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Washington State

Department of Transportation

Title VI Compliance Review

Final Report

December 2012

Federal Transit Administration



**PRE PA RE D BY**

The DMP Group, LLC

Washington, DC





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1. GENERAL INFORMATION

Grant Recipient: Washington State Department of Transportation

City/State: Olympia, WA

Grantee No: 1724

Executive Official: Paula J. Hammond, P.E.

Chief Executive Officer and Secretary of Transportation

310 Maple Park Avenue SE

P.O. Box 47316   
Olympia, WA  98504-7316

On-Site Contact: Brenda R. Nnambi

Director, Office of Equal Opportunity

Report Prepared By: The DMP Group, LLC

2233 Wisconsin Avenue, NW Suite 405

Washington, DC 20007

Site Visit Dates: September 6–9, 2011

Compliance Review

Team Members: John F. Potts, Lead Reviewer

Donald Lucas, Reviewer

Gregory Campbell, Reviewer

Khalique Davis, Reviewer

1. JURISDICTION AND AUTHORITIES

The Federal Transit Administration (FTA) Office of Civil Rights is authorized by the Secretary of Transportation to conduct civil rights compliance reviews. The Washington State Department of Transportation (WSDOT) is a recipient of FTA funding assistance and is therefore subject to the Title VI compliance conditions associated with the use of these funds pursuant to the following:

* Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d)
* Federal Transit Laws, as amended (49 U.S.C. Chapter 53 et seq.)
* Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601, et seq.)
* Department of Justice regulation, 28 CFR part 42, Subpart F, “Coordination of Enforcement of Nondiscrimination in Federally-Assisted Programs” (December 1, 1976, unless otherwise noted)
* DOT regulation, 49 CFR part 21, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964” (June 18, 1970, unless otherwise noted)
* Joint FTA/Federal Highway Administration (FHWA) regulation, 23 CFR part 771, “Environmental Impact and Related Procedures” (August 28, 1987)
* Joint FTA/FHWA regulation, 23 CFR part 450 and 49 CFR part 613, “Planning Assistance and Standards” (October 28, 1993, unless otherwise noted)
* DOT Order 5610.2, “U.S. DOT Order on Environmental Justice to Address Environmental Justice in Minority Populations and Low-Income Populations” (April 15, 1997)
* DOT Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient Persons, (December 14, 2005)
* Section 12 of FTA’s Master Agreement, FTA MA 13 (October 1, 2010)

1. PURPOSE AND OBJECTIVES

#### Purpose

The Federal Transit Administration (FTA) Office of Civil Rights periodically conducts discretionary reviews of grant recipients and sub-recipients to determine whether they are honoring their commitments, as represented by certification, to comply with the requirements of 49 U.S.C. 5332. In keeping with its regulations and guidelines, FTA determined that a Compliance Review of the Washington State Department of Transportation (WSDOT) Title VI Program was necessary.

The Office of Civil Rights authorized The DMP Group, LLC, to conduct the Title VI Compliance Review of WSDOT. The primary purpose of this Compliance Review was to determine the extent to which WSDOT has met its General Reporting and Program-Specific Requirements and Guidelines in accordance with FTA Circular 4702.1A, “Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients.” Members of the Compliance Review team also discussed with WSDOT the requirements of the DOT Guidance on Special Language Services to Limited English Proficient (LEP) Beneficiaries referenced in Circular 4702.1A. The Compliance Review had a further purpose to provide technical assistance and make recommendations regarding corrective actions as deemed necessary and appropriate. The Compliance Review was not an investigation to determine the merit of any specific discrimination complaint filed against WSDOT.

#### Objectives

The objectives of FTA’s Title VI Program, as set forth in FTA Circular 4702.1A, dated May 13, 2007, “Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients” are to:

* Ensure that the level and quality of transportation service is provided without regard to race, color, or national origin
* Identify and address, as appropriate, disproportionately high and adverse human health and environmental effects, including social and economic effects of programs and activities on minority populations and low-income populations
* Promote the full and fair participation of all affected populations in transportation decision making
* Prevent the denial, reduction, or delay in benefits related to programs and activities that benefit minority populations or low-income populations
* Ensure meaningful access to programs and activities by persons with limited English proficiency. The objectives of Executive Order 13166 and the “DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries” are for FTA grantees to take reasonable steps to ensure “meaningful” access to transit services and programs for limited English proficient (LEP) persons

1. BACKGROUND INFORMATION

The original Washington State Highway Board was created on March 13, 1905, when Governor Albert E. Mead signed the law for the creation of the first State Highway Board and first State Highway Commissioner. The current Washington State Department of Transportation, created in Revised Code of Washington (RCW) 47.01.031 and guided by a Transportation Commission, formally began operating on September 21, 1977, and serves the entire state of Washington, including rural, small urban, and urban areas. The Washington State Transportation Commission provides a public forum for transportation policy development. It reviews and assesses how the entire transportation system works across the state and issues the State’s 20-year Transportation Plan. As the State Tolling Authority, the Commission adopts tolls for state highways and bridges and fares for Washington State Ferries (WSF).

The Governor of Washington State has designated WSDOT to administer FTA-funded programs. Through the Public Transportation Division, WSDOT manages Section 5303, 5304, 5309, 5310, 5311, 5316, and 5317 funds. WSDOT provides funding to four Section 5304 sub-recipients, 11 Section 5309 sub-recipients, 42 Section 5310 sub-recipients, 43 Section 5311 sub-recipients, 28 Section 5316 sub-recipients, and 25 Section 5317 sub-recipients.

In addition to managing FTA-funded transportation programs, WSDOT is responsible for building, maintaining, and operating the state highway system and ferry system and works in partnership with others to maintain and improve local roads, railroads, airports, and multi-modal alternatives to driving.

The WSDOT Secretary of Transportation reports to the Governor of Washington and has the ultimate responsibility for the implementation of WSDOT’s Title VI program. WSDOT has designated the Director of the Office of Equal Opportunity as the lead staff person for WSDOT regarding Title VI. This office, along with two staff liaisons from the Public Transportation Division, has the responsibility of Title VI compliance within the organization.

WSDOT’s programs and projects are supported by more than 7,000 full-time employees, including engineers, vessel captains, maintenance technicians, environmental specialists, planners, and many others. WSDOT, working closely with private contractors, is in the midst of delivering the largest capital construction program in its history—more than $15.5 billion in projects, including 421 highway projects.

“The mission of the Washington State Department of Transportation is to keep people and business moving by operating and improving the state’s transportation systems vital to our taxpayers and communities.”

The WSF Division of WSDOT directly operates the largest ferry system in the United States. There are 10 fixed routes covering 200 miles of marine highway that serve 20 terminals. The ferry service provides transportation to the general public residing in both urbanized and non-urbanized areas. Passengers can board the vessels by walking on or by driving their vehicles, including cars, vans, school and transit buses, freight trucks, and bicycles.

WSF operates mostly in Puget Sound, from Tacoma in the south to Anacortes and the San Juan Islands in the north. WSF also has one international ferry route, from Anacortes to Sidney, British Columbia, Canada, which operates in the spring, summer. and fall only. The following were the routes for Fall 2011:

* Anacortes /San Juan Islands /Sidney, British Columbia
* Mukilteo /Clinton
* Seattle /Bainbridge Island
* Fauntleroy /Vashon
* Southworth /Vashon
* 2-Boat Fauntleroy / Vashon / Southworth (currently inactive)
* Port Townsend /Coupeville
* Edmonds /Kingston
* Seattle /Bremerton
* Fauntleroy /Southworth
* Point Defiance /Tahlequah

Passenger fares were generally round trip, with the exception of the Port Townsend/ Coupeville route and all international sailings to Sidney, British Columbia. The regular passenger fare for ferries can range from $3.05 to $23.95 depending on the route. Older adults (elderly) (age 65+), persons with disabilities, and passengers with a Medicare card or other eligibility verification travel at half the regular passenger fare rate. WSF offers special rates for youth ages 6–18, and children 5 and under travel free. Vehicle fares are based on a vehicle’s length, height, and width, as well as the distance one will be traveling on board the ferry. Most vehicle fares are one-way, with the exception of the San Juan Islands and Vashon Island routes, which are round trip fares. Motorcycles with a sidecar or trailer and vehicles with three or more wheels licensed as motorcycles will pay the motorcycle fare with a surcharge rate.

WSF provides discounts to frequent users. Wave2Go multi-ride cards offer a 20 percent discount for passengers, and a 20–45 percent discount for vehicles and drivers, depending on the season. A monthly ferry passenger pass offers a 20 percent discount or more, depending on the number of uses. The monthly pass is limited to 31 round trips per month and can be used from the first to the last day of the month. WSF is also a partner in the ORCA (One Regional Card for All) system with other transit systems in the region.

The following table represents a demographic profile of Washington using data from the 2000 and 2010 Census. The table shows the 2000 and 2010 population by racial/ethnic group, the increase (or decrease) in population from 2000 to 2010, and the percentage of the racial/ethnic group population to the total population in both 2000 and 2010. The table also shows the 2000 and 2010 population of individuals below the poverty level (Low-Income) and individuals who speak English less than “very well” (Limited English).

From 2000 to 2010, the total population of the state increased 14.1 percent. During this period, the White population increased 7.8 percent, the Black population increased 26.2 percent, the Hispanic population increased 71.2 percent, the Asian population increased 49.2 percent, the American Indian/Alaskan Native population increased 11.3 percent, and the Hawaiian/Pacific Islander population increased 69 percent.

In 2010, 77.3 percent of the total population was White, 3.6 percent was Black, 11.2 percent was Hispanic, 7.2 percent was Asian, 1.5 percent was American Indian/Alaskan Native, and 0.6 percent was Hawaiian/Pacific Islander.

According to the 2000 Census, 612,370 persons (10.6 percent of the population) had income below the poverty level and 350,914 persons (6.4 percent of the population) had Limited English Proficiency (LEP), as shown in the table below. The information for low income and LEP for 2010 are estimates (see footnotes below table).

