# Yakima Valley Conference of Governments

# *Title VI Plan* (Plan del Programa Título VI de YVCOG)

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# Title VI Plan – YVCOG I. Policy Statement, Authorities and Citations

#### A. Policy of Non-discrimination

The Yakima Valley Conference of Governments (YVCOG or MPO/RTPO or Policy Board or Organization) 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 Organization sponsored program or activity. YVCOG 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 Metropolitan and Regional Transportation Planning Organization (MPO/RTPO) distributes Federal aid funds to another entity, the Organization will include Title VI language in all written agreements and will monitor for compliance.

Title VI compliance is a condition of receipt for Federal funds. Assurance of compliance, therefore, falls under the proper authority of the MPO/RTPO Policy Board (Policy Board) pursuant to its budgetary authority and responsibility. The Policy Board and Title VI Coordinator are authorized to ensure compliance with provisions of this policy and with the law, including the requirements of 23 Code of Federal Regulation (CFR) 200 and 49 CFR 21.

Jan a. Rocking

James A. Restucci YVCOG, MPO & RTPO Chairman City Councilor, City of Sunnyside

Christina Wickenhagen

Digitally signed by Christina Wickenhagen

Digitally signed by Hon. James A. Restucci

Reason: I am approving this document Location: Yakima County, WA Date: 2020.04.06 14:44:16 -07'00'

Christina Wickenhagen YVCOG Executive Director

YVCOG Title VI Coordinator

April 6, 2020

Date

April 6, 2020

Date

If the YVCOG Title VI Coordinator is unavailable when a complaint is received, or an investigation is in process, the YVCOG Executive Committee Chair may designate a temporary YVCOG Title VI Coordinator to perform the Title VI duties expressed in this Plan.

#### **B. Authorities**

Title VI of the 1964 Civil Rights Act provides that no person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance.

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, whether such programs and activities are Federally assisted or not (Public Law 100-259 [S. 557] March 22, 1988).

#### C. Additional Citations

Title VI of the Civil Rights Act of 1964; 42 USC 2000d to 2000d-4; 42 USC 4601 to 4655; 23 USC 109(h); 23 USC 324; DOT Order 1050.2; EO 12250; EO 12898; 28 CFR 50.3; EO 13166; FTA C 4702.1B

# II. Principles of YVCOG's Communications and Public Involvement Program

- Equal access is an essential part of the public involvement process.
- No major public policy decision is reached, or large project is implemented without significantly affecting someone.
- Professionals do not have a monopoly on good solutions.
- Even if a project or policy is sensible and beneficial, it must be arrived at properly to be acceptable.
- 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.
- If staff doesn't provide all relevant information necessary for an informed decision, the public will rely on, and trust, others.
- Interacting with an official representative of an organization or group is no substitute for interacting directly with that organization or group.
- Effective public notification and participation takes time, effort, and expense, yet is essential to sound decision-making.

# **III.** Organization, Staffing and Structure

Pursuant to 23 CFR 200, YVCOG has appointed a Title VI Coordinator who is responsible for maintaining the Organization Chart in section III.C, which describes the hierarchy and placement of Title VI responsibilities for YVCOG's Title VI Program.

#### A. <u>Yakima Valley Conference of Governments (YVCOG) Governance, Boards, and</u> <u>Committees</u>

YVCOG is governed by the General Membership. The General Membership is composed of all member jurisdictions and agencies. The General Membership meets annually, at a minimum to review and vote on the annual budget, new officers, and any changes to bylaws or articles of Association. The General Membership delegates daily operational authority to a YVCOG Executive Committee which meets monthly. The YVCOG Executive Director reports directly to the YVCOG Executive Committee.

To carry out the specific federal and state requirements for transportation planning, the General Membership also appoints an MPO/RTPO Policy Board. The Policy Board includes the YVCOG Executive Committee designees and representatives from the Washington State Department of Transportation, transit operators, regional business, as well as ex-officio legislative members representing the 13<sup>th</sup>, 14<sup>th</sup>, and 15<sup>th</sup> legislative districts. The YVCOG Executive Director is also the MPO/RTPO Director and reports directly to the MPO/RTPO Policy Board.

YVCOG utilizes a technical advisory committee (TAC) to provide ideas and valuable insights on ways to address important regional transportation issues. The MPO/RTPO TAC consists of member agency staff and representatives of the regions' transits, the Confederated Tribes and Bands of the Yakama Nation, and the regional clean air agency. As a standing committee of the MPO/RTPO Policy Board, the TAC researches and resolves technical issues related to regional policy development, and reviews and recommends transportation projects and funding.

Another committee that reports directly to the MPO/RTPO Policy Board is the Yakima County Special Needs Transportation Coalition (Special Needs Transportation Coalition). The Special Needs Transportation Coalition drafts the Coordinated Public Transit - Human Services Transportation Plan and conducts a biennial Call for Projects. The regionally ranked list of public transportation projects is submitted by YVCOG; each project is submitted by the project sponsor to WSDOT for statewide competition in the Public Transportation Consolidated Grant cycle.

YVCOG encourages participation and involvement of communities, individuals, and other interests in the decisions and actions of the Organization.

#### B. Staffing and Structure

**1. YVCOG Executive Committee & MPO/RTPO Policy Board & Title VI Coordinator** The Agency Administrator (YVCOG or Policy Board or Organization) is authorized to ensure compliance with provisions of the Organization's policy of non-discrimination and with the law, including the requirements of 23 CFR Part 200 and 49 CFR Part 21. The Organization's grants compliance function and Title VI coordination shall be performed under the authority of the Executive Committee and the Policy Board. The Executive Committee and the Policy Board have designated the Executive Director to perform the duties of the Title VI Coordinator and ensure implementation of the Organization's Title VI Federally Funded Transportation Program. The Executive Director has other duties and responsibilities in addition to Title VI. Since the Executive Committee and the Policy Board provide direction to the Executive Director in all Organization functions, the Title VI Coordinator position shall have a direct reporting relationship and access to both the Executive Committee and the Policy Board.

#### 2. Title VI Liaisons

Additionally, the Organization has designated Title VI Liaisons (Liaisons) in special emphasis program areas. The Liaisons, designated below, shall work in concert with the Title VI Coordinator. These key program areas are subject to receiving Federal assistance through grants or other types of transportation related funding or are responsible for implementing Organization directives and policies to ensure civil rights compliance and equal opportunity. The Liaisons will work with the Coordinator to ensure their respective programs comply with Title VI regulations and assurances, meet the objectives of the Title VI Plan, meet Federal and state reporting requirements, and provide adequate training opportunities for applicable staff.

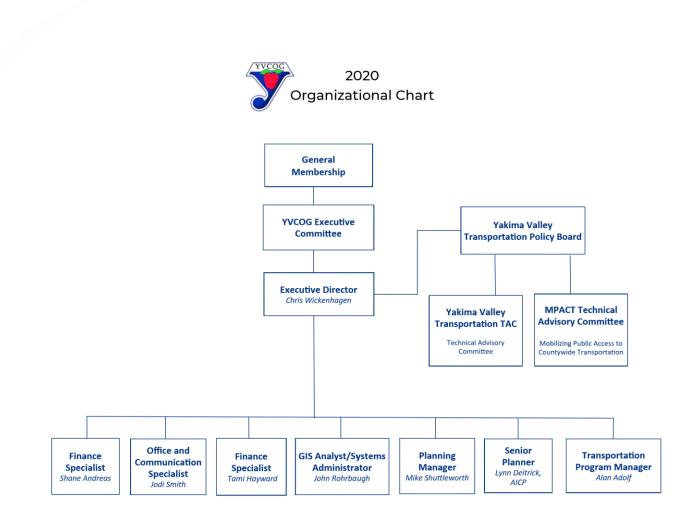
Title VI Liaisons will work with the Coordinator to ascertain Title VI compliance by contractors, subcontractors, consultants, suppliers and other sub-recipients under Federally funded projects or programs. Liaisons will ensure applicable Title VI provisions and requirements are included in contractual agreements to prime contractors and sub-recipients. Liaisons will work with the Coordinator to obtain statistical data on race, color, national origin, handicap/disability, and sex of participants in, and beneficiaries of Federally funded YVCOG transportation programs. Each of the Liaisons will maintain data relative to their respective special emphasis program area, designated below. The Coordinator shall use the data to complete annual Title VI reports and for other administrative needs.

List of Title VI Liaisons by their Official Job Title

- Transportation Program Manager
- Planning Manager
- GIS Analyst / Systems Administrator
- Senior Planner
- Finance Specialist (Two Staff Members)
- Office & Communication Specialist

## C. Organizational Chart – Reporting Relationships

The organization chart below clearly identifies the reporting relationships of the YVCOG Executive Committee and MPO/RTPO Policy Board, the technical advisory committee (TAC), the Mobilizing Public Access to Countywide Transportation (or MPACT) Committee, the YVCOG Executive Director, and the other staff of YVCOG.



