collection of data and information to demonstrate effective enforcement of Title VI;
- Collect data about beneficiaries;
- Analyze the data and information collected;
- Identify potential discrimination and work with OECR to eliminate if found;
- Take affirmative measures to ensure nondiscrimination.

To standardize data for year-to-year comparisons, will use the following benchmarks in its data collection:

- Number of Title VI Complaints filed with WSDOT
- Number of completed investigations with findings
- Number of planned and completed WSDOT reviews
- Number of current, planned, and completed WSDOT subrecipients
- Number of planned and completed training sessions
- Percentage of population that does not speak English proficiently
- Number of languages other than English used by the population
- Number of translation services provided
- Number of interpreter services provided
- Cost of translation and interpreter services provided
- Percentage of population living in poverty
- Percentage of population age 65 and older
- Percentage of population that identified as minority

Whenever possible, the data will be disaggregated to the regional and census tract level to ensure that Title VI compliance is occurring across all WSDOT regions and not just on a statewide basis.

## Data Collection

Program areas are responsible for collecting data on race, color, national origin, sex, age, and disability as it pertains to their potential interaction with the public. Additional data can include language spoken other than English and income status. OECR will work individually with each program area to develop a collected data set which will support the Title VI questionnaire for reporting to FHWA.

Established sources of data and analysis tools used include:

- U.S. Census Data
- School district information
- Direct surveys
- Management systems (pavement and congestion)
- Land use plans
- Geographic Information Systems
- MPO transportation models

All economic and demographic data used by WSDOT comes from reliable governmental sources responsible for collecting and vetting the information for consistency and accuracy. This data is used in WSDOT's Title VI compliance reports to federal transportation agencies.

## Reporting

Internal Title VI reviews are performed annually as a Title VI questionnaire. The annual questionnaire includes general questions regarding Title VI complaints, Title VI training and questions specific to each program, such as:

- Describe the division's procedures on identifying and reporting external Title VI complaints of discrimination.
  - If none, describe efforts to develop procedures.
- Does the Division distribute Title VI information to the general public?
- Does the Division contract out for services?
  - If so, please provide a copy of three different contracts.
- What efforts have been taken to overcome language barriers in all activities of the Division based on data and analysis?
- What Title VI training has the Division staff attended?

Once the Title VI liaisons are informed of the questionnaire due date, they will work directly with the Title VI specialists to complete the questionnaire and provide any additional requested information. OECR will work with the federal program areas to identify which data needs to be analyzed from the questionnaire responses. Data analysis results will be included in the Annual G&A Report. The data will be disaggregated to the regional level to ensure compliance is occurring across all WSDOT regions.

## Analysis

Once the Title VI data is collected, the data must be analyzed for identifying patterns of discrimination or the potential for discrimination. Each program area is responsible for analyzing the data collected and recommending corrective action, as appropriate to OECR. A pattern of discrimination may result from a specific process, or as the result of a process or procedure being implemented in a discriminatory manner.

When determining compliance with Title VI, each program area may consider the following:

- The way services are or will be provided and the related data necessary for determining whether any persons are or will be denied such services on the basis of their protected class as defined by Title VI authorities;
- The population eligible to be served by race, color and national origin;
- The location of existing or proposed facilities connected with the program, and related information adequate for determining whether the location has or will have the effect of unnecessarily denying access to any persons on the basis of prohibited discrimination;
- The present or proposed membership by race, color and national origin, in any planning or advisory body which is an integral part of the program; and
- Where determination of location is involved, the requirements and steps used or proposed to guard against unnecessary impact on persons on the basis of race, color and national origin.

Types of analysis to address compliance with Title VI include:

- Percent of benefits allocated to persons below the poverty line versus persons above the poverty line;
- Distribution of benefits (dollars, facilities, systems, projects) by groups and communities;
- Allocation of funds by mode (highway, bus, etc.);
- Impact of investments on income, race, color, national origin, sex, age and disability groups;
- Projected population increases versus planned facilities and type of facilities;
- Impacts of the location of existing or proposed facilities connected with a project;
- Alternatives to modes, locations, and types of facilities;
- Language assistance needs assessment;
- Transportation needs of all persons within boundaries of plans or projects;
- Persons included in the decision-making process;
- Strategies to address impacts and develop mitigation;
- Priorities for investments;
- Sources for financing investments, and
- Strategies to disseminate information.

## Title VI Training

WSDOT's Title VI training consists of presentations to internal and external audiences statewide. A summary of training conducted is reported in the Annual G&A Report. Individual and targeted training sessions have been conducted to benefit specific geographic areas, entities, or program



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areas upon request. If any Region, Division, LPA, or external partner would like to request additional training, they may do so by contacting [TitleVI@wsdot.wa.gov](mailto:TitleVI@wsdot.wa.gov) and OECR will work with them to schedule their training. Additional training materials can also be found on our [Title VI webpage](#) and our [Title VI and EJ SharePoint site](#).

OECR developed and posted online trainings that will reach and engage a larger audience. In-person trainings will not be discontinued but will likely be fewer in number if demand decreases due to the online trainings.

OECR conducted annual individual trainings for each program area to review their Title VI, EJ, and LEP responsibilities December 2022 through August 2023. OECR will provide monthly Q & A sessions for Title VI liaisons to address any questions or issues around Title VI, EJ, or LEP.

OECR worked with Human Resources to develop a mandatory online Title VI training for all new WSDOT Personnel. This training provides an overview of general responsibilities around Title VI, EJ, and LEP, as well as an overview of WSDOT's Title VI program.

OECR provided an all-staff training on understanding, identifying, categorizing, and translating vital written documents. A recording of the webinar was posted to our [Title VI and EJ SharePoint site](#).

OECR provided training to all WSDOT staff to give an overview of Title VI, EJ and LEP responsibilities, as well as WSDOT's Title VI program. A recording of the webinar was posted to our [Title VI webpage](#).

OECR will continue to provide additional training on Title VI, EJ, and LEP responsibilities to LPAs, region, and program area liaisons when requested.

OECR will continue to provide bi-monthly reviews, trainings, and/or Q&A sessions for region and program area liaisons to go over their annual Goals and Accomplishments report.

WSDOT recorded and posted to its [Environmental Training webpage](#) an online Title VI webinar training, in conjunction with Communications and the Environmental Justice divisions, along with a Limited English Proficiency webinar.

OECR will continue to provide an online training of basic Title VI responsibilities for LPAs.

OECR will work to provide an additional more in-depth biannual training on threshold/representation analysis, barrier analysis, and selection analysis for program staff and Title VI liaisons.

OECR continue to work with program areas to tailor Title VI data collection and analysis to fit the programs specific book of business.

## Environmental Justice (EJ) Analysis

WSDOT strives for a holistic approach to Environmental Justice issues. OEER works with the program areas to consider economic and social effects of it'. Each program area's process will include the following:

- Defining the project and conducting demographic analysis.
- Developing a communications plan including specific EJ communication strategies for continuous and meaningful involvement.
- Identifying potential impacts, mitigation and benefits.
- Documenting methodology, findings and public involvement.

### **Community Engagement**

Federal law, state law, and WSDOT policy require community engagement in WSDOT's transportation decision-making. To aid in this effort, WSDOT has developed a Community Engagement Plan (CEP) which is available at the following link: [WSDOT Community Engagement Plan-2016 Update](#).

The CEP provides guidance to WSDOT employees and the public on the agency's public involvement processes. It also provides strategies and recommendations for collecting and using demographic data, and details tailoring outreach activities to traditionally underserved populations.

The objectives identified in the CEP relevant to Title VI requirements can be summarized as:

- Nondiscriminatory processes and activities.
- Early and continuous public involvement.
- Inclusionary practices in activities and notifications.
- Consideration of the needs of the traditionally underserved.
- Collaboration with other agencies, tribal and local governments, private sector representatives and other officials.
- Convenient and accessible meeting times and locations.
- Reasonable access to information.
- Timely notice of engagement activities, including review periods.
- Acknowledgment and consideration of public comments.

Failing to account for variety in cultural expectations, language, literacy, or income and affordability can create barriers to full participation. In order to have participation that can ultimately inform decision-making, WSDOT shall identify the area demographic(s) and develop an effective approach for outreach and communication. WSDOT recognizes that outreach strategies that are culturally sensitive and tailored to the affected community can help achieve meaningful participation. Strategies, best practices, and other tools can be found within the CEP.

### **Tribal Consultation and Coordination**

Federal regulations require WSDOT to conduct government-to-government consultation with tribal governments of federally recognized Native American Tribes in our transportation planning and program/project activities. WSDOT maintains government-to-government relations with 34 federally recognized tribal governments. The WSDOT Model Comprehensive Tribal Consultation Process for the National Environmental Policy Act provides comprehensive guidance on consultation processes and recommended consultation activities for each type of project under the NEPA review (i.e. CE, EA and EIS). The model is available on WSDOT'S Environmental Services Office webpage: <https://wsdot.wa.gov/sites/default/files/2021-10/TribalManual.pdf>.

## Program Area Reviews

WSDOT's Title VI specialists facilitate compliance with Title VI through annual program area reviews.

Program area reviews assess efficacy pertaining to:

- Self-monitoring and corrective action.
- Documentation and reporting of Title VI activities.
- Implementation of Title VI information and vital documents in languages other than English.
- Data collection used to assess high and adverse impacts on EJ populations.

