

Washington State Department of Transportation and

Kittitas County

Policy Statement

The Kittitas County, hereinafter referred to as the "Recipient" assures that no person shall on the grounds of race, color, national origin, or sex, as provided by Title VI of the Civil Rights Act of 1964, and the Civil Rights Restoration Action of 1987 (P.L. 100.259) be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity. The Recipient further assures every effort will be made to ensure non-discrimination in all of its programs and activities, whether those programs and activities are federally funded or not.

The Civil Rights Restoration Act of 1987, broadened in the scope of Title VI coverage by expanding the definition of terms "programs or activities" to include all programs or activities of Federal Aid recipients, sub-recipients, and contractors/consultants, whether such programs and activities are federally assisted or not (Public Law 100259 [S.557] March 22, 1988.)

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

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



Paul Jewell, Chairman of the Board
Kittitas County Board of Commissioners

05-03-11

Date

1. Report any changes in the organizational structure since the last reporting period. (Example: New Title VI Coordinator, new planning or public works directors, etc.)
 - Report should identify the changes in the racial/gender composition of those persons involved in the transportation decision making, including planning and advisor staff.
 - If no changes have been made, please indicate that accordingly.

The position responsible for initiating and monitoring Title VI activities has not changed; it is still the County Engineer. There have not been any changes in racial/gender composition of those persons involved in transportation decision making, including planning advisor staff. Key persons involved in transportation decision making include:

Douglas P. D'Hondt, County Engineer	Male, White, USA birthplace
Kirk Holmes, Public Works Director	Male, White, USA birthplace
Janette D. Ollivier, Transportation Manager	Female, White, USA birthplace
Thomas Kelley, Construction Manager	Male, White, USA birthplace

The most current Public Works organization chart is presented in Attachment A.

2. Using the most current data available (through Census or Washington State Office of Financial Management), describe the demographics within your jurisdiction.

Washington State Office of Financial Management data indicates the following demographics for Kittitas County:

	April 1, 2008 Estimate					
	Total	White	Black	Indian	API*	Two or More Races
Washington	6,587,600	5,566,607	237,917	109,792	470,361	202,922
% of total pop.		85%	4%	2%	7%	3%
Kittitas	39,400	36,812	329	408	1,165	686
% of total pop.		93%	1%	1%	3%	2%

*API = Asian and Pacific Islander

- a. **Describe any required Title VI activities and/or studies conducted that provided data relative to minority persons, neighborhoods, income levels, physical environment, and travel habits.**

The 2008 Kittitas County Long Range Transportation Plan includes an analysis of the 2000 Census Journey to Work Data and commuting patterns of Kittitas County residents and workers. This data indicates that there are 15,209 workers that reside in Kittitas County and 2,451 of these workers travel to other counties to work. Also, there are 13,518 persons that work in Kittitas County and 760 of these workers reside outside of the County.

The Average Daily Traffic (ADT) level and pavement condition is estimated for all county roads every other year at a minimum and used to prioritize future transportation improvements.

- b. **How was the information utilized or Title VI provisions and needs applied in each study or activity?**

The commuting data was included in the 2008 Kittitas County Long Range Transportation Plan for use when park and ride lots are located. No action has been taken in locating park and ride lots. Consideration will include identifying locations that are convenient to all population groups – including minority, women, low-income, and limited English proficiency population groups. Title VI provisions will be met through any contracts associated with this activity when it does occur.

The Average Daily Traffic (ADT) level and pavement condition is used annually to prioritize future transportation improvements. All county roads are included in this analysis, considering all population groups – including minority, women, low-income, and limited English proficiency population groups equally. Title VI provisions will be met through any contracts associated with this activity.

3. **List any Public outreach activities during the reporting period such as, public announcements and/or communications for meetings, hearings, project notices. Include the following:**

- a. **How were special language needs assessed? List the special language needs assessments conducted.**

All Public Hearing agendas and minutes are available in English and Spanish. The Public Works website and access to public hearing documents on the Commissioners' website is in both English and Spanish.

- b. What outreach efforts did you utilize to ensure that minority, women, low-income, and LEP population groups were provided equal opportunity to participate in those outreach activities. (Examples: provided materials in other languages, met with local social service agencies, advertised in a minority publication).**

The County translates all documents on the Public Works website and all public hearing documents on the Commissioners' website from English to Spanish.