**Demographics of the State of Washington**

**Racial/ Ethnic Breakdown**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **Racial/ Ethnic Group** | **2000** | | **2010** | | **Change from 2000 to 2010** | | |
| ***Number*** | ***Percent*** | ***Number*** | ***Percent*** | ***Number*** | ***Percent change ethnic group*** | ***Percent change total population*** |
| White | 4,821,823 | 81.8% | 5,196,362 | 77.3% | 374,539 | 7.8% | -4.5% |
| Black | 190,267 | 3.2% | 240,042 | 3.6% | 49,775 | 26.2% | 0.3% |
| American Indian/ Alaska Native | 93,301 | 1.6% | 103,869 | 1.5% | 10,567 | 11.3% | 0.0% |
| Asian | 322,335 | 5.5% | 481,067 | 7.2% | 158,732 | 49.2% | 1.7% |
| Hawaiian/ Pacific Islander | 23,953 | 0.4% | 40,475 | 0.6% | 16,522 | 69.0% | 0.2% |
| Other Race | 228,923 | 3.9% | 349,799 | 5.2% | 120,876 | 52.8% | 1.3% | |
| Two or More | 213,519 | 3.6% | 312,926 | 4.7% | 99,407 | 46.6% | 1.0% | |
| Hispanic Origin[[1]](#footnote-1) | 441,509 | 7.5% | 755,790 | 11.2% | 314,281 | 71.2% | 3.7% | |
| **Total** | **5,894,121** | **100%** | **6,724,540** | **100%** | **830,419** |  | **14.1%** | |
|  |  |  |  | |  | | | |
| Low Income | 612,370 | 10.6% | 763,061[[2]](#footnote-2) | 12.1% |  | | | |
| LEP | 350,914 | 6.4% | 511,576[[3]](#footnote-3) | 8.1% |  | | | |

Source: 2000 and 2010 U.S. Census

1. SCOPE AND METHODOLOGY

#### Scope

The Title VI Compliance Review of WSDOT examined the following requirements as specified in FTA Circular 4702.1A:

1. General Reporting Requirements and Guidelines – All applicants, recipients and sub-recipients shall maintain and submit the following:
2. Annual Title VI Certification and Assurance
3. Title VI Complaint Procedures
4. Record of Title VI Investigations, Complaints, and Lawsuits
5. Language Access to LEP Persons
6. Notice to Beneficiaries of Protection under Title VI
7. Submit Title VI Program
8. Environmental Justice Analysis of Construction Projects
9. Inclusive Public Participation
10. Program-Specific Requirements and Guidelines for State DOTs and Other Administering Agencies – State DOTs and Other Administering Agencies administering Elderly Individuals and Individuals with Disabilities, Rural and Small Urban Area, Job Access and Reverse Commute (JARC), and New Freedom funding programs shall also submit the following:
11. A copy of procedures to certify that the statewide planning process is in compliance with Title VI
12. A description of the procedures the agency uses to pass through FTA financial assistance in a non-discriminatory manner
13. A description of the procedures the agency uses to provide assistance to potential sub-recipients in a non-discriminatory manner
14. A description of how the agency monitors its sub-recipients for compliance with Title VI and the results of the monitoring
15. Program-Specific Requirements and Guidelines for Recipients Serving Large Urbanized Areas – All applicants, recipients and sub-recipients that provide public mass transit service in areas with populations over 200,000 shall also submit the following:
16. Demographic Data
17. Systemwide Service Standards and Policies
18. Evaluation of Service and Fare Changes
19. Monitoring Transit Service

#### Methodology

Initial interviews were conducted with the FTA Headquarters Civil Rights staff and the FTA Region X Civil Rights Officer to discuss specific Title VI issues and concerns regarding WSDOT. Following these discussions, an agenda letter was sent to WSDOT advising it of the site visit and indicating additional information that would be needed and issues that would be discussed. The Title VI review team focused on the compliance areas that are contained in FTA Title VI Circular 4702.1A that became effective on May 13, 2007. These compliance areas are (1) General Reporting Requirements and Guidelines, (2) Program-Specific Requirements and Guidelines for State Departments of Transportation and Other Administering Agencies, and (3) Program-Specific Requirements and Guidelines for Recipients Serving Large Urbanized Areas.

The General Reporting Requirements and Guidelines now include implementation of the Environmental Justice (EJ) and Limited English Proficiency (LEP) Executive Orders.

WSDOT was requested to provide the following documents in advance of the site visit:

* List of all WSDOT sub-recipients by FTA program area (e.g., FTA Section 5304, 5309, 5310, 5311, 5316, and 5317 sub-recipients).
* A map or chart of the distribution of WSDOT administered FTA Section 5304, 5309, 5310, 5311, 5316, and 5317 funding throughout the State. The areas covered by each subrecipient and the dollars awarded in the past three years should be noted, as well as the number of vehicles, where appropriate. The map or chart should also identify areas where minority and low-income populations exceed the statewide averages.
* A demographic profile of the State that includes the identification of the locations of socioeconomic groups, including low-income and minority populations, as covered by Title VI and the Executive Order on Environmental Justice.
* Description of WSDOT’s Washington Ferries Service (WSF) service area, including general population and other demographic information using the most recent Census data.
* Current description of WSF’s ferry service, including system maps, public timetables, transit service brochures, etc.
* Roster of current WSF revenue vessels, to include acquisition date, seating and auto configurations, and other amenities.
* Description of transit amenities maintained by WSF for its service area. Amenities include stations, shelters, benches, restrooms, telephones, passenger information systems, etc.
* Any studies or surveys conducted by WSDOT, its consultants or other interested parties (colleges or universities, community groups, etc.) regarding transit planning, ridership, service levels and amenities, passenger satisfaction, passenger demographics or fare issues for its rural public transit service provided by FTA Section 5310, 5311, 5316, and 5317 sub-recipients and for the WSF ferry operations, during the past three years.
* WSDOT Organization Chart for the Department, for the unit responsible for administration of FTA grant programs, and for the WSDOT WSF.
* Summary of WSDOT’s, its FTA Section 5304, 5310, 5311, 5316, and 5317 sub-recipients’, and WSF’ current efforts to seek out and consider the viewpoints of minority, low-income, and LEP populations in the course of conducting public outreach and involvement activities.
* A list of FTA Section 5310, 5311, 5316, and 5317 sub-recipients that have conducted the four factor analysis and have developed language assistance plans for persons with Limited English Proficiency.
* Documentation that the procedures for filing complaints against WSDOT and WSF are available to members of the public upon request.
* A list of FTA Section 5310, 5311, 5316, and 5317 sub-recipients that have procedures for investigating and tracking Title VI complaints and documentation that the procedures for filing complaints are available to members of the public upon request.
* A list of any investigations, lawsuits, or complaints naming WSDOT (including WSF) or its sub-recipients that alleges discrimination on the basis of race, color, or national origin during the past three years. This list must include:
* the date the investigation, lawsuit, or complaint was filed
* a summary of the allegation(s)
* the status of the investigation, lawsuit, or complaint
* actions taken by WSDOT or its sub-recipients in response to the investigation, lawsuit, or complaint
* Copy of WSDOT’s Notice to Beneficiaries of Protection Under Title VI, including WSF.
* Description of efforts made by WSDOT to apprise members of the public of the protection against discrimination afforded to them by Title VI, including WSF.
* A list of FTA Section 5310, 5311, 5316, and 5317 sub-recipients that have notified members of the public of the protection against discrimination afforded to them by Title VI.
* Copies of any environmental justice assessments conducted for construction projects during the past three years and, if needed, a description of the program or other measures used or planned to mitigate any identified adverse impact on the minority or low-income communities, including FTA Section 5309, 5310, 5311, 5316, and 5317 sub-recipients and WSF.
* WSDOT’s statewide transportation planning process that identifies the needs of low-income and minority populations.
* WSDOT’s analytical process that identifies the benefits and burdens of the State’s transportation system investments for different socioeconomic groups, identifying imbalances, and responding to the analyses produced.
* A copy of the procedures used for certifying that the statewide planning process complies with Title VI.
* A description of how WSDOT develops its competitive selection process or annual program of projects for Section 5310, 5311, 5316, and 5317 programs submitted to FTA as part of its grant applications. This description should emphasize the method used to ensure the equitable distribution of funds to sub-recipients that serve predominantly minority and low-income populations, including Native American tribes, where present.
* A description of WSDOT’s criteria for selecting transit providers to participate in any FTA grant program.
* A record of requests for Section 5310, 5311, 5316, 5317 funding. The record should identify those applicants that would use grant program funds to provide assistance to predominantly minority and low-income populations. The record should also indicate whether those applicants were accepted or rejected for funding.
* A description of how WSDOT monitors its Section 5310, 5311, 5316, and 5317 sub-recipients for compliance with Title VI and a summary of the results of this monitoring, including:
* the process for ensuring that all sub-recipients are complying with the General Reporting Requirements of FTA Circular 4702.1A
* the process for sub-recipients who provide transportation services to verify that their level and quality of service is provided on an equitable basis, including the development of system-wide service standards and verification that service provided to predominantly minority and low-income communities meets these standards
* A description of WSDOT’s procedures to assist potential sub-recipients in applying for Section 5310, 5311, 5316, and 5317 funding, including any efforts to assist applicants that would serve predominantly minority and low-income populations.
* A description of the assistance WSDOT provides to sub-recipients, upon their request, to help them comply with the FTA Title VI General Reporting Requirements. The following are examples of information that may be provided to sub-recipients:
* Sample notices to the public informing beneficiaries of their rights under Title VI and procedures on how to file a Title VI complaint
* Sample procedures for tracking and investigating Title VI complaints filed with a sub-recipient.
* Demographic information on the race, income, and English proficiency of residents served by the sub-recipient.
* A copy of WSF’s demographic analysis of its urban beneficiaries. This can include either demographic maps and charts prepared or a copy of any customer surveys conducted since the last Title VI submittal that contain demographic information on ridership, or WSF’s locally developed demographic analysis of its customers’ travel patterns.
* Quantitative system-wide service standards and qualitative system-wide service policies adopted by WSF to guard against discriminatory service design or operations decisions.
* Documentation of WSF’s methodology for evaluating significant system-wide service and fare changes and proposed improvements at the planning and programming stages to determine whether those changes have a discriminatory impact (Note: per Circular 4702.1A Chapter V part 4, this requirement applies to “major service changes” only and WSF should have established guidelines or thresholds for what it considers a “major” service change to be). If WSF has made significant service changes or fare changes in the past three years or is currently planning such changes, provide documentation of WSF’s Title VI evaluations of the service or fare changes.
* Documentation of periodic service monitoring activities undertaken by WSF, during the past three years, to compare the level and quality of service provided to predominantly minority and low-income areas with service provided in other areas to ensure that the end result of policies and decision-making is equitable service. If WSF’s monitoring determined that prior decisions have resulted in disparate impacts, provide documentation of corrective actions taken to remedy the disparities.

WSDOT assembled most of the documents prior to the site visit and provided them to the Compliance Review team for advance review. A detailed schedule for the four-day site visit was developed.

The site visit to WSDOT occurred September 6–9, 2011. The individuals participating in the review are listed in Section VIII of this report. An Entrance Conference was conducted at the beginning of the Compliance Review with WSDOT senior management staff and the contractor review team. The review team also showed the participants a video on Title VI and explained the goals of the Compliance Review and the needed cooperation of staff members. A detailed schedule for conducting the on-site visit was discussed.

Following the Entrance Conference, the Compliance Review team conducted a detailed examination of documents submitted in advance of the site visit and documents provided at the site visit by WSDOT staff on behalf of the agency. The review team then met with WSDOT staff to discuss how WSDOT incorporates FTA Title VI requirements into its public transportation program. During the site visit, the review team visited Grays Harbor Transit, a Section 5310, 5311, and an American Recovery and Reinvestment Act (ARRA) sub-recipient, to ascertain the extent to which Title VI was being incorporated into the WSDOT subrecipient activities. The review team also toured the WSF system to ascertain the extent to which Title VI was being incorporated into its public transportation activities. At the end of the site visit, an Exit Conference was held with WSDOT staff, the FTA Region X Regional Civil Rights Officer (via telephone), and the contractor review team. Initial findings and corrective actions were discussed with WSDOT.

**Site Visits**

During the site visit, the review team visited Grays Harbor Transit (GHT), a WSDOT 5310, 5311, and ARRA sub-recipient. GHT provides fixed-route, paratransit, and vanpool services throughout Grays Harbor County. GHT also provides commuter service between Grays Harbor and Olympia, WA. GHT’s fixed-route service operates weekdays from 5:00 a.m. to 10:15 p.m., and on the weekends from 7:15 a.m. to 7:50 p.m. GHT did not operate service on New Year’s Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving, or Christmas. GHT provided approximately 8,500 fixed-route trips and 5,000 paratransit trips per month.