WSDOT Title VI Specialists determine the effectiveness of program activities by first gaining an understanding of the policies/procedures associated with each program area. The Title VI Specialists work with the Title VI Liaison in each program area to ensure that program policies and procedures are compliant with Title VI. If Title VI staff identify policies or procedures that could lead to disparate treatment/disperate impact, they will work with the Title VI Liaison to correct the deficiency. Title VI staff and program liaisons will then monitor the corrective action to see that it has resulted in the desired effect. The period for completion of a corrective action typically does not exceed 90 days.

Collecting information from program areas with Title VI, LEP or EJ activities is essential to WSDOT being able to ensure that its policies, programs, and activities are inclusive and nondiscriminatory, and also aids in compiling its annual Title VI G&A Report. Title VI specialists gather information from Title VI liaisons through a Program Area Review Questionnaire. The questionnaire includes general questions regarding Title VI complaints, employee Title VI training and questions specific to each program. The Title VI coordinator monitors the progress of Program Area Reviews to ensure timely completion and assists liaisons looking for more guidance on these reports. WSDOT data reviewed in prior years has been instrumental in identifying resources and establishing uniform practices.

In accordance with 23 C.F.R. § 200.9 (b) (5), OECR Title VI staff will conduct two program area reviews on an annual basis. Criteria used in selecting the program area for review may include:

- Changes in program policies/procedures.
- Title VI complaints, concerns, or questions by internal or external parties.

- Deficiencies or observations identified in recent FHWA Program assessments or reviews.
- Program area not reviewed in five-plus years.

Deficiencies in a program will result in Title VI staff providing the program area with guidance in developing an action plan to address necessary corrective actions, or procedural or organizational changes. As with general program area reviews, Title VI liaisons will support Title VI staff in ensuring that program areas apply corrective actions expeditiously. The results of these processes will appear in the Title VI/Nondiscrimination Program Process Reviews portion of the Annual G&A Report.

## Complaint Procedures

### External Complaint Procedures for Federally Assisted Programs and Activities

External complaints alleging violations of Title VI involve a program or activity administered by WSDOT through LPAs, contractors, or other sub-recipients of USDOT financial assistance. These procedures cover all complaints filed under Title VI of the Civil Rights Act of 1964, including its DBE, EEO, and OJT Program components, and supplemental nondiscrimination statutes and regulations including the ADA.

Intimidation or retaliation is prohibited by Title 49, Code of Federal Regulations, Part 21.11 (e). The procedures do not deny the right of a 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, which do not provide for remedies that include punitive damages or compensatory remuneration for the complainant.

Per 49 C.F.R. § 21.11 (d) (1), WSDOT will make every effort to obtain early resolution of a complaint at the lowest level possible. Where appropriate, WSDOT will seek guidance from the USDOT modality with jurisdiction over the matter.

Investigators will make every effort to pursue a resolution of a complaint. To that end, investigators may exercise the option of informal mediation meeting(s) between the affected parties, at any stage of the process. Initial interviews with the complainant and the respondent will inform the investigator with opportunities for redress or settlement.

WSDOT will not investigate complaints that name WSDOT as a respondent. With respect to these matters, WSDOT will refer the complaint to the USDOT modality with the appropriate authority and jurisdiction over the program or activity referenced in the complaint.

**Complaint Procedures - See [Appendix 7 - Procedures for External Complaint Processing](#)**

## Public Dissemination of Title VI Information

### Printed Material

WSDOT includes an abbreviated Non-discrimination Policy Statement on various outreach materials, including the “Reaching out to our Communities: Environmental Justice at the

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Washington State Department of Transportation” flyer, WSDOT reports, folios, brochures, posters and other materials printed for public distribution. WSDOT’s manuals are available online at: <https://wsdot.wa.gov/engineering-standards/all-manuals-and-standards/manuals>.

Internal guidance on use of Title VI language in publications is included in WSDOT’s Communication Manual and on the intranet Graphics Communications webpage.

WSDOT has updated its Title VI brochure. It is available on the website at <https://wsdot.wa.gov/about/title-vi-limited-english-proficiency> and at WSDOT offices. See Appendix 6. The Title VI brochure is placed in public areas at all WSDOT facilities.

### Websites and Links

The Accessibility/Title VI link is embedded in WSDOT’s website templates, and the link appears in the footer on every webpage. Related information such as Title VI policy and that pertaining to the OECR are displayed in the left navigation panel.

WSDOT’s web standards, provided in the Communications Manual, include guidance on accessibility, adding alternative text to images and graphics, etc. It is available on WSDOT’s external website at:

<https://www.wsdot.wa.gov/publications/manuals/fulltext/M3030/Communications.pdf>. WSDOT’s LEP plan has been updated. It is accessible online at <https://wsdot.wa.gov/sites/default/files/2021-12/OECR-WSDOT-LEP-Access-Plan2.pdf>.

## Review of State Transportation Agency Directives

WSDOT incorporates Title VI policy and mission statements into its procedures and manuals. Additionally, by conducting Title VI/Nondiscrimination Program Process Reviews, OECR’s Title VI program ensures that Title VI requirements are included in program area directives and that Title VI/Nondiscrimination statements are included in contracting, procurement, and other transmissions.

OECR will continue to encourage divisions and regions to work with OECR in reviewing any public communication and outreach materials. The Title VI Coordinator, as part of the agency’s review team, checks all procedure and manual revisions for compliance with Title VI. These include materials such as the Highway System Plan, WSF 2040 Log Range Plan, and program brochures and flyers.

Title VI/Nondiscrimination clauses from the USDOT Standard Title VI Assurances are included in all contracts as mandated by Title VI of the Civil Rights Act of 1964, including language contained in Appendices A through E.

## Compliance and Enforcement Procedures

This section outlines Title VI Program compliance and enforcement procedures to eliminate and address discrimination, and resolve deficiencies when noncompliance occurs.

### **Process to Identify/Eliminate Discrimination**

WSDOT will actively pursue the prevention of Title VI deficiencies and will take the necessary steps to ensure compliance with all administrative program requirements. To further the ability to identify and eliminate patterns of discrimination, OECR will ensure that staff, sub-recipients and beneficiaries are educated and informed regarding Title VI roles and responsibilities. Currently, quarterly meetings are held with WSDOT Title VI liaisons and training webinars related to Title VI compliance have been developed and posted to WSDOT's website.

To ensure compliance and enforcement procedures, OECR:

- Conducts compliance reviews.
- Provides technical assistance in the implementation of the Title VI program.
- Implements corrective action to correct deficiencies.

Deficiencies found through a compliance review are in written form. Efforts to secure voluntary compliance are undertaken in every noncompliance situation and are pursued through each enforcement action. OECR provides technical assistance and guidance to remedy instances of noncompliance and to ensure effective Title VI implementation and enforcement. Failure or refusal to comply with Title VI requirements may result in OECR initiating available administrative remedies.

OECR has completed its internal review of WSDOT's Real Estate Services Office, as well as its review of WSDOT's Communications Division. OECR has made internal reviews part of its standard operating procedures and will eventually review all WSDOT regions and divisions.

### **Process to Resolve Deficiencies Identified By FHWA**

Compliance with Title VI requires the Washington State Department of Transportation (WSDOT) to take prompt action to achieve voluntary compliance in all instances in which deficiencies are found by FHWA. WSDOT's OECR will lead efforts to correct any deficiencies found by FHWA within a reasonable period of time not to exceed 90 days. WSDOT will make every effort to sustain a Title VI program in compliance with USDOT's Standard Title VI Assurances, including Appendices A-E.

### **Limited English Proficiency (LEP)**

An LEP individual is a person who does not speak English as his or her primary language and who has a limited ability to speak, read, write, or understand English. An LEP customer may also be an individual with a disability, who, due to the disability, has a limited ability to communicate in English.

Title VI of the Civil Rights Act of 1964 prohibits discrimination based on national origin. This type of discrimination may be manifested by an agency's failure to provide meaningful access to individuals who have LEP. Executive Order 13166 (E.O. 13166) - Improving Access to Services for Persons with Limited English Proficiency - supplements an existing obligation under Title VI.

E.O.13166 requires federal agencies to examine the services they provide, identify any need for services to LEP customers, and develop and implement a system to provide those services so LEP persons can enjoy meaningful access. USDOT obligations extend to all USDOT funding recipients. All WSDOT division and project directors, and Title VI program liaisons are responsible for ensuring that meaningful services to LEP persons are provided in their respective divisions or projects.

## WSDOT Language Access Plan (LAP)

WSDOT OECR is responsible for the administration, compliance, monitoring and oversight of the LAP. WSDOT's LAP is available on the website at the following link: [Language Access Plan](#).

WSDOT's LAP is designed to guide WSDOT's divisions, program areas and regional offices in acquiring translation, interpretation, and outreach services for LEP individuals seeking access to WSDOT programs. All directors, managers and Title VI program liaisons are responsible for ensuring that LEP individuals have meaningful access to services provided in their respective regions, divisions, and offices.

OECR Title VI program staff are apprised of LEP guidance needs through regular communications with Title VI liaisons and through the annual Program Area Review questionnaire found in the Annual G&A Report. Monitoring and direct evaluation of methods for language service needs are activities left to each respective division or project. Conclusions from these communications are reported to FHWA through the Annual G&A Report.

### LEP Data Collection

WSDOT program areas regularly capture data elements or sets when implementing and/or maintaining activities, encounters, events, programs, projects, or services provided by WSDOT. Data collection includes, at a minimum:

- Primary non-English language of the population in the project impact or service area(s).
- Primary non-English language of customers served (e.g. number of drivers affected).
- Number of LEP individuals, by language group, who requested or received spoken language services.

