CIVIL RIGHTS
TITLE VI PROGRAM
for
SPOKANE COUNTY
2008

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1.0 Overview

On July 2, 1964, President Lyndon Johnson signed into law the *Civil Rights Act of 1964*. In a live television and radio broadcast from the East Room of the White House just prior to the signing, President Johnson addressed "the purpose of the law," saying that "It does not give special treatment to any citizen," and that "It does say that . . . those who are equal before God shall now also be equal . . . in the classrooms, . . . and other places that provide service to the public." In his speech he made reference to the responsibilities of local communities, and of the federal government in fulfilling our

responsibilities under the Act, saying that **"the Civil Rights Act relies first on voluntary compliance, then on the efforts of local communities and states to secure the rights of citizens. It provides for the national authority to step in only when others cannot or will not do the job."**

Of the eleven Titles in the Act, it is Title VI – NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS that has relevance to recipients of federal assistance from the U.S. Department of Transportation (DOT). It is the state and local agency "recipients" of federal assistance that are the focus of Title VI, not the federal government. The purpose of Title VI and related statutes and policies is to ensure that public funds are not spent in a way that encourages, subsidizes or results in discrimination.

The Federal Highway Administration (FHWA) is an administrative subdivision of the U.S. Department of Transportation, with authority for the administration of federal grants for state and local highway construction and related activities. The Washington State Department of Transportation (WSDOT) is a *"primary recipient"* of Federal Highway Administration financial assistance. WSDOT, in turn, distributes FHWA grant funds to assist programs and activities administered by the Spokane County Engineer, the local agency *"recipient"* responsible for the construction and administration of the County's public highways. [RCW 36.80; RCW 36.75.020 and 36.75.070] [Ref. definitions at 28 CFR 42.102(f),(g)]

On May 2, 2005, the Washington State Department of Transportation issued a new chapter to the Local Agency Guidelines (LAG) which governs city and county recipients of FHWA financial assistance. This new chapter, Chapter 28, *Title VI Program*, requires that local agencies serving a population of 100,000 or more develop a "Title VI Program," and that the local agencies submit an "Annual Title VI Update and Accomplishment Report," in accordance with the requirements of 23 CFR 200 [Ref. 23 CFR 200.3 and 200.9(b)(10, 11)], and with the requirement at 49 CFR 21.9(b).

The new Title VI Program chapter of the Local Agency Guidelines states that:

> "The Federal Highway Administration (FHWA) requires each local agency that receives Federal funds through WSDOT to establish a Title VI Program to prevent discrimination in the provision of benefits and services on federally funded highway programs and activities. This Title VI Program is a system of policies and procedures designed to monitor agency (and sub-recipient agency) compliance, address complaints, and eliminate discrimination when found to exist." [LAG 28.1]

The following Title VI Program is a dynamic document under ongoing development and enhancement. It has been developed for the Office of the Spokane County Engineer in response to the requirements of the Title VI Chapter of the LAG manual. This Program defines the policies and procedures of the Office for achieving the objectives of Title VI and related statutes to assure, through affirmative action, that no person is discriminated against in the administration of the Office's programs and activities. [Ref.

LAG 28.1 and 28.2]. The Program includes provisions for the collection of data for use in evaluating our successes and failings in achieving nondiscrimination, and for taking affirmative action to correct any discriminatory practice or usage that is discovered. [Ref. 49 CFR 21.5(b)(2) and (7)].

1.1 Purpose

This document is intended to provide guidance and legal relief where appropriate, to personnel of the Office of the Spokane County Engineer and other interested entities and to comply with the requirements and intent of the Authorities identified below.

1.2 Authorities

1.2.1 **Chapter 1 – Federal Aid Highways of Title 23 (Highways) of the United States Code, at Section 140, Nondiscrimination** [23USC140] unambiguously requires assurances from State highway agencies that employment on highway projects "will be provided without regard to race, color, creed, national origin, or sex;" and that each State shall include "specific equal employment opportunity responsibilities of the successful bidder" in federally assisted highway contracts.

1.2.2 **Title VI of the Civil Rights Act of 1964** [42 USC 2000(d) *et seq.*] prohibits discrimination on the ground of race, color, or national origin in connection with programs and activities receiving federal financial assistance. [Section 2000d]. Title VI of the Act authorizes and directs Federal agencies to enact "rules, regulations, or orders of general applicability" to achieve the statute's objectives. No such rule, regulation or order is effective unless and until approved by the President of the United States. The function of the President relating to approval of rules, regulations, and orders is delegated to the Attorney General by **E.O. 12250: DOJ Leadership and Coordination of Nondiscrimination Laws** (Nov. 2, 1980, section 1-101).

There may be a refusal by the Federal authority to grant or to continue assistance to any recipient as to whom there has been an express finding on the record, after opportunity for a hearing, of a failure to comply with the nondiscrimination requirements of Title VI; ***Provided, however***, That no such action shall be taken until thirty days after the head of the Federal department or agency refusing the assistance files with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report [Sec. 602 of Act; 42 USC 2000d-1] [Ref. **28 CFR 42, Subpart C: DOJ's regulation implementing Title VI of the Civil Rights Act of 1964**] .(Also Ref. 49 CFR 21.15).

1.2.3 The "Equal Employment Opportunities" Section of Chapter 21 – Civil Rights, of United States Code Title 42 – The Public Health and Welfare, at 42USC2000e-2, provides as follows:

Sec. 2000e-2. Unlawful employment practices

(a) Employer practices

It shall be an unlawful employment practice for an employer--

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or

(2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

(c) Labor organization practices

It shall be an unlawful employment practice for a labor organization--

(1) to exclude or to expel from its membership, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin;

(2) to limit, segregate, or classify its membership or applicants for membership, or to classify or fail or refuse to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, because of such individual's race, color, religion, sex, or national origin; or

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(d) Training programs

It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against any individual because of his race, color, religion, sex, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.

(j) Preferential treatment not to be granted on account of existing number or percentage imbalance

Nothing contained in this subchapter shall be interpreted to require

> any employer, employment agency, labor organization, or joint labor-management committee subject to this subchapter to grant preferential treatment to any individual or to any group because of the race, color, religion, sex, or national origin of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex, or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, sex, or national origin in any community, State, section, or other area, or in the available work force in any community, State, section, or other area.

1.2.4 **49 CFR Part 21** (NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS OF THE DEPARTMENT OF TRANSPORTATION – EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964) is the Department of Transportation (DOT) regulation adopted to achieve the objectives of the Civil Rights Act. It prohibits recipients of DOT financial assistance from using criteria or methods of administering their programs that have the effect of subjecting individuals to discrimination based on race, color, or national origin. The Supreme Court has held that such regulations may validly prohibit practices having a disparate impact on protected groups, even if the actions or practices are not intentionally discriminatory.

> For example, the U.S. Supreme Court in *Alexander V. Sandoval* (April 24, 2001) assumed that regulations promulgated under Title VI "may validly proscribe activities that have a disparate impact on racial groups".

For recipients of DOT assistance, such "disparate impact" based on race, color, or national origin is proscribed at 49 CFR 21.5(b)(2). [Ref. also DOJ regulation 28 CFR 42.104(b)(2)].

1.2.5 **DOT ORDER 1000.12: Implementation of the DOT Title VI Program**, sets forth DOT instructions establishing explicit procedures for implementing and enforcing the Title VI program. It provides that "Each operating element, with respect to the Federal financial assistance programs it administers, has the responsibility to ensure that the objectives of Title VI, the regulations of the Department at 49 C.F.R. Part 21, and the regulations of the Department of Justice at 28 C.F.R. Part 42, Subpart F, are achieved." [DOT 1000.12.I.3.b]

1.2.5 **23 CFR 200** (TITLE VI PROGRAM AND RELATED STATUTES – IMPLEMENTATION AND REVIEW PROCEDURES) promulgates requirements and guidelines for State highway agencies, the *primary recipients* of Federal Highway

Administration Federal-aid, for the development and implementation of a Title VI Program. "Title VI Program" is defined in this regulation as "The system of requirements developed to implement Title VI of the Civil Rights Act of 1964 . . . and other Federal statutes to the extent that they prohibit discrimination on the grounds of race, color, sex, or national origin . . .." As stated in its title, this regulation incorporates requirements of some "related statutes", not just Title VI, in its provisions.

1.2.6 The Washington State Civil Rights Act, RCW 49.60.400, ***Discrimination, preferential treatment prohibited***, requires that:

> The state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.

