

Island Regional Transportation Planning
Organization
Title VI Plan and Assurances

Beginning date of Plan _____

Bill Oakes, IRTPO Executive Director

Prepared by: _____

Susan Driver, Transportation Planner
Email: s.driver@islandcountywa.gov

Phone#: 360-678-7959

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I. Title VI Policy Statement

It is the policy of the Island Regional Transportation Planning Organization (IRTPO) that no person shall on the grounds of race, color, and national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in any operation of IRTPO as provided by Title VI of the Civil Rights Act of 1964 and related statutes.

This policy applies to all operations of IRTPO, including its contractors and anyone who acts on behalf of IRTPO. This policy also applies to the operations of any department or agency to which IRTPO extends federal financial assistance. Federal financial assistance includes grants, training, equipment usage, donations of surplus property, and other assistance.

Prohibited discrimination may be intentional or unintentional. Seemingly neutral acts that have disparate impacts on individuals of a protected group and lack a substantial legitimate justification are a form of prohibited discrimination. Harassment and retaliation are also prohibited forms of discrimination.

Examples of prohibited types of discrimination based on race, color, national origin, sex, disability, or age include: Denial to an individual any service, financial aid, or other benefit; Distinctions in the quality, quantity, or manner in which a benefit is provided; Segregation or separate treatment; Restriction in the enjoyment of any advantages, privileges, or other benefits provided; Discrimination in any activities related to highway and infrastructure or facility built or repaired; and Discrimination in employment.

Title VI compliance is a condition of receipt of federal funds. The Title VI Coordinator is authorized to ensure compliance with this policy, Title VI of the Civil Rights Act of 1964, 42 USC § 2000d and related statutes, 42 USC 4601 to 4655; 23 USC 109(h); 23 USC 324; DOT Order 1050.2; EO 12250; EO 12898; 28 CFR 50.3 and 49 CFR part 21.

Signed: _____
Executive Director

_____, 20____
Date

II. Organization, Staffing, and Structure

Executive Director, Bill Oakes, is ultimately responsible for assuring full compliance with the provisions of Title VI of the Civil Rights Act of 1964 and related statutes and has directed that non-discrimination is required of all IRTPO employees, contractors, and agents pursuant to 49 CFR Part 21.

IRTPO has created the position of Transportation Planner to perform the duties of the Title VI Coordinator and ensure implementation of their Title VI program. The position of Transportation Planner is located within IRTPO.

The Title VI Coordinator is responsible for:

- Submitting a Title VI plan and annual reports on the agency's behalf;
- Developing procedures for the prompt processing and disposition of complaints;
- Investigating complaints, compiling a complaint log, and reporting to WSDOT;
- Developing procedures for the collection and analysis of statistical data;
- Developing a program to conduct Title VI reviews of program areas;
- Conducting annual Title VI assessments of pertinent program areas;
- Developing Title VI information for dissemination; and
- Establishing procedures for resolving deficiency status and reducing to writing the remedial action agreed to be necessary.



III. Primary Program Area Descriptions & Review Procedures

Title VI Coordinator's Responsibilities and Program Administration – As authorized by the Agency Administrator, the Title VI Coordinator is responsible for initiating, monitoring, and ensuring IRTPO's compliance with Title VI requirements as follows:

Program Area	General Description	Title VI/Non-Discrimination Concerns and Responsibilities	Review Procedures for Ensuring Non-Discrimination
<i>Planning and Public Engagement</i>	1. Posting of documents including: meeting notices, requests for proposals, requests for public comments, surveys, and both draft & adopted documents. 2. Facilitating open public meetings.	1. Providing document translation for any identified LEP populations. Currently, the IRTPO service area doesn't meet the threshold requiring vital records to be translated for LEP populations. However, the Tagalog population is close to the 1000 person threshold. 2. In 2020, with restrictions on public gatherings, the greatest challenge to non-discrimination is the potential lack of Internet or cell phone access among rural populations, particularly rural low-income populations.	1. Periodically monitor demographic data as available to track potential LEP populations. Note that anyone can request free interpretation/translation services on all public documents. Carefully review any complaints from non-English-speaking populations. 2. Ensure that public review documents and public meeting information is distributed by newspaper, newsletter, postal notices, or other sources that do not limit information and participation to only those with access to technology.

IV. Review Procedures

Title VI Program reviews will be performed by the Coordinator to assess administrative procedures, staffing, and resources available for Title VI compliance. All programs are reviewed annually to ensure effectiveness in their compliance with Title VI provisions. The Title VI Coordinator works to ensure equal participation in all programs and activities at all levels. All operational guidelines to contractors, sub-recipients, and program areas are reviewed annually to ensure inclusion of Title VI language, provisions, and related requirements, where applicable.