There are only two local newspapers in Kittitas County. Kittitas County advertised open houses and public meetings for its transportation improvement program in the two newspapers for meetings held August 17, 2010, August 18, 2010, October 5, 2010, and December 7, 2010. The open houses were held in accessible locations, from 4:00 p.m. to 7:00 p.m. to provide the opportunity for all population groups – including minority, women, low-income, and limited English proficiency population groups to participate. One open house was held in Upper County and one open house was held in Lower County to encourage all population groups to participate, including minority, women, low-income, and limited English proficiency population groups. Holding the open houses in several locations made it easier for persons who could not afford to drive long distances participate. Holding the open houses from 4:00 p.m. to 7:00 p.m. allows for flexibility for persons to come either during the work day or right after work – especially helpful for workers who cannot take time off from work.

Advertisements requesting qualifications for contractual services include the following statement:

The County encourages minority and women-owned firms to submit qualifications consistent with the County's policy to insure that minority and women-owned firms are afforded the maximum practicable opportunity to compete for and obtain public contracts for services.

Bid documents include Title VI requirements, indicating that the County provides equal opportunity for all population groups – including minority, women, low-income, and limited English proficiency population groups to participate (see Attachment B).

**Non-Discrimination Agreement
Annual Report
Population Under 100,000**

- c. List the special language services provided – note the professional language service provided including the name of the service, date provided, number of persons served, and any other relevant information.

No special language services were requested for these activities.

- d. List any costs incurred for translations and interpreters for each activity.

No translators or interpreters were requested for each of these activities.

4. List all the transportation related contracts (Federal and others) that were executed during the reporting period. (Please include construction, consultant agreements for planning, design, engineering, environmental, research, maintenance, etc.)
- Include dollar value of each

Description of Contract	Vendor	Amount of Contract	Date Signed
Upper County Shop Garage	Catlin Electric Inc.	\$12,924	5/18/2010
2010 Paint Strip Program	Strip Rite Inc.	\$177,939	5/18/2010
Ringer Loop Road Pavement repair	Columbia Asphalt and Gravel	\$78,332	3/2/2010
Fairgrounds pavement extension	Columbia Asphalt and Gravel	\$27,011	6/16/2010
Administration Building Parking Lot	LMH Construction LLC	\$155,313	6/15/2010
Trap & Skeet Lead Removal	Devil's Lake Rock LLC	\$118,951	9/21/2010
Upper County Shop Weatherization	Stephens & Sons Construction Inc.	\$84,589	10/19/2010
Airport Industrial Park Utilities	Belsaas & Smith Construction Inc.	\$522,935	11/2/2010
2010 Bridge replacements	MRM Construction Inc.	\$245,188	11/2/2010

- Other than advertising in your local legal publication, what outreach was made to DMWBE firms that a contracting opportunity existed within your agency?

Advertising is the only method of outreach to all persons and firms.

**Non-Discrimination Agreement
Annual Report
Population Under 100,000**

- **Identify the DMWBE contracts that were awarded and their dollar amount.**

None in 2010

- **Is there a Title VI Non-Discrimination statement included in all contracts and public notices?**

Yes

- **How did your organization ensure that minority, women, and disadvantaged firms were provided equal opportunity to participate in the contracting arena?**

All advertising for contractual services include the following statement:

The County encourages minority and women-owned firms to submit qualifications consistent with the County's policy to insure that minority and women-owned firms are afforded the maximum practicable opportunity to compete for and obtain public contracts for services.

All bid advertisements include the required Title VI language and is shown in Attachment B.

5. **Summarize any transportation projects that identify potential impacts to minority and/or low income Environmental Justice (EJ) populations (i.e., impacts such as displacements, increased noise, bisecting neighborhoods, et al). Note the following:**
 - **How impacts were minimized/mitigated.**
 - **Also include a statement, if applicable, on projects that specifically benefit community cohesion such as: adding sidewalks, improving access to properties that improve access for EJ populations.**

There were no transportation projects that impacted Environmental Justice populations with displacements, increased noise, bisecting neighborhoods or other similar impacts. The transportation improvements that the county performed were mainly minor repair in rural areas. These included: striping County roads; flood emergency repair on Ringer Loop Road; bridge replacements on Badger Pocket Road, Cleman Road, Carroll Road, and Cooke Canyon Road; upgrades to the County's maintenance shop; extending the Fairgrounds parking area; constructing a parking lot for the Courthouse; utilities in the Airport Industrial park; and lead removal in the Airport Industrial park.