GHT’s Title VI Notice to Beneficiaries was posted on its website but was not distributed via any other medium. Most recently, GHT recognized an increase in Hispanics living in its service area. Specifically, GHT reported that, according to the 2010 Census, Hispanics represented 8 percent of its total service area population (up from 4.9 percent in 2000). While the review team noticed signage on buses that was translated into Spanish, as well as Spanish advertisements on car cards, GHT had not conducted an LEP four-factor analysis. WSDOT indicated that it would work with GHT to conduct a LEP four-factor analysis and develop an inclusive public participation plan that provided minority persons the opportunity to give input into GHT’s transportation planning process.

With the assistance of WSDOT/WSF staff, the review team also identified one low-income and one non-low-income ferry route to tour. The objective was to identify any obvious disparities in the distribution of transit amenities along its routes. The review team rode the Bremerton (low-income route) and the Bainbridge Island (non-low-income route) ferries. There were no disparities in the distribution of transit amenities that had an adverse impact on the minority and low-income communities along the routes toured.

1. FINDINGS AND RECOMMENDATIONS

The Title VI Compliance Review focused on WSDOT's compliance with the General Reporting Requirements and Guidelines, Program-Specific Requirements and Guidelines for State Dots and Other Administering Agencies, and Program-Specific Requirements and Guidelines for Recipients Serving Large Urbanized Areas. This section describes the requirements, guidance, and findings at the time of the Compliance Review site visit. In summary, deficiencies were identified in 10 of the 16 requirement areas of the Title VI Circular applicable to State DOTs and Recipients Serving Large Urbanized Areas as follows:

* Inclusive Public Participation
* Language Access to LEP Persons
* Title VI Complaint Procedures
* Notice to Beneficiaries of Protection Under Title VI (identified two deficiencies)
* Environmental Justice Analysis of Construction Projects
* Statewide Planning Activities
* Program Administration
* Demographic Data
* Evaluation of Fare and Service Changes
* Monitoring Transit Service

In addition, two advisory comments were issued in the area of Title VI Complaint Procedures, and two advisory comments were issued in the area of Record of Title VI Investigations, Complaints, and Lawsuits.

After the site visit and prior to the final report, WSDOT submitted corrective actions adequate to close the deficiency in the area of Title VI Complaint Procedures, one of the two deficiencies in the area of Notice to Beneficiaries, and the deficiency in the area of Program Administration. WSDOT also addressed one of the advisory comments in the area of Record of Title VI Investigations, Complaints, and Lawsuits.

At the time of this final report, deficiencies remain in 8 of the 16 requirement areas of the Title VI Circular applicable to State DOTs and Recipients Serving Large Urbanized Areas as follows:

* Inclusive Public Participation
* Language Access to LEP Persons
* Notice to Beneficiaries of Protection Under Title VI
* Environmental Justice Analysis of Construction Projects
* Statewide Planning Activities
* Demographic Data
* Evaluation of Fare and Service Changes
* Monitoring Transit Service

Advisory comments remain in the areas of Title VI Complaint Procedures and Record of Title VI Investigations, Complaints, and Lawsuits.

#### FINDINGS OF THE GENERAL REPORTING REQUIREMENTS

1. Inclusive Public Participation

**Guidance:** *FTA recipients should seek out and consider the viewpoints of minority, low-income, and LEP populations in the course of conducting public outreach and involvement activities. An agency’s public participation strategy shall offer early and continuous opportunities for the public to be involved in the identification of social, economic, and environmental impacts of proposed transportation decisions.*

**Finding:** During this Title VI Compliance Review of WSDOT, deficiencies were found regarding WSDOT’s compliance with FTA guidance for Inclusive Public Participation. WSDOT did not have an inclusive public participation plan for itself or WSF and did not document that it conducted outreach to minority and low-income persons, as required by FTA Circular 4702.1A. WSDOT described its process for inclusive public participation, which was limited to outreach to low-income, older adult and persons with disabilities who are impacted by WSDOT’s Coordinated Human Services Transportation Planning (CHSTP) process. These efforts did not include outreach to minority persons.

WSDOT developed guidance for Regional Transportation Planning Organizations (RTPOs) and sub-recipients to use when conducting outreach to low-income, older adult and persons with disabilities in its “Human Transportation Plan: Template with Instructions,” and in its “RTPO Transportation Planning Organization Guidebook.” These documents included recommendations for conducting outreach to targeted groups, some of which were consistent with recommendations included in FTA Circular 4702.1A. For example, outreach associated with WSDOT’s CHSTP process included the following:

* *Engagement of stakeholders representative of the targeted communities (individuals, community groups, neighborhood organizations, churches, advocacy groups, advisory boards) early in the planning process.*
* *Holding meetings at convenient times and in convenient locations to maximize participation from the targeted communities.*
* *Development of surveys designed to collect feedback from target populations.*
* *Use of representative media (newspapers, radio, and television).*

If RTPOs were going to be used by WSDOT for Title VI outreach purposes, it was recommended that WSDOT encourage RTPOs throughout the state to use these outreach strategies to include minority persons early and continuously in the State’s transportation planning process, or otherwise ensure that outreach to minority persons is occurring. WSDOT was also encouraged to record its Title VI outreach efforts, as well as those of WSF, as it will be required to provide a list of its outreach activities in future Title VI Program submittals.

During the site visit, WSDOT was made aware of deficiencies in Inclusive Public Participation for both the State administrative function and its WSF transit operation. After the site visit and before the issuance of the Draft report, WSDOT submitted the following response for WSF:

WSF solicits input on service and fares from committees in each ferry-served community by means of Ferry Advisory Committees (FACs) in addition to public meetings at each ferry community twice annually.

With regard to service changes, WSF defines a major service change as “a change that results in the reduction in capacity of a route, frequency of sailings, or increase in crossing time by more than five percent.”   Adjustments in sailing departure times within the same overall trip structure are not considered to be a major reduction in service.  WSF has not made a major service change since 2003.

Regarding fares, WSF facilitates meetings of the Ferry Advisory Committee on Tariffs and considers this input when making its recommendation on fare changes to the WSTC.  WSTC public meetings are the forum for soliciting responses to proposed fare increases.  WSF assists in advertising these WSTC meetings by postings on the vessels and brochures in the terminals.

WSDOT must provide documentation confirming outreach to the Ferry Advisory Committees, particularly those committees that provide transit planning feedback and input from minority populations, on issues related to general transit service planning, as well as any outreach to this same population on fare changes.

Regarding WSDOT’s State administrative function, in response to the draft report in an email dated January 25, 2012, WSDOT submitted draft updates to its 2012 State Management Plan, Consolidated Grant Program Administrative Checklist, and Grants Guidebook Report Form, which respectively relate to grant program planning, administration, and monitoring. With respect to its 2012 State Management Plan draft update, WSDOT added the following statement:

**Outreach Process**

The WSDOT has a process for outreach to LEP, minority and low-income populations that coincides with the Consolidated grant process to ensure equity throughout the grants distribution process. This process addresses compliance with Title VI requirements in addition to providing a more representative process for evaluating grants. The process outlined below encompasses the entire outreach process from planning to award to the end of the project.

Prior to application development, the Public Transportation Division and local planning organizations conduct outreach to LEP, minority, and low-income populations to provide input into the development of projects that will be submitted as part of the Consolidated grant process. Grantees are instructed to conduct outreach and report their outreach activities on a quarterly basis. Guidance is provided to grantees through WSDOT staff technical assistance, site visits, grant training, and the “Guide to Managing Your Public Transportation Grant” handbook.

During the call for projects, the Public Transportation Division works with the Office of Equal Opportunity to review incoming projects to ensure adequate consideration of LEP, minority, and low-income projects. Applications will be compared to the Human Service Coordination Transportation Plans to determine the amount of inclusion in the plan. Representation of LEP, minority, and low-income populations will be appropriate to the area covered by the Human Service Coordination Transportation Plan.

The WSDOT Office of Equal Opportunity is part of the application review team, providing input into the final ranking of projects. The completed final project list will be compared to the statewide demographics to ensure adequate consideration of project awards that serve LEP, minority and low-income areas. Disparities are documented and reviewed for consistency with federal and state rules and regulations.

This outreach process summarizes the ways that the Public Transportation Division actively incorporates LEP, minority and low-income populations into our grant application cycle, fostering a more inclusive and diverse selection of projects.

The draft updates to the 2012 State Management Plan appear to address some of the Title VI deficiencies in Inclusive Public Participation; however, as written, and without an ability to confirm implementation, WSDOT’s Title VI inclusive participation plan remains unclear. WSDOT should more clearly explain the following statements:

|  |  |
| --- | --- |
| **WSDOT Statement** | **Questions** |
| Prior to application development, the Public Transportation Division and local planning organizations conduct outreach to LEP, minority, and low-income populations to provide input into the development of projects that will be submitted as part of the Consolidated grant process. | * How are LEP, minority, and low-income populations identified? * How does WSDOT conduct outreach to minority, low-income, and LEP populations (use of minority media, community groups, engagement of community leaders, etc.)? * What local planning organizations are engaged, and how/why does WSDOT interact with them in the fulfillment of its Title VI Inclusive Public Participation requirement? |
| Grantees are instructed to conduct outreach and report their outreach activities on a quarterly basis. | * Who are the Grantees (RTPOs, transit operators, or both?) |
| During the call for projects… | * What, if any, difference is there between the period “prior to application development” (see first WSDOT statement in this table) and “During the call for projects”? |
| …adequate consideration of LEP, minority, and low-income projects | * How does WSDOT define an LEP, minority, and low-income project? |
| Applications will be compared to the Human Service Coordination Transportation Plans to determine the amount of inclusion in the plan. | * Is this done to avoid duplication? If so, duplication will occur only when assessing projects benefitting low-income populations, as minority and LEP persons are not typically considered in the development of Human Service Coordination Transportation Plans. |
| Representation of LEP, minority, and low-income populations will be appropriate to the area covered by the Human Service Coordination Transportation Plan. | * Not sure what is meant by this statement. Please provide further clarification. |

With respect to its Consolidated Grant Program Administrative Checklist, WSDOT updated Question 6 under the Civil Rights section as follows:

What effort does your organization make to reach out to Limited English Proficiency (LEP), minority, and low-income populations for employment and to serve as members of your policy and/or advisory committees?

With respect to its Grants Guidebook Report Form, WSDOT added a statement requiring sub-recipients to conduct outreach to “minority and Limited English Proficiency populations on a quarterly basis, at a minimum,” and also added the following statement:

**Conducting Outreach to Limited English Proficiency Population**

In compliance with new federal guidance, grantees will now be required to document their outreach activities on the quarterly narrative reporting form. This should describe your efforts to seek input and feedback about your services from Limited English Proficiency (LEP) populations that interact with your service.

Some examples of places to solicit LEP populations may include ethnic meal sites and/or community centers and groups, local non-English speaking churches, and local stores or markets catering to immigrant/non-English speaking populations.

For specific verbiage and guidance about conducting outreach, please review the Title VI guidance template found in the Public Transportation Library at www.wsdot.wa.gov/transit.