1.2.7 (42USC2000h-4)**,** ***Construction of provisions not to exclude operation of State laws and not to invalidate consistent State laws***, of TITLE 42 of the United States Code, at CHAPTER 21--CIVIL RIGHTS, Subchapter IX, Miscellaneous Provisions, recognizes the primacy of State laws, and therefore the applicability of the State Civil Rights Act (I-200, RCW 49.60.400), vis:

> Nothing contained in any title of this Act shall be construed as indicating an intent on the part of Congress to occupy the field in which any such title operates to the exclusion of State laws on the same subject matter, nor shall any provision of this Act be construed as invalidating any provision of State law unless such provision is inconsistent with any of the purposes of this Act, or any provision thereof. [42USC2000h-4]

2.0 <u>Spokane County Title VI Policy Statement and Assurances</u> [LAG 28.2C.a,e; 49 CFR 21.7(a)(1)]

Title VI mandates that Federal assistance not be used to discriminate on the basis of race, color, and national origin. Other statutes have proscribed discrimination on the bases of religion, sex, age, and disability. The Spokane County Engineer has zero tolerance for discrimination and is committed to full compliance in all of the Office's activities with both the letter and intent of State and Federal civil rights laws, regulations and orders, including:

> RCW 49.60.400, Washington State Civil Rights Act (I-200)
> 23 U.S.C. 140, Highways employment "without regard" to race, creed, sex . . .
> 23 U.S.C. 324, prohibits sex discrimination
> 23 CFR 200
> 23 CFR 230A and D
> 28 CFR 35
> 28 CFR 42.108, Procedure for effecting compliance
> 29 CFR 1630

41 CFR 60 (Ref. FHWA Order 4710.8, see Link below)
42USC2000h-4, authority of State civil rights laws
49 CFR 21
49 CFR 23
The Civil Rights Act of 1964, Title VI, [TITLE 42--THE PUBLIC HEALTH AND WELFARE, CHAPTER 21--CIVIL RIGHTS]
The Age Discrimination and Employment Act of 1967
The Age Discrimination Act of 1975
Civil Rights Restoration Act of 1987 (PL 100-259)
The Americans with Disabilities Act of 1990
Executive Order 13166 (Limited English Proficiency-LEP)
FHWA Order 4710.8, *Clarification of Federal Highway Administration (FHWA) and State Responsibilities Under Executive Order 11246 and Department of Labor (DOL) Regulations in 41 CFR Chapter 60*, February 1, 1999. Link: http://wwwcf.fhwa.dot.gov/legsregs/directives/orders/47108.htm

EEO Management Directive 715 (Effective Oct. 1, 2003)
Frequently Asked Questions about Management Directive 715
Instructions to Federal Agencies for EEO Management Directive 715

DOT Order 1000.12

2.1 **Policy Statement**

The Spokane County Engineer signed the following Nondiscrimination Statement and Assurances:

TITLE VI RELATED STATUTES
NONDISCRIMINATION STATEMENT AND ASSURANCES

> It is the policy of Office of the Spokane County Engineer to ensure compliance with Title VI of the Civil Rights Act of 1964; 49 CFR Part 21; and related statutes and regulations. [Ref.: 23 CFR 200.7]
>
> Every application for Federal financial assistance to be administered by the Office of the Spokane County Engineer shall cite by number the statutory or regulatory provisions pertaining to assurances, and the County Engineer gives assurances required by those provisions. [Ref. 49 CFR 18.11; 49 CFR 21.7; DOT Order 1050.2; DOT Order 1000.12.I.3.b(1)(b); 28 CFR 42.105 and 28 CFR 42.407(b)]

This Title VI Program and "Nondiscrimination Statement and Assurances" are posted on the County Engineer's website at: **www.spokanecounty.org/engineer/titlevi.asp**.

2.2 Required Assurances, Policy Statement, and Notice to the Public

49 CFR 21.7, "Assurances required", stipulates that every application for federal financial assistance shall, as a condition of approval, contain or be accompanied by an assurance that the program will be conducted in compliance with all requirements imposed by or pursuant to 49 CFR Part 21. And it further stipulates that it is "The Secretary" (of the U.S. Department of Transportation) who "shall specify the form of the foregoing assurances, and the extent to which like assurances will be required of subgrantees." [Reference DOT Order 1000.12.I.3.b.(1).(b)]. The Secretary of DOT specified the form to be used, for grantees and subgrantees alike, by issuing DOT Order 1050.2, Standard DOT Title VI Assurances. [Ref., e.g., DoJ Title VI regulations at 28 CFR 42.105(d)]

Federal assistance grantees need meet only Federal administrative or programmatic requirements for a plan that are in statutes or codified regulations [49 CFR § 18.11]. Such administrative or programmatic requirements include Assurances to be incorporated into each Plan, and grantees/sub-grantees may cite by number the statutory or regulatory provisions requiring the assurances and affirm that it gives the assurances required by those provisions. The Spokane County Engineer does affirm and give assurance that Spokane County complies with all applicable Federal statutes and regulations with respect to its receipt of Federal grant funding.

The Spokane County Engineer agrees to the "Standard DOT Title VI Assurances" for all applications for federal financial assistance. The signed "Standard DOT Title VI Assurances" is incorporated herein as Attachment B.

As required by the Washington State Department of Transportation, the Office of the Spokane County Engineer adopts the following Title VI Plan provisions (from here to section 3.0 below):

Policy Statement

The Office of the Spokane County Engineer, hereinafter referred to as the "Recipient" 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. The Recipient further assures every effort will be made to ensure non-discrimination in all of its programs and activities, whether those programs and activities are federally funded or not.

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, sub-recipients, and contractors/consultants, whether such programs and activities are federally assisted or not (Public Law 100259 [S.557] March 22, 1988.)

In the event the Recipient distributes federal aid funds to a sub-recipient, the Recipient will include Title VI language in all written agreements and will monitor for compliance.

The Spokane County Engineer, Bob Brueggeman, is responsible for initiating and monitoring Title VI activities, preparing reports and other responsibilities as required by 23 Code of Federal Regulation(CFR) 200 and 49 Code of Federal Regulation 21.

Signature

Bob Brueggeman

Name of Responsible Agency Official (Please Print)

Spokane County Engineer

Title

May 16, 2007

Date

Title VI Program

Organization and Staffing

The Spokane County Engineer is the responsible Title VI Specialist responsible for implementation of the County's Title VI Program. Section 5.0 and Attachment C describe the hierarchy for Recipient's Title VI Program, including an organization chart illustrating the level and placement of Title VI responsibilities.

Implementation Procedures

49 CFR 21, NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS OF THE DEPARTMENT OF TRANSPORTATION – EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, is the Title VI implementing Regulation for a Local Agency. 23 CFR 200 has limited application to a Local Agency.

For the purpose of this Plan, "Federal Assistance" shall include:

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

The recipient shall:

- Issue a policy statement, signed by the head of the recipient, which expresses it's commitment to the nondiscrimination provisions of Title VI. The policy statement shall be circulated throughout the recipient's organization and to the general public.
- Take affirmative action to correct any deficiencies found by WSDOT or the United States Department of Transportation (USDOT) within a reasonable time period, not to exceed 90 days, in order to implement Title VI compliance in accordance with 49 CFR 21. The head of the recipient shall be held responsible for implementing Title VI requirements.
- Establish a civil rights unit and designate a coordinator who has a responsible position in the organization and easy access to the head of the recipient. This unit shall contain a Title VI Specialist, who shall be responsible for initiating and monitoring Title VI activities and preparing required reports.

- Adequately staff the civil rights unit to effectively implement the civil rights requirements.
- Process complaints of discrimination consistent with the provisions contained in this agreement. Investigations shall be conducted by civil rights personnel trained in discrimination complaint investigation. Identify each complainant by race, color, national origin or sex, the nature of the complaint, the date the complaint was filed, the date the investigation was completed, the disposition, the date of the disposition, and other pertinent information. A copy of the complaint, together with a copy of the recipient's report of investigation, will be forwarded to WSDOT's Office of Equal Opportunity (OEO) within 60 days of the date the complaint was received by the recipient.
- Collect statistical data (race, color, national origin, sex) of participants in, and beneficiaries of the programs and activities conducted by the recipient.
- Conduct Title VI reviews of the recipient and sub-recipient contractor/consultant program areas and activities. Revise where applicable, policies, procedures and directives to include Title VI requirements.
- Conduct training programs on Title VI and related statutes.
- Prepare a yearly report of Title VI accomplishments for the last year and goals for the next year.
- Comply with **Executive Order 13166 (Limited English Proficiency-LEP)**

1. Annual Work Plan

   Outline Title VI monitoring and review activities planned for the coming year; state by which each activity will be accomplished and target date for completion.