Data collected by region or program area is submitted annually to OECR (reporting period based on FFY October 1 to September 30). OECR, through the Annual G&A report, gauges the effectiveness of the implementation policies contained in the LAP and highlights WSDOT's best practices. When assessing specific LEP policies and procedures, OECR staff look to see whether regional or program staff are receiving LEP training and whether their activities demonstrate an overall adherence to the LAP.

### Implementation of the Four Factor Analysis

As a recipient of federal funding, WSDOT must take reasonable steps to ensure LEP individuals have meaningful access to the information, programs, and services it provides. In determining reasonable steps, four factors are considered:

1. The number and proportion of LEP individuals in the eligible service area,

2. The frequency with which LEP individuals come in contact with the program,
3. The importance of the service(s) provided by the program, and
4. The resources available to the WSDOT.

USDOT Policy Guidance gives recipients substantial flexibility in determining what language assistance is appropriate based on the four factors listed above.

For more information on the Four Factor Analysis, OECR has provided and posted a flyer for WSDOT's [internal procedures for translation services](#) on OECR's [Title VI webpage](#), as well as post links to FHWA's Four Factor webpage and additional training materials to OECR's [Title VI and EJ SharePoint site](#). Additionally, OECR will continue to work with and provide bi-monthly training to Title VI liaisons to ensure they have sufficient resources and training to inform and direct their staff to conduct the Four Factor analysis when needed.

Further clarification is provided below for performing a self-assessment using the Four Factor Analysis:

1. **Demographics** - The decision to provide language assistance services should include an assessment of the number or proportion of LEP individuals from a particular language group served or encountered in the surrounding community area. The greater the number or proportion of LEP individuals served or encountered, the more likely language services are needed. Generally, identifying any community where the LEP population is greater than five percent of the total or more than 1,000 LEP individuals automatically triggers providing language assistance services as a mandatory and an integral part of program operations.
2. **Frequency of LEP Contact** - WSDOT regions and program areas shall take into consideration how often various language groups come in to contact with a LEP customer. The greater the contact frequency, the greater the need for enhanced language services. For example, frequent contact with Spanish-speaking individuals who are LEP may require bilingual Spanish-speaking staff. Less frequent contact with other language groups may suggest a different approach. For programs where public outreach or public involvement is central to the mission, staff should consider targeted outreach to LEP individuals in order to increase the frequency of contact with these groups.
3. **Nature and Importance of the Services Provided** - Beyond looking at demography and frequency of contact, a consideration of the nature and importance of programs, activities, and services that directly affect that population is required. As a rule, the more important the activity, information, service, or program, or the greater the possible consequences of the contact to the LEP individual, the more likely language services should be provided. Procedures must mitigate or correct the denial or delay of access to vital services, benefits, or information to LEP customers. Regular analysis and review of documents is important in determining language access.

Programs should consider what documents could be considered "vital" to access program services or benefits. Examples of vital documents may include:

- Documents critical for accessing services or benefits
- Letters requiring a response from a customer
- Documents informing customers of free language assistance
- Documents of legal significance (e.g. notification of rights)



4. **Available Resources** - At a minimum, WSDOT will identify the resources available to ensure that language assistance to LEP individuals will be provided to ensure equal access. The demographics frequency and importance of contacts will dictate the level of language services provided. Some language services can be provided at little or no cost, such as using community volunteers or bilingual staff as interpreters. Each program area should carefully consider the most cost-effective methods of delivering language access services.

## Environmental Justice (EJ)

In alignment with Title VI of the Civil Rights Act (1994), Executive Order (E.O.) 12898 (1994), E.O. 14096 (2023), subsequent US Department of Transportation (USDOT) and Federal Highway Administration (FHWA) guidance, and the state's environmental justice law [2021, referred to as the Healthy Environment for All (HEAL) Act, WSDOT acknowledges Environmental Justice (EJ) must be integrated in all areas of our agency. Our agency is mandated to address disproportionately high and adverse environmental and health impacts of our programs, policies, rules, budget decisions and actions by prioritizing the equitable distribution of resources and benefits while eliminating harms.

Strategies to address environmental and health impacts of WSDOT's activities or programs should include, but not be limited to:

1. Avoiding, minimizing, or mitigating disproportionately high and adverse human health, social, economic, and environmental effects on minority populations and low-income populations;
2. Ensuring full and fair participation in the decision-making process by all potentially affected communities in the transportation process; and
3. Providing full and prompt benefits, by preventing the denial of, reduction in, or significant delay in the receipt of benefits by minority populations and low-income populations.

Multiple definitions for Environmental Justice (EJ) exist from federal and state mandates. These definitions include:

EO 12898 (1994): "shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations"

EO 14096 (2023): "Environmental justice" means the just treatment and meaningful involvement of all people, regardless of income, race, color, national origin, Tribal affiliation, or disability, in agency decision-making and other Federal activities that affect human health and the environment so that people:

- i. are fully protected from disproportionate and adverse human health and environmental effects (including risks) and hazards, including those related to climate change, the cumulative impacts of environmental and other burdens, and the legacy of racism or other structural or systemic barriers; and

- ii. have equitable access to a healthy, sustainable, and resilient environment in which to live, play, work, learn, grow, worship, and engage in cultural and subsistence practices.”

HEAL Act (2021): "Environmental justice" means the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, rules, and policies. Environmental justice includes addressing disproportionate environmental and health impacts in all laws, rules, and policies with environmental impacts by prioritizing vulnerable populations and overburdened communities, the equitable distribution of resources and benefits, and eliminating harm.”

Protected EJ populations and communities with EJ concerns may include People of Color, including individuals who are Black, Latino, Indigenous and Native American, Asian American Native Hawaiian, and Pacific Islander; people with median household income at or below the poverty level as defined by the US Department of Health and Human Services; Tribal Nations; people with disabilities; populations of workers experiencing environmental harms, such as migrant farmworkers. Addressing the contextual needs of protected populations is specified in WSDOT’s [Community Engagement Plan](#).

Environmental Justice populations identified in federal and state mandates include:

EO 12898 (1994)	EO 14096 (2023)	HEAL Act (2021)
<p>Minority populations</p> <p>Low-income populations</p>	<p>Included in the definition of EJ</p> <ul style="list-style-type: none"> <li>• Income</li> <li>• Race</li> <li>• Color</li> <li>• National origin</li> <li>• Tribal affiliation</li> <li>• Disability</li> </ul> <p>Communities with EJ concerns may include but are not limited to:</p> <ul style="list-style-type: none"> <li>i. Urban/rural areas</li> <li>ii. Tribal Nations and their lands</li> <li>iii. Low-income, persistent poverty/inequality</li> </ul>	<p>Included in the definition of EJ:</p> <ul style="list-style-type: none"> <li>• Race</li> <li>• Color</li> <li>• National Origin</li> <li>• Income</li> </ul> <p>Overburdened communities (geographic area where people combined environmental harms and health impacts; highly impacted communities based on cumulative impact analyses and census tract fully/partially on “Indian Country”)</p>

	<ul style="list-style-type: none"> <li>iv. People of Color including individuals who are Black, Latino, Indigenous and Native American, Asian American, Native Hawaiian, and Pacific Islander</li> <li>v. Geographically dispersed and mobile populations, such as migrant farmworkers.</li> </ul>	<p>Vulnerable Populations</p> <ul style="list-style-type: none"> <li>i. Racial or ethnic minority</li> <li>ii. Low-income populations</li> <li>iii. Populations disproportionately impacted by environmental harms; and</li> <li>iv. Populations of workers experiencing environmental harms.</li> </ul>
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**Healthy Environmental for All Act (HEAL)**

WSDOT continues to establish programs, policies, rules, budget decisions and actions that incorporate Environmental Justice throughout the agency’s various divisions. Title VI, Limited English Proficiency and Environmental Justice are now joined into a required training to help current and future staff understand and incorporate EJ principles and practices into their everyday work. OECR staff collaborate with staff from six other HEAL Act-covered state agencies through an Interagency Workgroup. WSDOT staff, including OECR, coordinate the development of statewide best practices, EJ process-focused resources, and support increased opportunities to connect with protected EJ populations.

WSDOT continues to conduct community listening sessions with identified communities of color and low-income communities. These listening sessions range from feedback on best practices to communicate to the expansion of State Route 167.

**Data**

WSDOT applies various data to prioritize the equitable distribution of resources and benefits while eliminating harms. We use data sources ranging from federal, state, and local entities to assess EJ implications of various agency actions as well as to conduct meaningful community engagement.

One federal-level data set WSDOT relies on includes EJScreen, a tool developed by the Environmental Protection Agency (EPA) to identify EJ populations. The tool uses data from the US Census Bureau and the American Community Survey to calculate demographic data through GIS. WSDOT provides complete instructions and a customized tutorial on how to use the EJScreen tool on WSDOT’s EJ webpage ([How to use EJ Screen \(wa.gov\)](https://www.wa.gov/transportation/ej/ejscreen)).

An important state-level data WSDOT relies on includes the Department of Health's Environmental Health Disparities map replicating and expanding on the EPA's EJScreen tool to provide information on cumulative environmental health impact analyses. OECR created a framework to use this data and apply across all six regions in Washington State. This data helps identify the most vulnerable populations by race, age, income levels and disabilities among other factors. The framework is in constant update for use in future Environmental Justice community engagement. OECR also created a comprehensive database of Community Based Organizations (CBOs) across the six regions to assist in connecting with People of Color and low-income people.

