

**CITY OF KIRKLAND'S**

# **TITLE VI PLAN**

## **CITY MANAGERS' OFFICE**

Kurt Triplett, City Manager

## **TITLE VI PLAN PREPARED IN 2023 BY**

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

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

**Statutory/Regulatory Authorities**

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

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

**General Assurances**

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

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

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

**Specific Assurances**

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted program:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23(b) and 21.23(e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated, or will be (with regard

to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.

2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all Federal-Aid Highway Programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

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

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

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

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

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

City of Kirkland

by  Deputy City Manager  
DATED 9/15/2023

## APPENDIX A

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

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

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

**APPENDIX B****CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY**

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

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

**(HABENDUM CLAUSE)**

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

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

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



**APPENDIX C****CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM**

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

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

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

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

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

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

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

## APPENDIX E

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

### Pertinent Non-Discrimination Authorities:

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

## Title VI policy statement

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

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

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

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

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

Signed: \_\_\_\_\_

Deputy City Manager

Date

Sept 15, 2023

## Authorities

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

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

Limited English Proficiency - Executive Order 13166 clarifies that individuals with limited English proficiency are protected under the Title VI nondiscrimination provisions related to national origin, and requires Federal aid recipients, sub-recipients and contractors to take reasonable steps to provide meaningful access to programs, services and entities. These reasonable steps may include providing information, services and materials in languages other than English.

Environmental Justice - Executive Order 12898 clarifies that Title VI requires Federal aid recipients, sub-recipients and contractors to conduct an equity assessment to ensure full and fair participation of minority and low-income communities and avoid disproportionately high or adverse human and environmental impacts from transportation projects.

### C. Additional Citations

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

## Organization & staffing

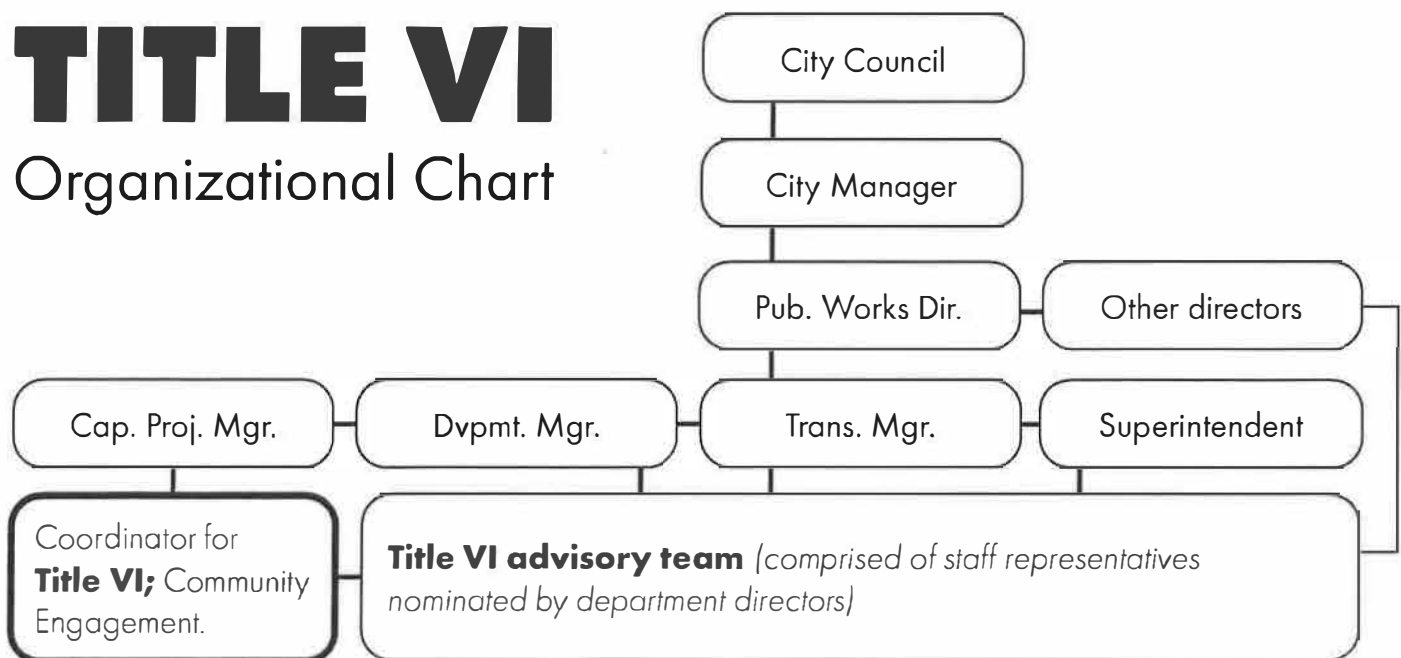
The City Manager is ultimately responsible for assuring full compliance with the provisions of Title VI of the Civil Rights Act of 1964 and related statutes as they apply to the City of Kirkland and has directed that non-discrimination is required of all City of Kirkland employees, contractors, and agents pursuant to 49 CFR Part 21 (<https://www.ecfr.gov/current/title-49/subtitle-A/part-21>).