- Accomplishment Report

  List major accomplishments made regarding Title VI activities. Include instances where Title VI issues were identified and discrimination was prevented. Indicate activities and efforts the Title VI Specialist and program area personnel have undertaken in monitoring Title VI. Include a description of the scope and conclusions of any special reviews (internal or external) conducted by the Title VI Specialist. List any major problem(s) identified and corrective action taken. Include a summary and status report on any Title VI complaints filed with the recipient.

Discrimination Complaint Procedure

- Any person who believes that he or she, individually, as a member of any specific class, or in connection with any disadvantaged business enterprise, has been subjected to discrimination prohibited by Title VI of the Civil Rights Act of 1964, the American with Disabilities Act of 1990, Section 504 of the Vocational Rehabilitation Act of 1973 and the Civil Rights Restoration Act of 1987, as amended, may file a complaint with the recipient. A complaint may also be filed by a representative on behalf of such a person. All complaints will be referred to the recipient's Title VI Specialist for review and action.
- In order to have the complaint consideration under this procedure, the complainant must file the complaint no later than 180 days after:
- The date of alleged act of discrimination; or
- Where there has been a continuing course of conduct, the date on which that conduct was discontinued.

In either case, the recipient or his/her designee may extend the time for filing or waive the time limit in the interest of justice, specifying in writing the reason for so doing.

- Complaints shall be in writing and shall be signed by the complainant and/or the complainant's representative. Complaints shall set forth as fully as possible the facts and circumstances surrounding the claimed discrimination. In the event that a person makes a verbal complaint of discrimination to an officer or employee of the recipient, the person shall be interviewed by the Title VI Specialist. If necessary, the Title VI Specialist will assist the person in reducing the complaint to writing and submit the written version of the complaint to the person for signature. The complaint shall then be handled according to the recipient's investigative procedures.
- Within 60 days, the Title VI Specialist will acknowledge receipt of the allegation, inform the complainant of action taken or proposed action to process the allegation, an advise the complainant of other avenues of redress available, such as WSDOT and USDOT.
- The recipient will advise WSDOT within 60 days of receipt of the allegations. Generally, the following information will be included in every notification to WSDOT:
    - Name, address, and phone number of the complainant.
    - Name(s) and address(es) of alleged discriminating official(s).
    - Basis of complaint (i.e., race, color, national origin or sex)
    - Date of alleged discriminatory act(s).
    - Date of complaint received by the recipient.

- A statement of the complaint.
- Other agencies (state, local or Federal) where the complaint has been filed.
- An explanation of the actions the recipient has taken or proposed to resolve the issue raised in the complaint.

- The Title VI Specialist will conduct an investigation of the allegation and based on the information obtained, will render a recommendation for action in a report of findings to the head of the recipient. The complaint should be resolved by informal means whenever possible. Such informal attempts and their results will be summarized in the report of findings.
- Within 60 days of receipt of the complaint, the head of the recipient will notify the complainant in writing of the final decision reached, including the proposed disposition of the matter. The notification will advise the complainant of his/her appeal rights with WSDOT, or USDOT, if they are dissatisfied with the final decision rendered by the Recipient. The Title VI Specialist will also provide WSDOT with a copy of this decision and summary of findings upon completion of the investigation.
- Contacts for the different Title VI administrative jurisdictions are as follows:

Washington State Department of Transportation

Office of Equal Opportunity, Title VI Program

PO Box 47314

Olympia, WA 98466

(360) 705-7098

Federal Highway Administration

Washington Division Office

711 Capitol Way South, Suite 501

Olympia, WA 98501

(360) 534-9325

Sanctions

In the event the recipient fails or refuses to comply with the terms of this agreement, WSDOT may (in accordance with Section 602 of the Civil Rights Act of 1964, which appears under, Title VI, and 49 CFR 21) take any or all of the following actions:

- Cancel, terminate, or suspend federal financial assistance in whole or in part.
- Refrain from extending any further assistance to the recipient under the program from which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the recipient.
- Take such other action that may be deemed appropriate under the circumstances, provided it is in accordance with 49 CFR 21.13 and 21.15. (or as allowed by state and local laws)
- Refer the case to the Department of Justice for appropriate legal proceedings.

:

SPOKANE COUNTY TITLE VI NOTICE TO THE PUBLIC:

Spokane County, Office of the County Engineer hereby gives public notice that it is the policy of the Office to assure full compliance with Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, Executive Order 12898 on Environmental Justice, 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 Spokane 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 the Office of the Spokane County Engineer. Any such complaint must be in writing and filed with the County Engineer 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 the Office of the County Engineer at no cost by calling (509) 477-3600.

3.0 Program Emphasis Areas

Policy: The Title VI principles of nondiscrimination, as well as principles of the US Department of Transportation Order on Environmental Justice will be fully considered throughout the planning and decision-making processes in the development of programs, policies, and activities, using the principles of the National Environmental Policy Act of 1969 (NEPA), Title VI of the Civil Rights Act of 1964 (Title VI), the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (URA), the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU, of 2005) (Pub L. 109-59) and other DOT statutes and regulations; social, economic, or environmental matters; and public involvement. As required by Title VI, activities will be administered in a manner to assure that no person is excluded from participating in, denied the benefits of, or subjected to discrimination by any program or activity of the Office of the County Engineer.

Operational Guidelines
Design Manual — M 22-01
Federal Aid Policy Guide for Hearings
23 CFR 771
49 CFR 622, 635, 640, 712, 771, and 790
Executive Order 12898 on Environmental Justice

Concern for nondiscrimination and environmental justice is integrated into every transportation decision - from the first thought about a transportation plan to post-construction operations and maintenance. The *U.S. DOT Order on Environmental Justice* applies to all policies, programs, and other activities that are undertaken, funded, or approved by the Federal Highway Administration (FHWA).

In the conduct of the Office's programs, the County Engineer continuously promotes:

- Nondiscrimination;
- Equal access to information and decision makers;
- Equal opportunity to participate in the project development process;
- Early, continuous public involvement of all citizens;
- Proactive public outreach to involve the traditionally underserved; and
- Recognition and accommodation of citizens' needs, where possible.

3.1 Planning and Program Development

Policy: To provide meaningful opportunities for public involvement by members of minority populations and low-income populations in County transportation planning and program development, the Program Development Section (Bill Hemmings, Manager) will actively monitor its activities to ensure that adverse effects on minority populations are avoided, minimized or mitigated. During the planning and development of road activities that have the potential to have a disproportionately high and adverse effect on human health or the environment, the Program Development

Section includes explicit consideration of the effects on minority populations and low-income populations.

Operational Guidelines:
The Metropolitan Planning Organization Procedures Manual
23 CFR 450
RCW 47.06 Statewide Transportation Planning
RCW 47.80 Regional Transportation Planning Organization (RTPO)

In accordance with the requirements of NEPA, Title VI and 49 CFR 21, URA, SAFETEA-LU and other statutes that involve human health or environmental matters, or interrelated social and economic impacts, Program Development Section assures that nondiscrimination is an integral part of its programs. In implementing these requirements, the following information will be obtained where relevant, appropriate and practical:

- population served and/or affected by race, color, and national origin, and income level;
- proposed steps to guard against disproportionately high and adverse effects on persons on the basis of race, color, and national origin;
- membership by race, color, and national origin, and sex in any public advisory body which is part of the program.

At the start of the planning process, the Program Development Engineer (Bill Hemmings) determines whether Environmental Justice issues exist and uses data and other information to: (1) determine benefits to and potential negative impacts on minority populations and low-income populations from proposed investments or actions; (2) quantify expected effects (total, positive and negative) and disproportionately high and adverse effects on minority populations and low-income populations; and (3) determine the appropriate course of action, whether avoidance, minimization, or mitigation. If issues are not addressed at the planning stage, they may arise later when they could be more difficult to mitigate and delay project decisions. Environmental Justice is an important part of the planning process and will be integrated into all phases of planning.

As required by NEPA and 23 U.S.C. 109(h), impacts on all communities including low-income communities will be routinely identified and addressed. [Ref.: **DOT Order on Environmental Justice**]. The following FHWA Washington Division publication provides Program guidance: **FHWA Washington Division Environmental Justice "What You Should Know" Guidance.**

To implement the Title VI Program, the Program Development Section:

- Participates in pre-grant and post-grant approval reviews for compliance with Title VI requirements.

- Ensures the collection and analysis of statistical data to assess transportation investment benefits and burdens to the eligible population, including minority and low-income populations.