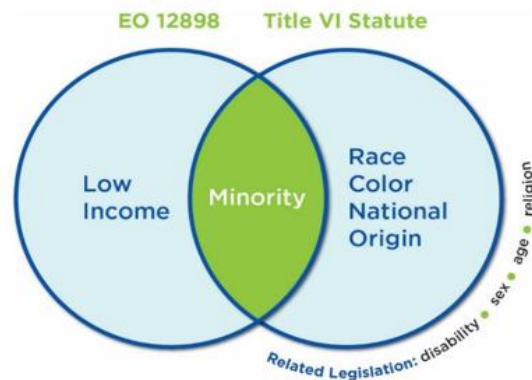
Additionally, a preferred local source WSDOT relies on is school demographic data from the Office of Superintendent of Public Instruction (OSPI) website. Project-specific maps are included in project documentation, and project teams use this data in public participation plans for EJ and LEP considerations. In addition, the OECR, in a collaborative effort with other divisions from WSDOT to improve the process of identifying EJ protected populations with all of these data sources. It is OECR's intention to build a stronger relationship with regions, project engineering offices and WSDOT's planning division to buffer environmental health impacts on EJ protected communities. Specific efforts to ensure the effective implementation of EJ requirements are included in WSDOT's Annual G&A report (FFY 2022). More information on the EJ analysis process can be found on WSDOT's [Environmental Justice & Title VI webpage](#).

### EJ and Title VI Comparison

EJ and Title VI are both rooted in the same basic principle that no person should bear an unfair treatment on account of their race, color, or national origin. Additional similarities between EJ and Title VI include:

- 1) EJ is a component of Title VI.
- 2) Title VI & EJ protect minorities
- 3) Title VI and EJ apply to all planning and project development policies and activities in transportation.
- 4) Under Title VI and EJ, agencies must:
  - a) Translate crucial public documents and ensure they are accessible to the public.
  - b) Ensuring meaningful public participation in transportation decision-making.
  - c) Prevent, minimize, mitigate, or correct high and adverse impacts from transportation activities.

Figure 1: Relationship between Title VI and Environmental Justice



Source: Federal Highway Administration (FHWA)

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### Appendix 1 – Nondiscrimination Statement

The Washington State Department of Transportation (WSDOT), in compliance with Title VI of the Civil Rights Act of 1964, assures that no person shall on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any of its programs or activities, whether federally funded or not. WSDOT further assures compliance with related Nondiscrimination statutes that prohibit discrimination based on sex, age, and disability in all of its programs and activities, whether federally funded or not.

In the event WSDOT distributes federal funds to another governmental entity, WSDOT will include Title VI language in all written agreements and will monitor these entities to ensure their compliance with Title VI requirements. Title VI's prohibition of discrimination on the basis of national origin have been extended to include discrimination based on Limited English Proficiency (LEP), and WSDOT will take reasonable steps to provide LEP individuals with meaningful access to their programs and services, that generally involve some combination of services for oral interpretation and written translation of vital documents.

WSDOT's Office of Equity and Civil Rights (OECR) is responsible for initiating and monitoring Title VI activities, preparing required reports, and enforcing other state transportation agency responsibilities required by 23 Code of Federal Regulations (CFR) Part 200, 49 CFR Part 303, and 49 CFR. Part 21.

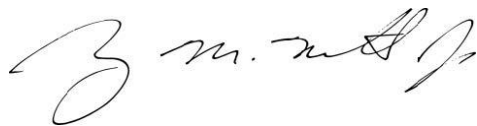
The Secretary has signed the DOT Standard Title VI Assurances with Appendices A-E. The signed Assurances are included as Appendix 1 to this document, followed by Appendices A-E. The Assurances with Appendices A-E are incorporated herein by reference.

WSDOT's Title VI Program Coordinator may be contacted as follows:

#### Contact Information

Jackie Bayne  
Title VI Program Coordinator  
310 Maple Park Avenue SE  
P.O. Box 47314  
Olympia, WA 98504-7314  
(360) 705-7084  
TitleVI@wsdot.wa.gov  
Fax 360-705-6801  
Washington State Relay at 711

All WSDOT personnel will assist WSDOT's Title VI Program Coordinator in the effective implementation of the Title VI Program.



September 24, 2020

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**Roger Millar, PE, FASCE, FAICP**  
Secretary of Transportation

**Date**

## Appendix 2 – DOT Order 1050.2A (Standard Title VI Assurances)

**Microsoft Word Version of Standard Title VI / Nondiscrimination Assurances  
From USDOT Order No. 1050.2A**

This document is distributed by the Federal Highway Administration (FHWA) Headquarters Office of Civil Rights for the sole purpose of providing assistance to FHWA Divisions and Recipients in implementing the FHWA Title VI Program. Recipients are encouraged to use this document according to the instructions below, only:

1. Recipients **may replace the text in the bold font parentheses**, as instructed, to tailor the Assurances for the entity.
2. Recipients **may not alter the language** in any part of this document outside of the parentheses and **may not insert additional language** into this document.
3. Minor formatting changes **that do not alter the text** are permitted.

If you have any questions, please contact the appropriate FHWA Division Office for assistance.

**The United States Department of Transportation (USDOT) Standard Title VI/Non-Discrimination Assurances**

**DOT Order No. 1050.2A**

The **Washington State Department of Transportation** (herein referred to as the "Recipient"), **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through **Federal Highway Administration (FHWA)**, is subject to and will comply with the following:

**Statutory/Regulatory Authorities**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled Non-discrimination In Federally-Assisted Programs Of The Department Of Transportation-Effectuation Of Title VI Of The Civil Rights Act Of 1964);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory cites hereinafter are referred to as the "Acts" and "Regulations," respectively.

**General Assurances**

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure 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 otherwise subjected to discrimination under any program or activity, "for which the Recipient receives Federal financial assistance from DOT, including the FHWA.*

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these non-discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

**Specific Assurances**

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted **FHWA Programs**:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23(b) and 21.23(e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated, or will be (with regard



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

2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all *FHWA Programs* and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

"The *Washington State Department of Transportation*, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair 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. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will 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 will extend to rights to space on, over, or under such property.
7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
  - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
  - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or 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 will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, 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 Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, **Washington State Department of Transportation** also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the **FHWA's** access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the **FHWA**. You must keep records, reports, and submit the material for review upon request to **FHWA**, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

**Washington State Department of Transportation** gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the **FHWA Programs**. This ASSURANCE is binding on **state of Washington**, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the **FHWA Programs**. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

**Washington State Department of Transportation**  
**Roger Millar, Secretary of Transportation**

\_\_\_\_\_  
(Name of Recipient)

by

  
\_\_\_\_\_  
(Signature of Authorized Official)

DATED 9/7/2023

## APPENDIX A

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 (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, *Federal Highway Administration (FHWA)*, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the *FHWA* to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the *FHWA*, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the *FHWA* may determine to be appropriate, including, but not limited to:
  - a. withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or

the *FHWA* may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

## APPENDIX B

### CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the *Washington State Department of Transportation* will accept title to the lands and maintain the project constructed thereon in accordance with *all requirements imposed by Title 49, Code of Federal Regulations, Department of Transportation, subtitle A, Office of the Secretary, part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation 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)*, the Regulations for the Administration of *Federal Highway Administration (FHWA) Program*, and the policies and procedures prescribed by the *FHWA* of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation 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 *Washington State Department of Transportation* all the right, title and interest of the U.S. 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 *Washington State 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 will be binding on the *Washington State Department of Transportation*, its successors and assigns.

The *Washington State 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 will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]\* (2) that the *Washington State Department of Transportation* will 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, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended [, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. 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 make clear the purpose of Title VI.)

## APPENDIX C

### CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the *Washington State Department of Transportation* pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, 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. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, *Washington State Department of Transportation* will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.\*
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the *Washington State Department of Transportation* will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the *Washington State Department of Transportation* and its assigns.\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

## APPENDIX D

### CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by *Washington State Department of Transportation* pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, 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 ground of race, color, or national origin, will be excluded from participation in, 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, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, *Washington State Department of Transportation* will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.\*
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, *Washington State Department of Transportation* will there upon revert to and vest in and become the absolute property of *Washington State Department of Transportation* and its assigns.\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)



### APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

#### Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures Non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

## Appendix 3 – Secretary’s Executive Order E 1087.00

Washington State Department of Transportation

**Secretary's Executive Order  
Number: E 1087.00**

*[signature on file]*  
**Roger Millar**  
Secretary of Transportation

October 1, 2019

### Title VI Policy

#### I. Introduction

##### A. Purpose

This Secretary's Executive Order sets forth the Washington State Department of Transportation's (WSDOT's) policy of compliance with Title VI of the Civil Rights Act of 1964 and the Civil Rights Restoration Act of 1987 (P.L. I 00.259).

##### B. Background

Executive Order 12898 on Environmental Justice (EJ) requires WSDOT to adhere to the provisions of Title VI of the Civil Rights Act of 1964 and the National Environmental Policy Act of 1969 in order to avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects on minority populations and low-income populations.

Executive Order 13166 on Limited English Proficiency (LEP) is directed at implementing the protections afforded by Title VI of the Civil Rights Act of 1964 and related regulations. Accordingly, it prohibits recipients of federal financial assistance from discrimination based on national origin by failing to provide meaningful access to services to individuals who are limited in English proficiency.

