

WHATCOM COUNTY TITLE VI PLAN

May 2018



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Title VI Plan

Policy Statement

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

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

The Whatcom County Public Works Department is responsible for initiating and monitoring Title VI activities, preparing required reports and other Whatcom County responsibilities as required by 23 CFR 200 and 49 CFR 21.

Jack Louws, Whatcom County Executive

Date

Authorities

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

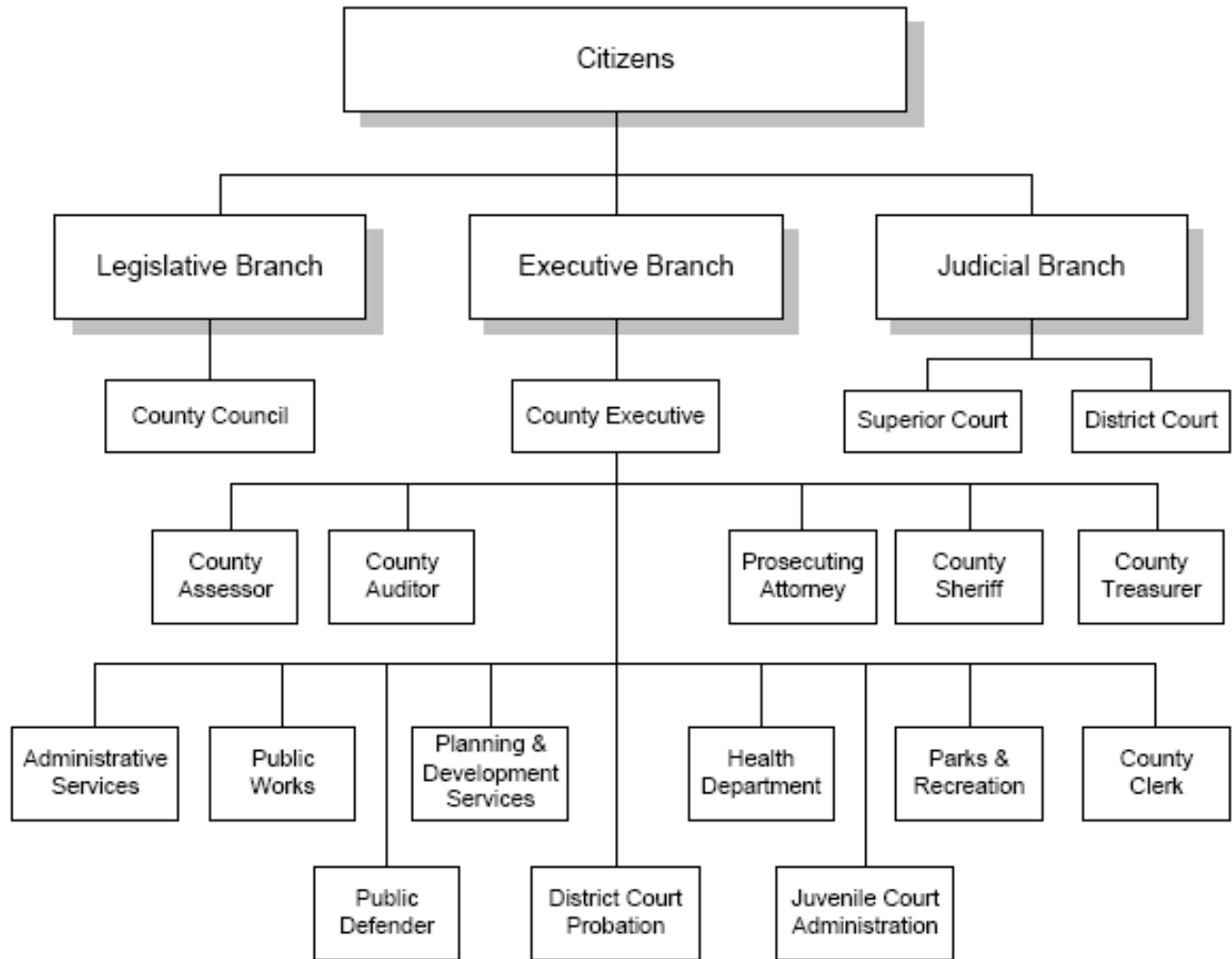
The Civil Rights Restoration Act of 1987 broadened the scope of Title VI coverage by expanding the definition of terms "programs or activities" to include all programs or activities of Federal Aid recipients, subrecipients, and contractors, whether such programs and activities are federally assisted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

Additional Authorities and Citations Include:

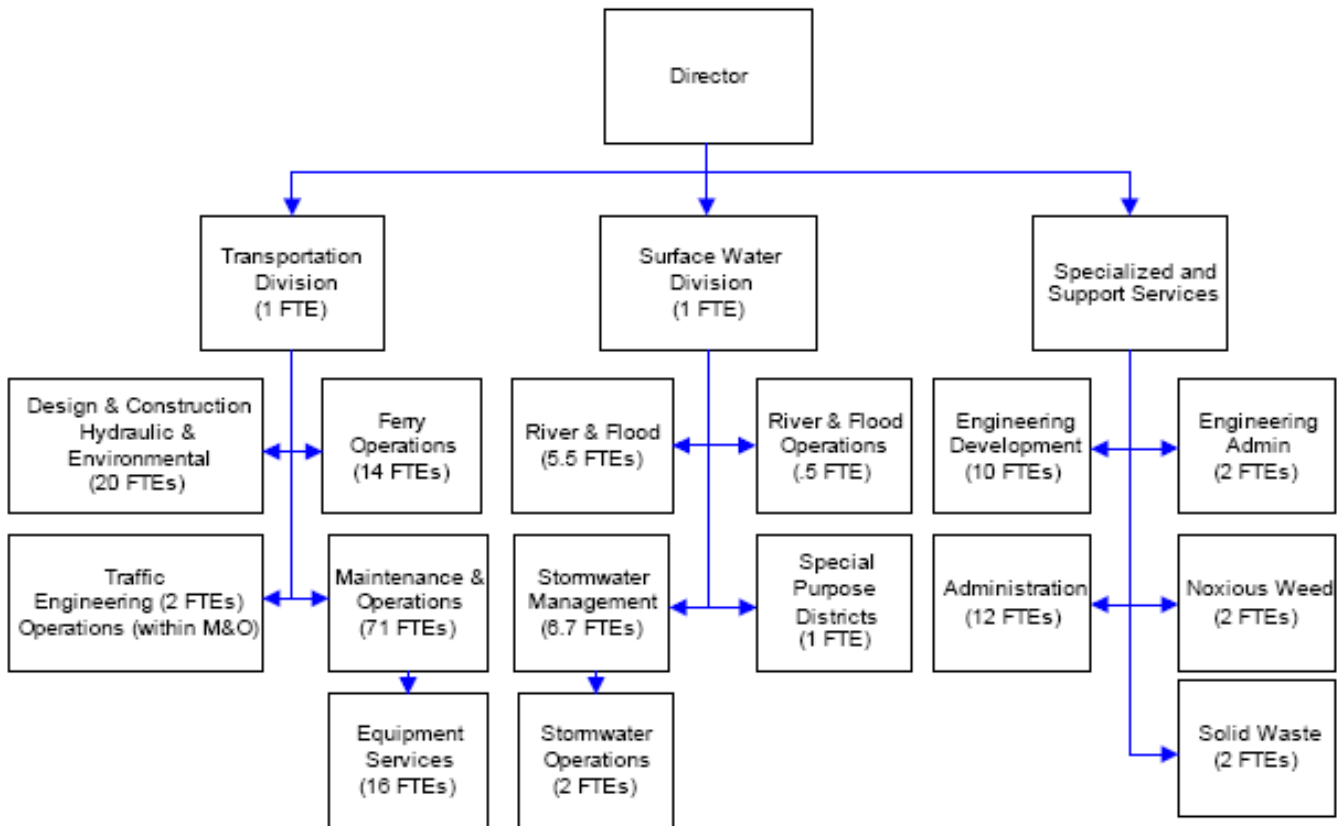
Title VI of the Civil Rights Act of 1964; 42 USC 2000d to 2000d-4; 42 USC 4601 to 4655; 23 USC 109(h); 23 USC 324; DOT Order 1050.2; EO 12250; EO 12898; 28 CFR 50.3; EO 13166.

Whatcom County Organizational Charts

Title VI Reporting Relationships



Public Works Organizational Chart



Organization and Staffing - General

The County Executive is responsible for ensuring the implementation of the County's Title VI program. The Director of the Public Works Department on behalf of the County Executive is responsible for the overall management of the Title VI program. The day-to-day administration of the program lies with the Assistant Director of the Public Works Department/County Road Engineer/Title VI Coordinator under the direct supervision of the Director of Public Works.

In addition to the Title VI Coordinator, each of the special emphasis program areas listed below shall have designated a Title VI Liaison. The liaison shall be responsible for ensuring compliance, program monitoring, reporting, and training within their respective programs.