- Ensures public involvement in the program development process by engaging stakeholders, businesses and the public early in the process, and maintains that communication throughout project development.. Public involvement is fundamental and essential in achieving equitable transportation that meets the needs of all persons in the County. Public participation provides for public involvement of all persons (including women, Native Americans, minorities and low-income persons), affected public agencies, representatives of transportation agency employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit and other interested parties of the community affected by transportation plans, programs and projects.

- Gathers data as necessary to ensure compliance in the planning and program development processes with the requirements of Title VI, including information on:

  1. The manner in which services are or will be provided and the related data necessary for determining whether any persons are or will be denied such services on the basis of prohibited discrimination.
  2. The population eligible to be served by race, color, national origin, sex, disability and age.
  3. Data regarding covered employment, including use or planned use of bilingual public contact employees servicing beneficiaries of the program where necessary to permit effective participation by beneficiaries unable to speak or understand English.
  4. The location of existing or proposed facilities connected with the program and related information adequate for determining whether the location has or will have the effect of denying access to any persons on the basis of prohibited discrimination.
  5. The present or proposed membership, by race, color, national origin, sex, disability and age, in any planning or advisory body which is an integral part of the program.
  6. Where location is involved, the requirements and steps used or proposed to guard against unnecessary impact on persons on the basis of race, color, national origin, sex, disability or age.

  Additional data, such as demographic maps, the racial composition of affected neighborhoods or census data, may be necessary or appropriate for understanding information requirements listed above. This type of data is required, however, only to the extent that it is readily available or can be compiled with reasonable effort.

- Considers, during the planning and program development processes, whether:

1. There is effective public involvement/participation and whether input from minority groups/persons is seriously being considered.
2. Data collection and analysis is sufficient to support decisions.
3. Social, economic and environmental effects and impacts have been identified and described.
4. Minorities, women, community based organizations and Tribal Governments have been provided an opportunity to successfully compete for planning studies, corridor studies or other work.

3.2 Project Design and Contracts

*Policy: In effectuating its project design functions, the Contracts and Planning Section (**Tim Schwab**, Manager) will ensure compliance with Title VI, 49 CFR 21, and related nondiscrimination laws that impact transportation investment decision making.*

Operational Guidelines:
Design Manual — M 22-01
Federal Aid Policy Guide for Hearings
23 CFR 771
Executive Order 12898 on Environmental Justice

Title VI of the Civil Rights Act of 1964, related statutes and policies prohibit discrimination on the basis of race, color, national origin, sex, age and disability in the Office's programs, activities and services. The purpose of Title VI and related statutes and policies is to ensure that public funds are not spent in a way that encourages, subsidizes or results in discrimination.

The Contracts and Planning Section ensures that project plans and specifications conform to Federal and State laws including Title VI requirements. To implement the Title VI Program, the Section:

- Requires that the Standard DOT Assurances are included as a part of all grant applications for federal assistance.
- Invites public involvement from all classes of persons in the project design process.
- Develops Title VI information for public dissemination, where appropriate, in languages other than English.
- Provides for data collection at public meetings of participants race and sex to assess the degree of public participation in the project planning and design process by various groups.
- Seeks mitigation measures to reduce any unavoidable adverse impacts to minority or low-income populations.

- Ensures documentation and record retention of actions taken by decision makers in the contracts and planning processes.

- Considers, during the planning and program development processes, whether:

  1. Title VI requirements have been included in contract and grant language.
  2. When awarding a contract or grant, whether the contractor or applicant has any unresolved Title VI violations.
  3. Alternative languages, other than English, are needed to effectively communicate with the eligible population.

  1.Ensures that the design and contract preparation process:

  1. Incorporates Title VI requirements into contract provisions.
  2. Encourages and seeks participation from those most directly impacted.
  3. Contacts minority community leaders, organizations and media.
  4. Conducts an adequate number of meetings and hearings.
  5. Sets an appropriate meeting location, time, and day of week to reach the target groups.
  6. Demonstrates consideration of community input via newsletters, letters, leaflets or other printed medium that will potentially reach the target groups/audiences.
  7. Establishes effective relationships with Tribal Governments and non-federally recognized tribal groups and organizations.
  8. Develops data collection methods designed to obtain information on the race and sex of participants in public meetings.
  9. Ensures that minority, disabled and women-owned firms have an opportunity to compete for work.
  10. Treats everyone equitably.
  11. Ensures opportunity for full participation and accommodation for persons with disabilities, and strives to ensure that meetings or meeting notices:
  a. Are held in a totally accessible facility;
  b. Contain a statement on how to request alternative format documents and assistive services for those with a disability requiring such services;
  12. Ensures that persons with hearing impairments are accommodated in the most effective manner possible;

At public meetings or hearings conducted by the Contracts and Planning Section, the WSDOT prescribed “Voluntary Title VI Public Involvement” form is used to gather statistical data on participants and beneficiaries of the agency’s federal-aid highway programs and activities. This form is disseminated at all public meetings under auspices of the Contracts and Planning Section to collect information on race, color, national origin, and sex of attendees to ensure the inclusion of all segments of the population affected by a proposed project. Following is a copy of the form:

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Washington State Department of Transportation

TITLE VI PUBLIC INVOLVEMENT

Form adapted for Spokane County use.

The Federal Highway Administration requires the Washington State Department of Transportation to be sure that everyone in the affected project areas has a chance to be heard and to respond to transportation programs and activities that may affect their community.

To help with that, we ask that you voluntarily provide us information about your race, ethnicity and/or sex. You are not required to disclose the information requested in order to participate in this meeting.

The information gathered as confidentially as possible. For further information regarding this process please contact the Washington State Department of Transportation Title VI Coordinator by phone at 360-705-7098.

Please respond to the following questions:

Project Name	Date
Location of Public Meeting	

Name (Optional) (Please print)	Sex: ☐ Male ☐ Female
General Ethnic Identification Categories (Check as many as apply) ☐ African American ☐ American Indian/Alaskan Native ☐ Asian/Pacific Islander ☐ Caucasian ☐ Hispanic ☐ Other _____	
Race and/or Color	National Origin

After you have completed this form, please place it inside the designated box on the registration table.

August 2008

Thank you for your participation!

Adapted from: Dot Form 272-059 EF, Revised 10/2005
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3.3 Right-of-Way

Policy: The Right-of-Way section (Berry Lines, Manager) will assure that the Right-of-Way appraisal and negotiation functions and the results of those activities are executed in accordance with Title VI, 49 CFR 21 and related nondiscrimination laws and regulations. This process includes property appraisals, negotiations with property owners, acquisition of properties, and relocation of people and businesses.

Operational Guidelines:
Right of Way Manual
23 CFR 130
49 CFR 24
RCW Chapter 47
WAC 468.100

The Right-of-Way Section:

• Ensures the inclusion of Title VI provisions in all realtor, fee appraiser, and negotiated contracts;
• Ensures that female and minority appraisers are provided equal opportunity to participate in the bid process;
• Ensures equitable treatment of all businesses and persons displaced by highway projects, regardless of race, color, age, sex, national origin or disability;
• Monitors efforts taken to overcome language barriers in all phases of the right-of-way process;
• Ensures that internal procedures are reviewed and updated as necessary to maintain Title VI compliance during all phases of the right-of-way process;
• Monitors and reports to the County Engineer on right-of-way accomplishments and problem areas.

3.4 Construction

Policy: The Construction Engineer (Paul Lennemann) has the primary responsibility for assuring that highway contracting procedures are executed in accordance with Title VI, 49 CFR 21 and related nondiscrimination laws and regulations. The EEO Officer/Contract Compliance Administrator (Eric Jenkin) reports to the Construction Engineer and monitors contractor compliance with contract provisions, the Disadvantaged Business Enterprise Program, and Training Special Provisions.

Operational Guidelines:
Construction Manual – M 41-01
Standard Specifications for Road, Bridge, and Municipal Construction
(Section M 41-10)
General Special Provisions for Disadvantaged Business Enterprise
General Special Provisions for Equal Employment Opportunity

The Construction Section:
• Administers and enforces the terms of the construction contract in a nondiscriminatory manner;
• Monitors construction project work to ensure compliance with contract plans, specifications and civil rights special provisions;
• Ensures that policies and procedures for monitoring construction activity are applied in a nondiscriminatory manner;
• Monitors construction accomplishments and problem areas.

3.5 Research

Policy: As required by Regulations, the Office of the Spokane County Engineer will take affirmative action to collect and report meaningful data to assure nondiscrimination in the conduct of programs and activities administered by the Office.