Further instruction concerning the gathering of demographic data can be found in the US Census at http://factfinder2.census.gov/faces/nav/jsf/pages/index.xhtm

**Corrective Actions and Schedules:** Within 60 days of the final report, WSDOT must submit to the Region 10 Civil Rights Officer the following:

* Revisions to its Draft 2012 State Management Plan that answer the questions, or otherwise further clarify the statements highlighted in the table above. When referring to “local planning organizations” and the like, WSDOT must include a description of how the local planning organization specifically helps WSDOT get input from minority and low-income persons. In addition, WSDOT’s outreach to minority and low-income persons must be documented in specific terms. If WSDOT uses certain community organizations, its documentation must briefly describe the socioeconomic make-up of the organizations and who the organizations represent or otherwise benefit. If WSDOT uses particular media to engage minority and low-income persons, it must list the media outlets by name.
* WSDOT must include language in its Inclusive Public Participation Plan that confirms the ongoing tracking and reporting of outreach efforts made by WSDOT, its sub-recipients, and WSF.
* WSDOT must provide confirmation that draft revisions to its 2012 State Management Plan, Consolidated Grant Program Administrative Checklist, and Grants Guidebook Report Form are made final.

1. Language Access to LEP Persons

**Requirement:** *FTA recipients shall take responsible steps to ensure meaningful access to the benefits, services, information, and other important portions of its programs and activities for individuals who are Limited English Proficient (LEP).*

**Finding:** During this Title VI Compliance Review of WSDOT, deficiencies were found regarding WSDOT’s compliance with FTA requirements for Language Access to LEP persons. WSDOT did not complete a four-factor analysis or develop a Language Assistance Plan (LAP) for itself or WSF. The “Washington State Department of Transportation Limited English Proficiency Plan December 2009” provided guidance on how to conduct a four-factor analysis and discussed what should be included in a Language Assistance Program (LAP); however, no four-factor analysis was conducted, and no LAP plan was developed by WSDOT. In addition, WSDOT did not provide documentation confirming its sub-recipients conducted a four-factor analysis.

The review team provided technical assistance to WSDOT on FTA LEP requirements, including recommendations on how to conduct a four-factor analysis and develop a LAP for itself, its sub-recipients, and WSF. Specifically, the review team explained the four-factor analysis and Language Assistance Plan development requirements in the table below per FTA Circular 4702.1A and DOT LEP Guidance:

| **Elements Required for LEP Analysis and Language Assistance Plan**  **(per FTA C. 4702.1A, IV, 4. a. and DOT Policy Guidance)** |
| --- |
| **Part A – Four-Factor Analysis** |
| 1. Demography – the number or proportion of LEP persons eligible to be served or likely to be encountered |
| 1. Frequency of Contact – the frequency with which LEP individuals come in contact with the program and/or activities |
| 1. Importance – the nature and importance of the program, activity, or service to people's lives |
| 1. Resources – the resources available and costs |
| **Part B – Develop Language Assistance Plan** |
| 1. Identification of LEP persons |
| 1. Language assistance measures |
| 1. Training of staff |
| 1. Provide notice to LEP persons |
| 1. Monitor and update the LAP |

In response to the Draft report in an email dated January 25, 2012, WSDOT submitted documents titled Title VI Template Instructions and Consolidated Grant Program Administrative Checklist. These documents were in draft form and were sub-recipient assistance and monitoring documents, respectively. WSDOT did not submit a completed four-factor analysis for itself, WSF, or its sub-recipients.

**Corrective Actions and Schedules:** Within 60 days of the final report, WSDOT must submit to the Region 10 Civil Rights Officer a completed four-factor analysis and LAP that meets the requirements to provide meaningful access to LEP persons as described in FTA Circular 4702.1A and DOT LEP Guidance Concerning Recipients’ Responsibilities to Limited English Proficient Persons, for itself and WSF. WSDOT must also confirm that its sub-recipients have completed a four-factor analysis*.*

1. Title VI Complaint Procedure

**Requirement:** *FTA recipients shall develop procedures for investigating and tracking Title VI complaints filed against them and make their procedures for filing a complaint available to members of the public upon request.*

**Finding:** During this Title VI Compliance Review of WSDOT, deficiencies were found regarding WSDOT’s compliance with FTA requirements for Title VI Complaint Procedures. While WSDOT had Title VI complaint procedures for itself, it did not have procedures for WSF.

During the site visit, WSF indicated that, whereas it did not have written procedures for handling Title VI complaints, it would consider using WSDOT’s procedures. WSF and WSDOT were advised to confirm that WSDOT’s procedures (including complaint filing, investigation, determination, and appeals processing) were appropriate for WSF. WSF was further advised to develop its own Title VI complaint procedures if it determined that WSDOT procedures did not align with operations, practices, and policies currently in place at WSF. Examples of areas where WSDOT procedures may not meet the needs of WSF include complaint intake (how are complaints filed and with whom), complaint investigation (who at WSF investigates complaints), and investigation determination, appeals, and final resolution. WSF’s complaint procedures should accurately reflect how complaints are handled.

With respect to WSDOT’s Title VI complaint procedures, two advisory comments were issued: First, WSDOT’s procedures state, “in cases where the complaint is against one of WSDOT’s sub-recipients of federal highway funds, WSDOT will assume the jurisdiction and will investigate and adjudicate the case.” WSDOT was advised to establish what it does with respect to assigning jurisdiction for complaints filed against sub-recipients of FTA funds. Second, WSDOT states, “complaints against WSDOT will be referred to the corresponding USDOT modality for proper disposition.” During the site visit, WSDOT explained that complaints filed against WSDOT were referred to FTA to avoid any conflicts of interest. WSDOT was advised to modify its complaint procedures to include an internal complaint investigation and appeals process. Should a complainant not be satisfied with WSDOT’s internal handling of a complaint, the complainant would then be referred to the appropriate outside agency for further adjudication.

While the review team could not confirm that WSDOT sub-recipients had developed Title VI complaint procedures, it was confirmed that, as a part of its subrecipient monitoring process, WSDOT’s Public Transportation Division (PTD) asked whether sub-recipients had procedures in place for handling Title VI complaints and kept a record of Title VI complaints per FTA Circular 4702.1A, IV, 2.

After the site visit and before the issuance of the draft report, WSF stated that its complaint procedures were the same as those used by the WSDOT state administrative function and that all Title VI complaints are forwarded to WSDOT’s Office of Equal Opportunity (OEO). WSF further stated that it added its logo to postings of the complaint procedure. WSF did not provide examples of these postings.

At the time of the final report, it was confirmed that WSF had a link on its website labeled “Accessibility/Title VI” that linked users to WSDOT OEO’s website. Information on Title VI, including WSDOT’s Title VI complaint procedures, could be found at this location.

The deficiency in this area is now closed.

1. Record of Title VI Investigations, Complaints, and Lawsuits

**Requirement:** *FTA recipients shall prepare and maintain a list of any active investigations conducted by entities other than FTA, lawsuits, or complaints naming the recipients that allege discrimination on the basis of race, color, or national origin. This list shall include the date that the investigation, lawsuit, or complaint was filed; a summary of the allegation(s); the status of the investigation, lawsuit, or complaint; and actions taken by the recipient in response to the investigation, lawsuit, or complaint.*

**Finding:** During this Title VI Compliance Review of WSDOT, advisory comments were issued regarding WSDOT’s compliance with FTA requirements for Record of Title VI Investigations, Complaints, and Lawsuits. Since WSDOT did not have any FTA Title VI investigations, complaints, or lawsuits, there were no records to submit. WSDOT did provide a copy of its complaint log used to track and report complaints when received. WSDOT’s general complaint tracking log included all elements required by FTA Circular 4702.1A. WSDOT tracked complaints on its log by type (or complaint type code). WSDOT’s log did not include a code for Title VI complaints.

WSDOT did not have a procedure in place to ensure that all Title VI complaints filed against sub-recipients, WSF, and with WSDOT’s Office of Equal Opportunity were collected and recorded on the log.

WSDOT was advised to add a Title VI complaint code to its complaint tracking log. WSDOT was also advised to create a procedure for recording Title VI complaints filed against itself, sub-recipients, and WSF.

In response to the Draft report in an email dated January 25, 2012, WSDOT stated that it added a Title VI complaint code to its complaint tracking log.

1. Notice to Beneficiaries of Protection Under Title VI

**Requirement:** *FTA recipients shall provide information to the public regarding their Title VI obligations and apprise members of the public of the protections against discrimination afforded to them by Title VI. Recipients shall disseminate this information to the public through measures that can include but shall not be limited to a posting on its website.*

**Finding:** During this Title VI Compliance Review of WSDOT, deficiencies were found regarding WSDOT’s compliance with FTA requirements for Notice to Beneficiaries of Protection under Title VI. WSDOT’s Title VI Plan 2008 included its most recent Policy Statement, which did not contain all of the elements required by FTA Circular 4702.1A, IV, 5.a, as illustrated in the following table.

| **Elements Required in Title VI Notice to Beneficiaries**  **(per FTA Circular 4702.1A Chapter IV Section 5.a)** | **Included in WSDOT’s Notice?** |
| --- | --- |
| A statement that the agency operates programs without regard to race, color, and national origin. | Yes |
| A description of the procedures that members of the public should follow in order to request additional information on the recipient’s nondiscrimination obligations. | No |
| A description of the procedures that members of the public should follow in order to file a discrimination complaint against the recipient. | Yes |

WSDOT indicated that it disseminated its Notice by posting it on its website and included it in applicable agency publications and materials. As a part of its subrecipient oversight, WSDOT’s site visit checklist included questions regarding sub-recipients’ Title VI requirements and the required public notice. Copies of several completed sub-recipient site visit checklists were provided. During the site visit, the review team confirmed that Grays Harbor Transit, a WSDOT sub-recipient, had its Title VI policy statement posted on its website. It contained two of the three required elements. During the sub-recipient site visit to WSF, it was determined that WSF’s policy statement did not contain all three required elements.

After the site visit, WSDOT submitted a revised Title VI Notice to Beneficiaries that included all the elements required by FTA Circular 4702.1A. In a September 9, 2011, email, WSDOT stated,“We have updated our Notice to Beneficiaries to include all three of the required elements.  Our website has been updated and we will be updating all of our materials that include the Title VI Notice.” The review team confirmed the posting of WSDOT’s Notice on its website, but could not confirm that the Notice had been distributed elsewhere throughout the ferry system.

WSDOT updated its 2012 State Management Plan to establish the need for sub-recipients to develop and distribute a Title VI Notice. WSDOT also updated its subrecipient oversight document, Title VI Template Instructions, to include helpful instructions to sub-recipients on how to develop and distribute their Notices. WSDOT also referenced its Consolidated Grant Program Administrative Checklist, which was used to monitor subrecipient Title VI compliance. WSDOT staff use this document to confirm that sub-recipients have all required Title VI documents and policies in place, including a Title VI Notice to Beneficiaries.

**Corrective Actions and Schedules:** Within 60 days of the final report, WSDOT must submit to the Region 10 Civil Rights Officer documentation confirming the distribution of its Notice using methods in addition to the website, such as a brochure or bulletin board posting on its ferry system.