6. If Right of Way has been acquired for a transportation project. Please describe:
- Identify the number of minority, low-income, elderly and disabled persons affected.
 - The efforts that were made to address Limited English Proficiency issues (including use and cost of translators, outreach efforts for each reported activity).
 - Describe any concerns raised by minorities and women regarding appraisals, negotiations, relocation assistance, and payments. What actions were taken to resolve those issues?

Right of way and construction easements were not acquired.

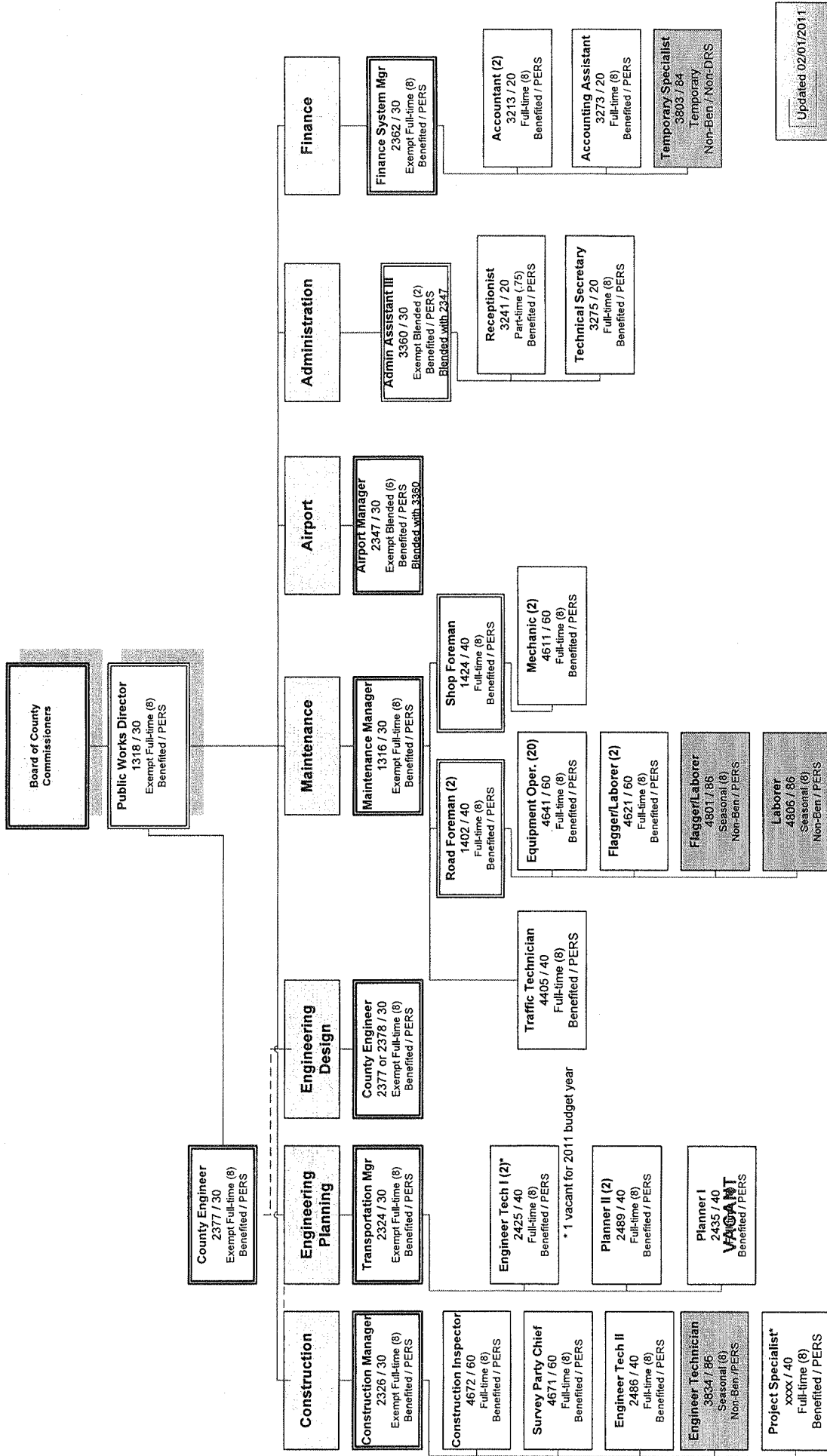
7. List and describe any Title VI related complaints, as a result of transportation activities and projects. Include:
- What was the allegation or concern?
 - Procedures used
 - Action taken
 - Resolution

No complaints were recorded in 2010.