Operational Guidelines:
49 CFR 21.9;
23 CFR 200.9 (4) (b) (4);
28 CFR 42.406

To effect this policy the Office's EEO Officer and Research Coordinator (*Eric Jenkin*) gathers and reports data to ensure that the Office's programs and activities are not conducted in a manner that encourages, subsidizes or results in discrimination. As a recipient of Federal assistance under the Federal-Aid Highway Acts, Spokane County must ensure that funding is not used in a discriminatory manner, having a disparate impact on a particular group or segment of individuals. [Ref. Title 42, The Public Health and Welfare, of the United States Code – Chapter 21, Civil Rights.]

Based on Title VI implementing regulations, recipients of federal financial assistance are required to:

1. Provide for the collection of data and information to permit effective enforcement of Title VI.
2. Collect data about beneficiaries.
3. Analyze the data and information collected.
4. Eliminate discrimination when it is found.

5. Take affirmative measures to ensure nondiscrimination.

There are two distinct aspects of Title VI:

1) Section 601 (codified at 42 USC Sec. 2000d) prohibits discrimination under federally assisted programs. Section 601 prohibits only "intentional" discrimination.

2) Section 602 of the Act, as it has evolved under court decisions, permits federal agencies to pass regulations intended to eliminate from their programs "discriminatory effects" and "disparate impacts" affecting *identified classes of people* [Reference Section 3.1, "Classes," below]. Accordingly, the regulation governing recipients of DOT assistance are instructed that: **"Even in the absence of prior discriminatory practice or usage, a recipient . . . is expected to take affirmative action to assure that no person is excluded from participation in or denied the benefits of the program or activity on the grounds of race, color, or national origin." [49 CFR 21.5(b)(7)].** Title VI does not allow individuals to go to court to enforce adverse impact regulations. Under Section 602, individuals alleging this type of discrimination can file a complaint with the agency. [Ref.: U.S. Supreme Court *Sandoval* decision].

Other Title VI regulatory citations calling for the collection and reporting of data are:

- 49 CFR 21.9(b) provides that "In the case in which a primary recipient extends Federal financial assistance to any other recipient, such other recipient shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations under this part. In general recipients should have available for the Secretary racial and ethnic data showing the extent to which members of minority groups are beneficiaries of programs receiving Federal financial assistance." [Ref. also the DOJ promulgated "Coordinated Regulations" for federally funding agencies under Title VI, at 28 CFR 42.106(b)].

- 23 CFR 200.9(b)(4) requires State Highway Agencies to "Develop procedures for the collection of statistical data (race, color, religion, sex, and national origin) of participants in, and beneficiaries of State highway programs, i.e., relocatees, impacted citizens and affected communities".

The data are intended to enable informed and meaningful action to correct for failures in meeting the objective of nondiscrimination at the level of implementation of recipient programs and activities [Ref.: 42 CFR 406(b)], and aid in the analysis of disparate impacts on protected groups. To date, virtually all analyses of program effectiveness are conducted from the state or federal level. And far too often, these analyses fail to objectively assess the effectiveness of the reviewed programs in achieving their objectives at the level of implementation.

Valid program assessment is impossible when working with flawed data. In its Title VI Program, the Office of the County Engineer will give high priority to the collection and

reporting of valid and beneficial data in order to effectuate the requirements of Section 602 of the Act, and to take the ***affirmative action*** prescribed at 49 CFR 21.5(b)(7) to assure nondiscrimination, and to ensure that public funds are not spent in a way that encourages, subsidizes or results in discrimination.

Data sources will include Spokane County records gathered from:

- *Planning & Program Development*
- *Project Design*
- *Right-Of-Way*
- *Construction*

Along with collateral information gathered on and from contractors working and/or bidding on county contracts, as well as information concerning eligible DBE's, and any other available sources of information that may become available and provide pertinent information. These sources will be researched and compiled to develop empirical and anecdotal data on the effectiveness of the Office's programs and activities in achieving the goals of Title VI.

3.5.1 Classes

Local Agency recipients are required to understand the demographic make-up of populations that benefit (or that may be denied benefits) from Federally assisted programs or projects. To assess discrimination or disparate impacts based on ***class***, the following definitions apply:

Race, Color, and National Origin Classifications. Where designation of persons by race, color or national origin is required, the following groups, based on US Census definitions, shall be used:

American Indian or Alaskan Native - refers to person(s) having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment and includes people who indicated their race or races by marking this category or writing in their principal or enrolled tribe, such as Rosebud Sioux, Chippewa, or Navajo.

Asian or Pacific Islander - refers to person(s) having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands and includes people who indicated their race or races as "Asian Indian," "Chinese," "Filipino," "Korean," "Japanese," "Vietnamese," or "Other Asian," or wrote in entries such as Burmese, Hmong, Pakistani, or Thai.

Black (not of Hispanic Origin) - refers to person(s) having origins in any of the Black racial groups of Africa and includes people who indicated their race or races as "Black, African Am., or Negro," or wrote in entries such as African American, Afro American, Nigerian, or Haitian.

Hispanic – refers to person(s) of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race.

White (not of Hispanic Origin) - refers to person(s) having origins in any of the original peoples of Europe, the Middle East, or North Africa and includes people who indicated their race or races as "White" or wrote in entries such as Irish, German, Italian, Lebanese, Near Easterner, Arab, or Polish.

Other Nondiscrimination Classifications/Definitions:
LEP - person(s) with Limited English Proficiency
Low Income - person(s) who live in areas with 51% or more of households below 80% of the median household income for an area.
Sex - discrimination based on a person's sex.
Elderly – person(s) age 65 and older.
Youth – person(s) younger than 18.
Single Parent Female-Headed Household – household including children younger than 18 headed by an unmarried female parent/guardian.
Individual with a disability – person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment.

3.5.2 County Statistical Data

The population of Spokane County, based on year 2004 estimates from the Office of Financial Management, is 432,000. Of the total County population, fifty-eight percent (250,028) are members of disadvantaged minority ***classes***, distributed as follows:

MINORITY CLASSES IN SPOKANE COUNTY

CLASS	%	POPULATION
White Female	47%	203,076
Hispanic	3.1%	13,181
Asian/Pacific Islander (API)	2.3%	9,703
Black	1.7%	7,377
Indian/Alaskan Native	1.5%	6,422
Two or more	2.4%	10,269
Total:	58%	250,028

Title VI of the Civil Rights Act prohibits discrimination on the basis of race, color, or national origin. The Office of Management and Budget (OMB) issued Policy Directive 15, Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity, in 1997, establishing five minimum categories for data on race. Executive Order 12898 and the DOT and FHWA Orders on Environmental Justice address persons belonging to any of the following five racial groups:

Black - a person having origins in any of the black racial groups of Africa.

Hispanic - a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.

Asian - a person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent.

American Indian and Alaskan Native - a person having origins in any of the original people of North America and who maintains cultural identification through tribal affiliation or community recognition.

Native Hawaiian or Other Pacific Islander - a person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands. [An Overview of Transportation and Environmental Justice, FHWA, May 2000]

3.5.3 Application of Data Collection and Records

Data collection is necessary to analyze whether disparate impacts occur and provide documentation of actions taken and why. The disparate impacts are relevant to the actions of the recipient and the beneficiary.

Documentation is a critical element of the compliance monitoring process. It is relied upon to provide evidence, proof and support of historical facts during monitoring and compliance review activities. Accordingly, policy decisions, procedures, analysis, actions and outcomes should be documented as part of the Office's daily routine.

Title VI disallows intentional disparate treatment and disparate impacts/effects. A claim of intentional discrimination/disparate treatment is an allegation that similarly situated persons are treated differently because of their race, color, national origin, gender, disability or age. To prove intentional discrimination, one must show that "a challenged action was motivated by an intent to discriminate." This requires a showing that the decision maker was not only aware of the complainant's race, color, national origin, gender, disability or age; but that the recipient acted, at least in part, because of the complainant's race, color, national origin, gender, disability or age. Disparate Impact/Effects cases involve either "individual" or "class" discrimination (or both). For example, if two organizations apply for a grant that is Federally funded and one is rejected because the decision maker dislikes membership of the rejected applicant's race, this constitutes disparate treatment. If data reveals that the decision maker repeatedly rejects applicants representing a particular race or sex, this may indicate class discrimination or a "pattern and practice" of discriminatory conduct by the recipient.

Spokane County is committed to eliminating Discrimination of all forms. Spokane County will endeavored to eliminate intentional discrimination whenever found and minimize the possibility of unintentional discrimination. If any unintentional discrimination is found to exist, Spokane County will evaluate and modify its program to eliminate the now known discrimination.

4.0 Complaint Procedure

See "Discrimination Complaint Procedures" under section 2.2, above. Complaints will be processed in accordance with Chapter 5, "Complaint Procedures," of DOT Order

No. 1000.12, and with 49 CFR 21, and the Local Agency Guidelines manual, Chapter 28.