1. Annual Title VI Certification and Assurance

**Requirement:** *FTA**recipients shall submit its annual Title VI certification and assurance as part of its Annual Certifications and Assurances submission to FTA in the FTA Web-based Transportation Electronic Award Management (TEAM) grants management system.*

**Finding:** During this Title VI Compliance Review of WSDOT, no deficiencies were found regarding WSDOT’s compliance with FTA requirements for Annual Title VI Certification and Assurance. The FTA Civil Rights Assurance is incorporated in the Annual Certifications and Assurances submitted annually to FTA through the Transportation Electronic Award and Management (TEAM) system. WSDOT executed its FY 2011 Annual Certifications and Assurances in TEAM on November 30, 2010. WSDOT checked as applicable,01. Certifications and Assurances required of all applicants. This is the category where the nondiscrimination assurance is located.

1. Environmental Justice Analysis of Construction Projects

**Guidance:** *FTA**recipients should integrate an environmental justice analysis into its National Environmental Policy Act (NEPA) documentation of construction projects. (Recipients are not required to conduct environmental justice analyses of projects where NEPA documentation is not required.). In preparing documentation for a categorical exclusion (CE), recipients can meet this requirement by completing and submitting FTA’s standard CE checklist, which includes a section on community disruption and environmental justice.*

**Finding:** During this Title VI Compliance Review of WSDOT, deficiencies were found regarding WSDOT’s compliance with FTA guidance for Environmental Justice (EJ) Analyses of Construction Projects. During the site visit, whereas WSF did not identify any specific FTA-funded construction projects, it acknowledged that some existed and indicated that the associated EJ documentation would be made available for review. A review of FTA grants in TEAM showed the following FTA-funded construction projects for WSDOT, its sub-recipients, and/or WSF:

* Mukilteo Mulitmodal Terminal (WA-03-0227-0, WA-04-0002-03, WA-70-X007-00, WA-70-X011-00, WA-95-X031-00)
* Anacortes Multimodal Terminal (WA-03-0242-00), Southworth Ferry Terminal (WA-04-0003-03)
* Bus and Bus Facilities/Seattle Multimodal Terminal (WA-04-0004-03)
* Grays Harbor/Grant Transit (WA-86-X001-00)

WSDOT was advised that the current requirements for an EJ analysis were revised in May 2007 with the issuance of FTA Circular 4702.1A. Projects that qualify for a CE should have the NEPA CE checklist completed. Projects that require an EA or EIS should contain EJ documentation that includes the following elements:

| **Elements Required in Environmental Justice Analysis of Construction Projects**  **(per FTA Circular 4702.1A Chapter IV, 8a-f)** |
| --- |
| 1. A description of the low-income and minority population within the study area affected by the project, and a discussion of the method used to identify this population. |
| 1. A discussion of all adverse effects of the project both during and after construction that would affect the identified minority and low-income population. |
| 1. A discussion of all positive effects that would affect the identified minority and low-income population, such as an improvement in transit service, mobility, or accessibility. |
| 1. A description of all mitigation and environmental enhancement actions incorporated into the project to address the adverse effects, including, but not limited to, any special features of the relocation program that go beyond the requirements of the Uniform Relocation Act and address adverse community effects such as separation or cohesion issues; and the replacement of the community resources destroyed by the project. |
| 1. A discussion of the remaining effects, if any, and why further mitigation is not proposed. |
| 1. For projects that traverse predominantly minority and low-income and predominantly non-minority and non-low-income areas, a comparison of mitigation and environmental enhancement actions that affect predominantly low-income and minority areas with mitigation implemented in predominantly non-minority or non-low-income areas. |

After the site visit and prior to the issuance of the draft report, WSDOT provided EJ documentation for WSF bridge retrofit construction projects identified as Seattle, Edmonds, Vashon, and Bainbridge Island. The CE documentation for each of these projects included a section (Section G) on EJ. For each project, WSF entered “N/A” into the EJ section of the CE. WSDOT was advised that, whereas minority and low-income persons may not have been disproportionately impacted by the projects, the section on EJ is still applicable, and it must enter an affirmative statement as to the projects’ disproportionate impact (or lack thereof) on minority and low-income persons.

WSDOT did not provide EJ documentation for those projects identified in TEAM and listed earlier in this section.

**Corrective Actions and Schedules:** Within 60 days of the final report, WSDOT must submit to the Region 10 Civil Rights Officer the status of all Title VI EJ efforts associated with all WSDOT or WSF FTA-funded construction projects. For all projects qualifying for a Categorical Exclusion (CE), Environmental Assessment (EA), or Environmental Impact Statement (EIS), WSF must ensure compliance with FTA Circular 4702.1A.

1. Submit Title VI Program.

**Requirement:** *FTA recipients serving large urbanized areas are required to document their compliance with the general reporting requirements by submitting a Title VI Program to FTA’s Regional Civil Rights Officer once every three years.*

**Finding:** During this Title VI Compliance Review of WSDOT, no deficiencies were found regarding WSDOT’s compliance with FTA requirements to submit a Title VI Program. Prior to the site visit, the review team reviewed WSDOT’s most recent Title VI Plan submission entitled Washington State Department of Transportation Title VI Plan Covering 1/1/2009–12/31/2012 (found in TEAM)*.* The Title VI Plan included all of the elements required by FTA Circular 4702.1A, IV, 7, as described in the following table:

| **ELEMENTS REQUIRED FOR TITLE VI PROGRAM** | |
| --- | --- |
| **General Reporting Requirements and Guidelines  (per FTA C. 4702.1a, IV, 7. A. (1) – (5))** | **In WSDOT’s Title VI Program Submittal?** |
| * A summary of public outreach and involvement activities undertaken since the last submission and a description of steps taken to ensure that minority and low-income people had meaningful access to these activities. | Yes |
| * A copy of the agency’s plan for providing language assistance for persons with limited English proficiency that was based on the DOT LEP Guidance or a copy of the agency’s alternative framework for providing language assistance. | Yes |
| * A copy of the agency procedures for tracking and investigating Title VI complaints. | Yes |
| * A list of any Title VI investigations, complaints, or lawsuits filed with the agency since the time of the last submission. This list should include only those investigations, complaints, or lawsuits that pertain to the agency submitting the report, not necessarily the larger agency or department of which the entity is a part. | Yes |
| * A copy of the agency’s notice to the public that it complies with Title VI and instructions to the public on how to file a discrimination complaint. | Yes |
| **Program Specific Requirements for State DOT’s or Other Administering Agencies (per FTA C. 4702.1A, VI, 5. a. (1) – (4))** |  |
| * A copy of the procedures used for certifying that the statewide planning process complies with Title VI. | Yes |
| * A description of the procedures the agency uses to pass-through FTA financial assistance in a non-discriminatory manner. | Yes |
| * A description of the procedures the agency uses to provide assistance to potential sub-recipients applying for funding in a non-discriminatory manner. | Yes |
| * A description of how the agency monitors its sub-recipients for compliance with Title VI and a summary of the results of this monitoring. | Yes |
| **Program-Specific Requirements for Large Urbanized Areas  (per FTA C. 4702.1A, V, 6. a. (1) – (4))** |  |
| * A copy of the agency’s demographic analysis of its beneficiaries. This should include either any demographic maps and charts prepared or a copy of any customer surveys conducted since the last report that contain demographic information on ridership, or the agency’s locally developed demographic analysis of its customer’s travel patterns. | Yes |
| * Copies of system-wide service standards and system-wide service policies adopted by the agency since the last submission. | Yes |
| * A copy of the equity evaluation of any significant service changes and fare changes implemented since the last report submission. | Yes |
| * A copy of the results of either the level of service monitoring, quality of service monitoring, demographic analysis of customer surveys, or locally developed monitoring procedures conducted since the last submission. | Yes |

The Plan was prepared in conformance with the FTA Circular 4702.1.A. and had been submitted to FTA for approval.

**FINDINGS OF THE PROGRAM-SPECIFIC REQUIREMENTS AND GUIDELINES FOR STATE DEPARTMENTS OF TRANSPORTATION OR OTHER ADMINISTERING AGENCIES**

This section covers the Program-Specific Requirements and Guidelines for State DOTs and Other Administering Agencies, administering Elderly Individuals and Individuals with Disabilities, Rural and Small Urban Area, Job Access and Reverse Commute (JARC), and New Freedom funding programs.

1. Statewide Planning Activities

**Requirement:** *State DOTs should have an analytic basis in place for certifying their compliance with Title VI. Examples of this analysis can include, a demographic profile of the State that includes identification of the locations of socioeconomic groups, including low-income and minority populations as covered by the Executive Order on Environmental Justice and Title VI, a statewide transportation planning process that identifies the needs of low-income and minority populations or an analytical process that identifies the benefits and burdens of the State’s transportation system investments for different socioeconomic groups, identifying imbalances, and responding to the analyses produced.*

**Finding**: During this Title VI Compliance Review of WSDOT, deficiencies were found regarding WSDOT’s compliance with FTA requirements for Statewide Planning Activities. WSDOT did not have a statewide transportation planning process that identified the needs of low-income and minority populations and an analytical process that identified the benefits and burdens of the State’s transportation system investments for different socioeconomic groups, identifying imbalances, and responding to the analyses produced, as described in FTA Circular 4702.1A.

During the site visit, WSDOT provided several planning documents that it had developed over the past four years, including the Washington Transportation Plan 2030, the Washington Transportation Plan 2007–2026, the Regional Transportation Priority Projects report, the Washington State Transportation Improvement Program (STIP), and 14 coordinated public transit-human services transportation plans. None of the documents contained any reference to a Title VI analysis during the planning efforts. During the site visit and in its most recent Title VI Program submittal to FTA, WSDOT indicated that the Transportation Planning Office was currently drafting a process to certify that statewide planning documents comply with Title VI requirements.

The following table contains guidance for conducting Statewide Planning Activities and whether WSDOT followed the guidance:

| **Guidance on Conducting Statewide Planning**  **(per FTA C. 4702.1A, VI, 1. a. – c.)** | **In WSDOT Information?** |
| --- | --- |
| * A demographic profile of the State that includes identification of the locations of socioeconomic groups, including low-income and minority populations as covered by the Executive Order on Environmental Justice and Title VI. | Yes |
| * A statewide transportation planning process that identifies the needs of low-income and minority populations. | No |
| * An analytical process that identifies the benefits and burdens of the State’s transportation system investments for different socioeconomic groups, identifying imbalances, and responding to the analyses produced. | No |

During the Review, WSDOT did provide demographic profiles of the State that included the locations of minority and low-income groups.

In response to the draft report in an email dated January 25, 2012, WSDOT submitted the following response:

**WSDOT Long-Range Statewide Transportation Plan (page 33 in the Findings report)**

* The Washington Transportation Plan 2007–2026 was adopted on November 14, 2006.
* FTA Circular 4702.1A was effective as of May 2007.

Therefore, the long-range statewide transportation plan is not subject to compliance with this circular. The findings document should not consider WSDOT out of compliance for this.

**Guidance Developed for Regional Transportation Planning Organizations (page 21 in the Findings report)**

WSDOT does not have the authority to make requirements of RTPOs. The term “require” needs to be changed to “encourage.”