The City of Kirkland has dedicated a portion of the position of Community Engagement Coordinator to perform the duties of the Title VI Coordinator and help implement its Title VI program. The position of Community Engagement Coordinator is located within Kirkland's Capital Improvement Program division of the Department of Public Works.

The Title VI Coordinator is responsible for:

- Preparing and submitting a Title VI plan and annual report on the agency's behalf;
- Developing procedures for the prompt processing and disposition of complaints;
- Investigating complaints, compiling a complaint log, and reporting to WSDOT;
- Developing procedures for the collection and analysis of statistical data;
- Developing a program to conduct Title VI reviews of program areas;
- Conducting annual Title VI assessments of pertinent program areas;
- Developing Title VI information for dissemination;
- Establishing procedures for resolving deficiency status and reducing to writing the remedial action agreed to be necessary.
- Performing Environmental Justice analysis for all capital projects and
- Coordinating an interdepartmental Title VI advisory team to recommend Title VI-related policy
- The work of the Title VI Coordinator will be assisted by a Title VI advisory team.

## TITLE VI Organizational Chart



## Program areas

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

<b>Program Area</b>	<b>General Description</b>	<b>Title VI/Non-Discrimination concerns and responsibilities</b>	<b>Review procedures for ensuring non-discrimination</b>
Infrastructure planning	Identifies projects throughout city that would fill gaps in transportation infrastructure	Ensures projects' benefits, impacts are distributed throughout communities	Reviews funded CIP projects to ensure equitable distribution
Infrastructure design	Designs upgrades or new improvements intended to fill gaps within transportation network	Ensures all community members have opportunity to shape project design, when applicable	Reviews outreach methods to ensure project staff is opening channels for all community members to participate
Right-of-way acquisition	Manages and coordinates the appraisal, acquisition, disposition and inventorying of real estate to be added to or omitted from the City's right-of-way or to be omitted from the City's right-of-way	Ensures equal opportunity in all aspects of procuring real estate consultant services and appraisal contracting	Incorporates applicable Title VI language and assurance statements in all documents related to right-of-way appraisal, acquisition, disposition and inventory
Construction	Hires consultants, contractors; develops purchase contracts; assembles bid packages to attract lowest-bid contractors; ensures contractor/consultant compliance with contract provisions, including Disadvantaged Business Enterprise (DBE) goals and equity and social justice requirements, where applicable	Includes applicable DBE goals in designated projects; seeks to have contractor achieve goals; includes Title VI assurance and provision language in all federally funded construction contracts; documents/language shall be periodically reviewed to ensure compliance with current laws/regulations; ensures that prime contractors and prime consultants with DBE requirements award contracted work to qualified DBEs, which perform commercially useful functions.	Maintains required data/documentation for completion of annual Title VI report; reviews directives, operational guidelines to ensure Title VI compliance; reviews all appropriate Title VI language is placed in bid announcements, requests for proposals and applicable contract documents
Transportation planning	Plans programs for transportation infrastructure improvements	Plans facility improvements in areas of need	Reviews plans to determine if areas of need are being addressed