Complaints may be filed by any individual or group who believes that:

- Their rights under Title VI have been violated in a discriminatory manner.
- Programs or activities administered by the Office of the Spokane County Engineer do not comply with civil rights laws.
- They have been treated in a disparate manner.

Complaints may be filed with:

Spokane County Engineer
Civil Rights Unit
1026 West Broadway Avenue
Spokane, Washington 99260-0170
Phone: 509-477-3600

Washington State Department of Transportation
Office of Equal Opportunity, Title VI Program
PO Box 47314
Olympia, WA 98466
Phone: (360) 705-7098

Federal Highway Administration
Washington Division Office
711 Capitol Way South, Suite 501
Olympia, WA 98501
Phone: (360) 534-9325

4.1 Discrimination Complaint Form

Any person who believes that he/she has been excluded from participation in, or denied benefits or services of any program or activity administered by the County Engineer on the basis of race, color, national origin, sex, disability or age may file a complaint of discrimination under Title VI and other civil rights statutes. Under no circumstance is the complainant discouraged from filing a complaint.

A signed, written complaint should be filed within 180 days of the date of the alleged discrimination. By clicking on the following link, you may access and print a copy of the Discrimination Complaint Form: H:\COMPLAINT FORM.doc

A copy of the Discrimination Complaint Form follows as Attachment A.

5.0 Staffing

The County Engineer (Bob Brueggeman) is responsible for administration of the County's public highways, and coordinates compliance with Title VI and related

Federal, State, and County laws and regulations governing the administration of grants for the County's highway projects. [RCW 36.80; RCW 36.75.020 and 36.75.070]

To ensure nondiscrimination, the County Engineer is committed to creating, implementing and maintaining an interdisciplinary environment wherein all members of the organization share in the responsibility to ensure that Title VI and related statutory requirements are employed to prevent discrimination in the administration of the Office's functions.

The intention of the Title VI Program is to provide guidance to personnel in the implementation of the Office's civil rights policies, practices and procedures. The Program reflects the County Engineer's requirements for:

- Demonstrated commitment from agency leadership;
- Integration of civil rights into the Office's strategic mission;
- Management and program accountability;
- Proactive prevention of unlawful discrimination;
- Efficiency; and
- Responsiveness and legal compliance.

[Ref. EEOC Management Directive 715]

The County Engineer is responsible for the Title VI Program and assigns responsibilities for Program implementation. The responsibilities of the Title VI Coordinator follow.

Title VI Coordinator Responsibilities - 23 CFR 200.9(b)

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

A. Program Administration. Administer the Title VI program and coordinate implementation of the plan. Ensure compliance with the assurances, policy, and program objectives. Perform Title VI program reviews to assess administrative procedures, staffing, and resources; provide recommendations as required to the Agency Administrator.

B. Complaints. Review written Title VI complaints that may be received by your Agency following the adopted procedural guidelines (see Section V – Complaint Procedures). Ensure every effort is made to resolve complaints informally at the local or regional level.

C. Data Collection. Review the statistical data gathering process performed by Title VI Specialists periodically to ensure sufficiency of data for meeting the requirements of Title VI program administration.

D. Environmental Impact Statements. Ensure that available census data are

included as a part of all Environmental Impact Statements/Assessments (EIS/EIA) conducted by Public Works (PW) for projects receiving Federal Highway Administration or other Federal assistance.

E. Training Programs. Conduct or facilitate training programs on Title VI issues and regulations for Agency employees; and facilitate Title VI training for appropriate staff, contractors and sub-recipients. A summary of training conducted will be reported in the annual update.

F. Title VI Plan Update. Review and update your Agency Transportation Program, Title VI Plan or Non-Discrimination Agreement as needed or required. Present updated plan to the Agency Administrator for approval; submit amended Plan to WSDOT.

G. Annual Accomplishment Report. Prepare an annual report of Title VI accomplishments and changes to the program in the preceding Federal fiscal year; identify goals and objectives for the upcoming year as required.

H. Public Dissemination. Work with Agency staff to develop and disseminate Title VI program information to your Agency's employees and sub-recipients, including contractors, subcontractors, consultants, and sub-consultants and beneficiaries, as well as the general public. Public dissemination may include postings of official statements, inclusion of Title VI language in contracts or other agreements, website postings, and annual publication of the Agency's Title VI Policy Statement in newspaper(s) having a general circulation, and informational brochures. Ensure public service announcements or notices are posted of proposed projects, hearings, meetings, or formation of public advisory boards, in newspapers or other media reaching the affected community. Ensure the full utilization of available minority publications or media; and, where appropriate, provide written or verbal information in languages other than English.

I. Elimination of Discrimination. Work with the Public Works Department, and other Agency offices to establish procedures for promptly resolving deficiencies, as needed. Recommend procedures to identify and eliminate discrimination that may be discovered in any Agency processes.

J. Maintain Legislative and Procedural Information. Federal laws, rules and regulations, WSDOT guidelines, the current Agency Title VI Plan or Non-Discrimination Agreement, Annual Accomplishment Reports, and other resource information pertaining to the implementation and administration of the Agency's Title VI program will be maintained and updated by the Coordinator. Information will be made available to other Agency departments or the public as requested or required.

Section leaders ensure that programs and activities administered under their supervision comply with Title VI and other civil rights statutes and regulations. Section leaders are as follows:

Program Development Engineer: B. Hemmings
Stromwater Utility Manager: B. Sims
Environmental Program Administrator: M. Barrentine
Maintenance & Operations Manager: W. Storey
Construction Engineer: P. Lennemann
Administrative Manager: P. Harper
Traffic Engineer: B. Greene
Plans & Contracts Engineer: T. Schwab
Development Engineering Manager: M. Zarecor
Bridge Engineer: N. Carroll

An organization chart is included as Attachment C.

5.1 Staff Training

Key to implementation of the Plan are the supervisors and staff throughout the organization. It is crucial to effective Title VI monitoring that these individuals be made fully aware of the kinds of issues which can arise in their program areas. Such awareness is promoted through:

- Reading the Title VI guide with emphasis upon those parts pertinent to their program areas.
- General discussion of the Title VI guide by program area personnel.
- Circulation over the Office website of the Plan, Policies and related correspondence and/or publications.
- Meetings with State Title VI Specialists.

6.0 Related Statutes, Regulations and Executive Orders

Title VI of the Civil Rights Act of 1964 does not ban all discrimination. The Act forbids illegal discrimination. That is discrimination based on race, color, or national origin. Later statutes contained nondiscrimination provisions based on sex, age, and disability.

Presidential Executive Order 12898 addresses environmental justice in minority and low-income populations. Presidential Executive Order 13166 addresses services to those individuals with limited English proficiency. Discrimination on the basis of sex, age, and disability are prohibited under other statutes. These Presidential Executive Orders and the related statutes fall under the nondiscrimination umbrella of Title VI.

Compliance with Title VI and other civil rights statutes and regulations, including the following, is an integral part of the civil rights program of the Office of the Spokane

County Engineer. [Ref. E.O. 12250: DOJ Leadership and Coordination of Nondiscrimination Laws]

6.1 Environmental Justice and Limited English Proficiency
[Ref. E.O. 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations; FHWA Order on Environmental Justice]

6.1.1 The USDOT Order on Environmental Justice clarifies and reinforces Title VI responsibilities as well as addresses effects on low-income populations. The goal of the U.S. DOT Order is to ensure that programs, policies, and other activities do not have a disproportionately high and adverse effect on minority or low-income populations. This goal is to be achieved, in part, by implementing both Title VI and NEPA during the development and implementation of transportation activities. Title VI and environmental justice apply to all U.S. DOT programs, policies, and activities.

The Office's three fundamental responsibilities with respect to environmental justice include but are not limited to the following:

- Ensure the full and fair participation by all potentially affected communities in the transportation decision-making process.
- 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.
- Prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations.

6.1.2 **(Executive Order 13166 (Limited English Proficiency-LEP) ,** The Office of the Spokane County Engineer will examine the services it provides and develop and implement a system by which LEP persons can meaningfully access those services consistent with, and without unduly burdening, the fundamental mission of the agency. Corresponding LEP policies/guidance**:** US Dept. of Justice ; USDOT Proposed Rule .

http://www.usdoj.gov/crt/cor/Pubs/eolep.htm - Improving Access to Services for Persons With Limited English Proficiency, August 11, 2000, is directed at implementing the protections afforded by Title VI of the Civil Rights Act of 1964 and related regulations for persons with LEP. Accordingly, it prohibits recipients of Federal financial assistance from discriminating based on national origin by failing to provide meaningful access to services to individuals who are LEP. This protection requires that LEP persons be provided an equal opportunity to benefit from or have access to services that are normally provided in English.