**Documents Prepared by the Washington State Transportation Commission (page 33 of the Findings report)**

* The Washington Transportation Plan 2030 is a document prepared by a non-WSDOT agency, the Washington State Transportation Commission. WSDOT has no control over the Commission. The WTP 2030 should not be included in this findings report.
* If FTA desires to address Title VI compliance for the Commission’s plan, the WSDOT would not be involved or subject to compliance for this plan.
* In 2010, the Legislature directed the Commission to “(8) … review prioritized projects, including preservation and maintenance projects, from regional transportation and metropolitan planning organizations to identify statewide transportation needs. The review should include a brief description and status of each project along with the funding required and associated time-line from start to completion. The Commission shall submit the review, along with recommendations, to the house of representatives and senate transportation committees by January 2011.” This resulted in a [Regional Transportation Priority Project Report.](http://www.wstc.wa.gov/StudiesSurveys/documents/RTPOReport2011Final.pdf) This document is not part of the long-range statewide transportation plan.

**Coordinated Public Transit Human Services Plans (page 33 of the Findings report)**

* The Coordinated Public Transit Human Services Plans are not statewide plans; they are plans that regional transportation planning organizations develop in order to access all federal pass-through funds. They do not belong in the statewide planning section. Please see 49 USC Chapter 53.

**Statewide Transportation Improvement Program (page 33 of the Findings report)**

* FTA Circular 4702.1A does not reference programming. The Statewide Transportation Improvement Program (STIP) is a program; not a statewide plan. It should be removed from the findings document. The findings document should not consider WSDOT out of compliance for this.

**Future Training Programs**

As WSDOT develops its training programs, curriculum related to the most current FTA circular Title VI requirements will be developed. WSDOT HQ Planning intends to remain aware of the most current OMB circulars related to transportation planning.

After the issuance of the Draft report, it was determined that the Washington Transportation Plan 2030was not funded by WSDOT. Notwithstanding, during the review, WSDOT did not have an analytic basis in place for certifying its compliance with Title VI, specifically with respect to a statewide transportation planning process that identifies the needs of low-income and minority populations, and an analytical process that identifies the benefits and burdens of the State’s transportation system investments for different socioeconomic groups, identifying imbalances, and responding to the analyses produced.

**Corrective Actions and Schedules:** Within 60 days of the final report, WSDOT must submit to the Region 10 Civil Rights Officer documentation that it has developed a statewide transportation planning process that identifies the needs of low-income and minority populations and an analytical process that identifies the benefits and burdens of the State’s transportation system investments for different socioeconomic groups, identifying imbalances, and responding to the analyses produced, as described in FTA Circular 4702.1A.

1. Program Administration

**Requirement:** *State DOT recipients should document that they pass through Federal Transit Administration (FTA) funds under the Transportation for Elderly Individuals and Individuals with Disabilities, Rural and Small Urban Area Formula Funding, JARC, and New Freedom grant programs without regard to race, color, or national origin and that minority populations are not being denied the benefits of or excluded from participation in these programs.*

**Finding:** During this Title VI Compliance Review of WSDOT, deficiencies were found regarding WSDOT’s compliance with FTA requirements for Program Administration. WSDOT did not provide documentation that it was passing through FTA Section 5310, 5311, 5316, and 5317 funds without regard to race, color, or national origin and that minority and low-income populations were not being denied the benefits of or excluded from participation in these programs, as described in FTA Circular 4702.1A.

During the site visit, WSDOT provided a document entitled “Washington State Department of Transportation Public Transportation Consolidated Grant Application July 1, 2011–June 30, 2013.” The document contained the evaluation criteria, information on the makeup of the evaluation committee, and a project scoring methodology. With the exception of having a representative from tribal governments on the evaluation committee, WSDOT did not have any method to ensure the equitable distribution of funds to sub-recipients that serve predominantly minority and low-income populations. During the site visit, WSDOT provided a spreadsheet entitled 2009–2011 WSDOT Consolidated Grant Process Funded/Not Funded Listing. The spreadsheet contained the following columns:

* Applicant
* Project Title
* Project Description
* Local Share
* Amount Requested
* Funded State
* Funded Federal
* Total Funded
* Low Income/Minority Target Project

The last column had a checkmark if WSDOT determined the project was in a minority and/or low-income area. WSDOT did not provide any documentation of how the spreadsheet was used to determine if FTA grant programs were being distributed without regard to race, color, or national origin and that minority and low-income populations were not being denied the benefits of or excluded from participation in these programs, as described in FTA Circular 4702.1A. During the site visit, WSDOT was asked if the spreadsheet was developed for the previous project selection process. WSDOT did not provide documentation that it developed a similar spreadsheet for the previous project selection process.

The following table contains guidance for conducting subrecipient Program Administration and whether WSDOT satisfactorily followed the guidance:

|  |  |
| --- | --- |
| **Guidance on Program Administration**  **(per FTA C. 4702.1A, VI, 2. a. (1) – (5))** | **In WSDOT Process?** |
| * A description of how the agency develops its competitive selection process or annual program of projects submitted to FTA as part of its grant applications. This description should emphasize the method used to ensure the equitable distribution of funds to sub-recipients that serve predominantly minority and low-income populations, including Native American tribes, where present. | No |
| * A description of the agency’s criteria for selecting transit providers to participate in any FTA grant program. | Yes |
| * A record of requests for Elderly Individuals and Individuals with Disabilities, Rural and Small Urban Area Formula Funding, JARC, and New Freedom funding. The record should identify those applicants that would use grant program funds to provide assistance to predominantly minority and low-income populations. The record should also indicate whether those applicants were accepted or rejected for funding. | Partial |
| * A description of the agency’s procedures to assist potential sub-recipients in applying for Elderly Individuals and Individuals with Disabilities, Rural and Small Urban Area Formula Funding, JARC, and New Freedom funding, including any efforts to assist applicants that would serve predominantly minority and low-income populations. | No |
| * State DOTs or other administering agencies may classify applicants as providing service to predominantly minority and low-income populations if the proportion of minority and low-income people in the applicant’s service area exceeds the statewide average minority and low-income population. | Yes |

In response to the Draft report in an email dated January 25, 2012, WSDOT submitted the following:

During the call for projects, the Public Transportation Division works with the Office of Equal Opportunity to review incoming projects to ensure adequate consideration of LEP, minority, and low-income projects. Applications will be compared to the Human Service Coordination Transportation Plans to determine the amount of inclusion in the plan. Representation of LEP, minority, and low-income populations will be appropriate to the area covered by the Human Service Coordination Transportation Plan.

The WSDOT Office of Equal Opportunity is part of the application review team, providing input into the final ranking of projects. The completed final project list will be compared to the statewide demographics to ensure adequate consideration of project awards that serve LEP, minority and low-income areas. Disparities are documented and reviewed for consistency with federal and state rules and regulations.

This outreach process summarizes the ways that the Public Transportation Division actively incorporates LEP, minority, and low-income populations into our grant application cycle, fostering a more inclusive and diverse selection of projects.

The response is adequate to close the deficiency in this area.

1. Providing Assistance to Sub-recipients

**Requirement:**  *FTA recommends that agencies assist their sub-recipients in complying with the general reporting requirements in Chapter IV. The State DOT or other administrating agency should provide assistance at the request of a subrecipient or as deemed necessary and appropriate.*

**Finding:** During this Title VI Compliance Review of WSDOT, no deficiencies were found regarding WSDOT’s compliance with FTA guidance for Providing Assistance to sub-recipients. The following table contains guidance for Providing Assistance to sub-recipients and whether WSDOT followed the guidance:

|  |  |
| --- | --- |
| **Guidance on Providing Assistance to Sub-Recipients**  **(Per FTA C. 4702.1A, VI, 4. a. – c.)** | **In WSDOT**  **Process?** |
| * Sample notices to the public informing beneficiaries of their rights under Title VI and procedures on how to file a Title VI complaint. | Yes |
| * Sample procedures for tracking and investigating Title VI complaints filed with a subrecipient. | Yes |
| * Demographic information on the race, income, and English proficiency of residents served by the sub-recipient. (This information will assist the sub-recipient in assessing the level and quality of service it provides to communities within its service area and in assessing the need for language assistance.) | Yes |

During the site visit, WSDOT provided a document entitled “Title VI Template Title VI Policy Rural and Small Urban Requirements.” The document contained information for sub-recipients on how to develop a Title VI Plan, including information on sample notices to the public, sample procedures for tracking and investigating complaints and other Title VI requirements. During the site visit, WSDOT provided a spreadsheet entitled WSDOT Subrecipient Listing. It was a list of all WSDOT sub-recipients and contained a column that identified the status as to whether a subrecipient had a Title VI Policy. WSDOT also provided copies of several sub-recipient Title VI policies that contained information on the general reporting requirements. During the site visit, WSDOT provided documentation that it produced the appropriate demographic information for its sub-recipients.

1. Monitoring Sub-recipients

**Requirement:** *State DOTs or other State administering agencies should monitor their sub-recipients for compliance with Title VI.*

**Finding:** During this Title VI Compliance Review of WSDOT, no deficiencies were found regarding WSDOT’s compliance with FTA requirements for Monitoring Sub-recipients. The following table contains guidance for Monitoring Sub-recipients and whether WSDOT followed the guidance:

|  |  |
| --- | --- |
| **Guidance on Providing Assistance to Sub-Recipients**  **(Per FTA C. 4702.1A, VI, 3. a. – b.)** | **In WSDOT**  **Process?** |
| * The agency should document its process for ensuring that all sub-recipients are complying with the general reporting requirements of this circular. | Yes |
| * At the request of FTA, in response to a complaint of discrimination, or as otherwise deemed necessary by the State DOT or administering agency, the agency should request that sub-recipients who provide transportation services verify that their level and quality of service is provided on an equitable basis. Recipients should ask sub-recipients to develop system-wide service standards and verify that service provided to predominantly minority and low-income communities meets these standards. | N/A |

During the site visit, WSDOT provided a spreadsheet entitled WSDOT Subrecipient Listing. It was a list of all WSDOT sub-recipients and contained a column that identified the status as to whether a sub-recipient had a Title VI Policy. During the site visit, WSDOT provided copies of several sub-recipient Title VI policies that contained information on the general reporting requirements. WSDOT provided a copy of its subrecipient Title VI checklist that it used to monitor sub-recipients. It contained general questions as to whether sub-recipients were complying with the general reporting requirements. During the site visit, WSDOT was advised to compare its questions to the actual general reporting requirements in the Circular and revise the language, where appropriate, to more specifically address the requirement.

**FINDINGS OF THE PROGRAM-SPECIFIC REQUIREMENTS AND GUIDELINES FOR RECIPIENTS SERVING LARGE URBANIZED AREAS**

1. Demographic Data

**Requirement:** *FTA recipients serving large urbanized areas shall collect and analyze racial and ethnic data showing the extent to which members of minority groups are beneficiaries of programs receiving Federal financial assistance.*

**Finding**: During this Title VI Compliance Review of WSDOT, deficiencies were found regarding WSDOT’s compliance with FTA requirements for Demographic Data for its Washington State Ferries (WSF) service. WSF did not collect and analyze demographic data as required by FTA Circular 4702.1A. WSF indicated that its collection and analysis of demographic data was primarily accomplished through surveys. Specifically, WSF referenced its 2010 Ferry Riders’ Opinion Group (FROG) Survey. Whereas this survey included a range of qualitative questions designed to collect riders’ opinions about the ferry service, it did not collect information on race, color, national origin, or income; therefore, the survey could not be used for Title VI purposes.