Consultant Contracts Coordination

A. Consultant Contracts

The IRTPO Title VI Coordinator, is responsible for leading the process for consultant selection, negotiation, and the administration of consultant contracts.

B. Authorities

- 48 CFR 31
- 23 CFR 172
- RCW 39.29
- RCW 39.80

C. Consultant Selection Process

IRTPO operates under its adopted bylaws and all relevant federal and state laws. Selection of consultants is generally made by an ad hoc Consultant Selection Committee, which is established for each major project. The committee typically comprises IRTPO staff members, technical staff from affected local jurisdictions, and staff from affected agencies.

D. Title VI Responsibilities

- Ensure DBE opportunities exist.
- Ensure that all federally funded consultant contracts administered by IRTPO have the appropriate Title VI provisions included.
- Review directives and procedures to ensure Title VI compliance.
- Maintain necessary data and documentation required for completion of IRTPO's Title VI Update Annual Report.

V. Data Collection/Reporting/Analysis

Program Area	Type of Data Collected & Process for Collecting	Intended Outcome of Data Analysis (i.e. Title VI Purpose for Collecting the Data)
Human Services Transportation Planning	US Census data, WA Office of Financial Management Population Tables, School District student demographics	Identification of minority, low-income, or LEP population centers. This information is used to help identify needs and prevent discrimination in planning regional transportation options, public and private. Special population centers are mapped, along with potential destinations such as job centers, schools, medical and other services, shopping, etc. (Elderly and disabled population centers are also mapped.)
Regional Transportation Planning	In addition to the above, origin/destination statistics and traffic data.	Identification of minority, low-income, or LEP population centers. This information is used to help identify needs and prevent discrimination in planning regional transportation options, public and private. Special population centers are mapped, along with potential destinations such as job centers, schools, medical and other services, shopping, etc. (Elderly and disabled population centers are also mapped.)

VI. Title VI Training

Address plans for LPA Title VI staff to attend NHI, FHWA, and/or WSDOT training

In keeping with adopted IRTPO policy of nondiscrimination, IRTPO employees have equal access to applicable educational and training opportunities. IRTPO staff will maintain program administration documentation and data necessary for preparation of annual Title VI reports, and will routinely supply the necessary data to the Title VI Coordinator.

Address how LPA will train staff members and subrecipients. The Title VI Coordinator is responsible for overall Title VI related training and staff development for Title VI Specialists and other employees. The Coordinator will organize or conduct a minimum of one internal Title VI training session annually. The Coordinator will organize and facilitate the provision of Title VI training sessions for Executive Board members, consultants, contractors, and subcontractors periodically. WSDOT's Office of Equal Opportunity may be asked to provide applicable training.

VII. Title VI Complaint Procedures

The Title VI Coordinator, with assistance from Washington State Department of Transportation (WSDOT) program liaisons, is assigned the responsibility for implementing, monitoring, and ensuring IRTPO's compliance with Title VI regulations. Title VI complaint procedures follow:

Discrimination Complaint Procedure for IRTPO

Federal law prohibits discrimination on the basis of race, color, or national origin in any IRTPO program, service, or activity. This prohibition applies to all branches of IRTPO, its contractors, consultants, and anyone else who acts on behalf of IRTPO.

Complaints related to the Federal-aid programs may be filed with IRTPO. and will be forwarded to Washington State Department of Transportation – Office of Equal Opportunity. If you need assistance to file your complaint or need interpretation services, please contact Susan Driver (IRTPO's Title VI Coordinator).

Who is eligible to file a complaint?

Anyone who believes they have been excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any IRTPO program, service, or activity because of their race, color, or national origin may file a complaint.

Discrimination includes lack of access, harassment, retaliation and disparate impacts from a program or activity. Harassment includes a wide range of abusive and humiliating verbal or physical behaviors. Retaliation includes intimidating, threatening, coercing, or engaging in other discriminatory conduct against anyone because they filed a complaint or otherwise participated a discrimination investigation.

How do you file a complaint?

Complaints must be filed no later than 180 days from the last date of the alleged discrimination. Contact Susan Driver (IRTPO's Title VI Coordinator) if you believe your complaint may fall outside this deadline.

Reasonable efforts will be made to assist persons with disabilities, non-English speakers, and others unable to file a written complaint. For assistance in filing a complaint, please contact Susan Driver (IRTPO's Title VI Coordinator).

Complaints should be in writing, signed, and may be filed by mail, fax, in person, or e-mail. If a complainant phones IRTPO with allegations, the allegations of the complaint will be transcribed as provided by phone and then the written complaint will be sent to the complainant for correction and signature.