Public Works Department

Design & Construction	Design & Construction Manager
Hydraulic & Environmental Projects	Hydraulic & Environmental Projects Manager
Maintenance & Operations	Superintendent of Maintenance & Operations
Administration	Administrative Assistant to the Director
Planning & Development Services Dept.	Assistant Director/Co. Rd Engineer
Administrative Services/ Human Resources Dept.	Human Resources Manager

Program Administration and Title VI Coordinators Responsibilities

As authorized by the County Executive, the Title VI Coordinator is responsible for initiating, monitoring, and ensuring Whatcom County's compliance with Title VI requirements as follows:

1. Process, review and investigate Title VI complaints received by Whatcom County in accordance with Complaint Procedures. If any individual believes that he or she or any other program beneficiaries have been subject to unequal treatment or discrimination as to the receipts of benefits and/or services, or on the grounds of race, color, national origin, or sex, he or she may exercise their right to file a complaint with Whatcom County. Every effort will be made to resolve complaints informally at the County and contractor level.
2. Collect statistical data (race, color, religion, sex, and national origin) of participants in, and beneficiaries of state highway programs, i.e., relocatee's, impacted citizens, and affected communities. Each of the Title VI special emphasis program areas will maintain data to be incorporated in the Title VI updates. Procedures will be reviewed regularly to ensure the data is sufficient in meeting the Title VI program administration requirements.
3. Review program areas to determine the effectiveness of program area activities at all levels. In addition to the day to day monitoring, all special emphasis program areas will be reviewed annually to assure effectiveness in their compliance of Title VI provisions. The Title VI Coordinator and program liaisons will coordinate efforts to ensure equal participation in their program areas and activities at all levels.

4. Conduct Title VI reviews when necessary of contractors and other recipients of federal aid highway funds.

5. Work with Staff to ensure the fundamental principles of Environmental Justice outlined below:

- 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.

- To ensure the full and fair participation by all potentially affected communities in the transportation decision-making process.

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

6. Develop Title VI information for public dissemination and limited English proficiency. Ensure dissemination to the general public and, where appropriate, in languages other than English.

Whatcom County will disseminate Title VI Program information to County employees, contractors, subcontractors, consultants, and subconsultants as well as the general public. Public dissemination will include posting of public statements and inclusion of Title VI language in contracts. The Title VI Policy Statement will be published in newspapers having a general circulation in the vicinity of proposed projects and announcements of hearings and meetings in minority publications.

7. Conduct pre-grant and post-grant approval reviews of County programs and applicants for compliance with Title VI requirements; i.e., highway location, design and relocation, and persons seeking contracts with the County.

8. Prepare an annual Title VI update report. The update will report on any accomplishments and changes to the program occurring during the preceding year. The update will include goals and objectives for the upcoming year.

9. Schedule training for Title VI related statutes for county employees. The training will provide comprehensive information on Title VI provisions, its application to program operations, identification of Title VI issues and resolution of complaints. All directives providing operational guidelines to all subrecipients, and special emphasis program areas will be reviewed annually to include Title VI language and provisions and related requirements, where applicable.

10. Identify and eliminate discrimination when found to exist. Work with all county offices and Departments to establish procedures for promptly resolving deficiencies. Procedures will be implemented to identify and eliminate discrimination when found to exist, including, but not limited to utilization of disadvantaged business enterprises, public involvement and property acquisition.

11. Establish procedures for promptly resolving deficiency status and reducing to writing the remedial action agreed to be necessary within a period not to exceed 90 days. Whatcom County

will actively pursue the prevention of Title VI deficiencies and violations and will take the necessary steps to ensure compliance with all program administrative requirements. When irregularities occur in the administration of the program's operation, procedures will be promptly implemented to resolve Title VI issues, and reducing to writing remedial action agreed necessary within a period not to exceed 90 days.

Subrecipients placed in a deficiency status will be given a reasonable time, not to exceed 90 days after receipt of the deficiency letter, to voluntarily correct deficiencies.

Whatcom County will seek the cooperation of the subrecipient in correcting deficiencies found during the Title VI compliance reviews. Whatcom County will also provide the technical assistance and guidance needed to aid the subrecipient to comply voluntarily.

When a subrecipient fails or refuses to voluntarily comply with requirements within the allotted time frame, Whatcom County will submit a copy of the case file to Washington State Department of Transportation (WSDOT) External Civil Rights Office or the Federal Highway Administration (FHWA) and a recommendation that the subrecipient be found in noncompliance.

A follow-up review will be conducted within 180 days of the initial review to ensure that the subrecipient has complied with the Title VI Program requirements in correcting deficiencies previously identified.