FTA Circular 4702.1A requirements for Collect Demographic Data using survey data are as follows:

|  |  |
| --- | --- |
| **Elements Required for Demographic Data**  **(per FTA C. 4702.1A, V, 1. b.) –** | **Included in WSDOT/WSF**  **Title VI Submittals?** |
| Recipients may collect information on the race, color, national origin, income, and travel patterns of their riders. FTA recommends that recipients collect the following information (recipients may request additional information from their riders, as appropriate, or request different information that is more applicable to the type of service they provide):   * + 1. Information on riders’ race, color, and national origin.     2. Whether the rider speaks or understands English “not well” or “not at all.”     3. Information on riders’ income or income range.     4. The mode of transit service that riders use most frequently (when applicable).     5. The frequency of transit usage.     6. The typical number of transfers made.     7. The fare payment type and media most frequently used (when applicable).     8. Riders’ auto availability.     9. Riders’ opinion of the quality of service they receive (this could include questions such as satisfaction with the system, willingness to recommend transit to others, and value for fare paid).     10. In administering the above option, grantees should keep the following guidance in mind:         - 1. Timing. The information recommended in Section 1.b.(1) can be integrated into customer surveys routinely employed by transit agencies and can be collected at the time that such surveys are routinely performed.           2. Language access. The recipient should take steps to translate customer surveys into languages other than English, or to provide interpretation services in the course of conducting customer surveys consistent with the DOT LEP guidance. | No |

The review team explained that per FTA Circular 4702.1A, other options were available to WSDOT/WSF for fulfilling this requirement, should it choose to do so. Specifically, the review team described the option to develop demographic maps and charts and the option to employ a locally-developed alternative.

After the site visit, in an October 7, 2011, email, WSDOT/WSF stated: “WSF will work with OEO and other WSDOT staff to produce a demographic map that reflects minority and low income populations in Large Urban Areas served by WSF.”

**Corrective Actions and Schedules:** Within 60 days of the final report, WSDOT must submit to the Region 10 Civil Rights Officer documentation that:

* WSF has selected its option for developing demographic data.
* WSF has developed the necessary demographic data as required by FTA Circular 4702.1A.

1. Systemwide Service Standards and Policies

**Requirement:**  *FTA recipients serving large urbanized areas shall adopt quantitative system-wide service standards necessary to guard against discriminatory service design or operations decisions. Recipients serving large urbanized areas shall adopt system-wide service policies necessary to guard against discriminatory service design or operations decisions. Service standards differ from service policies in that they are not based necessarily on a quantitative threshold.*

**Finding:** During this Title VI Compliance Review of WSDOT, no deficiencies were found regarding WSDOT’s compliance with FTA requirements for Systemwide Service Standards and Policies for its Washington State Ferries system. FTA Circular 4702.1A describes effective practices to fulfill the service standard requirements. FTA recommends that recipients set standards for the following indicators, giving transit agencies latitude to set standards for different/or additional indicators at their discretion:

|  |  |
| --- | --- |
| **Service Standards** | **Service Policies** |
| * Vehicle Load | * Vehicle Assignment |
| * Distribution of Transit Amenities | * Transit Security |
| * Vehicle Headway |  |
| * Service Availability |  |
| * On-time Performance |  |

WSDOT/WSF had adopted quantifiable service standards and/or system-wide service policies that were described in its Washington State Department of Transportation Title VI Plan Covering 1/1/2009–12/31/2012. These standards addressed the following factors:

* Vehicle load – The primary level of service standard is the degree of delay for vehicle drivers in the westbound p.m. peak period. The delay for vehicles is measured by the number of sailings a driver has to wait through before they can board the vessel. This standard is usually one or two sailings, depending on the route. The standards were developed in a collaborative process with local and regional governments. For walk-on passengers, the standard is a zero boat wait. Note that the methodology for measuring level of service and the standards themselves are proposed for revision. At this time, WSF is reviewing these procedures to ensure it is the best way to measure service.
* On-time performance – WSF serves both as an extension of the state’s highway system and as a fixed guideway transit provider. For 2008, WSF completed over 99 percent of its scheduled service. WSF measures on-time performance as within 10 minutes of the scheduled arrival time. In the first quarter of fiscal year 2009, WSF completed 87.2 percent of its sailings departing on time.
* Vehicle assignment – Vessels are assigned to different routes based on variations in traffic demand (overall size), traffic characteristics (e.g. number of vehicles, large trucks, passengers), speed (needed for longer routes), and ability to load and offload quickly (crucial for shorter routes).
* Security – Security is an issue taken seriously at the WSF Division. The ferry system has been identified as a potential terrorist target. Due to this designation, the WSF has security in place from the time a passenger purchases a ticket to the time they exit the vessel.

The Washington State Patrol (WSP) provides the first round of security. The WSP provides terminal and control security as well as vehicle screening. The WSP has K-9 officers available to complete additional investigations of potential terrorist threats. The second round of security comes from the U.S. Coast Guard (USCG). The USCG provides oversight and on-water security for vessels.

The third round of security comes from the WSF employees. Employees are background-checked and receive their Transportation Worker Identification Credentials from the Transportation Security Administration. They are always monitoring activities on and off the vessel.

Ferry terminals and vessels also have security cameras installed and are monitored.

All security activities are implemented on a risk based approach to reduce the risk of any security incidents, minimize customer impacts, and honor customer expectations or personal and constitutional freedoms. As such, all security is applied equally to all persons traveling on the ferry system.

1. Evaluation of Service and Fare Changes

**Requirement:** *FTA recipients shall evaluate significant system-wide service and fare changes and proposed improvements at the planning and programming stages to determine whether those changes have a discriminatory impact. For service changes, this requirement applies to “major service changes” only. Recipients should have established guidelines or thresholds for what it considers a “major” change.*

**Finding:** During this Title VI Compliance Review of WSDOT, deficiencies were found regarding WSDOT’s compliance with FTA requirements for Evaluation of Service and Fare Changes for its WSF service. During the site visit, WSF stated that it did not set or change WSF fares and that the Washington Transportation Commission (WTC), a separate entity, did. As such, WSDOT was not responsible for doing an equity evaluation for fare changes.

Regarding equity evaluations of service changes, WSF had not defined “major service change” or developed a process for evaluating service changes, as required by FTA Circular 4702.1A, V, 4, and as described in the following table:

| **Elements Required for Evaluation of Service and Fare Changes  (per FTA C. 4702.1A, V, 4a.) – Option A** |
| --- |
| 1. Assess the effects of the proposed fare or service change on minority and low-income populations. |
| Route changes – Produce maps of service changes overlaid on a demographic map of the service area |
| Span of service – Analyze available data from surveys that indicate whether minority and low-income riders are more likely to be impacted |
| Fare changes – Analyze available data from surveys that indicate whether minority and low-income riders are more likely to be impacted |
| 1. Assess the alternatives available for people affected by the fare increase of major service change. |
| Service changes – Analyze what, if any, modes of transit are available for people affected by the service expansion or reduction. Analysis should compare travel time and costs to the rider of the alternatives. |
| Fare changes – Analyze what, if any, alternative transit modes, fare payment types or fare payment media are available for people affected by the fare change. Analysis should compare fares paid under the change with fares that would be paid through available alternatives. |
| 1. Describe actions the agency proposes to minimize, mitigate, or offset any adverse effects of changes on minority and low-income populations. |
| 1. Determine any disproportionately high and adverse effects on minority and low-income riders. If any, describe that alternatives would have more severe adverse effects than the preferred alternative. |
| **Elements Required for Evaluation of Service and Fare Changes  (per FTA C. 4702.1A, V, 4b.) – Option B** |
| Recipients have the option of modifying the above option or developing their own procedures to evaluate significant system-wide service and fare changes and proposed improvements at the planning and programming stages to determine whether those changes have a discriminatory impact. This locally developed alternative shall include a description of the methodology used to determine the impact of the service and fare change, a determination as to whether the proposed change would have discriminatory impacts, and a description of what, if any, action was taken by the agency in response to the analysis conducted. |

WSDOT is further advised to reference the Title VI Service and Fare Equity Analysis Presentation found on the FTA website at <http://fta.dot.gov/civilrights/12328.html>. This presentation provides additional guidance and best practices for conducting Title VI service equity analyses.

After the site visit and prior to the issuance of the draft report, WSF defined a major service change as:

… a change that results in the reduction in capacity of a route, frequency of sailings, or increase in crossing time by more than five percent. Adjustments in sailing departure time within the same overall trip structure are not considered to be a major reduction in service.

FTA must approve this corrective action before implementation.

WSF stated that it had not made a major service change since 2003. While WSF had not made a major service change in several years, it still must develop a procedure for conducting equity evaluations of major service changes that complies with FTA Circular 4702.1A.

**Corrective Actions and Schedules:** Within 60 days of the final report, WSDOT must submit to the Region 10 Civil Rights Officer documentation that WSF has developed a process to analyze the Title VI impacts of a “major service change,” as required by FTA Circular 4702.1A.

1. Monitoring Transit Service

**Requirement:** FTA *recipients shall monitor the transit service provided throughout its service area. Periodic service monitoring activities shall be undertaken to compare the level and quality of service provided to predominantly minority areas with service provided in other areas to ensure that the end result of policies and decision-making is equitable service. Monitoring shall be conducted at minimum once every three years. If recipient monitoring determines that prior decisions have resulted in disparate impacts, it shall take corrective action to remedy the disparities.*

**Finding:** During this Title VI Compliance Review of WSDOT, deficiencies were found regarding WSDOT’s compliance with FTA requirements for Monitoring Transit Service for its Washington State Ferries system. During the site visit, WSDOT/WSF did not provide documentation confirming it monitored its ferry service as required by FTA Circular 4702.1A, V, 5, and as described in the following table:

|  |
| --- |
| **Elements Required for Monitoring – Option A: Level of Service Methodology**  **(per FTA C. 4702.1A, V, 5. a.)** |
| 1. Select a sample of bus routes and fixed guideway routes that provide service to a demographic cross-section of the recipient’s population. A portion of the routes in the sample should be those routes that provide service to a predominantly minority and low-income areas. |
| 1. Assess the performance of each route in the sample for each of the recipient’s service standards and policies. |
| 1. Compare the transit service observed in the assessment to the established service policies and standards. |
| 1. In cases in which observed service does not meet the stated service policy or standard, recipients should determine why the discrepancy exists and take corrective action to correct the discrepancy. |
| **Elements Required for Monitoring – Option B: Quality of Service Methodology**  **(per FTA C. 4702.1A, V, 5. b.)** |
| 1. Recipients should identify an appropriate number of Census tracts or traffic analysis zones that represent a cross-section of the recipient’s population. A portion of this sample should include Census tracts or traffic analysis zones where minority and/or low-income residents predominate. Recipients should keep in mind that the greater the sample size, the more reliable the results. |
| 1. Recipients should identify the most frequently traveled destinations for riders using the recipient’s service. |
| 1. For each of the three most frequently traveled destinations, recipients should compare the average peak hour travel time to destination, average non-peak hour travel time to destination, number of transfers required to reach the destination, total cost of trip to the destination, and cost per mile of trip to the destination for people beginning the trip in the selected Census tracts or traffic analysis zones. |
| 1. If disparities exist in any of these factors along the trips to any of the destinations analyzed, recipients should determine whether the differences are significant. FTA recommends that recipients employ standard statistical tests for significance to make this determination. |
| 1. If significant disparities in one or more quality of service indicators have been confirmed, recipients should determine why the disparity exists and take corrective action to correct the disparity. |
| **Elements Required for Monitoring – Option C: Title VI Analysis of Customer Surveys**  **(per FTA C. 4702.1A, V, 5. c.)** |
| 1. For their most recent survey, recipients should compare the responses from individuals who identified themselves as members of minority groups and/or in low-income brackets, and the responses of those who identified themselves as white and/or in middle and upper-income brackets. |
| 1. To the extent that survey data is available, recipients should determine whether the different demographic groups report significant differences in the travel time, number of transfers, and overall cost of the trip or if different demographic groups gave significantly different responses when asked to rate the quality of service, such as their satisfaction with the system, willingness to recommend transit to others, and value for fare paid. |
| 1. If the agency concludes that different demographic groups gave significantly different responses, it should take corrective action to address the disparities. |

After the site visit and prior to the issuance of the Draft report, WSF stated that it “will develop service monitoring procedures and review them at least every three years.”