A complaint should contain the following information:

- The complainant's contact information, including, if available: full name, mailing address, phone number (and best time to call), and email address (if available);
- The basis of the complaint (e.g., race, color, national origin);
- The names of specific person(s) and/or agencies/organizations alleged to have discriminated;
- A description of the alleged discriminatory actions, meaning sufficient information to understand the facts that led the complainant to believe that discrimination occurred in a program or activity that receives Federal financial assistance; and
- The date(s) of the alleged discriminatory act(s) and whether the alleged discrimination is ongoing.

All Title VI complaints are logged. The Complaint log must contain the following information for each complaint filed:

- The name and address of the person filing the complaint.
- The date of the complaint.
- The basis of the complaint.
- The disposition of the complaint.
- The status of the complaint.

The Complaint Log and documentation are destroyed four years after the end of the fiscal year in which the case is closed.

IRTPO then forwards complaints to WSDOT-Office of Equal Opportunity for processing by FHWA. [WSDOT investigates complaints only if delegated by FHWA after acceptance of a complaint.] FHWA is responsible for all determinations regarding whether to accept, dismiss, or transfer the complaint and finding no violation or failure to comply.

Complainants have the right to file a complaint directly with the federal funding agency. The following address is where Title VI complaints may be filed directly with FHWA:

Federal Highway Administration
U.S. Department of Transportation Office of Civil Rights
1200 New Jersey Avenue, SE

8th Floor E81-105
Washington, DC 20590

CivilRights.FHWA@dot.gov

What happens after a complaint is filed?

If your complaint is forwarded to another agency, you will be provided the name and contact information of the employee handling your complaint.

Federal law prohibits retaliation against individuals because they have filed a discrimination complaint or otherwise participated in a discrimination investigation. Any alleged retaliation should be reported in writing to the investigator.

FHWA will render final decisions in all cases including those investigated by WSDOT. There are no administrative appeal forums in Title VI complaints. Once FHWA issues its final agency decision, a complaint is closed.

There is no prohibition against a complainant filing a Title VI complaint simultaneously with an LPA, WSDOT, and FHWA.

Record of Complaints

As of October 2020, IRTPO has never received a Title VI complaint alleging discrimination. Furthermore, IRTPO has never been involved in any Title VI investigations or lawsuits.

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VIII. Title VI Complaint Form

Please complete this form to the best of your ability. If you need translation or other assistance, contact Susan Driver, IRTPO Transportation Planner.

Name _____
Address _____ City _____ Zip _____
Phone: Home _____ Work _____ Mobile _____
Best time of day to contact you about this complaint: _____
Email: _____

Basis of Complaint (circle all that apply):

Race	Color	National Origin (includes language access)
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Date of alleged incident: _____

Who discriminated against you?

Name _____
Name of Organization _____
Address _____ City _____ Zip _____
Telephone _____

Explain what happened, why you believe it happened, and how you were discriminated against. Indicate who was involved. Be sure to include how other persons were treated differently than you. If you have any other information about what happened, please attach supporting documentation to the form. (Attach additional pages if more space is needed.)

What remedy are you seeking for the alleged discrimination? Please note that this process will not result in the payment of punitive damages or financial compensation.

List any other persons that we should contact for additional information in support of your complaint. Please list their names, phone numbers, address, email address below.

Have you filed your complaint, grievance, or lawsuit with any other agency or court?

Who _____ When _____

Status (pending, resolved, etc.) _____ Result, if known _____

Complaint number, if known _____

Do you have an attorney in this matter? _____

Name (print) _____

Phone _____ Address _____

City _____ Zip _____

Signed _____ Date _____

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IX. Public Participation

- *IRTPO distributes public information through newspaper postings, email blasts, and on the Island County-sponsored IRTPO webpage. These postings encourage public participation in meetings and public comment via mail and email. When planning processes and documents are discussed, the public is also engaged through surveys and (as safe and appropriate) neighborhood meetings.*
- *The IRTPO Executive Board meetings are held in accordance with Washington State's Open Public Meetings Act.*
- *The IRTPO Transportation Equity Committee (TEC) includes members from multiple government and social services agencies representing public transportation services, the elderly & disabled, low-income, minority populations, veterans, school districts, and tribes. Appendix B of the IRTPO Bylaws specify the desired member-agencies for coordination in the TEC. Each agency selects its own participants. The role of the TEC is to review and rank public transportation projects that fill transportation gaps to meet the needs of the populations they serve.*
- *The IRTPO Transportation Planner meets twice yearly with local and regional groups working to provide equitable transportation opportunities for all.*

X. Limited English Proficiency

The U.S. Department of Transportation (USDOT) recommends using a four-factor LEP analysis to determine the need for language assistance measures.