# IV. Title VI Plan Implementation and Program Administration 1. Title VI Coordinator's Responsibilities and Program Administration

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

<u>A. Program Administration</u>. 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 Executive Committee and Policy Board.

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

<u>**C.** Data Collection</u>. Review the statistical data gathering process performed by Title VI Liaisons periodically to ensure sufficiency of data for meeting the requirements of Title VI program administration. (See Section VIII - Special Emphasis Program Areas).

**D.** Environmental Impact Statements. Ensure that available census data are included as a part of all Environmental Impact Statements/Assessments (EIS/EIA) conducted by YVCOG member jurisdictions and agencies for projects receiving Federal Highway Administration or other Federal assistance.

<u>**E. Training Programs.</u>** Conduct or facilitate training programs on Title VI issues and regulations for Organization 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.</u>

<u>*F. Title VI Plan Update.*</u> Review and update the YVCOG Title VI Plan as needed or required. Present the updated plan to the Executive Committee and Policy Board for approval; submit any amendments to the Plan to Washington State Department of Transportation (WSDOT).

<u>**G.** Annual Accomplishment Report.</u> 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; and submit to WSDOT by September 30 of each year.

**H. Public Dissemination.** Work with Organization staff to develop and disseminate Title VI program information to Organization 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 and social media postings, and annual publication of the Organization'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.

<u>I. Elimination of Discrimination.</u> Work with all YVCOG member jurisdictions and agencies to establish procedures for promptly resolving deficiencies, as needed. Recommend procedures to identify and eliminate discrimination that may be discovered in any Organization processes.

<u>J. Maintain Legislative and Procedural Information.</u> Federal laws, rules and regulations, WSDOT guidelines, Title VI Plan, Annual Reports, and other resource information pertaining to the implementation and administration of the Organization's Title VI program will be maintained and updated by the Coordinator. Information will be made available to other YVCOG member jurisdictions and agencies or the public as requested or required.

# V. NHI Education and Title VI Training

In keeping with adopted YVCOG policy of non-discrimination, departmental procedures will be established or followed for Organization employees to have equal access to applicable educational and training opportunities. Organization staff will maintain program administration documentation and data necessary for preparation of annual Title VI reports and will routinely supply the necessary data to the Title VI Coordinator.

#### A. National Highway Institute (NHI) Education

The Coordinator will be notified when training for the National Highway Institute courses or workshops become available to Organization employees. The Executive Director will establish policy for the selection of participants interested in taking part in the National Highway Institute Training workshops to ensure that no one is denied participation or subjected to discrimination on the basis of race, color, national origin or sex. A report will be completed and forwarded to the Coordinator upon completion of each educational seminar or course throughout the course of the year, which shall include the name of each participant, their title, sex and ethnicity for use in completing the annual Title VI accomplishment report.

#### B. Title VI Training

The Coordinator is responsible for overall Title VI related training and staff development for Title VI Liaisons and other Organization employees. The Coordinator will organize or conduct a minimum of one internal Title VI training session annually. The Coordinator will organize and facilitate the provision of Title VI training sessions for consultants, contractors, and subcontractors periodically. WSDOT's Office of Equal Opportunity Internal and External Civil Rights Branch and the Contract Compliance Office may be asked to provide applicable training.

#### C. Selection of Instructors

The Coordinator will follow the Organization's Procurement and Purchase Procedures to ensure Organization policy is followed in the selection of instructors for YVCOG training courses/ workshops and ensure equal opportunity in the selection process for all training contracts. Per adopted policy, the Organization will provide accessibility to Minority/Women/Disadvantage Business Enterprise consulting and training firms to compete for training contracts.

# VI. Complaint Procedures – Allegations of Discrimination in Federally Assisted Programs or Activities

#### A. <u>Overview</u>

These procedures cover all complaints filed under Title VI of the Civil Rights Act of 1964 as amended, Section 504 of the Rehabilitation Act of 1973, Civil Rights Restoration Act of 1987, and the Americans with Disabilities Act of 1990, relating to any program or activity administered by YVCOG, as well as to sub-recipients, consultants, and contractors. Intimidation or retaliation of any kind is prohibited by law. The procedures do not deny the right of the complainant to file formal complaints with other state or Federal agencies or to seek private counsel for complaints alleging discrimination. Every effort will be made to resolve complaints informally at the Organization and sub-recipient level. The option of informal mediation meeting(s) between the affected parties and a designated mediator may be utilized for resolution.

#### B. <u>Procedures</u>

- Any individual, group of individuals, or entity that believes they have been subjected to discrimination prohibited by nondiscrimination requirements may file a written complaint with YVCOG's Executive Director. A formal complaint must be filed within one hundred eighty (180) calendar days of the alleged occurrence. The Organization will not officially act or respond to complaints made verbally.
- 2. Upon receiving the written complaint, YVCOG's Executive Director will determine its jurisdiction, acceptability, need for additional information, and the investigative merit of the complaint. In some situations, the Organization may request that the WSDOT Office of Equal Opportunity conduct the investigation. In the event WSDOT handles the investigation, they will follow their adopted procedures for

investigating discrimination complaints, per their State Title VI Plan.If the complaint is against a sub-recipient, consultant, or contractor, under contract with the Organization the appropriate member jurisdiction or agency shall be notified of the complaint, within fifteen (15) calendar days.

- 3. Once the Organization decides its course of action, the complainant and the respondent will be notified in writing of such determination within five (5) calendar days. The complaint will be logged into the records of the Title VI Coordinator, and the basis for the allegation identified including race, color, national origin, handicap/disability, age or sex.
- 4. In cases where YVCOG assumes investigation of the complaint, the Organization will provide the respondent with the opportunity to respond to the allegations in writing. The respondent will have ten (10) calendar days upon receipt, to furnish the Organization with his/her response to the allegations.
- 5. Within 60 days of receipt of the complaint, the Coordinator or WSDOT investigator will prepare a written investigative report for the Policy Board. The report shall include a narrative description of the incident, identification of persons interviewed, findings and recommendations for disposition.
- 6. The recommendation shall be reviewed by the Prosecuting Attorney's office (PA). The PA may discuss the report and recommendations with the Coordinator and other appropriate Organization staff. The report will be modified as needed and made final for its release to the parties. (This is in the WSDOT template. I'll ask the OEO office.)
- 7. Once the investigative report becomes final, briefings will be scheduled with each party within 15 days. Both the complainant and the respondent shall receive a copy of the investigative report during the briefings and will be notified of their respective appeal rights.
- 8. A copy of the complaint and YVCOG's investigative report will be issued to WSDOT's External Civil Rights Branch (or the appropriate oversight agency) within 60 calendar days of the receipt of the complaint.
- 9. If the complainant or respondent is not satisfied with the results of the investigation of the alleged discriminatory practice(s) he or she shall be advised of their rights to appeal the agency's decision to WSDOT, U.S. Department of Transportation, or U.S. Department of Justice. The complainant has 180 calendar days after the appropriate agency's final resolution to appeal to USDOT. Unless new facts not previously considered come to light, reconsideration of the final determination by the investigating agency will not be available.
- 10. An annual Log of Complaints must be maintained by each organization. The Log of Complaints must contain the following information for each complaint filed:
  - The name and address of the person filing the complaint
  - The date of the complaint
  - The basis of the complaint
  - The disposition of the complaint
  - The status of the complaint

Only qualified, well-trained investigators should conduct these investigations. No organization can investigate a complaint against itself.

# **VII. Sub-Recipient Review and Remedial Action Procedures**

#### A. Title VI Review of Sub-recipients of Federal-Aid Highway Funds

Liaisons and the Coordinator will assist WSDOT to periodically conduct Title VI compliance reviews. Organization staff will review select recipients of Federal-aid highway or other Federal funds, to ensure adherence to Title VI requirements (see Section VIII). YVCOG, its member jurisdictions, and agencies will work cooperatively to periodically confirm that operational guidelines are provided to consultants, contractors, and sub-recipients, including Title VI language, provisions, and related requirements, as applicable.

#### B. Post-Grant Reviews

The Coordinator will collaborate with Organization staff to conduct periodic post grant reviews of select recipients of Federal highway funds or other Federal funds, for roads, sidewalks, bridges, municipal construction, etc. to ensure adherence to Title VI requirements (see Section VIII). Appropriate staff will periodically confirm that operational guidelines provided to consultants, contractors and sub-recipients include Title VI language and provisions and related requirements, where applicable.