<b>Program Area</b>	<b>General Description</b>	<b>Title VI/Non-Discrimination concerns and responsibilities</b>	<b>Review procedures for ensuring non-discrimination</b>
Contract Management	Hires consultants, contractors and manages contracts for other services. When required, contracts are awarded to contractors with the lowest, responsive, responsible bid	Includes relevant DBE goals in DBE-eligible projects; works with contractor to achieve goals; includes Title VI assurance and provision language in all federally funded construction contracts. Language shall be periodically reviewed to ensure compliance with current regulations.	Maintains data required for Title VI annual report; reviews directives/ procedures to ensure Title VI compliance; Confirms that all relevant Title VI language is placed in bid documents for proposals/ applicable contract documents
Public Works maintenance	Maintains City's existing infrastructure; responds to emergency infrastructure failures	Seeks to achieve equal and consistent infrastructure maintenance throughout the City	Reviews projects for maintenance opportunities where disadvantaged groups reside
Title VI training	Training programs ensure employees have resources to prevent discrimination	Coordinates regular training to prevent unintentional discrimination	Coordinates with HR to ensure employees receive Title VI training
Human Resources	Trains new, existing workers in non-discrimination policies, procedures	Assists with Title VI and other non-discrimination-related training; tracks training data for use by the Title VI Coordinator for the annual Title VI Report	Encourages Human Resources to apply programs and activities uniformly and fairly.
Title VI info. distribution	Uses outreach and informational materials to share City's Title VI information	Works with communication staff to include Title VI information on public materials and contracts	Reviews documents to ensure Title VI information is present



## Review procedures

Kirkland assures that every effort will be made to ensure non-discrimination in all programs and activities whether those programs are federally funded or not. Kirkland continues to review and monitor requirements through regular internal protocols, which include, but are not limited to, bid evaluations, weekly progress meetings with contractors and consultants, and project submittals.

### A. Consultants and Contractors

Specifications defining Title VI requirements based on USDOT 1050.2 are included in the contract documents with a requirement that these provisions be included in all amendments, supplements and lower-tier contracts entered into by the contractor. (Construction contract documents also include GSP 01-07.11 language relating to the Requirements for Non-discrimination.) Goals are established for the participation of Disadvantaged Business Enterprises, when applicable.

After contract execution, the contractor is responsible for reporting requirements outlined in the contract, and adherence to all contractual affirmative action and non-discrimination provisions for itself and its subcontractors in accordance with Kirkland policy. For federally funded consultant and construction contracts, the City uses the Diversity Compliance Management System (DCMS) for tracking DBE participation. DCMS requires prime consultants and subconsultants to report payments on a monthly basis for tracking participation percentages for certified firms.

### B. Subrecipients

Title VI Coordinator will assist WSDOT to periodically conduct Title VI compliance reviews. Title VI Coordinator will work cooperatively with Kirkland's Finance and Administration Department, to periodically confirm that consultants, contractors and subrecipients are complying with operational guidelines, including Title VI language, provisions, and related requirements.

When a subrecipient fails or refuses to comply with Title VI requirements within a specified time frame provided by Kirkland, Kirkland will submit to WSDOT and FHWA documentation and recommend that the subrecipient be found in noncompliance. A follow-up review will be conducted within 180 days of the initial review to determine if the subrecipient has complied with the Title VI Program requirements in correcting deficiencies previously identified. If the subrecipient refuses to comply, Kirkland with FHWA's concurrence, initiate sanction per 49 CFR 21.

## Data collection/Reporting/Analysis

Kirkland's Department of Public Works reviews and monitors requirements through regular internal protocols that include, but are not limited to, bid evaluations, project submittals and progress meetings with contractors and consultants.

### *Data Collection/Reporting/Analysis*

The City analyzes data on limited-English proficiency (LEP) and low-income residents using the Lake Washington School District's demographic data. Kirkland uses that data to identify how City projects might impact various populations within the City, as well as to determine which languages meet the safe harbor thresholds outlined in the Four-Factor Analysis.