12. Maintain updated legislative and procedural information regarding Whatcom County's Title VI Program. This will include federal laws, rules and regulations, WSDOT guidelines, Whatcom County Plan and updates, and other resource information pertaining to Title VI issues.

Complaint Procedures for Federally Assisted Programs and Activities

These procedures cover all complaints filed under Title VI of the Civil Rights Act of 1964 as amended, (including its Disadvantaged Business Enterprises (DBE), Equal Employment Opportunity (EEO) and On-the-Job Training (OJT) Program components) Section 504 of the Rehabilitation Act of 1973, Civil Rights Restoration Act of 1987, and the Americans with Disabilities Act of 1990, relating to any transportation or Public Works program or activity administered by Whatcom County, as well as to sub-recipients, consultants, and contractors. These procedures apply to complaints filed against a program and/or activity funded by either the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA) or the Federal Aviation Administration (FAA).

Intimidation or retaliation of any kind is prohibited per Title 49, Code of Federal Regulations, Part 21.11(e).

The procedures do not deny the right of the complainant to file formal complaints with other state or federal agencies or to seek private counsel for complaints alleging discrimination.

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

Every effort will be made to obtain early resolution of complaints at the lowest level possible. The option of informal mediation meeting(s) between the affected parties and the investigator may be utilized for resolution at any stage of the process. The investigator will make every effort to pursue a resolution of the complaint. Initial interviews with the complainant and the respondent will request information regarding specifically requested relief and settlement opportunities.

Procedures

1. Any individual, group of individuals or entity that believes they have been subjected to discrimination prohibited by Title VI nondiscrimination provisions may file a written complaint with Whatcom County. A formal complaint must be filed within 180 calendar days of the alleged occurrence, or when the alleged discrimination became known to the complainant. The complainant must meet the following requirements:

- a. Complaint shall be in writing and signed by the complainant(s).
- b. Present the date of the alleged act of discrimination (date when the complainant(s) became aware of the alleged discrimination; or the date on which that conduct was discontinued or the latest instance of the conduct).
- c. Present a detailed description of the issues including names and job titles of those individuals perceived as parties in the complained of incident.
- d. Allegations received by fax or e-mail will be acknowledged and processed, once the identity(ies) of the complainant(s) and the intent to proceed with the complaint have been established. For this, the complainant is required to mail a signed, original copy of the fax or e-mail transmittal for Whatcom County to be able to process it.
- e. Allegations received by telephone will be reduced to writing and provided to the complainant for confirmation or revision before processing. A complaint form will be forwarded to the complainant for him/her to complete, sign and return to Whatcom County for processing.

2. Upon receipt of the complaint, Whatcom County will determine its jurisdiction, acceptability, need for additional information, and the investigative merit of the complaint. In cases where the complaint is against one of Whatcom County's subrecipients of federal highway funds, Whatcom County will assume jurisdiction and will investigate and adjudicate the case. Complaints against Whatcom County will be referred to the Washington State Department of Transportation (WSDOT) Office of Equal Opportunity for proper disposition. In special situations warranting intervention to ensure equity, the WSDOT Office of Equal Opportunity may assume jurisdiction and either complete or obtain services to review or investigate matters.

3. Acceptance of a complaint will be determined by:

- a. Whether the complaint is timely filed;
- b. Whether the allegations involve a covered basis such as race, color, national origin, gender, disability or retaliation;
- c. Whether the allegations involve a program or activity of a Federal-aid recipient,

subrecipient, or contractor; or, in the case of ADA allegations, an entity open to the public;

d. The complainant(s) acceptance of reasonable resolution based on the Department's administrative authority (reasonability to be determined by Whatcom County).

4. A complaint may be dismissed for the following reasons:

a. The complainant requests the withdrawal of the complaint;

b. The complainant fails to respond to repeated requests for additional information needed to process complaint;

c. The complainant cannot be located after reasonable attempts.

5. Whatcom County has sole authority for accepting complaints for investigation. Once the County decides to proceed with the investigation, the complainant and the respondent will be notified in writing of the determination within five (5) calendar days. The complaint will receive a case number and then be logged into Whatcom County's records identifying its basis, alleged harm, the race, color, national origin and gender of the complainant(s).

6. In cases where Whatcom County assumes investigation of the complaint, the County will provide the respondent with the opportunity to respond to the allegations in writing. The respondent will have ten (10) calendar days from the date of Whatcom County's written notification of acceptance of the complaint to furnish his/her response to the allegations.

7. Within 40 calendar days of the acceptance of the complaint, the Whatcom County or WSDOT investigator will prepare an investigative report for the Public Works Director and the County Executive. The report shall include a narrative description of the incident, identification of persons interviewed, findings and recommendations for disposition. The Public Works Director and County Executive will have 10 calendar days to review and provide comments to the investigator.