#### C. <u>Remedial Action</u>

When irregularities occur in the administration of Federal-aid highway programs at either the YVCOG or sub-recipient levels, corrective action will be taken to resolve identified Title VI issues. YVCOG will seek the cooperation of the consultant, contractor or other sub-recipient in correcting deficiencies found during periodic reviews. The Organization will provide technical assistance and guidance, upon request, to support voluntarily compliance by the sub-recipient. When conducting Title VI compliance reviews, the Organization will reduce to writing any recommended remedial action agreed upon by YVCOG and sub-recipient and provide a copy of the letter within a period not to exceed 45 days. Sub-recipients placed in a deficiency status will be given a reasonable time, not to exceed 90 days after receipt of the deficiency letter, to voluntarily correct deficiencies. When a sub-recipient fails or refuses to voluntarily comply with requirements within the allotted time frame, YVCOG will submit to WSDOT and FHWA copies of the case file and a recommendation that the sub-recipient be found in noncompliance. A follow-up review will be conducted within 180 days of the initial review to ascertain if the sub-recipient has complied with the Title VI Program requirements in correcting deficiencies previously identified. If the sub-recipient refuses to comply, YVCOG and WSDOT may, with FHWA's concurrence, initiate sanctions per 49 CFR 21.

# VIII. Title VI Implementation Activities in Special Emphasis Program Areas

#### A. Planning & Location Activities

1. Planning Process – YVCOG as the lead agency for the MPO/RTPO has responsibility for providing long-range planning (through service agreements with WSDOT) program development, and capital programming necessary to provide efficient transportation services to Organization citizens. The Organization annually updates and coordinates YVCOG's four-year plan for transportation improvement programs and projects. The update also informs other YVCOG jurisdictions and agencies of the current planning direction for transportation needs. Projects included in the update are the result of evaluation and prioritization of needs in various transportation areas. The evaluation process includes input from YVCOG staff, cities, local jurisdictions and organizations, citizen groups, and private individuals. All member jurisdictions' and agencies' six-year plans must be consistent with the adopted Comprehensive Plan approved under the State's Growth Management Act.

2. Authorities - 23 CFR 450; RCW 35.77; RCW 36; RCW 47.06 Statewide Transportation Planning; RCW 47.80 Regional Transportation Planning Organization (RTPO)

3. Public Involvement in Planning Activities & Title VI

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

b) YVCOG staff will obtain demographic statistics at applicable community meetings and public hearings involving transportation planning sessions. Data will be gathered through use of a voluntary self-reporting form which includes race, gender, and national origin. See Exhibit 3. Copies of the completed forms will be provided to Title VI Coordinator after each meeting.

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

d) The following planning activities include Title VI elements:

1) Data Collection

Statistical data on race, color, national origin, income level, language spoken, and gender of participants in, and beneficiaries of, federally funded programs is to be gathered and maintained by each Title VI Liaison for her or his program area, as described in the "Program Area Responsibilities" section of this document. The data gathering process will be reviewed periodically to ensure sufficiency of the data in meeting the requirements of the Title VI program.

2) Annual Report and Update

An Annual Report and Update is to be submitted by September 30<sup>th</sup> each year, to Washington State Department of Transportation's (WSDOT's)

Office of Equal Opportunity, the Federal Highway Administration (FHWA), and the Federal Transit Administration (FTA). The Title VI Liaison(s) is/are responsible for drafting sections of the report and the Title VI Coordinator is responsible for reviewing the document. The document is to include:

- i. A report on the previous year's Title VI related activities and efforts, including accomplishments and program changes.
- ii. An update on Title VI-related goals and objectives for the upcoming year.
- 3) <u>Annual Review of the Title VI Program</u>

Each year, as preparation for authoring the Title VI Report and Update, the Title VI Coordinator and Liaison(s) will review YVCOG's Title VI program to assure compliance with Title VI. Additionally, the Organization's operational guidelines and publications, including contracts with consultants, will be reviewed to ensure Title VI language and provisions are incorporated as appropriate.

- 4) <u>Dissemination of Information Related to the Title VI Program</u> Information on YVCOG's Title VI program is to be disseminated to organization employees, contractors and consultants, beneficiaries, and the general public as described in the "Program Area Responsibilities" section of this document.
- 5) <u>Metropolitan and Regional Transportation Improvement Program (M/RTIP)</u> Each year, YVCOG submits the M/RTIP to WSDOT in October for inclusion into the STIP. The projects and financial constraint of the M/RTIP are directly tied to YVCOG's Regional and Metropolitan Transportation Plan. For public participation in the M/RTIP, YVCOG uses newspaper announcements in two local papers in English and one local newspaper in Spanish and the notification is put on the website and Facebook page. The document itself is made available at three physical locations: the YVCOG office in Yakima and the Yakima and Grandview libraries.
- 6) Public Participation Plan (PPP)

YVCOG anticipates approving a formal Public Participation Plan (PPP) update by June 2019 to precede the development of the next Metropolitan and Regional Transportation Plan. It is the intention of YVCOG to explore different methods by which to engage the public including, but not to be limited to:

- i. Providing notifications and announcements of public comment opportunities in appropriate processes in local newspapers, online at the YVCOG website and on the YVCOG Facebook page, and at three physical locations – the Yakima and Grandview libraries and the YVCOG office in Yakima. Additionally, the notifications and announcements will be printed in English and Spanish.
- ii. Continuing the monthly newsletter that is maintained and updated by Organization staff.

## 7) Metropolitan and Regional Transportation Plan (M/RTP)

YVCOG staff has started work on the Metropolitan and Regional Transportation Plan (M/RTP or Long-range Plan). Efforts started in SFY 2018 include initiating an update to the regional travel demand model development, Human Services Transportation Plan development, and initiating financial base conditions and forecasting. In SFY 2019, YVCOG will develop a project timeline including identifying milestones and documenting existing conditions in the region. The Long-range Plan is due for interagency review and adoption by March 2020.

8) Coordinated Human Services Transportation Plan (HSTP)

In 2016, YVCOG resumed facilitation activities through a reconstitution of the Special Needs Transportation Coalition under the banner "Mobilizing Public Access to Countywide Transportation (MPACT). On a quarterly basis YVCOG as lead agency for Human Services Transportation Plan development, gathers regional stakeholders for a coalition meeting to discuss unmet or new opportunities for public transportation services in the public and private sectors. The coalition meets more often as they develop the HSTP. This coalition is a standing committee of the MPO/RTPO Policy Board and consists of stakeholders that drafted the last Human Services Transportation Plan update in June 2018. The MPACT Committee updates the ranked list of Consolidated Public Transportation projects submitted to WSDOT during the development of the Plan every four years and once again in the middle of the 4-year cycle.

9) Intelligent Transportation Systems Plan (ITS)

In SFY 2014, YVCOG completed their first ITS plan and updated the associated national database with regional ITS projects. YVOCG has performed annual updates for SFYs 2015-2019. It is the intention of YVCOG to amend the Plan annually in November of each year with the latest M/RTIP, Transit, HSTP and member ITS planned and funded projects.

10) Commute Trip Reduction Program (CTR)

YVCOG manages a Commute Trip Reduction program. The program monitors and reports on mandated and voluntary businesses that incentivize trip reduction efforts for their employees. The Program Coordinator actively manages the program and is also currently coordinating a pilot project that assists agricultural workers in the region.

#### B. Consultant Contracts Activities

1. Consultant Contracts Administration - The MPO/RTPO Technical Advisory Committee (TAC) is responsible for recommending consultant firms to the MPO/RTPO Policy Board for final selection, negotiation and award. YVCOG staff is responsible for recommending non-MPO/RTPO consultant firms to the Executive Committee. The Executive Director administers awarded consultant contracts.

2. Authorities - WSDOT Local Agency Guidelines; 48 CFR 31; 23 CFR 172.

 Consultant Selection Process – YVCOG staff will request qualifications from consulting firms specializing in various aspects of planning or organizational tasks as needed. See the YVCOG Procurement and Purchase Procedures for details.
 Title VI Assurances and Provisions a) Include applicable Disadvantaged Business Enterprise (DBE) goals in designated projects and seek to proactively achieve the goal(s).

b) Include Title VI assurance and provision language in all Federally funded consultant contracts. Periodically review documents and language to ensure compliance with current laws and regulations. Provide a copy of the form of the contract to the Coordinator, and any amendments or updates that may occur over time.

c) The Coordinator will maintain updated demographic data on the utilization of women-and minority-owned consulting firms. As they occur, a copy of the award letter will be provided to the Coordinator for use in preparing the Annual Update Report.

#### Exhibit 1

#### YVCOG Title VI Notice to the Public

The paragraph below will be inserted in all significant publications that are distributed to the public, such as future versions and updates of the Metropolitan and Regional Transportation Plan, or Metropolitan and Regional Transportation Improvement Program for the Yakima Valley region. The text will remain permanently on the Organization's website at <a href="http://www.yvcog.org">www.yvcog.org</a>. The version directly below is the preferred text but where space is limited (as in YVCOG's newsletter) or in publications where cost is an issue, the abbreviated version can be used in its place.