#### II. Secretary's Executive Order

No person shall, on the grounds of race, color, or national origin, as provided by Title VI of the Civil Rights Act of 1964 and the Civil Rights Restoration Act of 1987, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any WSDOT program or activity. WSDOT will make every effort to prevent discrimination in all of its programs and activities, whether those programs and activities are federally funded or not.

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

#### III. Information to Carry Out This Secretary's Executive Order

WSDOT's Office of Equity and Civil Rights is responsible for initiating and monitoring Title VI, EJ, and LEP compliance activities, preparing required reports, and other WSDOT

responsibilities as required by Title 23 Code of Federal Regulations (C.F.R.) Part 200 and Title 49 C.F.R. Part 21.

#### **IV. Contact for More Information**

For questions or concerns about this Secretary's Executive Order, contact the Office of Equity and Civil Rights by phone at 360-705-7090, or visit the Office of Equity and Civil Rights web page.

#### **V. References**

- Title VI of the Civil Rights Act of 1964
- Civil Rights Restoration Act of 1987 (P.L. I 00.259)
- National Environmental Policy Act of 1969
- Title 23 C.F.R. Part 200 Title VI Program and Related Statutes- Implementation and Review Procedures
- Title 49 C.F.R. Part 21 Nondiscrimination in Federally Assisted Programs of the Department of Transportation- Effectuation of Title VI of the Civil Rights Act of 1964
- Executive Order 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
- Executive Order 13166 Improving Access to Services for Persons with Limited English Proficiency
- WSDOT Office of Equity and Civil Rights web page

#### **VI. Review and Update Requirements**

When changes are necessary to update this document, inform the Director of the Office of Equity and Civil Rights. The Director of the Office of Equity and Civil Rights reviews this document periodically and proposes updates to the Secretary of Transportation for approval.

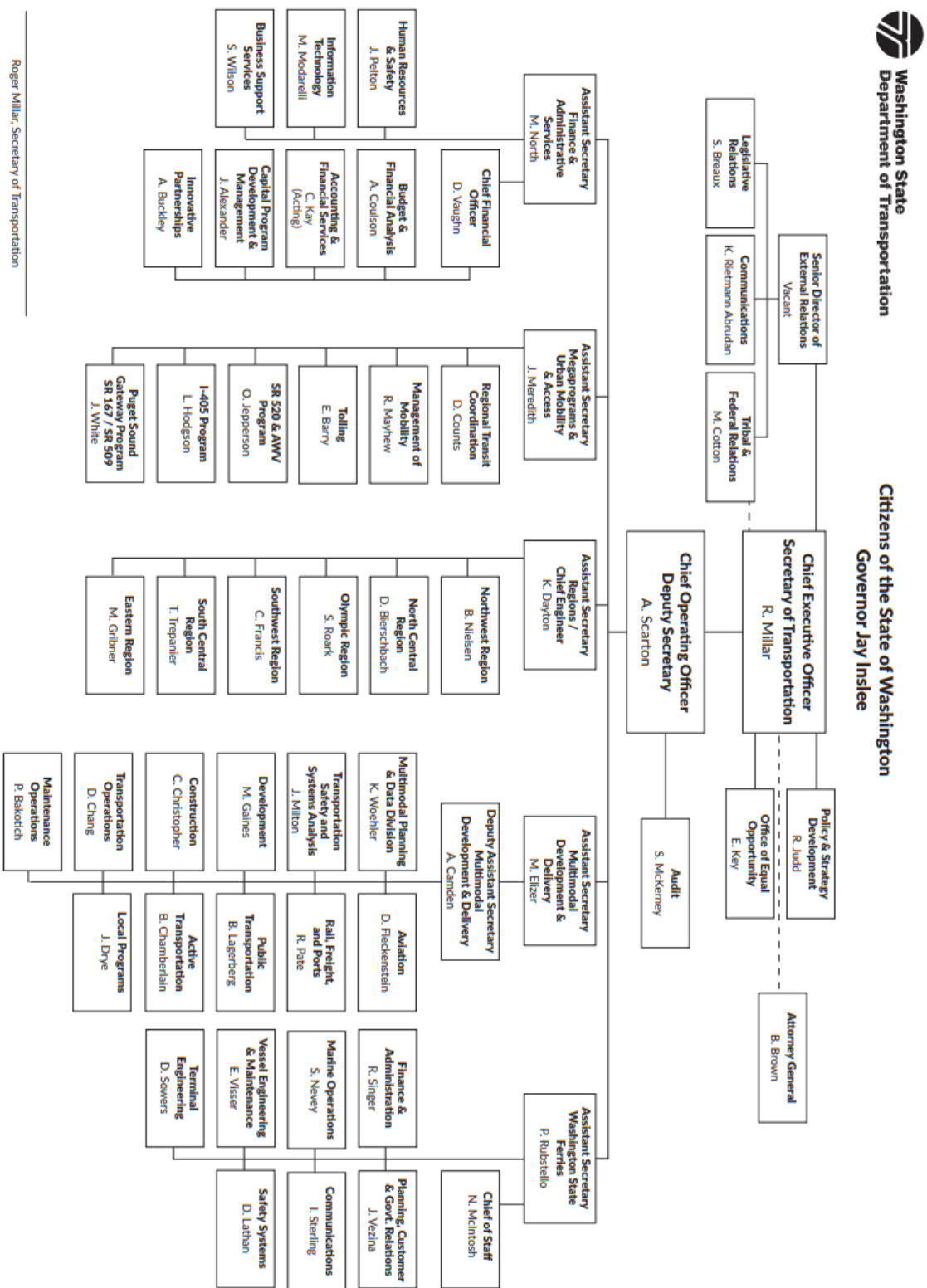
### **Americans with Disabilities Act (ADA) Information**

This material can be made available in an alternate format by emailing the WSDOT Diversity/ADA Compliance Team at [wsdotada@wsdot.wa.gov](mailto:wsdotada@wsdot.wa.gov) or by calling toll free, 855-362-4ADA (4232). Persons who are deaf or hard of hearing may make a request by calling the Washington State Relay at 711.

### Appendix 4 – OECR Organizational Chart



## Appendix 5 – WSDOT Organizational Chart



## Appendix 6 – Title VI Program Brochure

### HOW CAN I FILE A DISCRIMINATION COMPLAINT?

Any person or specific group who believes they have been discriminated against based on race, color, national origin, sex, age, or disability may file a complaint with WSDOT OEO. Under Title VI, 'person' means citizens, noncitizens, visitors, exchange students, etc. A complaint must be filed with WSDOT OEO within 180 days of the alleged discriminatory act.

For information on how to file a complaint, contact OEO by any of the following methods:

- Attn: Complaint Investigations
- Office of Equal Opportunity
- Washington State Department of Transportation
- PO Box 47314
- Olympia, WA 985047314
- Phone: 360-705-7090
- Fax: 360-705-6018
- Email: [oeoecbcomplaints@wsdot.wa.gov](mailto:oeoecbcomplaints@wsdot.wa.gov)

### WHAT HAPPENS NEXT?

Once a complaint is filed, it will be logged by WSDOT OEO. WSDOT forwards the complaint to Federal Highway Administration for processing. Retaliation is prohibited and will not be tolerated against any person who reports alleged discrimination, harassment or policy violations or participates as a witness in an investigation.

### Additional Title VI Information

- <https://www.wsdot.wa.gov/EqualOpportunity/default.htm>
- <https://www.lep.gov/>
- [www.fhwa.dot.gov/environmental/environmental\\_justice/](http://www.fhwa.dot.gov/environmental/environmental_justice/)
- Applicable federal regulations
- 42USC 2000d – Civil Rights Act
- 23 USC 324 – Gender
- 42 USC 6101-6107 – Age
- 29 USC 701 et seq - ADA
- Executive Order #13166 – LEP
- Executive Order #12898 - EJ



Answers with Disabilities Act (ADA) information. This material can be made available in an alternate format by emailing the Office of Equal Opportunity at [wscdot.oao@wsdot.wa.gov](mailto:wscdot.oao@wsdot.wa.gov) or by calling toll free, 855-565-4ADOT202. Persons who are deaf or hard of hearing may make a request by calling the Washington State Relay at 711.

Title VI Statement to Public: It is the Washington State Department of Transportation's (WSDOT) policy to assure 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, be excluded from participation in, be denied the benefits of, or be otherwise discriminated against under any of its federally funded programs and activities. Any person who believes his/her Title VI protection has been violated, may file a complaint with WSDOT's Office of Equal Opportunity (OEO). For additional information regarding Title VI complaint procedure and/or information regarding our non-discrimination obligations, please contact OEO's Title VI Coordinator at (360) 705-7090.

19-08-0375



## TITLE VI PROGRAM

### OFFICE OF EQUAL OPPORTUNITY

#### MISSION

The Washington State Department of Transportation (WSDOT) is responsible for safe and efficient transportation of people and goods by roadway, rail, water, and air. WSDOT also partners with others to maintain and improve local roads, railroads and airports, as well as public transportation, bicycles and pedestrian programs. WSDOT works to assist Washington's transportation needs regardless of the user's race, color, national origin, sex, age, disability, socioeconomic status, and Limited English Proficiency. WSDOT enforces all components of Title VI of the Civil Rights Act of 1964 and related non-discrimination rules across all manners of transportation where WSDOT is involved, from planning to construction, on through maintaining these systems.

#### WHAT IS TITLE VI?

The Civil Rights Act of 1964 states: "No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." (42 U.S.C. Sec 2000d)

Title VI along with other non-discrimination statutes prohibits discrimination based on race, color, sex, age, disability, national origin, income status, and limited English proficiency in any program or service receiving Federal aid.