8. Once the investigator addresses any comments to the preliminary investigative report, the report and its findings will be forwarded to the Prosecuting Attorney's (PA) Office for review. The PA will review the report and associated documentation and will provide input within 10 calendar days.

9. Any comments or recommendations from the PA will be reviewed by the County Executive. There will be a period of 10 calendar days for the County Executive to discuss the report and any recommendations with the Public Works Director, and have the Title VI Coordinator address any modifications as needed and made final for its release to the corresponding United States Department of Transportation (USDOT) modality (FHWA, FTA, FAA).

10. Whatcom County's final investigative report and a copy of the complaint will be forwarded to either FHWA, FTA, or FAA, within 60 calendar days of the acceptance of the complaint.

11. Whatcom County will notify the parties of its preliminary findings which are subject to the corresponding USDOT modality's concurrence.

12. The corresponding USDOT modality will issue the final decision to Whatcom County based on the County's investigative report.

13. USDOT will analyze the facts of the case and will issue its conclusion to the complainant according to their procedures. Once the corresponding USDOT modality issues its final decision, Whatcom County will notify all parties involved about such determination. USDOT's final determination is not subject to an appeal.

Special Emphasis Program Areas

A. Planning & Location Activities

1. **Planning Process.** The County Road Engineer has a responsibility for providing long-range planning program development, and capital programming necessary to provide efficient transportation services to Whatcom County citizens. The County Road Engineer updates and coordinates Whatcom County's six-year program for transportation improvement programs and projects. The update also informs other Whatcom County jurisdictions of the current planning direction for transportation needs. Projects included in the update are the result of evaluation and prioritization of needs in various transportation areas. The evaluation process includes input from various divisions in the department, cities, local jurisdictions and organizations, citizen groups, and private individuals. All six-year plans must be consistent with the adopted Comprehensive Plan approved under the State's Growth Management Act.

2. **Authorities.** Whatcom County Code Title 12, Washington Administrative Code 136 (Standards of Good Practice); 23 CFR 450; RCW 35.77; RCW 36; RCW 47.06 Statewide Transportation Planning; RCW 47.80 Regional Transportation Planning Organization (RTPO)

3. **Public Involvement in Planning Activities & Title VI**

a) Invite participation of a cross section of the populace from social, economic, and ethnic groups in the planning process by disseminating written program information to minority media and ethnic organizations, and providing public service announcements for all local media, when forming citizen advisory committees or planning board, and requesting involvement.

b) Public Works staff will obtain demographic statistics at applicable community meetings and public hearings involving transportation planning sessions. Data will be gathered through use of a voluntary self-reporting form that includes race, gender, and national origin. Copies of the completed forms will be provided to Title VI Coordinator after each meeting.

c) To ensure access to public meetings, evening meetings will be conducted in a variety of community buildings throughout the Agency, including those along transit routes, ensure translation services are available if anticipated, and ensure public meetings are held in predominantly minority communities when transportation projects will specifically impact those communities.

B. Consultant Contracts Activities

1. **Consultant Contracts Administration.** Each Public Works Transportation Section

Manager is responsible for recommending consultant firms to the County Road Engineer for final selection, negotiation and award. Each Transportation Section Manager administers awarded consultant contracts.

2. Authorities. Whatcom County Code Title 3.08; WSDOT Local Agency Guidelines; 48 CFR 31; 23 CFR 172

3. Consultant Selection Process. Public Works Transportation Division staff will request qualifications from consulting engineering firms specializing in various aspects of civil engineering which may relate to public works projects and the development of construction plans and special provisions for roads and bridges, design work associated with structures, performing environmental studies or preparing National Environmental Policy Act (NEPA) or State Environmental Policy Act (SEPA) documents for public works projects. Consultant selection from the certified list maintained by the Administration Division adheres to Washington State regulations (RCWs) and is consistent with Whatcom County vendor policies.

4. Title VI Assurances and Provisions

- a) Include applicable Disadvantaged Business Enterprise (DBE) goals in designated projects, and seek to proactively achieve the goal(s).
- b) Include Title VI assurance and provision language in all Federally funded consultant contracts. Periodically review documents and language to ensure compliance with current laws and regulations. Provide a copy of the form of the contract to the Coordinator, and any amendments or updates that may occur over time.
- c) A county staff member will maintain updated demographic data on the utilization of women-and minority-owned consulting firms. As they occur, a copy of the award letter will be provided to the Coordinator for use in preparing the Annual Update Accomplishment Report.