The Yakima Valley Conference of Governments (YVCOG) hereby gives public notice that it is the Organization's policy to assure full compliance with Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, and related statutes and regulations in all programs and activities. Title VI requires that no person shall, on the grounds of race, color, sex, or national origin be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination under any Federal Aid Highway program or other activity for which YVCOG 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 YVCOG. Any such complaint must be in writing and filed with YVCOG's Title VI Coordinator within one hundred, eighty (180) days following the date of the alleged discriminatory occurrence. For more information, or to obtain a Title VI Discrimination Complaint Form, please visit our website at <u>www.yvcog.org</u> or call Larry Mattson at (509) 574-1550.

#### YVCOG Title VI Notice to the Public- Abbreviated

YVCOG fully complies with Title VI of the Civil Rights Act of 1964 and related statutes and regulations in all programs and activities. For more information, or to obtain a Title VI Complaint Form, please visit our website at www.yvcog.org or call Larry Mattson at (509) 574-1550.

#### Exhibit 2 – YVCOG Title VI Assurances

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

More specifically and without limiting the above general assurance, the Recipient hereby gives the following specific assurances to its Federal Aid Highway Program: 1. That the Recipient agrees that each "program" and each "facility" as defined in Subsections 21.23(e) and 21.23(b) of the Regulations, will be (with regard to a "program") conducted, or will be (with regard to a "facility") operated in compliance with all requirements imposed by, or pursuant to, the Regulations.

2. That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Regulations made in connection with the Federal Aid Highway Program, and in adapted form in all proposals for negotiated agreements: YVCOG in accordance with Title VI of the Civil Rights Act of 1964 and 78 Stat. 252, 42 USC 2000d---42 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, part 21, Nondiscrimination in Federally assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, or national origin in consideration for an award.

3. That the Recipient shall insert the clauses of Exhibit 2A of this Assurance in every contract subject to the Act and the Regulations.

4. That the Recipient shall insert the clauses of Exhibit 2B of this Assurance, as a covenant running with the land, in any deed from the United States effecting a transfer of real property, structures, or improvements thereon, or interest therein.

5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance shall extend to the entire facility and facilities operated in connection therewith.

6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property, or an interest in real property, the Assurance shall extend rights to space on, over or under such property.

7. That the Recipient shall include the appropriate clauses set forth in Exhibit 2C of this Assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Recipient with other parties: (a) for the subsequent transfer of real property acquired or improved under the Federal Aid Highway Program; and (b) for the construction or use of or access to space on, over or under real property acquired, or improved under the Federal Aid Highway Program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, or is in the form of, personal property, or real property or interest therein or structures or improvements there on, 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, of 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 s/he delegates specific authority to give reasonable guarantee that it, other recipients, sub-grantees,

contractors, subcontractors, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations, and this Assurance.

10. The Recipient agrees that the United States has a right to seek judicial endorsement with regard to any matter arising under the Act, the Regulations, and this Assurance.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Recipient by the U.S. Department of Transportation under the Federal Aid Highway Program and is binding on it, other recipients, sub-grantees, contractors, subcontractors, transferees, successors in interest and other participants in the Federal Aid Highway Program. The persons whose signatures appear on page 1 of this document are authorized to sign this Assurance on behalf of the Recipient.

#### Exhibit 2A

# 1 – Title VI Assurances for Consultants, Contractors, Subcontractors, Suppliers, and

#### Manufacturers

YVCOG will insert or add the following clauses into every contract subject to the Act and Regulations associated with the receipt of Federal financial assistance:

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

#### 1. Compliance with Regulations.

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

#### 2. Nondiscrimination.

The contractor, with regard to the work performed during the contract, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Exhibit 2 of the Regulations. 3. Solicitations for Subcontracts, including Procurement of Materials and Equipment. In all solicitations either by competitive bidding or negotiations made by the contractor for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the ground of race, color, sex, or national origin.

4. Information and Reports.

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

5. Sanctions for Noncompliance.

In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, YVCOG and the Washington State Department of Transportation shall impose such contract sanctions as it, or the Federal Highway Administration may determine to be appropriate, including, but not limited 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 procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontractor or procurement as YVCOG or the

U.S. Department of Transportation, Federal Highway Administration, may direct as a means of enforcing such provisions including sanctions for noncompliance.

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

#### **Exhibit 2B - Granting and Habendum Clauses**

When YVCOG is the recipient of real property, structures or improvements thereon, or interest therein **from** the United States, the following clauses shall be included in any and all deeds affecting or recording the transfer of property:

#### **GRANTING CLAUSE**

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

#### HABENDUM CLAUSE

TO HAVE AND TO HOLD said lands and interests therein unto YVCOG, 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 the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and shall be binding on YVCOG, its successors, and assigns.

YVCOG, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person shall on the grounds of race, color, sex, 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)1 (2) that YVCOG, shall use the 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 of 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 Agency shall have a right to reenter 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.

#### Exhibit 2C - Lease/Deed Provisions

Upon receipt of Federal financial assistance to construct a facility or part of a facility, the Recipient agrees to include these clauses in all future deeds, licenses, leases, permits, or similar instruments entered into by YVCOG pursuant to the provisions of Title VI Assurances, item 7:

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

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

# The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by YVCOG pursuant to the provisions of Title VI Assurances, item 7.

The LESSEE, for himself or herself, his or her personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (1) no person, on the grounds of race, color, sex, or national origin shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and furnishing of services thereon, no person on the grounds of race, color, sex, or national origin shall

be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the LESSEE shall use the premises in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, part 21, Nondiscrimination in Federally assisted programs of the U.S. Department of Transportation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

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

1 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 Civil Rights Act of 1964.

	Yakima Valley Conference of Governments (YVCOG)		DATE: JANUARY 14	019 – TRANSPORTATION , 2019 In on gender, race and	
Name	Affiliation	Email	Phone	Please check the approp	
(Please print or write clearly	r) (if applicable)			Male Female Disabled	American Indian/Alaskan Native     Asian/Pacific Islander     Black     Hispanic     White     Other
				Male     Female     Disabled	American Indian/Alaskan Native Asian/Pacific Islander Black Hispanic White Other
				Male     Female     Disabled	American Indian/Alaskan Native     Asian/Pacific Islander     Black     Hispanic     White     Other
				Male     Female     Disabled	American Indian/Alaskan Native     Asian/Pacific Islander     Black     Hispanic     White     Other
				Male     Female     Disabled	American Indian/Alaskan Native     Asian/Pacific Islander     Black     Hispanic     White     Other
				Male     Female     Disabled	American Indian/Alaskan Native Asian/Pacific Islander Black Hispanic White Other
				Male     Female     Disabled	American Indian/Alaskan Native     Asian/Pacific Islander     Black     Hispanic     White     Other
				Male     Female     Disabled	American Indian/Alaskan Native     Asian/Pacific Islander     Black     Hispanic     White     Other
				Male     Female     Disabled	American Indian/Alaskan Native     Asian/Pacific Islander     Black     Hispanic     White     Other
				Male     Female     Disabled	American Indian/Alaskan Native     Asian/Pacific Islander     Black     Hispanic     White     Other

# Exhibit 3 – YVCOG Public Sign-in Sheet

			Title VI
<b>V</b>	C	omplaint F	orm and Procedures
Complaint Form			
Instructions: If you would like to subm please fill out the form below and sen Mattson, Executive Director, 311 N. 4 1550. For a copy of the YVCOG's ful	d it to: Yakima Valley Confer <sup>th</sup> Street, Suite 204, Yakima, V	ence of Governm NA 98901. For	nents (YVCOG), Attn: Larry questions, please call (509) 574
1. Name (Complainant):	2. Phone:	3. Home addre	
		(street #, P.C	). Box, city, state, zip):
<ol> <li>If applicable, name of person(s) who against you:</li> </ol>	allegedly discriminated	-	
5. Location and position of person(s) if	known:		<ol><li>Date of alleged incident:</li></ol>
<ul> <li>National origin</li> <li>Creed / religion</li> <li>Disability</li> <li>8. Explain as briefly and clearly as poss Indicate who was involved. Be sure Also, attach any written material pert</li> </ul>	to include how you feel other pe	Di Di Re Pou believe you we ersons were treate	ed differently than you.
PLEAS	SE COMPLETE PAGE 2 0	F THIS FORM	
YVCOG Title VI Complaint Form			Page 1 of 4

	ADDITION	AL INFORMATION:	
9. Why do you believe th	nese events occurred?		
10 Minut althou informati	an de constituie in colorant to t	ha iauaatiaatiaa 2	
10. What other informati	on do you think is relevant to t	ne investigation?	
11. How can this/these i	ssue(s) be resolved to your sa	tisfaction?	
12. Please list below an (witnesses fellow er	y person(s) we may contact fo	r additional information to su	pport or clarify your complair
(witnesses, fellow er	mployees, supervisors, others)	c	
12. Please list below an (witnesses, fellow er Name:	y person(s) we may contact fo mployees, supervisors, others) Job title:	r additional information to su : Address:	
(witnesses, fellow er	mployees, supervisors, others)	c	
(witnesses, fellow er	mployees, supervisors, others)	c	pport or clarify your complair Phone number:
(witnesses, fellow er	mployees, supervisors, others)	c	
(witnesses, fellow er	mployees, supervisors, others)	c	
(witnesses, fellow er	mployees, supervisors, others)	c	
(witnesses, fellow er	mployees, supervisors, others)	c	

# Nondiscrimination Complaint Procedures

These procedures apply to all complaints filed under Title VI of the Civil Rights Act of 1964 [including its Disadvantaged Business Enterprises (DBE) and Equal Employment Opportunity (EEO) components], Section 504 of the Rehabilitation Act of 1973, the Civil Rights Restoration Act of 1987, and the Americans with Disabilities Act of 1990, relating to any program or activity administered by YVCOG or its subrecipients, consultants, and/or contractors. Intimidation or retaliation of any kind is prohibited by law. These procedures do not deny the right of the complainant to file formal complaints with other state or federal agencies, or to seek private coursel for complaints alleging discrimination. These procedures are part of an administrative process that does not provide for remedies that include punitive damages or compensatory remuneration for the complainant.