To gather additional demographic data, City staff offers the Washington State Department of Transportation's voluntary demographic survey to attendees at applicable City meetings and public hearings involving transportation planning and project update discussions. The Title VI Coordinator analyzes the resulting data for trends related to attendance. This analysis will indicate where City staff should focus outreach efforts to encourage participation by a broader cross-section of the populace.

To ensure access to City meetings, City staff hosts City meetings in public buildings; most often in City buildings. Meeting flyers and announcements invite community members to request special accommodations and translation services if needed.

City staff will invite candidates for citizen advisory committees, planning and transportation commissions from a cross section of the community, including diversity in social, economic, and ethnic populations by disseminating written program information via public announcements.

### *Translations*

Kirkland notifies residents in the affected neighborhoods of upcoming construction projects, hearings, meetings and all project engagement opportunities through a variety of media, including flyers, postcards, list serve announcements, webpages signs and social media.

Printed communications are written in plain, reader-friendly English.

The City's website includes a translator that allows readers to view content in a dozen languages. In addition, printed communications deemed to be vital documents include information on how to access materials in alternative formats or different languages.

Kirkland contracts with Language Line Services to provide document translation.

### *Vital documents policy*

The City of Kirkland considers all mailed documents to be vital documents—unless a Four-Factor Analysis clearly determines the document is not vital. Vital documents include headlines summarizing the information's gist; followed by body text offering translation upon request and the contact information of the Title VI Coordinator.

## Discrimination complaint procedures

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

Complaints related to the Federal-aid programs may be filed with the City of Kirkland and will be forwarded to Washington State Department of Transportation – Office of Equity and Civil Rights. If a person needs assistance to file their complaint or needs interpretation services, residents are directed to contact Kirkland's Title VI Coordinator.

### Who is eligible to file a complaint?

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

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

### How do you file a complaint?

Complaints must be filed no later than 180 days from the last date of the alleged discrimination. Contact Christian Knight, the City of Kirkland's Title VI Coordinator, if you believe your complaint may fall outside this deadline. His phone number is (425) 587-3831. His email address is [cknight@kirklandwa.gov](mailto:cknight@kirklandwa.gov).

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

Complaints must be in writing, signed, and may be filed by mail, fax, in person, or e-mail.

### A complaint should contain the following information:

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

Kirkland's city clerk then forwards complaints to WSDOT-Office of Equity and Civil Rights for processing by FHWA. [WSDOT investigates complaints only if delegated by FHWA after acceptance of a complaint.] FHWA is responsible for all determinations regarding whether to accept, dismiss, or transfer the complaint and finding no violation or failure to comply.

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

Federal Highway Administration  
U.S. Department of Transportation Office of Civil Rights  
8th Floor E81-105  
1200 New Jersey Avenue, SE  
Washington, DC 20590  
CivilRights.FHWA@dot.gov

**What happens after a complaint is filed?**

There is no prohibition against a complainant filing a Title VI complaint simultaneously with the City of Kirkland, WSDOT, and FHWA.

If a complaint filed with Kirkland is forwarded to another agency, the complainant will be provided the name and contact information of the employee handling their complaint.

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

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

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

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

## Title VI Complaint Form

Please complete this form to the best of your ability. If you need translation or other assistance, contact \_\_\_\_\_ (contact info for service or individual in your LPA).

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

Basis of Complaint (circle all that apply):

Race Color National Origin (includes language access)

Date of alleged incident: \_\_\_\_\_

Who discriminated against you?

Name \_\_\_\_\_

Name of Organization \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ Zip \_\_\_\_\_

Telephone \_\_\_\_\_

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

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

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

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\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

Who \_\_\_\_\_ When \_\_\_\_\_

Status (pending, resolved, etc.) \_\_\_\_\_ Result, if known \_\_\_\_\_

Complaint number, if known \_\_\_\_\_

Do you have an attorney in this matter? \_\_\_\_\_

Name (print) \_\_\_\_\_ Phone \_\_\_\_\_ Address \_\_\_\_\_

ss \_\_\_\_\_ City \_\_\_\_\_ Zip \_\_\_\_\_

Signed \_\_\_\_\_ Date \_\_\_\_\_

## Title VI training

The Title VI Coordinator is responsible for overall Title VI-related training and staff development for Title VI steering team members and other City of Kirkland employees. The Title VI Coordinator will organize or conduct a minimum of one internal Title VI training session annually.