C. Design & Construction/Hydraulic & Environmental Projects

1. The Design & Construction and Hydraulic & Environmental Projects Sections are responsible for the Capital Improvement Program (CIP) and environmental permitting for projects. Studies are performed to assess various environmental factors as they relate to the implementation of the agency's annual road program, including evaluating demographic data.

2. Authorities. Whatcom County Code Title 12; Local Agency Guidelines - WSDOT-M36-63; Standard Plans For Road, Bridge and Municipal Construction-WSDOT; APWA - M21-01; Title 23, USC 109(d), 14(a), 217, 315 and 402(a); 23 CFR 1204.4; 23 CFR 771; EO 12898; 49 CFR 1.48(b)(33) and 1.48(c)(2); National Environmental Policy Act of 1969, 42 USC 4321; 40 CFR Part 1500; 49 CFR Part 622; WSDOT EPM M31-1; EO 12898

3. Design & Construction/Hydraulic & Environmental Projects Review Process and Title VI

- a) Depending on the scope, complexity, and impacts of a project, a National Environmental Policy Act (NEPA), NEPA Categorical Exclusion, NEPA Environmental Assessment, State Environmental Policy Act (SEPA) checklist,

SEPA Determination of Non Significance, or NEPA and/or SEPA Environmental Impact Statement will be completed.

b) Monitor compliance with Title VI requirements in all aspects of conducting Environmental Impact Statements or Assessments. Provide a comprehensive summary of the demographic and environmental data elements to be considered by the EIS/EIA process to the Coordinator; including updated summary lists as applicable. Incorporate into the review process, adequate time for the Coordinator to review and comment, as applicable, on the draft EIS/EIA to ensure there are no violations of the Federal Civil Rights Act, as amended, as a result of the Agency's Federal-aid highway activities.

c) In order to ensure dissemination of information and foster participation from affected populations, the Public Works staff will place public notices in applicable general and minority media; select accessible locations and times for public hearings or meetings, and arrange for translation services as needed; particularly in projects impacting predominantly minority communities. Ensure the public has information pertaining to their rights to call or write the department to view plans and discuss environmental problems.

d) Public Works staff will obtain demographic data at community meetings and public hearings pertaining to the transportation design phase. Data will be gathered through use of a voluntary sign-up form which includes race, gender, and national origin. Copies of the voluntary self-reporting forms will be provided to the Coordinator after each meeting.

e) Public Works staff shall provide a copy of the Annual Construction Report to the Title VI Coordinator in or around April of each year. The Coordinator shall work with the Agency GIS Department to generate a map of the Federally funded transportation projects to include demographic data of the neighborhoods effected by the projects.

D. Right-of-way Activities

1. The Design & Construction and Hydraulic & Environmental Projects Sections, in conjunction with the real estate manger, manage and coordinate the appraisal and acquisition of real property and relocation assistance services for public works transportation projects. The right of way acquisition process entails appraisal of property, negotiation of terms and conditions for acquisition, and assistance in the relocation of displaced individuals, businesses, farm operations, nonprofit organizations, and property management. The Design & Construction and Hydraulic & Environmental Projects Sections are located within the Transportation Section of Public Works.

2. Authorities. Right of Way Manual; 23 CFR 130; 49 CFR 24; RCW Chapter 47; WAC 468.100

3. Right-of-way Activities and Title VI

a) Ensure equal opportunity in all aspects of procuring real estate service contracting and appraisal agreements. Follow adopted Agency vendor procurement policies in the acquisition of contracted services.

b) Utilize current Office of Minority and Women's Business Enterprises (OMWBE) directories identifying fee appraiser organizations and the Washington State Department of Transportation's list of certified fee appraisers when seeking

services. Maintain data on awards to minority and female appraisers, and provide data to the Title VI Coordinator on a quarterly basis.

c) Follow the guidelines in the Right-of-Way Manual for property acquisition as well as applicable laws and regulations, including Title VI and Section 504.

d) Adhere to departmental policy of apprising affected property owners, tenants, and others involved in right-of-way acquisition of their rights and options regarding negotiation, relocation, condemnation and other aspects of the acquisition process. Provide copies of relocation assistance literature produced by WSDOT and a copy of the Whatcom County Title VI Compliance brochure to all affected parties.

e) Incorporate Title VI language and assurance statements in all surveys of property owners and tenants after the conclusion of all business. Coordinate the preparation of deeds, permits and leases to ensure the inclusion of the appropriate clauses, including Title VI Assurances.

f) Ensure that appraised values and communications associated with the appraisal and negotiation operations result in equitable treatment

g) Ensure comparable replacement dwellings are available and assistance is given to all displaced persons and entities by the property acquisition process.

h) Maintain statistical data including race, color, national origin, and sex on all relocatees affected by Federally funded projects, and provide detailed demographic data quarterly to the Title VI Coordinator.