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

## Procedures

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

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

2. Upon receipt of the complaint, the Title VI Coordinator will determine its jurisdiction, acceptability, and need for additional information, as well as investigate the merit of the complaint. In cases where the complaint is against one of YVCOG's subrecipients of federal funds, YVCOG will assume jurisdiction and will investigate and adjudicate the case. Complaints against YVCOG will be referred to the Washington State Department of Transportation's (WSDOT) Office of Equal Opportunity (OEO), the Federal Highway Administration or the Federal Transit Administration, as appropriate, for proper disposition pursuant to their procedures. In special cases warranting intervention to ensure equity, these agencies may assume jurisdiction and either complete or obtain services to review or investigate matters.

3. In order to be accepted, a complaint must meet the following criteria:

- a. The complaint must be filed within 180 calendar days of the alleged occurrence or when the alleged discrimination became known to the complainant.
- b. The allegation(s) must involve a covered basis such as race, color, national origin, gender, disability, or retaliation.
- c. The allegation(s) must involve a program or activity of a Federal-aid recipient, subrecipient, or contractor, or, in the case of ADA allegations, an entity open to the public.
- The complainant(s) must accept reasonable resolution based on YVCOG's administrative authority (reasonability to the determined by YVCOG).

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

- a. The complainant requests the withdrawal of the complaint.
- b. The complainant fails to respond to repeated requests for additional information needed to process the complaint.
- c. The complainant cannot be located after reasonable attempts.

5. Once YVCOG or WSDOT decides to accept the complaint for investigation, the complainant and the respondent will be notified in writing of such determination within five calendar days. The complaint will receive a case number and will then

YVCOG Title VI Complaint Form

be logged in YVCOG's or WSDOT's records identifying its basis and alleged harm, and the race, color, national origin, and gender of the complainant.

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

7. In cases where YVCOG assumes the investigation of the complaint, within 40 calendar days of the acceptance of the complaint, YVCOG's Investigator' will prepare an investigative report for review by the agency's Legal Counsel and Executive Director. The report shall include a narrative description of the incident, identification of persons interviewed, findings, and recommendations for disposition.

\*This can be one of YVCOG's Title VI Liaisons, or YVCOG's Title VI Coordinator.

The investigative report and its findings will be sent to YVCOG's Legal Counsel for review. The Counsel will review the report and associated documentation and will provide input to the Investigator within 10 calendar days.

 Any comments or recommendations from YVCOG's Legal Counsel will be reviewed by YVCOG's Investigator. The Investigator will discuss the report and recommendations with the Executive Director within 10 calendar days. The report will be modified as needed and made final for its release.

10. YVCOG's final investigative report and a copy of the complaint will be forwarded to WSDOT's OEO within 60 calendar days of the acceptance of the complaint. WSDOT's OEO will share the report with FHWA and FTA, Washington Division Offices, as part of its Annual Title VI Update and Accomplishment Report.

YVCOG will notify the parties of its preliminary findings, which are subject to concurrence from WSDOT's OEO.
 WSDOT's OEO will issue the final decision to YVCOG based on YVCOG's investigative report.

 Once WSDOT's OEO issues its final decision, YVCOG will notify all parties involved about such determination. WSDOT's final determination is not subject to an appeal.

13. WSDOT will also serve as the appealing forum to a complainant that is not satisfied with the outcome of an investigation conducted by YVCOG. WSDOT will analyze the facts of the case and will issue its conclusion to the appellant according to their procedures.

YVCOG Title VI Complaint Form

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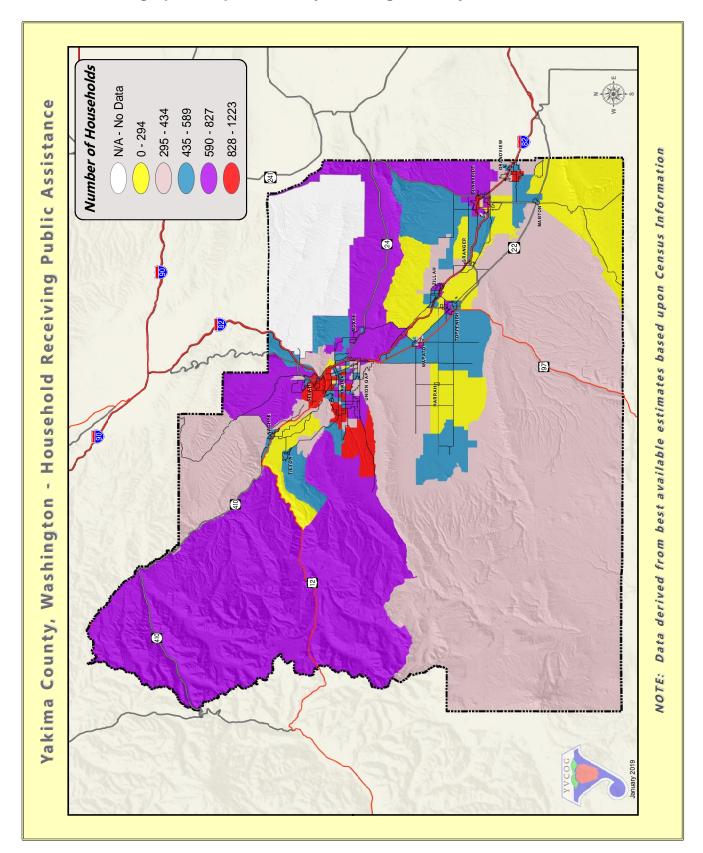
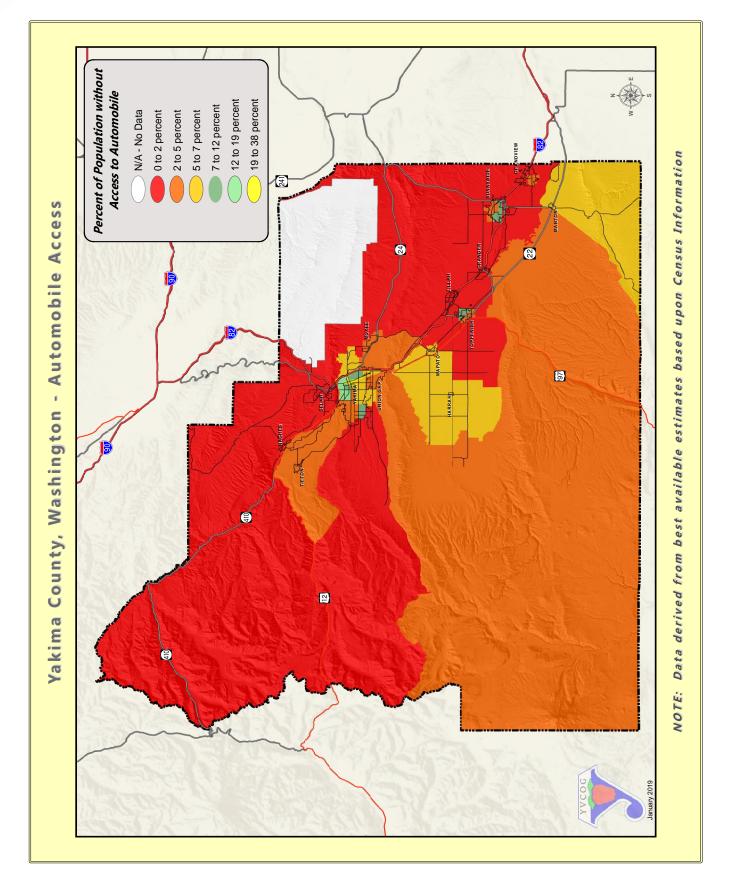
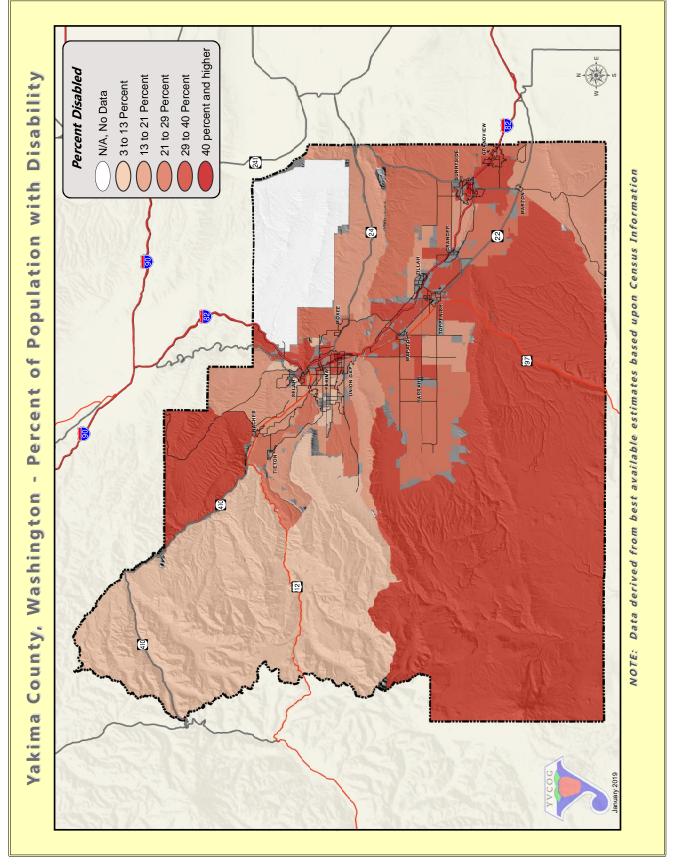
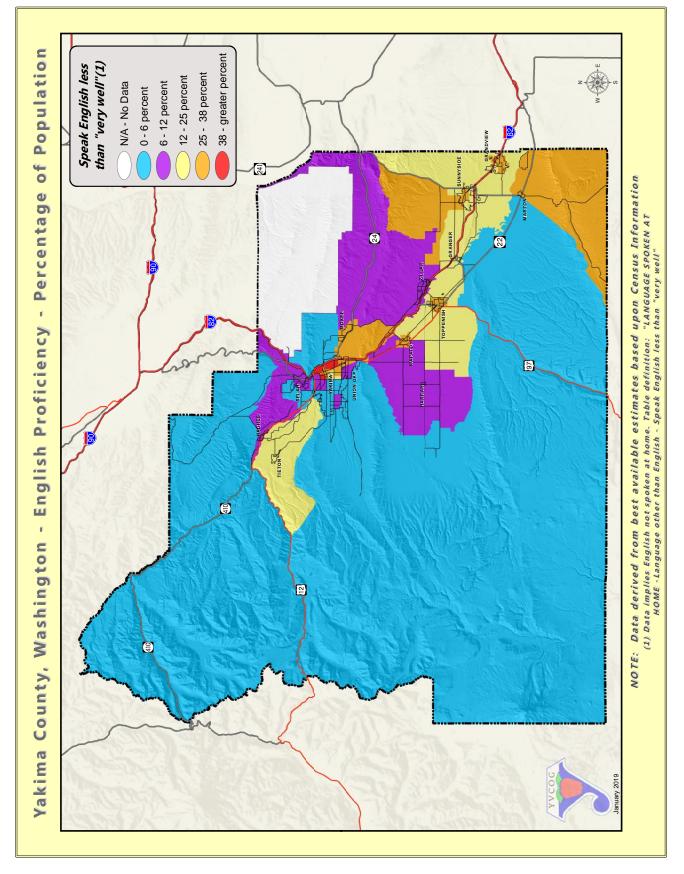