The Title VI Coordinator will collaborate with WSDOT's Office of Equity and Civil Rights to provide applicable training.

The training, which will be taken by all employees, focuses first on those who interface with Title VI mandates most often and covers the following areas:

**I. Overview of Title VI and The Civil Rights Act of 1964**

**II. Overview of Title VI Program Expectations**

- a.) Demographic surveys at City of Kirkland meetings
- b.) Environmental justice reviews
- c.) Vital documents

**III. Vital Documents**

- a.) Using the four-factor analysis
- b.) Headline Handbook
- c.) Responding to requests for translation

**IV. Interpretation and translation services**

- a.) When to hire a translator
- b.) When to hire an interpreter

**V. Environmental Justice**

- a.) Understanding executive order 12898

### *Selection of Instructors*

The Title VI Coordinator will collaborate with the City's procurement officer and Human Resources Department to ensure City policy is followed in the selection of instructors for City training courses and workshops and to ensure equal opportunity in the selection process for all training contracts.

This training will be designed to allow participants to practice many aspects of Title VI compliance using scenarios as well as small and large group activities. Participants are expected to evaluate sample documents for their level of Title VI compliance, explore the City's available resources to provide language translation and interpretation, and brainstorm strategies for providing services to people who are protected under the Civil Rights Act.

## Distribution of Title VI information

In terms of outreach, the City has two kinds of transportation-related capital projects: Those that require staff to inform the public of essential information, such as construction times, dates, purposes and scopes and those that require staff to solicit and use the public's feedback to shape pre-selected aspects of the project's design. Staff refers to the first kind of project as an Inform project and to the second kind of project as an Engage project.

Both types of outreach rely on the distribution of information through a variety of media, including flyers/postcards, webpages, list serves, news releases, social media posts and sometimes, through door-to-door outreach. Those documents include a summary of Kirkland's Title VI policy. This policy is included on the City's bid documents, as well.

Public feedback from an Engage project comes in a variety of forms: comments from an open house; answers to survey questions; themes from neighborhood meeting discussions; emails to staff and comments on social media threads.

Project managers and City leadership assess this feedback qualitatively; identifying the merits and diversity of perspectives, instead of viewing each comment as a vote unto itself.

- Kirkland's Title VI webpage features the City's Title VI policies, procedures and relevant supplemental information.
- Website users shall have the ability to translate all content on the City's website with an internal translation engine.
- Oral interpretation services shall be provided if requested by a member of the public.
- City staff will collect demographic information at applicable City of Kirkland meetings and public hearings involving transportation planning.
- Data shall be gathered through the use of voluntary self-reporting forms, which include race, gender, and other demographics. Copies of the completed forms will be provided to the Title VI Coordinator after each meeting.
- To ensure access to public meetings, meetings shall be conducted in community buildings. Meeting flyers and announcements shall include provisions inviting citizens to request special accommodations if needed. Interpretation services shall be made available if requested by the public.



## Limited English Proficiency

Kirkland reviews and ensures that any vital document includes headlines, translated into all languages that meet the Safe Harbor thresholds, which summarize the gist of the vital document's content, as well as a guarantee to translate the full document upon request and the Title VI Coordinator's contact information to make that request.

Kirkland contracts with Language Line Services to translate these headlines into Portuguese, Spanish, Russian and simplified Chinese—the four languages that meet or nearly meet the Safe Harbor thresholds—on *all* documents mailed throughout Kirkland, unless a Four-Factor Analysis clearly indicates the mailed document is not vital.

Kirkland uses Language Line translation services for oral interpretation services on an as-needed basis when assisting customers over the phone and contracted translation services for in-person interactions at remote work sites or community events.

Kirkland's Language Access Program provides guidance and tools to City departments, residents, and businesses as it pertains to accessible communications to individuals with Limited English Proficiency (LEP) and barriers to communication so that all services, programs, and activities are meaningfully accessible to all constituents.