**ENVIRONMENTAL JUSTICE**

As a recipient of federal funds, WSDOT is required to comply with a Federal Executive Order on environmental justice. A major part is to include minority and low-income populations as voices in the agency's decision-making throughout the life of our projects and services.

There are three core principles:

- To avoid, minimize, or mitigate negative human health or environmental effects.
- To have full and fair participation of all individuals and communities in the transportation decision-making process.
- To prevent the discrimination of minority and low-income populations in their access to our programs/services.

**LIMITED ENGLISH PROFICIENCY (LEP)**

Individuals who do not speak English as their main language and have a limited ability to read, speak, write, or understand English can be limited English proficient, or LEP. These individuals may be entitled to language assistance about our programs, services, and activities as directed since 2000 in Executive Order 13166.

This Executive Order prohibits recipients of federal funds from discriminating by failing

to provide meaningful access to services to non-English speaking individuals. The Executive Order means WSDOT may be required to share information in a language other than English.

**WHAT DOES THIS MEAN?**

The primary goal of WSDOT's Title VI Program is to educate all WSDOT employees, contractors, local governments, and service beneficiaries of Title VI requirements and the responsibilities and monitor them for compliance.

WSDOT's Title VI Program is responsible for researching the potential social impact of projects and services on communities and people and evaluating that research throughout the planning and decision-making process.

WSDOT prohibits all discriminatory practices, which may result in:

Denial any service, financial aid, or benefit provided under the program to which and individual may be entitled.

Different standards or requirements for participation.

Segregation or separate treatment in any part of the program.

Distinctions in quality, quantity, or manner in which the benefits is provided.

- Discrimination in any activities conducted in a facility built in whole or part with federal funds.

To ensure compliance with Title VI, and related non-discrimination authorities, WSDOT will:

- Educate the public of their Title VI rights
- Collect and analyze data to avoid or reduce harmful effects on minority and low-income populations.

- Encourage the full and fair participation by all including low-income and minority communities in the decision-making process.

- Prevent the denial of, reduction in or significant delay in the receipt of benefits by minority and low-income populations.

- Provide language services to LEP individuals to inform them about WSDOT's programs, services and activities.

When WSDOT distributes federal funds to a partner or business including, but not limited to towns, cities, counties, planning organization, contractor, supplier, or other party, they must also administer programs and activities without regard to race, color, national origin, sex, age, disability, LEP, or socio-economic status.

**WHO BEARS RESPONSIBILITY TO COMPLY WITH TITLE VI?**

All parties accepting federal funds are responsible. As a recipient of federal funds, the entire WSDOT organization must comply with all of Title VI, as well as any sub-recipients of those federal funds. By accepting federal aid, the entire agency must comply – every function of the agency – not just the part using the federal funds.

## Appendix 7 – Procedures for External Complaint Processing

### I. Procedures for External Complaint Processing under Title VI, ADA, and related nondiscrimination statutes

#### A. Applicability

1. Any person, or class of persons, believing they have been subjected to discrimination prohibited by Title VI of the Civil Rights Act of 1964 (Title VI), the Americans with Disabilities Act (ADA), the Washington Law Against Discrimination (WLAD; Chapter 49.60 RCW), and related nondiscrimination statutes that prohibit discrimination based on race, creed, color, national origin, familial or marital status, sex, sexual orientation, age, military status, or disability, in any program or activity administered by the Washington State Department of Transportation (WSDOT), may file a complaint with WSDOT.
2. These procedures also cover complaints of discrimination in any program or activity administered by WSDOT that relates to local agencies, contractors and other sub-recipients receiving U.S. Department of Transportation (USDOT) funding through the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), or the Federal Aviation Administration (FAA).
3. As of August 2018, the FHWA has provided new mandatory guidance for Title VI complaint processing. See *Questions and Answers for Complaints Alleging Violations of Title VI of the Civil Rights Act of 1964*; specifically, Question 2e, *How are complaints routed?*, which can be found on the FHWA Office of Civil Rights (HCR) website at the following link:  
[https://www.fhwa.dot.gov/civilrights/programs/title\\_vi/titleviqa.cfm#Toc522787058](https://www.fhwa.dot.gov/civilrights/programs/title_vi/titleviqa.cfm#Toc522787058).  
Pursuant to the new guidance, ALL Title VI complaints under FHWA jurisdiction, including complaints filed against sub-recipients, must now be forwarded to the FHWA **before** WSDOT takes any action on the complaint. See Section I.C. below for new mandatory FHWA routing instructions.
4. These procedures are administrative in nature and do not provide for punitive or compensatory damages as remedies.
5. These procedures do not prohibit a Complainant from filing a formal complaint alleging discrimination with other state, local, or federal agencies, nor do they prohibit a Complainant from retaining private counsel.
6. Retaliation for filing a complaint alleging discrimination is prohibited under 49 C.F.R. § 21.11(e).
7. Complaints filed under Title VI with WSDOT in which WSDOT is the named Respondent must always be forwarded to the USDOT modality having jurisdiction (FHWA, FTA, or FAA) for investigation.

#### B. Informal Complaint Resolution. [NOT APPLICABLE to Title VI Complaints under FHWA jurisdiction]

1. WSDOT will make every effort to resolve complaints promptly and at the lowest level possible.



2. Informal mediation may be used to resolve complaints at any stage of the process.
3. If a complaint cannot be resolved informally, WSDOT may conduct an investigation of the complaint.

### **C. FHWA ONLY - Special Instructions for routing Title VI Complaints under FHWA jurisdiction.**

1. FHWA is responsible for all decisions regarding whether a complaint under FHWA jurisdiction should be accepted, dismissed, or referred to another agency.
2. WSDOT must log all Title VI complaints on receipt (see [Section II.B.](#) below for detailed instructions on complaint intake).
3. After logging the complaint, WSDOT must immediately forward all Title VI complaints under FHWA jurisdiction to:

FHWA Washington Division  
c/o Civil Rights Program Manager  
711 S. Capitol Way, Suite 501  
Olympia, WA 98501-1284  
(360) 534-9325

[Washington.FHWA@dot.gov](mailto:Washington.FHWA@dot.gov)

[Autumn.young@dot.gov](mailto:Autumn.young@dot.gov)

4. FHWA's Washington Division Office will then forward the complaint to:

Federal Highway Administration  
U.S. Department of Transportation Office of Civil Rights  
1200 New Jersey Avenue, SE  
8th Floor E81-105  
Washington, DC 20590  
(202) 366-0693

for determination whether the complaint should be accepted, dismissed, or referred to another agency.

5. Once the USDOT Office of Civil Rights (HRC) has decided whether to accept, dismiss, or transfer the complaint, HRC will notify the Complainant, the FHWA Division Office, WSDOT, and the sub-recipient (where applicable).
6. **ONLY AFTER** WSDOT has been instructed to do so by HRC should WSDOT begin investigation of a Title VI complaint under FHWA jurisdiction.

## **II. Investigations<sup>1</sup> [Our office may not begin an investigation of a Title VI complaint under FHWA jurisdiction until instructed to do so by FHWA]**

- A.** Each step of the investigation process, and the basis on which the case was resolved or closed, must be thoroughly documented.

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<sup>1</sup> For economy of language, "USDOT" will be used throughout the Investigations' section of these procedures to mean the "USDOT modality having jurisdiction (FHWA, FTA, or FAA) over the program or activity."

**B.** OECR managers or the investigator should advise the Data and Reporting Specialist at case “milestones” (sent to FHWA, assigned to an investigator, on-site visit scheduled, etc.) and may ask the Data and Reporting Specialist to add comments to the comments section of the complaint log at any time.

### **C. Complaint Intake**

1. Communications alleging discrimination may be received by mail, FedEx, hand delivery, fax, email, telephone, or other means.
2. The original communication should be retained in native format (i.e., as it is received), along with proof of the delivery method. If hard copy documents are received, the documents should be date stamped on the date received, then scanned and saved electronically.
  - a. If received by mail – retain envelope. Save a copy of the envelope electronically along with the documents. Also save a copy of the WSDOT Office of Equity and Civil Rights (OECR)-endorsed, return receipt cards, if return receipt is requested.
  - b. If received by FedEx or other express mail service, retain a copy of the delivery confirmation or record of delivery, and save a copy electronically along with the documents.
  - c. If delivered in person – record the name of the person making the delivery, and the delivery date and time. This record of delivery should be initialed by the courier, if possible, and saved electronically along with the documents.
  - d. If received by fax – retain the fax cover sheet indicating transmission date and number of pages received and save it electronically along with the documents.
3. If the documents are received by email, the initial communication (e.g., cover email) should be saved in native format.
  - a. The initial communication, including all attachments, should also be printed out and date stamped.
  - b. If the communication concerns an EEO or DBE issue, the person receiving the communication may suggest that the complainant also complete an on-line complaint form obtainable at: <http://www.wsdot.wa.gov/EqualOpportunity/complaints.htm>, though it must be made clear that the complainant is not required to do so.
4. If the communication alleging discrimination is received telephonically, the person receiving the call should type on a complaint intake form as much information about the alleged discrimination as possible, including:
  - a. The correspondent’s full name and contact information (telephone number, email address, mailing address);
  - b. The name of the Respondent (person or entity alleged to have discriminated; called “recipient” in some USDOT documents);

- c. A description of the allegations;
  - d. Location (city/county) where the alleged discrimination occurred;
  - e. Date(s) the alleged discrimination occurred;
  - f. The date and time the communication is received; and
  - g. The person receiving the communication.
  - h. If the person receiving the communication was unable to type this information on a complaint intake form when the call was received, they should transcribe the information onto a form as soon as possible after the call is completed.
5. The person who receives a communication alleging discrimination should immediately forward the communication, or recorded information about the communication (if received by telephone or in person), to the Data and Reporting Specialist responsible for logging the communication. The Data and Reporting Specialist will assign a distinct, identifying case number to the communication and record relevant information about the communication in OECR's complaint tracking system (currently in SharePoint).
  6. **FHWA TITLE VI COMPLAINTS ONLY** - If the document indicates a Title VI Complaint under FHWA jurisdiction, the Data and Reporting Specialist should immediately forward the complaint to FHWA. For instructions how to route FHWA Title VI complaints, go to [Section I.C.](#) above.
  7. All Other Complaints - The Data and Reporting Specialist responsible for logging the communication will then immediately forward the communication to OECR management to identify whether the communication is a complaint, or whether the complaint is deficient, and to determine next steps.
  8. The Data and Reporting Specialist responsible for logging the communication must advise the correspondent who sent the communication as soon as possible in writing, but **no later than seventy-two (72) hours** after the receipt date, that their communication has been received and will be forwarded to FHWA [for Title VI Complaints under FHWA jurisdiction] or to management, for review. If the communication is received electronically and a read receipt is requested, the person receiving the communication should acknowledge receipt of the communication electronically.