Exhibit 5 – Demographic Maps to Identify Planning and Project Considerations

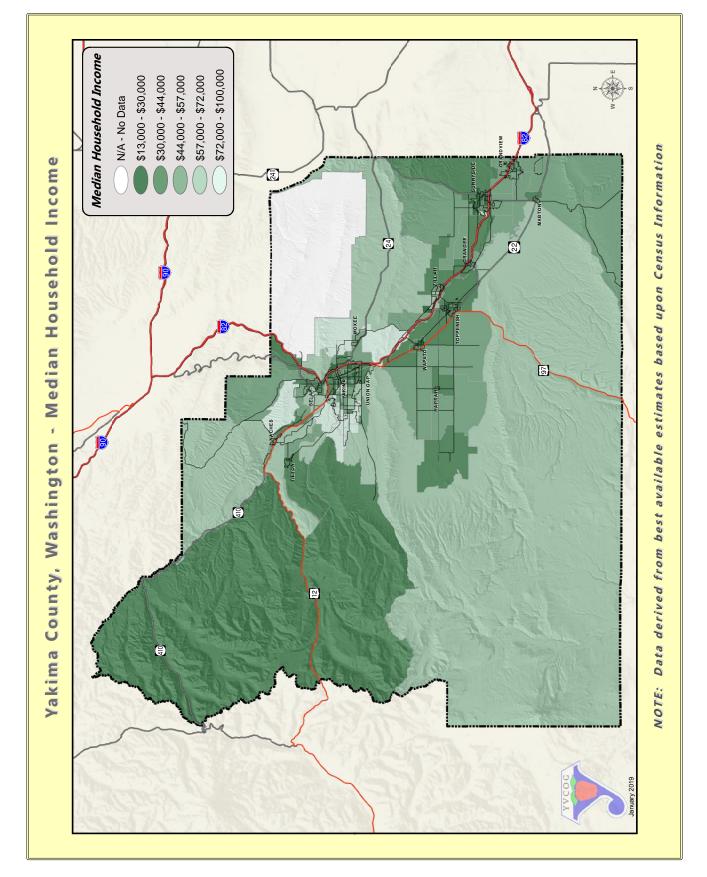


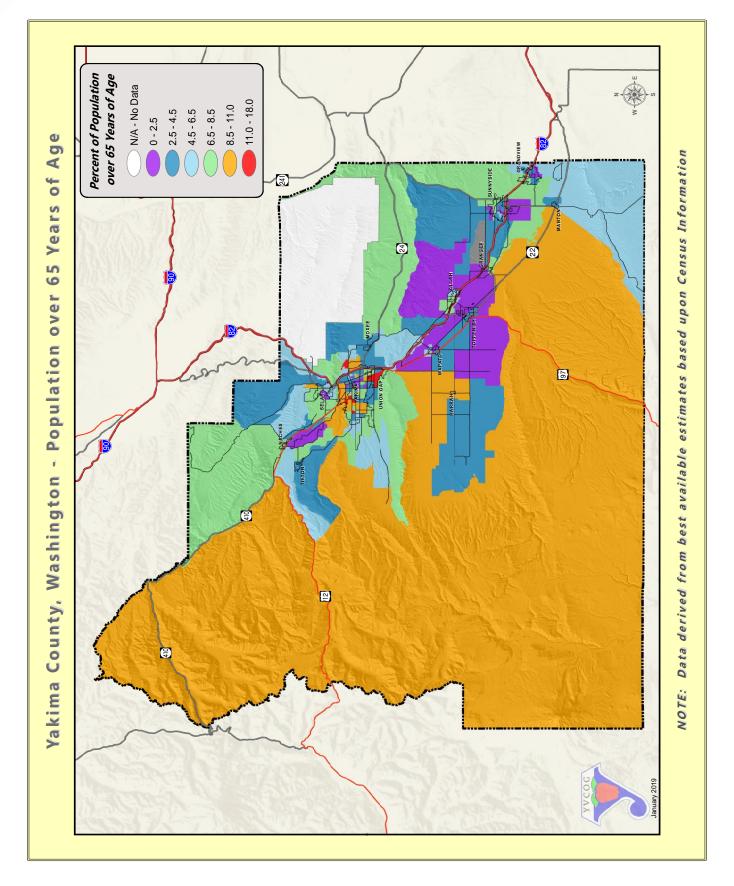


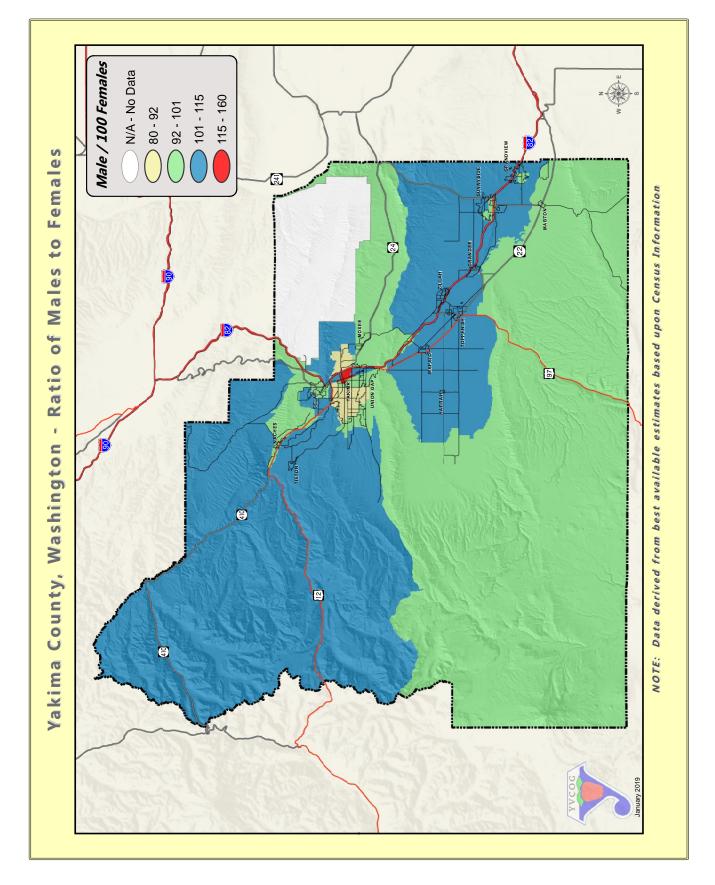
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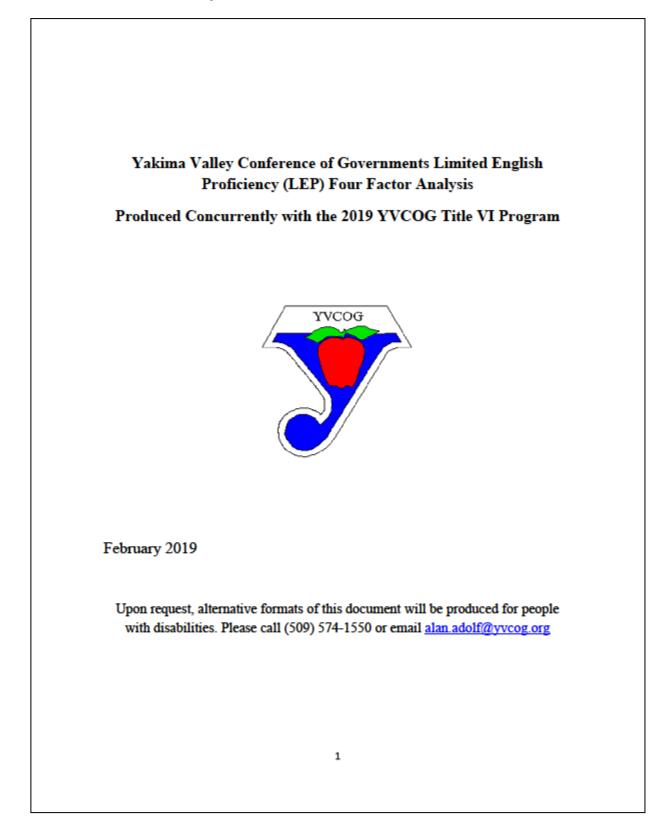
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#### Exhibit 6 – Four Factor Analysis



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Map 1- LEP Population by Census Track

## Introduction

Yakima Valley Conference of Governments (YVCOG) has conducted a Four Factor Analysis to meet the requirements under Title VI of the Civil Rights Act of 1964. The Four Factor Analysis provides a framework to conduct a needs assessment of people with Limited English Proficiency (LEP). Based on the needs assessment, a language assistance plan was developed that was consistent with the provisions of Section VII of the LEP guidance.

Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq., and its implementing regulations provide that no person in the United states shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination under any program or activity that receives Federal financial assistance. The Supreme Court, in Lau v. Nichols, 414 U.S. 563 (1974) interpreted that Title VI regulations prohibit conduct that has a disproportionate effect on persons with Limited English Proficiency (LEP) because such conduct constitutes national origin discrimination.

According to the Federal Transit Administration Office of Civil Rights handbook dated April 13, 2007, "Implementing the Department of Transportation's Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient (LEP) Persons: A Handbook for Public Transportation Providers, "Individuals, who have a limited ability to read, write, speak, or understand English are limited English proficient or "LEP."

# The Four Factor Analysis

# Factor 1: The number and proportion of LEP persons served or encountered in the eligible population

The purpose of Factor 1 is to determine the number and proportion of LEP persons served or encountered within the service area. There are several suggested steps including: examine prior experiences, review U.S. Census data, identify the geographical boundary, consult other sources of data, and reach out to community organizations. Yakima Valley Conference of Governments has broken Factor 1 into two phases: 1) <u>Data and Information Gathering</u>, and 2) <u>Review and Findings</u>. Below are the actions that were taken by YVCOG for each phase.

### Data and Information Gathering:

- Interviewed local providers of transportation related services (Yakima Transit, Union Gap Transit, Selah Transit, People for People, PAHTO Tribal Transit) as well as YVCOG staff and WSDOT-SCR staff to gather information related to contact with LEP persons.
- Collected 2010 U.S. Census and American Community Survey Data and displayed the data into a visual format that is included in this report (Attachment 1, Map).
- Interviewed community organizations both on phone and in person.
- Described the YVCOG service area and concentrations of LEP populations in the service area.

Based on the review of the information collected above, the following characteristics of the LEP population in Yakima County are described below.

## Review and Findings:

- According to 2000 Census data, the top non-English language spoken at home in the region is Spanish. Spanish is spoken at home by approximately 30% (40% per 2010 census and ACS) of the region's population over the age of 5. Approximately 81.4% (based on 2013 ACT <u>http://tinyurl.com/mtus5f5</u>) of this group reported that they speak English "very well" or "well;" less than 19% (based on 2013 ACS, same link) reported that they spoke English "not well" or "not at all."