E. Construction and Maintenance Activities

1. The Design & Construction and Hydraulic & Environmental Projects Sections. These sections are located in the Transportation Division, and are responsible for administration of all new construction contracts and inspecting bridges. The Design & Construction and Hydraulic & Environmental Projects Sections are responsible for oversight and the administration of transportation construction projects, as set forth by policy decisions and supervision of the Whatcom County Road Engineer.

2. Authorities. Construction Manual M41-01; Maintenance Manual M51-01; Local Agency Guidelines; Standard Specifications for Road, Bridge, and Municipal Construction.

3. Maintenance. The Maintenance and Operations Section is responsible for the efficient program for maintaining Whatcom County roads and bridges by economically utilizing the resources of contractors, equipment, and materials.

4. Authorities. Maintenance Manual M 51-01; Construction Manual M 41-01; Standard Specifications for Road, Bridge and Municipal Construction Section (M 41-10); Whatcom County Road Standards.

5. Construction and Maintenance Activities and Title VI

a) Review all federally funded projects for application of Disadvantaged Business Enterprises (DBE) goals. As appropriate, include DBE provisions in those projects with designated goals. Include Title VI language in bid announcements and applicable construction documents, as stipulated in the Agency's Title VI Policy Statement (p. 1) and Assurances (Appendix 2, p.15) herein.

b) Award construction contracts on the basis of lowest responsive bidder, as well

as meeting DBE requirements. Include Title VI language in prime contract award letters to encourage utilization of DBE subcontracts and vendors.

c) Ensure that prime contractors with DBE requirements award contracted work to qualified DBE's that perform commercially useful functions.

d) Monitor all maintenance and construction operations to ensure nondiscrimination throughout all operations.

e) Coordinate the gathering of maintenance and construction information regarding DBE participation for the Annual Title VI Report; and provide to the Coordinator.

Appendix 1 -- Whatcom County Title VI Notice to Public

Whatcom County hereby gives public notice that it is the County's policy to assure full compliance with Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, and related statutes and regulations in all programs and activities. Title VI requires that no person in the United States of America shall, on the grounds of race, color, sex, or national origin be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which Whatcom County receives federal financial assistance.

Any person who believes they have been aggrieved by an unlawful discriminatory practice under Title VI has a right to file a formal complaint with Whatcom County. Any such complaint must be in writing and filed with the Whatcom County Title VI Coordinator within one hundred eighty (180) days following the date of the alleged discriminatory occurrence. Title VI Discrimination Complaint forms may be obtained from this office at no cost to the complainant by calling (360) 715-7450.

Appendix 2 -- Whatcom County Title VI Assurances

Whatcom County (hereinafter referred to as the "Recipient"), HEREBY AGREES THAT as a condition to receiving any federal financial assistance from the U.S. Department of Transportation it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000d--42 USC 2000d--4 (hereinafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation--Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the Regulations), and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, no person in the United States shall, on the grounds of race, color, sex, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives federal financial assistance from the Washington State Department of Transportation, including the Federal Highway Administration, and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement. This Assurance is required by Subsection 21.7(a)(1) of the Regulations.

More specifically and without limiting the above general assurance, the Recipient hereby gives the following specific assurances:

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

Whatcom County in accordance with Title VI of the Civil Rights Act of 1964 and 78 Stat. 252, 42 USC 2000d--d4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, part 21, Nondiscrimination in federally assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, or national origin in consideration for an award.

3. That the Recipient shall insert the clauses of Appendix 1 of this Assurance in every contract subject to the Act and the Regulations.