**D. Determine whether the communication is a complaint. [The FHWA makes this determination for Title VI complaints under FHWA jurisdiction.]**

1. The following documents should not be considered complaints, unless the document is accompanied by a signed cover letter specifically asking WSDOT to take action concerning the allegations:
  - a. An anonymous complaint;
  - b. Inquiries seeking advice or information;
  - c. Courtesy copies of court pleadings;

- d. Courtesy copies of complaints addressed to other local, State, or Federal agencies;
  - e. Newspaper articles; or
  - f. Courtesy copies of internal grievances.
2. WSDOT may still wish to take action on any of the documents in the list above. However, these documents are technically not complaints.
  3. Correspondence not initially considered to be a complaint but that nevertheless potentially involves a civil rights issue should be viewed as an inquiry necessitating further review.
  4. On determining that the correspondence requires further review, the OECR Director or Deputy Director will assign an Investigator to follow up on the inquiry to determine whether the correspondence should be considered a complaint.
  5. For correspondence viewed as an inquiry, the Investigator should call or write the person sending WSDOT the communication for clarification and further information, and to ask if the person wishes to file a formal complaint with WSDOT.
  6. After obtaining clarification and further information from the correspondent, the Investigator should consult with the OECR Director or Deputy Director before making a final determination whether the communication should be viewed as a complaint.
  7. If, after seeking clarification from the correspondent, the initial communication will not be investigated as a complaint, the correspondent should be notified in writing **within ten (10) days** of the communication's receipt date. The notification should indicate that the file will be closed; the reasons for closure; and that the correspondent is welcome to re-file the communication as a complaint.
  8. **Keeping in mind the exceptions listed below, a complaint is a written or electronic statement concerning an allegation of discrimination that contains a request to take action.** Complaints should be in writing and signed and may be filed by mail; private express delivery (e.g. FedEx); fax; in person; or by email. (See #s 9-11 below re alternate formats and LEP considerations; and complaints received by telephone). A complaint should contain at least the following information:
    - a. A written explanation of what has happened;
    - b. A way to contact the Complainant;
    - c. The basis of the complaint, e.g. race, creed, color, national origin, familial or marital status, sex, sexual orientation, age, military status, or disability;
    - d. The identification of the Respondent, e.g. person, contractor, company, agency, division, office, or other entity alleged to have discriminated;

- e. Sufficient information to understand the facts that led the Complainant to believe that discrimination occurred; and
  - f. The date(s) of the alleged discriminatory act(s).
9. While the above indicates a complaint should be in writing and signed, WSDOT must accept complaints in alternate formats from persons with disabilities.
  - a. The complaint may be filed on a computer disk, by audio tape, or in Braille.
  - b. The Complainant may also call WSDOT and provide the allegations by telephone. The person receiving the call will transcribe the allegations of the complaint as provided over the telephone and send a written transcript of the complaint to the Complainant for review and signature.
10. WSDOT must also ensure that persons with Limited English Proficiency (LEP) have meaningful access to the complaint process.
  - a. Complaints in languages other than English should be translated and responded to in the language in which they were sent whenever possible.
  - b. Throughout the complaint resolution process, the Investigator should be certain a LEP Complainant understands their rights and responsibilities, as well as the status of their complaint.
11. A complaint number should be assigned to the complaint if not already assigned on initial intake (see section II.C.5. above).
12. A separate complaint number should be assigned to each person alleging discrimination in the complaint. In addition, complaints from more than one person against the same recipient should generally be assigned separate case numbers to help WSDOT comply with the requirements of the Washington State Public Records Act (Chapter 42.56 RCW).
13. In some cases, complaints from more than one person raising the same allegation(s) against the same Respondent may be combined into one complaint, although this should not be done if it becomes clear that the investigation will result in personally identifiable information (PII) about any of the Complainants being included in the case file. As soon as it becomes clear that the investigation will involve treatment of specific Complainants, separate complaint numbers should be assigned to protect the personal information of each Complainant.
14. A person may file a third party complaint on behalf of another named individual(s).<sup>2</sup>
15. The complaint should then be assigned to an Investigator. The Investigator should notify the Complainant(s) immediately, identifying themselves as the Investigator assigned to the case, providing their contact information, and indicating that the Investigator will review the file to determine what additional information may be required to proceed with the case.

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<sup>2</sup> A complaint filed by an attorney on behalf of a complainant is not a third party complaint.

16. The Investigator must review the complaint **within ten (10) calendar days** of receipt to determine what additional information is required to proceed with the investigation.

**E. The Investigator opens an Investigative Case File. [For Title VI complaints under FHWA jurisdiction, these steps should be followed only after the FHWA instructs our office to conduct an Investigation.]**

1. After being assigned the case, the Investigator will open an Investigative Case File to hold all documents received or generated in connection with the case.
2. The Investigator determines whether the complaint was timely filed, although for Title VI complaints under FHWA jurisdiction, FHWA will make this decision.
  - a. Complaints must be filed within 180 days of the last date of the alleged discrimination, unless the time for filing is extended (see 49 C.F.R. § 21.11(b) [Title VI] and 49 C.F.R. § 27.123(b) [ADA]).
  - b. If the Investigator believes the complaint is untimely, the Investigator should refer the complaint to the OECR Director or OECR Deputy Director for a final decision on closure of the complaint.
  - c. If it is ultimately determined that the complaint was not timely filed, the complaint may be closed without conducting an investigation. The Complainant may, however, request a waiver of the 180-day filing requirement.
  - d. The Complainant must be notified immediately that the complaint is being closed, and the reasons for closure.
3. The Investigator determines whether WSDOT has jurisdiction, although for Title VI complaints under FHWA jurisdiction, FHWA will make this decision.
  - a. Complaints filed under Title VI with WSDOT in which WSDOT is named as the Respondent should be forwarded to USDOT for investigation.
  - b. A referral letter should be sent to USDOT along with the complaint and other documents.
  - c. The Complainant must be notified immediately that the complaint has been referred to USDOT and that WSDOT has closed the complaint.
  - d. If it becomes clear that WSDOT lacks jurisdiction over a complaint, the complaint should be referred to the appropriate enforcement authority.
  - e. A “dismissal” letter, instead of the standard acknowledgment letter described above, should be sent to the Complainant **within ten (10) business days** of receiving the complaint informing the Complainant that the complaint has been received, that the allegations fall outside WSDOT’s jurisdiction and, where applicable, that the complaint has been referred to another agency.

4. The Investigator determines whether additional information is required.
  - a. FTA and FAA ONLY: If additional information is required, the Investigator should contact the Complainant **within ten (10) calendars days of receipt** of the complaint to request the additional information.
  - b. FHWA ONLY: If additional information is required, the Investigator should contact the Complainant within ten (10) calendar days of the referral from FHWA to request the additional information.
  - c. The Complainant will be given **fifteen (15) calendar days** to respond to the request for additional information.
  - d. FTA and FAA ONLY: If the complaint is complete and no additional information is needed, the Investigator will send the Complainant a letter of acceptance **within ten (10) calendar days** of receipt.
  - e. FHWA ONLY: If the complaint is complete and no additional information is needed, the Investigator will send the Complainant a letter indicating that WSDOT will be conducting an investigation within ten (10) calendar days of receiving the referral from FHWA.

### F. WSDOT Responsibilities

1. **FHWA ONLY:** Title VI complaints under FHWA jurisdiction filed directly with WSDOT against its sub-recipients should be logged by the Data and Reporting Specialist, and forwarded immediately to FHWA.
2. FTA and FAA: Title VI complaints filed directly with WSDOT against its sub-recipients should be processed by WSDOT in accordance with the USDOT approved complaint procedures as described in 23 C.F.R. § 200.9(b)(3).
3. Complaints filed with WSDOT under Section 504 of the Rehabilitation Act of 1973 (Section 504) or the ADA should be investigated by WSDOT in accordance with approved complaint procedures as described in 49 C.F.R. § 27.13(b).
4. For Title VI complaints with FHWA jurisdiction, the OECR will make every effort to complete the investigation within thirty (30) days, but no longer than sixty (60) days, from the date the referral was received from FHWA.
5. For Title VI with FTA or FAA jurisdiction; complaints filed under Section 504, the ADA; or any other federal or Washington state non-discrimination statute, the OECR will make every effort to complete the investigation within thirty (30) days, but no longer than sixty (60) days, from the date the complaint was received by WSDOT.
6. Title VI complaints: Pursuant to 23 C.F.R. § 200.9(b)(3), a copy of the complaint, together with a copy of WSDOT's report of investigation, shall be forwarded to the USDOT division office within sixty (60) days of the date the complaint was received by WSDOT, or the referral was received from FHWA (for Title VI complaints under FHWA jurisdiction), for final determination.