The requirement to provide meaningful access to LEP persons is enforced and implemented by the Office of the Spokane County Engineer through the procedures identified in the Title VI regulations, and **Limited English Proficiency Guidance - available in (PDF)**, (Policy Guidance Concerning Recipients' Responsibilities to

Limited English Proficient Persons, by DOT). The purpose of this limited English proficiency policy guidance is to clarify the responsibilities of recipients of Federal financial assistance from the U.S. Department of Transportation (DOT) ("recipients"), and assist them in fulfilling their responsibilities to limited English proficient (LEP) persons, pursuant to Title VI of the Civil Rights Act of 1964 and implementing regulations. These procedures include complaint investigations, compliance reviews, and affirmative action to assure nondiscrimination.

When conducting Environmental Assessments or Environmental Impact Statements for forthcoming projects, Spokane County will consider:

- Current LEP populations in project service areas or populations affected or encountered.
- Frequency of encounters with LEP language groups.
- Nature and importance of activities to LEP persons.
- Whether existing assistance is meeting the needs of LEP persons.

Spokane County's Limited English Deficiency responsibilities include:

- Advertising meetings, hearings, conferences, etc., in appropriate languages
- Requesting the participants to inform us of needed accommodations in order to meet reasonable needs.
- Having written materials printed in languages that meet LEP requirements.
- Providing interpreters to verbally translate and perform sign language translation when necessary.

6.2 The Federal-Aid Highway Act of 1973 [(**Title 23 USC Section 324)** prohibits discrimination based on sex in highway programs or activities receiving federal aid, as follows:

> "No person shall on the ground of sex be excluded from participation in, denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance under this title or carried on under this title. This provision will be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination, under title VI of the Civil Rights Act of 1964."

6.3 The (Age Discrimination Act of 1975) requires that:

> No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.

6.4 Section 504 of the Rehabilitation Act of 1973, 29 USC 790

49 CFR 27 is the Department of Transportation regulation implementing Section 504 of the Rehabilitation Act of 1973.

6.5 (Title II of the Americans with Disabilities Act of 1990) , Subtitle A of title II of the Americans with Disabilities Act, Pub. L. 101-336, prohibits discrimination on the basis of disability by public entities. Subtitle A protects qualified individuals with disabilities from discrimination on the basis of disability in the services, programs, or activities of all State and local governments. It extends the prohibition of discrimination in federally assisted programs established by section 504 of the Rehabilitation Act of 1973 to all activities of State and local governments, including those that do not receive Federal financial assistance, and incorporates specific prohibitions of discrimination on the basis of disability from titles I, III, and V of the Americans with Disabilities Act (prohibiting disability discrimination by public entities, whether or not they receive Federal financial assistance).

6.6 (Executive Order 12898 (Environmental Justice), Each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.

6.7 Executive Order 13160 was issued in June 2000. The Order prohibits discrimination in federally conducted education and training programs on the basis of race, sex, color, national origin, disability, religion, age, sexual orientation, or status as a parent. The Executive Order applies to the federally conducted education programs of almost 100 federal agencies. The DoJ Coordination and Review Section published, on January 18, 2001, a Guidance Document to facilitate implementation of E.O. 13160.

7.0 Public Participation Processes:

Public Participation Plan for Office of the Spokane County Engineer:
The Public Involvement Goals of the Office of the County Engineer two-fold. First, to ensure early, continuous, and broad public notification about and participation in major actions and decisions by the Office, and second, to get meaningful public input to inform the decision making process. This process establishes consistent, minimum procedures to accomplish these goals; procedures beyond these minimums may be applied as warranted and are encouraged. Failure to exactly comply with these procedures shall not, in and of itself, render any decisions or actions invalid.

The Office of the Spokane County Engineer will utilize a broad range of public information and participation opportunities, including dissemination of proposals and alternatives, process for written comments, public meetings after effective notice, settings for open discussion, communication programs, information services and consideration of and response to public comments.

The desired outcomes from Public Involvement are:
1. To get public input on Spokane County's activities and decisions
2. To share information with a broad cross-section of the public
3. To ensure notification and participation of traditionally underserved populations

4. To increase overall awareness of regional planning activities

Interested parties will be sent a copy of the public involvement plan during the public comment period. This Public Involvement Plan will be reviewed periodically for its effectiveness.

The following principles apply to the Public Involvement activities:
1. No major public policy decision is reached or large project implemented without significantly affecting someone.
2. Professionals do not have a monopoly on good solutions.
3. Even if a project or policy decision is sensible and beneficial, it must be arrived at properly to be acceptable.
4. People are much more willing to live with a decision that affects different interests unequally if the decision-making process is open, objective and considers all viewpoints.
5. If project or policy staff don't provide all relevant information necessary for an informed decision, the public will rely on -- and trust -- others.
6. Interacting with an official representative of an organization or group is no substitute for interacting directly with that organization or group.
7. Effective public notification and participation takes time and effort, and can be expensive, yet is essential to sound decision-making.

Public Notification and Participation Procedures:
A variety of public notification and participation procedures will be used to encourage the early and continuous involvement of citizens, jurisdictions, communities and other interests in the planning process and the decisions and actions of the Puget Sound Regional Council. Meetings and publications will occur regularly and provide ample notice on key decision making opportunities.

They will include, but are not limited to, the following:

a) Public notification of all meetings will be provided at least 10 days prior to each meeting. Public notification will be made on the Engineer's website. Anyone who wants to receive an agenda of an upcoming board meeting may receive one at no charge.
i) Public notification of these meetings will include sending a copy of the agenda or a notice that includes the time, date and place of the meeting, to news media. Meeting notices will be published on the agency's website:
www.**spokanecounty**.org/Engineer/**titlevi**.asp
ii) Changes to the agenda may be made up to the day of the meeting; however, no major action or decision items may be added within three days of the meeting.
iii) If action or decision items are added between 10 and three days prior to the meeting, all media outlets notified of the meeting must be notified of the changes at least 48 hours prior to the meeting.
iv) Items added within three days of the meeting must be for discussion purposes only.

v) Exceptions to the above provisions are permissible only in the event that an emergency is declared by the board.
b) A public comment period may be provided during each public meeting; however, comment periods may be limited, or other options for public comment may be arranged specific issues as needed.
c) Public notification of all meetings will be provided at least 10 days prior to each meeting.
i) Minimum public notification will include publishing a meeting notice in newspaper of general circulation in the County and online at: www.**spokanecounty**.org/Engineer/**titlevi**.asp.

A media advisory will be sent out to news reporters.
ii) Changes to the agenda may be made up to three days prior to the meeting; however, if action or decision items are added between 10 and three days prior to the meeting, all media outlets notified of the meeting must be notified of the changes at least 48 hours prior to the meeting.
d) All public meetings will be held at convenient times and conducted in facilities that are accessible to persons with disabilities and to people who rely on public transit.

In addition to these procedures, the Office of the County Engineer will comply with all other provisions of the Open Public Meetings Act (RCW 42.30), the State Environmental Policy Act (RCW 43.21C), the federal Safe, Accountable, Flexible, Efficient Transportation Equity Act - A Legacy for Users (SAFETEA-LU), the state Growth Management Act (RCW 36.70A), and any and all other applicable federal and state laws.

CIVIL RIGHTS TITLE VI PROGRAM for SPOKANE COUNTY – 2007
Prepared by: Edwin Repp
May 2007

[Title 6, T6, Equality, EEO]

ATTACHMENT A

DISCRIMINATION COMPLAINT FORM
CIVIL RIGHTS UNIT
OFFICE OF THE SPOKANE COUNTY ENGINEER

The purpose of this form is to assist you in filing a complaint with the Spokane County Engineer. You are not required to use this form; a letter with the same information is sufficient. However, the information requested in the items marked with a star (*) must be provided, whether or not the form is used.

1.* State your name and address.

Name: _____

Address: _____

_____ Zip _____

Telephone No:
Home:(____)_____ Work:(____)_____

2.* Person(s) discriminated against, if different from above:

Name: _____

Address: _____

_____ Zip _____

Telephone No:
Home:(____)_____ Work:(____)_____

Please explain your relationship to this person(s).

_____

3.* Agency and department or program that discriminated:

Name: _____

Any individual if known: _____

Address: _____

_____ Zip _____

Telephone No:(____)_____

4A.* Non-employment: Does your complaint concern discrimination in the delivery of services or in other discriminatory actions of the department or agency in its treatment of you or others? If so, please indicate below the base(s) on which you believe these discriminatory actions were taken (e.g., "Race: African American" or "Sex: Female").