**Corrective Actions and Schedules:** Within 60 days of the final report, WSDOT must submit to the Region 10 Civil Rights Officer documentation that it has developed a process to monitor its WSF transit service as required by FTA Circular 4702.1A.

1. SUMMARY OF FINDINGS AND CORRECTIVE ACTIONS

| **Title VI Requirements For State DOTs and Recipients Serving Large Urbanized Areas** | **Findings** | **Description of Deficiencies** | **Corrective Action(s)** | **Response Days/Date** | **Date Closed** |
| --- | --- | --- | --- | --- | --- |
| **GENERAL REPORTING REQUIREMENTS AND GUIDELINES – FTA C. 4702.1A. IV, 1-9** | | | | | |
| 1. Inclusive Public Participation | D | * Public outreach deficiencies | Submit to Region 10 Civil Rights Officer documentation of efforts to include minority and low-income populations in planning and decision-making process, as required by FTA Circular 4702.1A for itself, its sub-recipients, and WSF. | 60 Days |  |
| 1. Language Access to LEP Persons | D | * Lacking assessment or provisions for LEP persons * Insufficient oversight of Title VI compliance | Submit to the Region 10 Civil Rights Officer documentation that:   * it has completed an LEP four-factor assessment and developed an LAP, as required by FTA Circular 4702.1A, for itself and WSF. * sub-recipients have completed a four-factor analysis and LAP (as necessary). | 60 Days |  |
| 1. Title VI Complaint Procedures | D  AC  AC | Advised to establish what it does with respect to assigning jurisdiction for complaints filed against sub-recipients of FTA funds.  Advised to modify its complaint procedures to include an internal complaint investigation and appeals process. | Submit to Region 10 Civil Rights Officer documentation that it has developed Title VI complaint procedures for WSF and made those procedures available to the public, as required by FTA Circular 4702.1A. If WSF chooses to use WSDOT’s complaint procedures, it must notify its customers accordingly. | 60 Days | 10/7/2011 |
| 1. Record of Title VI Investigations, Complaints, and Lawsuits | AC  AC | WSDOT’s general complaint tracking log included all elements required by FTA Circular 4702.1A. WSDOT tracks complaints on its log by type (or complaint type code). Log did not include a code for Title VI complaints. WSDOT did not have any Title VI complaints.  Advised to develop procedures to ensure that all Title VI complaints filed against sub-recipients, WSF, and with WSDOT’s Office of Equal Opportunity are collected and recorded on the log. | Advised to add a Title VI complaint code to its complaint tracking log; create a procedure for recording Title VI complaints filed against sub-recipients, WSF, and the State DOT. |  | 1/25/2012 |
| 1. Notice to Beneficiaries of Protection Under Title VI | D | * Title VI public notification deficiencies * Insufficient oversight of Title VI compliance | Submit to Region 10 Civil Rights Officer a Title VI Notice to Beneficiaries of Protection Under Title VI that complies with FTA Circular 4702.1A  Submit to Region 10 Civil Rights Officer documentation confirming dissemination of Notice to the public in ways other than on website for itself and WSF.  Submit to Region 10 Civil Rights Officer an implementation plan for ensuring sub-recipients and WSF have completed and disseminated a Notice to Beneficiaries in conformance with FTA Circular 4702.1A. | 60 Days  60 Days  60 Days | 9/9/2011  1/25/2012 |
| 1. Annual Title VI Certification and Assurance | ND |  |  |  |  |
| 1. Environmental Justice Analysis of Construction Projects | D | WSF did not provide documentation of compliance with FTA Circular 4702.1A environmental justice requirements. | Advised to report to Region 10 Civil Rights Officer the status of all Title VI environmental justice efforts associated with all WSF FTA-funded construction projects. For all projects qualifying for a Categorical Exclusion, Environmental Assessment, or Environmental Impact Statement, WSF must ensure compliance with FTA Circular 4702.1A. | 60 Days |  |
| 1. Submit Title VI Program | ND |  |  |  |  |
| **PROGRAM SPECIFIC REQUIREMENTS AND GUIDELINES FOR STATE DOTs – FTA C.4702.1A VI, 1-4** | | | | | |
| 1. Statewide Planning Activities | D | * No existing basis for Title VI Certification | Submit to Region 10 Civil Rights Officer documentation that it has developed a statewide transportation planning process, as described in FTA Circular 4702.1A. | 60 Days |  |
| 1. Program Administration | D | Selection process not fair and equitable | Submit to Region 10 Civil Rights Officer documentation that:   * it has developed a process to pass through FTA Section 5310, 5311, 5316, and 5317 funds without regard to race, color, or national origin * minority and low-income populations will not be denied the benefits of or excluded from participation in these programs. | 60 Days | 1/25/2012 |
| 1. Providing Assistance to Sub-recipients | ND |  |  |  |  |
| 1. Monitoring Sub-recipients | ND |  |  |  |  |
| **PROGRAM-SPECIFIC REQUIREMENTS AND GUIDELINES FOR RECIPIENTS SERVING LARGE URBANIZED AREAS – FTA C.4702.1A VI, 1-4** | | | | | |
| 1. Demographic Data | D | Demographic data lacking | Submit to Region 10 Civil Rights Officer documentation that:   * WSF has selected its option for developing demographic data * WSF has developed the necessary demographic data as required by FTA Circular 4702.1A. | 60 Days |  |
| 1. System-wide Service Standards and Policies | ND |  |  |  |  |
| 1. Evaluation of Fare and Service Changes | D | Impact of fare and/or service changes not adequately examined | Submit to Region 10 Civil Rights Officer documentation that:   * WSF has defined “major service change” as required by FTA Circular 4702.1A. * WSF has developed a process to analyze the Title VI impacts of a “major service change as required by FTA Circular 4702.1A. | 60 Days |  |
| 1. Monitoring Transit Service | D | No procedure for monitoring level or quality of service | Submit to Region 10 Civil Rights Officer documentation that WSF has developed a process to monitor its transit service as required by FTA Circular 4702.1A. | 60 Days |  |

Findings at the time of the site visit: ND = No Deficiencies; D = Deficiency; NA = Not Applicable;

NR = Not Reviewed; AC = Advisory Comment

1. A**TTENDEES**

|  | **Title** | **Phone**  **Number** | **Email** |
| --- | --- | --- | --- |
| ***Washington State Department of Transportation – WSDOT*** | | | |
| Brenda R. Nnambi | Director, Office of Equal Opportunity | (360) 705-7095 | [nnambib@wsdot.wa.gov](mailto:nnambib@wsdot.wa.gov) |
| Gregory Bell | Manager, External Civil Rights Branch (ECRB), Office of Equal Opportunity | (360) 705-7086 | [bellg@wsdot.wa.gov](mailto:bellg@wsdot.wa.gov) |
| Jonte M. Sulton | Title VI Coordinator, ECRB, Office of Equal Opportunity | (360) 705-7082 | [sultonj@wsdot.wa.gov](mailto:sultonj@wsdot.wa.gov) |
| Judith S. Lorenzo | Manager, Transportation Planning Office (TPO), Strategic Planning Division | (360) 705-7274 | [lorenzj@wsdot.wa.gov](mailto:lorenzj@wsdot.wa.gov) |
| Clifford L. Hall | Transportation Planner, TPO, Strategic Planning Division | (360) 705-7993 | [hallcli@wsdot.wa.gov](mailto:hallcli@wsdot.wa.gov) |
| Evan Olson | Planner, TPO, Strategic Planning Division | (360) 705-6929 | [olsene@wsdot.wa.gov](mailto:olsene@wsdot.wa.gov) |
| Teri Hotsko | Transportation Planner, TPO, Strategic Planning Division | (360) 705-7918 | [hotskot@wsdot.wa.gov](mailto:hotskot@wsdot.wa.gov) |
| Don Chartock | Rural and Coordinated Transportation Administrator, Public Transportation Division | (360) 705-7928 | [chartod@wsdot.wa.gov](mailto:chartod@wsdot.wa.gov) |
| David Chenau | Capital Planning Manager | (360) 705-7839 | [chenaud@wsdot.wa.gov](mailto:chenaud@wsdot.wa.gov) |
| ***WSDOT – Washington State Ferries*** | | | |
| Raymond G. Deardorf | Director, Planning Department | (206) 515-3491 | [deardorf@wsdot.wa.gov](mailto:deardorf@wsdot.wa.gov) |
| Timothy P. McGuigan | Director of Legal Services and Contracts | (206) 515-3601 | [mcguigan@wsdot.wa.gov](mailto:mcguigan@wsdot.wa.gov) |
| Mehrdad Moini | Program Manager, Terminal Engineering | (206) 389-8586 | [moinim@wsdot.wa.gov](mailto:moinim@wsdot.wa.gov) |
| Eileen (Sam) Parks | Contracts Coordinator 2 | (206) 515-3603 | [parks@wsdot.wa.gov](mailto:parks@wsdot.wa.gov) |
| Susan Harris Huether | Customer Service and Information | (206) 515-3401 | [sharris@wsdot.wa.gov](mailto:sharris@wsdot.wa.gov) |
| Kojo Fordjour, AICP | Environmental and Permitting Manager | (206) 515-3650 | [fordjok@wsdot.wa.gov](mailto:fordjok@wsdot.wa.gov) |
| ***Grays Harbor Transit – WSDOT Subrecipient*** | | | |
| Mark Carlin | General Manager | (360) 532-2770 | [mark\_ghtransit@comcast.net](mailto:mark_ghtransit@comcast.net) |
| ***Review Team – The DMP Group, LLC*** | | | |
| John Potts | Lead Reviewer | (504) 283-7661 | [johnpotts@thedmpgroup.com](mailto:johnpotts@thedmpgroup.com) |
| Donald Lucas | Reviewer | (202) 726-2630 | [donald.lucas@thedmpgroup.com](mailto:donald.lucas@thedmpgroup.com) |
| Gregory Campbell | Reviewer | (202) 726-2630 | [gregory.campbell@thedmpgroup.com](mailto:gregory.campbell@thedmpgroup.com) |
| Khalique Davis | Reviewer | (412) 952-9007 | [khalique.davis@thedmpgroup.com](mailto:khalique.davis@thedmpgroup.com) |

1. Per the 2000 and the 2010 Census, people of Hispanic origin can be, and in most cases are, counted in two or more race categories. [↑](#footnote-ref-1)
2. Per the 2006-2010 American Community Survey See footnote 1. [↑](#footnote-ref-2)
3. Per the 2010 American Community Survey 1-Year Estimates. See footnote 1. [↑](#footnote-ref-3)