**G. Investigative Process. [For Title VI complaints under FHWA jurisdiction, these steps should be followed only after the FHWA instructs our office to conduct an Investigation.]**

1. The Investigator should conduct an unbiased investigation. In addition, the Investigator should not express opinions or conclusions to the public, the Complainant, or the Respondent, concerning matters under investigation unless specifically authorized to do so.
2. Scope of the Investigation
  - a. An investigation should be confined to the issues and facts relevant to the allegations in the complaint, unless evidence shows the need to extend the issues.
  - b. A future compliance review of the Respondent may be appropriate when issues identified during the investigation cannot be covered within the scope of the investigation.
  - c. After WSDOT has accepted a complaint for investigation, the Investigator should open an Investigative Case File if one has not been opened already (see Section II.D.1. above).
    - (1) The purpose of the Investigative Case File is to establish a methodology for the systematic compilation and storage of all documents, records, and information associated with the complaint. This is done in such a manner that the Case File:
      - (a) Includes and organizes all documentation generated or obtained relevant to the complaint;
      - (b) Identifies all documentation used to support the Findings made by the OECR; and
      - (c) Allows a reader of the Findings to easily verify the facts and reasoning on which the Findings are based.
    - (2) WSDOT is responsible for all Investigative Case Files regardless of whether the agency possesses the physical documents. WSDOT will provide copies of Investigative Case Files in accordance with RCW 42.56 (Washington State Public Records Act) and related federal statutes.
    - (3) Closed Investigative Case Files must be retained **for six (6) years from the date of closure**, after which they will be destroyed in accordance with WSDOT's customary document retention policy.
3. The Investigator should develop an Investigative Plan (IP).
  - a. The IP is a working document intended to define the issues and lay out the blueprint to complete an investigation.
  - b. The IP is an internal document for use by the investigator to keep the investigation on track and focused on the issues and likely sources of evidence or corroboration.



4. Request for information and cover letter.
  - a. The investigator should prepare a Request for Information (RFI) and make contact with the Respondent **within ten (10) days from the date the complaint was accepted for investigation** to advise the Respondent of the complaint and to determine the appropriate representatives of the Respondent to interview and receive the RFI.
  - b. A cover letter should be prepared and sent with the RFI explaining the complaint under investigation. The cover letter should include the Investigator's name, contact information, and information regarding any scheduled meetings.
  - c. The Respondent should be given **thirty (30) calendar days** from the date of WSDOT's RFI to provide WSDOT with the requested information and documents. WSDOT may modify the timeframe depending on the extent of the data requested or other special circumstances.
5. Interviews
  - a. Interviews should be conducted with the Complainant, Respondent, and appropriate witnesses during the investigative process.
  - b. A written record of both telephone and in-person interviews must be created and kept in the Investigative Case File.
6. Failure by the Respondent to provide access to information.
  - a. Respondents should provide investigative access to all books, records, accounts, electronic media, audiotapes, and other sources of information or facilities necessary to determine compliance.
  - b. Failure by a Respondent to cooperate fully can be grounds for a determination of noncompliance on the part of the Respondent.
7. On-Site Visits
  - a. **All ADA complaints involving the public right-of-way require an on-site review.**
  - b. On-site visits for Title VI complaints – where FHWA has jurisdiction, these steps should only be followed upon instruction by FHWA.
    - (1) After the Investigator has received and reviewed the documents requested in the RFI from the Respondent, a determination should be made as to whether an on-site visit is needed.
    - (2) A thorough investigation can often be conducted without an on-site visit to the Respondent's facility. If all the following conditions are present, an on-site visit is usually unnecessary:
      - (a) Individuals are not the primary source of information needed (e.g. interviews are unnecessary or can be done by telephone);
      - (b) All needed information can be specified precisely in the RFI and can be easily provided by the Respondent;

- (c) The Respondent can provide written documentation to verify its position in its response to the RFI; and
    - (d) There is good reason to conclude that the Complainant is the only person affected by the alleged discrimination.
  - (3) If the Investigator determines that an on-site visit is necessary, an on-site notification letter should be sent to the Respondent advising the Respondent of the planned visit.
  - (4) Upon completion of the on-site visit, but before returning to the home office, the Investigator should review the information and cross-check it with the IP and RFI to ensure that all needed information has been collected.
  - (5) Missing information should be gathered during an exit conference. The exit conference provides the Investigator with an opportunity to clarify any questions that may have arisen during the site visit, and to request any additional information.
- 8. Analyzing the evidence
  - a. The preponderance of evidence standard (evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it) is the standard used when determining compliance or violation.
  - b. The information and data collected depend upon the issues involved in the case. Properly collected and analyzed information is central to compliance investigations.
  - c. The importance of developing a thorough and complete IP of the information needed to determine compliance cannot be overemphasized.
  - d. Evidence standing alone does not prove a violation. It must be related to the policies and procedures of the Respondent and issues under investigation. To ensure the value of the collected and analyzed evidence, the Investigator should:
    - (1) Note when the document was received and from whom;
    - (2) Keep the original copy of the document clean and free from marks, tears, etc.;
    - (3) Photocopies of the documents should be made for mark up;
    - (4) Keep the documents received in a safe place so that they will not get lost or inadvertently removed by co-workers; and
    - (5) Document the circumstances under which the evidence was collected - Remember why the evidence was collected; what questions elicited the evidence; and whether any statistical techniques were applied to the evidence, and if so, what they were.

- e. When reviewing data, the Investigator should:
  - (1) Have a clear and thorough understanding of what the document says; seek clarification where needed; never read meanings into the evidence, but accept it at face value;
  - (2) Determine relevance; know what you are looking for; recognize the presence or absence of needed information;
  - (3) Verify the evidence – cross-check the evidence; identify conflicting information and resolve the conflict, if possible;
  - (4) Assemble the evidence – develop an information flow pattern; establish a logical continuity; and
  - (5) Draw conclusions – let the evidence speak for itself; test conclusions by considering possible rebuttal arguments from both Respondent and Complainant.

### 9. Exit Interview

- a. The exit interview is conducted separately for the Complainant and the Respondent. The exit interview provides an opportunity for the Investigator, as well as the Respondent and the Complainant, to clarify any questions that may have arisen during the investigation, and to provide any additional information.
- b. The Investigator should explain that this exit interview may not be an end to the investigation. The Investigator should also explain the process WSDOT will follow, if a violation is found.
- c. The Investigator may have already reached a conclusion as to whether the Respondent is in compliance or noncompliance with USDOT's requirements. Should this happen, it is important that the Investigator not communicate that opinion during the exit interview.

## H. Preparing the Investigative Report (IR)/Report of Investigation (ROI)

- 1. The Investigator should prepare an IR/ROI setting forth all the relevant facts obtained during the investigation. The IR/ROI should include a finding for each issue and recommendations where necessary. A copy of the IR/ROI should never be given to the Respondent or Complainant.
- 2. References should be used throughout the IR/ROI to direct the reader to the appropriate supporting documentation in the Investigative Case File. For large case files, it is suggested that the IR/ROI include a table of contents or index of documents and a key referencing by tab the evidence in the file relied upon in making any determination.
- 3. Upon review of the Investigator's IR/ROI, the OECR Director or Deputy Director may determine that additional evidence is necessary.

4. If the OECR Director or Deputy Director accepts the IR/ROI without any additional evidence, WSDOT will forward the IR/ROI and a copy of the Investigatory Case File to USDOT for review and final determination.
5. The OECR will notify Complainant and Respondent of WSDOT's findings, and indicate that the findings are subject to review and concurrence by USDOT.
6. Once USDOT has made its final decision and issued a Letter of Findings (LOF), WSDOT will notify Complainant and Respondent of USDOT's determination. The USDOT decision is final and not subject to administrative appeal.
7. If the Complainant or the Respondent is not satisfied with the USDOT's decision, the Complainant or Respondent may file an action in U.S. District Court.

### **III. Closing the file**

- A.** If the FHWA or OECR managers determine that the complaint will not be investigated, the managers will notify in writing the Data and Reporting Specialist responsible for logging the complaint.
  1. The Data and Reporting Specialist will prepare the appropriate documentation to close a case and mark the case as closed in SharePoint.
  2. The Data and Reporting Specialist will, where appropriate, inform the Complainant in writing that the case has been closed and why.
  3. If the case was closed because of deficiencies in the complaint, the Complainant should be informed that they are welcome to re-file the complaint if they can remedy the deficiencies.
- B.** Once all action on the case has been completed and USDOT has issued a final determination, the case may be closed.
  1. All documents relevant to the case, including the initial complaint documents, documents compiled during the investigation, and any final determination, should be forwarded to the Data and Reporting Specialist for archiving.
  2. The Data and Reporting Specialist should attach all documents electronically to the case file in SharePoint, and mark the case as closed on the SharePoint complaint tracking log.

## Appendix 8 – WSDOT Regions Map