- The most common language encountered by community organizations (based on surveys conducted by those organizations) was Spanish and to a lesser extent, Indo-European.
- Several community organizations stated that transit was extremely important for LEP persons' mobility.
- Several community organizations expressed that LEP people have experienced difficulty using public transit or that current transit services were inadequate.
- Concentrations of LEP people are moderate and spread out throughout the service area.

4

#### Geographical Service Area:

The Yakima County Service area includes the entirety of Yakima County.

### Census Overview:

According to 2000 Census data, the top non-English language spoken at home in the region is Spanish. Spanish is spoken at home by approximately 30% (40% per 2010 census and ACS) of the region's population over the age of five. Approximately 81.4% (based on 2013 ACT <u>http://tinyurl.com/mtus5f5</u>) of this group reported that they speak English "very well" or "well;" less than 19% (based on 2013 ACS, same link) reported that they spoke English "not well" or "not at all." Individuals demonstrating a limited ability to read, write, speak, or understand English are considered to be of limited English proficiency. The 2010 Census states that the top two non-English languages spoken at home in the region are Spanish and Other Indo-European. Since the percentage of persons with limited English proficiency is relatively large in Yakima County, it is essential that language does not prove a barrier to accessing transportation services.

The percentage of persons in Yakima County speaking a language other than English is far above the 5% threshold that most organizations use as a trigger to increase outreach to LEP communities, Spanish being the top language.

## Factor 2: The frequency with which LEP individuals come in contact with a YVCOG program, activity, or service

### Description of Services:

Yakima Valley Conference of Governments (YVCOG) is the lead planning agency for the federally designated Yakima Valley Metropolitan Planning Organization (MPO). The purpose of the MPO is to implement 23 USC Section 134 which requires that an MPO be designated for each urbanized area with a population over 50,000. In the metropolitan area, planning and programming processes incorporate all transportation modes, support community development, and respect societal goals.

YVCOG is also the lead planning agency for the state-designated Yakima Valley Regional Transportation Planning Organization (RTPO). One of the purposes of an RTPO is to see that provisions of the Washington State Growth Management Act ((RCQW 47.80.20), as further defined under Washington Administrative code (WAC) Section 468-86, are met.

The RTPO performs transportation-related planning tasks similar to the MPO, but unlike the MPO, the RTPO includes rural and small urban areas outside of the greater metropolitan area. Often a MPO and a RTPO are combined to make transportation planning a coordinated and comprehensive process, as is the case in the Yakima Valley. Early on YVCOG member jurisdictions recognized

the need, the desirability, and the regional benefits that result from a collaborative forum for transportation planning and decision-making.

Although YVCOG authors regional planning documents and seeks input from stakeholders, members, interested parties and the general public, YVCOG generally does not provide any direct services to the population.

At this time, YVCOG is largely an association of local jurisdictions that serves as a forum for developing policies and making decisions about regional transportation and planning issues.

The frequency and extent with which LEP individuals come into contact with YVCOG Metropolitan and Regional Transportation Planning program is estimated to be quite low.