____ Race/Color: _____

____ National origin: _____

____ Sex: _____

____ Religion: _____

____ Age: _____

____ Disability: _____

4B.* Employment: Does your complaint concern discrimination in employment by the department or agency? If so, please indicate below the base(s) on which you believe these discriminatory actions were taken (e.g., "Race: African American" or "Sex: Female").

____ Race/Color: _____

____ National origin: _____

____ Sex: _____

____ Religion: _____

____ Age: _____

____ Disability: _____

5. What is the most convenient time and place for us to contact you about this complaint?

_____

6. If we will not be able to reach you directly, you may wish to give us the name and phone number of a person who can tell us how to reach you and/or provide information about your complaint:

Name: _____

Telephone No:(____)_____

7. If you have an attorney representing you concerning the matters raised in this complaint, please provide the following:

Name: _____

Address: _____

_____ Zip _____

Telephone No: (____)_____

8.* To your best recollection, on what date(s) did the alleged discrimination take place?

Earliest date of discrimination: _____

Most recent date of discrimination: _____

9. Complaints of discrimination must generally be filed within 180 days of the alleged discrimination. If the most recent date of discrimination, listed above, is more than 180 days ago, you may request a waiver of the filing requirement. If you wish to request a waiver, please explain why you waited until now to file your complaint.

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

10.* Please explain as clearly as possible 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 from you. (Please use additional sheets if necessary and attach a copy of written materials pertaining to your case.)

11. Nondiscrimination laws prohibit recipients of federal funds from intimidating or retaliating against anyone because he or she has either taken action or participated in action to secure rights protected by these laws. If you believe that you have been retaliated against (separate from the discrimination alleged in #10),please explain the circumstances below. Be sure to explain what actions you took which you believe were the basis for the alleged retaliation.

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

12. Please list below any persons (witnesses, fellow employees, supervisors, or others), if known, whom we may contact for additional information to support or clarify your complaint.

Name Address Area Code/Telephone Numbers

_____

_____

_____

_____

_____

_____

_____

13. Do you have any other information that you think is relevant to our investigation of your allegations?

14. What remedy are you seeking for the alleged discrimination?

15. Have you (or the person discriminated against) filed the same or any other complaints?

Yes ____ No ____

If so, do you remember the Complaint Number?

_____

Against what agency and department or program was it filed?

_____

Address: _____

_____ Zip _____

Telephone No: (____)_____

Date of Filing: _____ DOJ Agency:_____

Briefly, what was the complaint about?

_____

_____

_____

_____

What was the result?

_____

_____

16. Have you filed or do you intend to file a charge or complaint concerning the matters raised in this complaint with any of the following?

_____ U.S. Equal Employment Opportunity Commission

_____ Federal or State Court

_____ Your State or local Human Relations/Rights Commission

_____ Grievance or complaint office

17. If you have already filed a charge or complaint with an agency indicated in #16, above, please provide the following information (attach additional pages if necessary):

Agency: _____

Date filed: _____

Case or Docket Number: _____

Date of Trial/Hearing: _____

Location of Agency/Court: _____

Name of Investigator: _____

Status of Case: _____

_____

Comments: _____

_____

_____

_____

_____

18. While it is not necessary for you to know about aid that the agency or institution you are filing against receives from the Federal government, if you know of any U.S. Department of Transportation funds or assistance received by the program or department in which the alleged discrimination occurred, please provide that information below.

_____

_____

_____

19.* We cannot accept a complaint if it has not been signed. Please sign and date this complaint form below.

_____ _____
(Signature) (Date)

Please feel free to add additional sheets to explain the present situation to us.

We will need your consent to disclose your name, if necessary, in the course of any investigation. Therefore, we will need a signed Consent Form from you. (If you are filing this complaint for a person whom you allege has been discriminated against, we will in most instances need a signed Consent Form from that person.) See the "Notice about Investigatory Uses of Personal Information" for information about the Consent Form. Please mail the completed, signed Discrimination Complaint Form and the signed Consent Form (please make one copy of each for your records) to:

Spokane County Engineer
Civil Rights Unit
1026 West Broadway Avenue
Spokane, Washington 99260-0170

Phone: (509) 477-3600

20. How did you learn that you could file this complaint?

_____

_____

_____

21. If your complaint has already been assigned a complaint number, please list it here: _____

Attachment B, DOT 1050.2

Spokane County
STANDARD DOT TITLE VI ASSURANCES

Spokane County (hereinafter referred to as the "Recipient") HEREBY AGREES THAT as a condition to receiving any Federal financial assistance from the Department of Transportation it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d-42 U.S.C. 2000d4 (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, 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 Department of Transportation, including the (Name of Appropriate 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)(l) of the Regulations, a copy of which is attached.

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

1. That the Recipient agrees that each "program" and each "facility" as defined in subsections 21.23(e) and 21.23(b) of the Regulations, will be (with regard to a "program") conducted, or will be (with regard to a "facility") operated in compliance with all requirements imposed by, or pursuant to, the Regulations.
2. That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Regulations and made in connection with all (Name of Appropriate Program) and, in adapted form in all proposals for negotiated agreements: The (Recipient), in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office 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 insure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.
3. That the Recipient shall insert the clauses of Appendix A of this assurance in every contract subject to the Act and the Regulations.
4. That the Recipient shall insert the clauses of Appendix B of this assurance, as a covenant running with the land, in any deed from the United States effecting a transfer of real property, structures, or improvements thereon, or interest therein.

5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the assurance shall extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the assurance shall extend to rights to space on, over or under such property.
7. That the Recipient shall include the appropriate clauses set forth in Appendix C of this assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Recipient with other parties: (a) for the subsequent transfer of real property acquired or improved under the Highway Construction Program and (b) for the construction or use of or access to space on, over or under real property acquired, or improved under the Highway Construction Program.
8. That this assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property or interest therein or structures or improvements thereon, in which case the assurance obligates the Recipient or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the Recipient retains ownership or possession of the property.
9. The Recipient shall provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom 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 enforcement with regard to any matter arising under the Act, the Regulations, and this assurance.
THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Recipient by the Department of Transportation under the (Name of Appropriate Program) and is binding on it, other recipients, subgrantees, contractors, subcontractors, transferees, successors in interest and other participants in the Highway Construction Program. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Recipient.

DATED 5-29-07

by: _____
Bob Brueggeman, P.E.
Spokane County Engineer

Attachment B, DOT 1050.2: 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 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 by it during the contract, shall 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 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 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 shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, 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 the (Recipient) or the (Name of Appropriate Administration) 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 the (Recipient), or the (Name of Appropriate Administration) 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, Spokane County Engineer shall impose such contract sanctions as it may determine appropriate, including, but not limited to:
(a) withholding of payments to the contractor under the contract until the contractor complies, and/or
(b) 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 procurements 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 subcontract or procurement as the Spokane County Engineer may direct as a means of enforcing such provisions including sanctions for non-compliance: 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 Spokane County to enter into such litigation to

protect the interests Spokane County, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.
Attachment B, DOT 1050.2: APPENDIX B

A. The following clauses shall be included in any and all deeds effecting or recording the transfer of real property, structures or improvements thereon, or interest therein from the United States.
(GRANTING CLAUSE)
NOW, THEREFORE, the Department of Transportation, as authorized by law, and upon the condition that the (Name 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 (Name of Appropriate 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 U.S.C. 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the (Name of Recipient) all the right, title and interest of the Department of Transportation in and to said lands described in Exhibit “A” attached hereto and made a part hereof.
(HABENDUM CLAUSE)
TO HAVE AND TO HOLD said lands and interests therein unto Spokane County and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and shall be binding on Spokane County, its successors and assigns.
Spokane County, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person shall on the grounds of race, color, 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 (Name of Recipient) shall use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended[, and (3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the Department shall have a right to re-enter said lands and facilities on said land, and the above described land and facilities shall thereon revert to and vest in and become the absolute property of the Department of Transportation and its assigns as such interest existed prior to this instruction.*
* Reverter clause and related language to be used only when it is determined that such a

clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

Attachment B, DOT 1050.2: APPENDIX C

The following clauses shall be included in all deeds, licenses, leases, permits, or similar instruments entered into by Spokane County pursuant to the provisions of Assurance 6(a).

The (grantee, licensee, lessee, permitee, etc., as appropriate) for himself, his 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 in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) 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 (grantee, licensee, lessee, permitee, etc.) 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, and as said Regulations may be amended.

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

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

[Include in deeds] *