Appendix 2 -- Whatcom County Title VI Assurances

4. That the Recipient shall insert the clauses of Appendix 2 of this Assurance, as a covenant running with the land, in any deed from the United States effecting a transfer of real property, structures, or improvements thereon, or interest therein.
5. That where the Recipient receives federal financial assistance to construct a facility, or part of a facility, the Assurance shall extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives federal financial assistance in the form, or for the acquisition of real property, or an interest in real property, the Assurance shall extend rights to space on, over or under such property.
7. That the Recipient shall include the appropriate clauses set forth in Appendix 3 of this Assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Recipient with other parties: (a) for the subsequent transfer of real property acquired or improved under the Federal Aid Highway Program; and (b) for the construction or use of or access to space on, over or under real property acquired, or improved under the Federal Aid Highway Program.
8. That this Assurance obligates the Recipient for the period during which federal financial assistance is extended to the program, or is in the form of, personal property, or real property or interest therein or structures or improvements thereon, in which case the Assurance obligates the Recipient or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which the federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the Recipient retains ownership or possession of the property.
9. The Recipient shall provide for such methods of administration for the program as are found by the Secretary of Transportation, or the official to whom she/he delegates specific authority to give reasonable guarantee that it, other recipients, subgrantees, contractors, subcontractors, transferees, successors in interest, and other participants of federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations, and this Assurance.
10. The Recipient agrees that the United States has a right to seek judicial endorsement with regard to any matter arising under the Act, the Regulations, and this Assurance.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all federal grants, loans, contracts, property, discounts or other federal financial assistance extended after the date hereof to the Recipient by the Department of Transportation under the Federal Aid Highway Program and is binding on it, other recipients, subgrantees, contractors, subcontractors, transferees, successors in interest and other participants in the Federal Aid

Appendix 2 -- Whatcom County Title VI Assurances

Highway Program. The person whose signature appears below is authorized to sign this Assurance on behalf of the Recipient.

Jack Louws, Date
Whatcom County Executive

Approved as to form only

Daniel L. Gibson, Date
Assistant Chief Deputy Prosecuting Attorney

Appendix 3 - For Contractors, Subcontractors, Suppliers, and Manufacturers

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

1. Compliance With Regulations

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

2. Nondiscrimination

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

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

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

4. Information and Reports

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

5. Sanctions for Noncompliance

In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, Whatcom County and the Washington State Department of Transportation shall impose such contract sanctions as it, or the Federal Highway Administration may determine to be appropriate, including, but not limited:

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

Appendix 3 - For Contractors, Subcontractors, Suppliers, and Manufacturers

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

6. Incorporation of Provisions

The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontractor or procurement as Whatcom County or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance.

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request Whatcom County enter into such litigation to protect the interests of the County and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Appendix 4 –Requirements for Deeds Affecting or Recording Transfers from United States

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

GRANTING CLAUSE

NOW, THEREFORE, Whatcom County, as authorized by law, and upon the condition that the State of Washington will accept title to the lands and maintains the project constructed thereon, in accordance with Title 23, United States Code, the Regulations for the Administration of Federal Aid for Highways and the policies and procedures prescribed by the Federal Highway Administration of the Department of Transportation and, also in accordance with and in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, part 21, Nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter referred to as the Regulations) pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252:42 USC 2000d to 2000d--4) does hereby remise, release, quitclaim, and convey unto the State of Washington all the right, title, and interest of the Department of Transportation in and to said land described in Exhibit A attached hereto and made a part thereof.

HABENDUM CLAUSE

Pursuant to the provisions of Title VI Assurances: The purchaser, for itself, himself or herself, its, his or her heirs, personal representatives, successors in interest and assigns does hereby covenant and agree that in the event facilities are constructed, maintained or otherwise operated on the property being purchased, for a purpose for which a United States Department of Transportation (USDOT) program or activity is extended or for another purpose involving the provision of similar services or benefits, the purchaser shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, USDOT Subtitle A, Office of the Secretary, part 21, Non-discrimination in federally assisted programs of the USDOT-Effectuation of Title VI of the Civil Rights Act of 1964, as said Regulations may be amended.

The purchaser, for itself, himself or herself, its, his or her heirs, personal representatives, successors in interest and assigns does hereby covenant and agree that (1) no person, on the grounds of race, color, sex or national origin shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and furnishings of services thereon, no person, on the grounds or race, color, sex or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the purchaser shall use the premises in compliance with all requirements imposed by , or pursuant to Title 49, Code of Federal Regulations, USDOT Subtitle A, Office of the Secretary, part 21, Non-discrimination in federally assisted programs of the USDOT-Effectuation of Title VI of the Civil Rights Act of 1964, as said Regulations may be amended.

Appendix 5 – Requirements for Instruments Entered into by Whatcom County

The following clauses shall be included in all deeds, licenses, leases, permits, or similar instruments entered into by Whatcom County pursuant to the provisions of Assurances, number 7.

The LESSEE, for himself or herself, his or her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this lease, for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the LESSEE shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, part 21, Nondiscrimination in federally assisted programs of the department of Transportation -- Effectuation of Title VI of the Civil Rights Act of 1964, as said Regulations may be amended.

That in the event of breach of any of the above non-discrimination covenants, the County shall have the right to terminate the lease, and to reenter and repossess said land and the facilities thereon, and hold the same as if said lease had never been made or issued.

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by Whatcom County pursuant to the provisions of Assurances, number 7.

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

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