## Factor 3: The nature and importance of programs, activities, or services provided to the LEP population

The more important the activity, information, service, or program, or the greater the possible consequences of the contact to the LEP individuals, the more likely language services are needed. While essential to the long-term livability and economic vitality of the region, long-range transportation and community planning may not be as important of a service to LEP individuals as health care, employment, or financial assistance. YVCOG promotes any opportunity to increase public comment on long-range decision making. The level and complexity of public outreach is determined by MPO/RTPO staff and on a task by task basis.

YVCOG encourages public comment on its policies, programs, and funding cycles, and therefore would like to increase opportunities for public comment, particularly by historically underserved populations including LEP individuals.

# Factor 4: The resources available to Yakima Valley Conference of Governments and overall cost

YVCOG has limited resources to pursue translation services; therefore, an ideal solution would be to find a low-cost point of access for LEP individuals. This gives LEP individuals a way to find out about the YVCOG's activities and provides a method for YVCOG to determine the demand for translation services.

## Review of Four Factor Analyses

- YVCOG will publish its newspaper notifications for its programs, plans and projects in English and Spanish.
- Based on the low LEP population in the service area and limited prior request for translation services, the most fiscally responsible use of resources is for YVCOG to provide translation services.

- For any major planning document drafted, YVCOG will translate the Title Page, Table of Contents and Executive Summary.
- · Plan for assisting persons of Limited English Proficiency.
- · Determine how to identify LEP persons who need language assistance.
- Examine records requests for language assistance from past public notice meetings and events to anticipate the possible need for assistance at upcoming public meetings.
- Though language needs may not be able to be met at a current meeting, an inventory of those needs will help staff plan for language needs at future meetings.
- YVCOG currently does publish Spanish language public legal notices in Spanish language newspapers to notify the LEP population of upcoming public comment periods for planning and policy related issues.

### Monitoring and Updating the LEP Four Factor Analysis

This strategic analysis is designed to be flexible and is one that can be easily updated. At a minimum, YVCOG will follow the Title VI program update schedule for the LEP Four Factor Analysis.

Each update should examine all plan components such as:

- How many LEP persons were encountered?
- Were their needs met?
- What is the current LEP population in the service area?
- Has there been a change in the types or concentrations of languages spoken in the service area?
- Have YVCOG's available resources such as technology, staff, and financial costs changed?
- Has YVCOG fulfilled the goals of the LEP Plan?
- Were there any complaints received?

# Dissemination of the Yakima Valley Conference of Governments Limited English Proficiency Four Factor Analysis

YVCOG will post the LEP Four Factor Analysis on its website at <u>www.yvcog.org</u> An LEP person may obtain copies of the report upon request. Any questions or comments regarding this analysis should be directed to:

Alan Adolf, Transportation Program Manager 311 North 4<sup>th</sup> Street, Suite 204 Yakima, WA 98901 (509) 574-1550 <u>Alan Adolf@yvcog.org</u>

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# Exhibit 7 – Policy for Engaging individuals with Limited English Proficiency (LEP)

# Policy for Engaging Individuals with Limited English Proficiency (LEP)

The U.S. Department of Justice has provided some guidance on engaging LEP individuals. The guidance offers a "four-factor analysis" process, which the Title VI Team used in 2006 to determine the number and proportion of LEP individuals in the region and how to cost effectively provide information services to these individuals. The guidance also offers a safe harbor of 5% of the effected population or 1,000 people in the effected neighborhood.

The "four-factor analysis" process includes determining the number and proportion of LEP individuals within the population, the frequency with which LEP individuals will come in contact with the program, the importance of the program to people's lives, and the resources available to provide translation services.<sup>1</sup> According to U.S. Census figures, several languages are spoken within the Yakima Valley region. There are a significant number of people who speak Spanish at home in this region.

According to the 2000 Census, the top two non-English languages spoken at home in the region are Spanish and Other Indo-European. Spanish is spoken at home by approximately 30% of the region's population over age 5. Approximately 38% of this group reported that they speak English "very well" or "well;" less than 29% reported that they spoke English "not well" or "not at all."

More recently, the 2010 Census states the top two non-English languages spoken at home in the region are Spanish and Other Indo-European. Spanish is now spoken at home by approximately 30% of the region's population over age 5. Approximately 38% of this group reported that they speak English "very well" or "well;" less than 29% reported that they spoke English "not well" or "not at all."

The YVCOG does not provide any neighborhood specific programs or projects, therefore we reviewed language characteristics for the region as a whole; the 5% safe harbor will be used.

The frequency and extent with which LEP individuals come into contact with the YVCOG Metropolitan and Regional Transportation Planning program is estimated to be quite low. As an association of local jurisdictions that serves as a forum for developing policies and making decisions about regional transportation and planning issues, the YVCOG does not provide any direct services to the population of the Yakima Valley region except when contracted to administer Housing Rehabilitation services by member jurisdictions.

While essential to the long-term livability and economic vitality of the region, long-range transportation and community planning may not be as important of a service to LEP individuals as health care, employment, or financial assistance. However, any opportunity to increase public comment on long-range decision-making is a worthwhile investment.

The YVCOG encourages public comment on its policies, programs, and funding cycles, and therefore would like to increase opportunities for public comment, particularly by historically underserved populations including LEP individuals.

The YVCOG has limited resources to pursue translation services; therefore, an ideal solution would be to find a low cost point of access for LEP individuals. This gives LEP individuals a way to find out about the YVCOG's activities and provides a method for the YVCOG to determine the demand for translation services.

<sup>&</sup>lt;sup>1</sup> This language was taken directly from the U.S. Government's Limited English Proficiency Web site, http://www.lep.gov/recipbroch.html.

On October 6, 2006, YVCOG implemented a "Spanish extension" to our phone system. The automated greeting for our telephone system includes instructions in Spanish and provides callers the option of leaving a message in Spanish. The "Spanish extension" records a voice mail message that can be accessed by our bi-lingual staff or a qualified interpreter, if necessary.

On October 16, 2006, the YVCOG established the following policy for providing information to individuals with Limited English Proficiency (LEP):

"The YVCOG is always seeking opportunities to increase opportunities for public comment on its activities, including policies, programs, and funding cycles. The YVCOG is particularly interested in increasing opportunities for historically underserved populations to provide input regarding its planning and housing rehabilitation activities. During the 2015 Title VI Update to the Title VI Plan, YVCOG staff is undertaking a 'four-factor analysis' (to be completed for the 2015 Public Participation Plan.) Since the last four-factor analysis showed the need, YVCOG believes there will be a continuing need for Spanish translation services. Pending confirmation of this, YVCOG plans to provide on-going access for individuals with Limited English Proficiency by maintaining a 'Spanish extension' in our telephone system."

YVCOG staff has a list of contacts that will be available for assistance if there is a demand for oral or written translation services.

# Exhibit 8 USDOT Standard Title VI / Non-Discrimination Assurances (DOT Order No. 1050.2A)

# <u>The United States Department of Transportation (USDOT)</u> <u>Standard Title VI/Non-Discrimination Assurances</u> <u>DOT Order No. 1050.2A</u>

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

# **Statutory/Regulatory Authorities**

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

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

# **General Assurances**

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity, "for which the Recipient receives Federal financial assistance from DOT, including the Washington State Department of Transportation.

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

# **Specific Assurances**

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted Federal-Aid Highway Program:

- 1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23(b) and 21.23(e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated, or will be (with regard to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
- 2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all the Federal-Aid Highway Program and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

"The Yakima Valley conference of Governments, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."

- 3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
- 4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
- 5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
- 6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
- 7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
  - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
  - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
- 8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:

- a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
- b. the period during which the Recipient retains ownership or possession of the property.
- 9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
- 10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

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

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

Yakima Valley Conference of Governments

(Name of Recipient)

Christina Wickenhagen, Executive Director

# APPENDIX A

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

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

unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the Washington State Department of Transportation may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the Int

# **APPENDIX B**

# CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

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

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the Yakima Valley Conference of Governments will accept title to the lands and maintain the project constructed thereon in accordance with Title 23, United States Code, the Regulations for the Administration of the Federal-Aid Highway Program, and the policies and procedures prescribed by the Washington State Department of Transportation of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the Yakima Valley Conference of Governments all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

# (HABENDUM CLAUSE)

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

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

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

## **APPENDIX C**

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

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the Yakima Valley Conference of Governments pursuant to the provisions of Assurance 7(a):

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

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

## **APPENDIX D**

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

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by Yakima Valley Conference of Governments pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non discrimination covenants, Yakima Valley Conference of Governments will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.\*
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, Yakima Valley Conference of Governments will there upon revert to and vest in and become the absolute property of Yakima Valley Conference of Governments and its assigns.\*

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

# **APPENDIX E**

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

# Pertinent Non-Discrimination Authorities:

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