- To ensure Kirkland is making this information accessible in all languages that meet the Safe Harbor threshold—Spanish, Portuguese, Russian and simplified Chinese—staff shall include on the mailed document: the mailed documents' gist in the form of a headline, a guarantee to provide the information in the Safe Harbor language, and ways to contact the Title VI Coordinator.
- The City of Kirkland considers all mailed documents to be vital documents, unless a Four-Factor Analysis clearly indicates that the mailed document is not vital.
- The first factor of the Four-Factor Analysis requires Kirkland to identify languages that meet the Safe Harbor thresholds—that is five percent of the population or 1,000 members (whichever is higher) that has limited-English proficiency. Using Lake Washington School District data, the City of Kirkland has identified four languages that meet—or nearly meet—that threshold. Those languages are Spanish, Portuguese, Russian and simplified Chinese.
- The second factor of the Four-Factor Analysis requires Kirkland to consider the frequency that someone from the Portuguese-, Spanish-, Russian-, and simplified Chinese-speaking communities will encounter the program's staff, information or services. The example cited in an Aug. 14 edition of the *Federal Register's* article, "Enforcement of Title VI of the Civil Rights Act of 1964," is primary or secondary school. "... if LEP individuals must access the recipient's program or activity on a daily basis ... a recipient has greater duties than if such contact is unpredictable or infrequent."
- The third factor of the Four-Factor Analysis requires Kirkland to evaluate how important the information is to the intended recipient. The examples offered to help determine this factor is a comparison between the vitality of information related to a federally assisted school or hospital, compared to a federally assisted zoo or theater.
- The four factor in the Four-Factor Analysis requires Kirkland to consider its resources available. Kirkland has a population that exceeds 75,000 and is, thus, considered a large agency. Any exemptions Kirkland staff claim under this fourth factor will need to be well-substantiated.

## Environmental justice

- City staff shall invite participation of a cross section of the community including diversity in social, economic, and ethnic populations by disseminating written program information via public announcements when forming citizen advisory committees or planning boards.
- City staff aims to avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority and low-income populations;
- City staff aims for the full and fair participation by all potentially affected communities in the decision-making process; and
- City staff aims to prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income population.

As individual capital projects are authorized and initiated, a project review process is initiated early in the project preliminary design phase. Early and ongoing project review is informed by an evolving understanding of the project stakeholders, constituent interests and demographic information obtained by census data GIS data. As the project evolves, so does the project team's understanding of the community and road-users being served by the project. Specific project products are informed by this data, including project charters and communication and outreach plans, if applicable. Projects with federal funds require stakeholder information provided by Environmental Justice (EJ) documentation for NEPA.

The Environmental Justice review uses information within a half mile of the project from the U.S. Environmental Protection Agency (EPA). The EPA provides an environmental justice screening and mapping tool, known as EJSCREEN. The project EJ review also includes data from the nearest public school using the Washington State Office of Superintendent of Public Instruction Washington State Report Card. Project sites are visited to help identify potential sensitive receptors, such as schools, hospitals, day-cares, to minimize potential impacts. Physical environments are reviewed/documented by environmental professional staff to identify critical/sensitive areas, potential project impacts, and studied by transportation engineers to assess local and regional mobility, potential project impacts, and future mitigation.

## **Your rights against discrimination under Title VI of the Civil Rights Act of 1964**

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

Any person who believes they have been aggrieved by an unlawful discriminatory practice under Title VI has a right to file a formal complaint with the City of Kirkland. Any such complaint filed with the City of Kirkland's Title VI Coordinator within 180 days following the date of the alleged discriminatory occurrence. Title VI discrimination Complaint Forms may be obtained from the City of Kirkland's Human Resources office at no cost to the complainant.

To file a Title VI discrimination complaint, contact:

Christian Knight  
Title VI Coordinator  
City of Kirkland  
(425) 587-3831  
[cknight@kirklandwa.gov](mailto:cknight@kirklandwa.gov)

Washington Department of Transportation  
Office of Equity and Civil Rights — Title VI  
Box 47314  
Olympia, WA 98054-7314  
[TitleVI@wsdot.wa.gov](mailto:TitleVI@wsdot.wa.gov)  
Phone: (360) 705-7090