The four factors are:

- 1) ***The number and proportion of people with LEP served or encountered in the eligible service population.*** USDOT has adopted a "safe harbor" provision for recipients of federal transportation funds that sets a threshold for the provision of written translation of documents for each eligible LEP language group of 1,000 or more people, or one that constitutes at least five percent of the Region's population, whichever is less.
- 2) ***The frequency with which people with LEP come in contact with IRTPO programs, activities, or services.*** Despite the fact that IRTPO fully complies with all applicable federal and state public notice requirements, active involvement in the transportation planning process on the part of the general public is minimal. The Transportation Planner's connections with public service agencies, schools, and transit provides the most opportunity for contact with potential LEP populations.
- 3) ***The importance to people with LEP regarding IRTPO's programs, activities, and services.*** Acting through its Executive Board, IRTPO works with Island County; the Cities of Oak Harbor, Langley, and Stanwood; the Town of Coupeville; the Ports of Coupeville and South Whidbey; Naval Air Station Whidbey; and WSDOT to develop policies and make decisions regarding investments in the regional transportation system. IRTPO develops the Regional Transportation Plan for the region and selects projects for funding through the federal Surface Transportation Block Grant program.

IRTPO also maintains a list of proposed projects for the Island County Human Services Transportation Plan to ensure that mobility needs of various underserved populations are being met. All of these planning initiatives may impact the LEP populations in the region, either directly or indirectly.

- 4) ***The resources available to IRTPO and the overall cost to provide assistance to people with LEP.*** The IRTPO is committed to providing translation services on request to any LEP populations identified in the region and providing assistance for speakers of other languages with Limited English Proficiency. IRTPO includes the following sentence in all public notifications:

“This information is available in other languages upon request.”

XI. Environmental Justice

One of IRTPO’s primary planning requirements is a Human Services Transportation Plan. This plan uses US Census Bureau and other available demographic information to specifically identify special populations such as low-income, minority, elderly, disabled, veteran, and LEP. The plan, itself, is an effort to locate service gaps and achieve equity in regional transportation planning for all people groups.

XII. Notice of Title VI Rights Per the Civil Rights Act of 1964

IRTPO posts Notice to the Public as follows:

- On all IRTPO public meeting agendas
- In all IRTPO public notices
- At the IRTPO webpage hosted by Island County
<https://www.islandcountywa.gov/PublicWorks/Roads/Planning/Pages/Regional.aspx>

Island Regional Transportation Planning Organization (IRTPO) hereby gives public notice that it is the IRTPO’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 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 Federal Aid Highway program or other activity for which IRTPO 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 IRTPO. Any such complaint must be filed with the IRTPO Title VI Coordinator within 180 days following the date of the alleged discriminatory occurrence. Title VI discrimination Complaint Forms may be obtained from the IRTPO office at no cost to the complainant.

To file a Title VI discrimination complaint, contact:

Susan Driver, IRTPO Transportation Planner

PO Box 5000
Coupeville, WA 98239
s.driver@islandcountywa.gov

Washington Department of Transportation
Office of Equal Opportunity – Title VI
Box 47314
Olympia, WA 98504-7314
TitleVI@wsdot.wa.gov
Phone: (800) 259-9143

ATTACHMENT:

USDOT 1050.2A, Standard Assurances with Appendices

XIII. Assurances

The United States Department of Transportation (USDOT)

Standard Title VI/Non-Discrimination Assurances

DOT Order No. 1050.2A

The ***Island Regional Transportation Planning Organization (IRTPO)*** (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 ***Washington State Department of Transportation (WSDOT)***, 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 **WSDOT**.*

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 ***Unified Planning Work Program***:

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 ***Unified Planning Work Program*** and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

"The ***Island Regional Transportation Planning Organization***, 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, **IRTPO** 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 **IRTPO** 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 **IRTPO**. You must keep records, reports, and submit the material for review upon request to **IRTPO**, 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.

IRTPO 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 **Unified Planning Work Program**. This ASSURANCE is binding on **Washington State**, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the **Unified Planning Work Program**. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

(Island Regional Transportation Planning Organization)

by _____
(Bill Oakes, Executive Director)

DATED _____

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, the **Washington State Department of Transportation WSDOT**, 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 **WSDOT** 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 **WSDOT**, 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 **WSDOT** 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 **WSDOT** 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 (***Title of Recipient***) will accept title to the lands and maintain the project constructed thereon in accordance with (***Name of Appropriate Legislative Authority***), the Regulations for the Administration of (***Name of Appropriate Program***), and the policies and procedures prescribed by the (***Title of Modal Operating Administration***) 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 (***Title of Recipient***) 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 (***Title of Recipient***) 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 (***Title of Recipient***), its successors and assigns.

The (***Title of Recipient***), 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 (***Title of Recipient***) 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 (***Title of Recipient***) 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, (***Title of Recipient***) 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 (***Title of Recipient***) 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 (***Title of Recipient***) 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 (***Title of Recipient***) 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, (***Title of Recipient***) 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, (***Title of Recipient***) will there upon revert to and vest in and become the absolute property of (***Title of Recipient***) 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).