**Non-Discrimination Agreement
Annual Report
Population Under 100,000**

**Attachment A
Public Works Organization Chart**

0106 – Public Works Department Organizational Chart



Updated 02/01/2011

* 2 year position

Attachment B
Title VI Required Language included in All Bid Documents

Requirements For Nondiscrimination

Section 1-07.11 is supplemented with the following:

(March 6, 2000)

Requirement For Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246)

1. The Contractor's attention is called to the Equal Opportunity Clause and the Standard Federal Equal Employment Opportunity Construction Contract Specifications set forth herein.
2. The goals and timetables for minority and female participation set by the Office of Federal Contract Compliance Programs, expressed in percentage terms for the Contractor's aggregate work force in each construction craft and in each trade on all construction work in the covered area, are as follows:

Women - Statewide

<u>Timetable</u>	<u>Goal</u>
Until further notice	6.9%
<u>Minorities - by Standard Metropolitan Statistical Area (SMSA)</u>	
Spokane, WA:	
SMSA Counties:	
Spokane, WA	2.8
WA Spokane.	
Non-SMSA Counties	
	3.0
WA Adams; WA Asotin; WA Columbia; WA Ferry; WA Garfield; WA Lincoln, WA Pend Oreille; WA Stevens; WA Whitman.	
Richland, WA	
SMSA Counties:	
Richland Kennewick, WA	5.4
WA Benton; WA Franklin.	
Non-SMSA Counties	
	3.6
WA Walla Walla.	

**Non-Discrimination Agreement
Annual Report
Population Under 100,000**

Yakima, WA:	
SMSA Counties:	
Yakima, WA	9.7
WA Yakima.	
Non-SMSA Counties	
WA Chelan; WA Douglas; WA Grant; WA Kittitas; WA Okanogan.	7.2
Seattle, WA:	
SMSA Counties:	
Seattle Everett, WA	7.2
WA King; WA Snohomish.	
Tacoma, WA	6.2
WA Pierce.	
Non-SMSA Counties	
WA Clallam; WA Grays Harbor; WA Island; WA Jefferson; WA Kitsap; WA Lewis; WA Mason; WA Pacific; WA San Juan; WA Skagit; WA Thurston; WA Whatcom.	6.1
Portland, OR:	
SMSA Counties:	
Portland, OR-WA	4.5
WA Clark.	
Non-SMSA Counties	
WA Cowlitz; WA Klickitat; WA Skamania; WA Wahkiakum.	3.8

These goals are applicable to each nonexempt Contractor's total on-site construction workforce, regardless of whether or not part of that workforce is performing work on a Federal, or federally assisted project, contract, or subcontract until further notice. Compliance with these goals and time tables is enforced by the Office of Federal Contract compliance Programs.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, in each construction craft and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goal shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Engineer within 10 working days of award of any construction subcontract in excess of \$10,000 or more that are Federally funded, at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar

Non-Discrimination Agreement

Annual Report

Population Under 100,000

amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.

4. As used in this Notice, and in the contract resulting from this solicitation, the Covered Area is as designated herein.

Standard Federal Equal Employment Opportunity Construction Contract Specifications
(Executive Order 11246)

1. As used in these specifications:

- a. Covered Area means the geographical area described in the solicitation from which this contract resulted;
- b. Director means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
- c. Employer Identification Number means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U. S. Treasury Department Form 941;
- d. Minority includes:

- (1) Black, a person having origins in any of the Black Racial Groups of Africa.
- (2) Hispanic, a fluent Spanish speaking, Spanish surnamed person of Mexican, Puerto Rican, Cuban, Central American, South American, or other Spanish origin.
- (3) Asian or Pacific Islander, a person having origins in any of the original peoples of the Pacific rim or the Pacific Islands, the Hawaiian Islands and Samoa.
- (4) American Indian or Alaskan Native, a person having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.
3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades

Non-Discrimination Agreement

Annual Report

Population Under 100,000

which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith effort to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through 7p of this Special Provision. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.
5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its action. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
 - a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

Non-Discrimination Agreement
Annual Report
Population Under 100,000

- b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
- c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the Contractor may have taken.
- d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
- e. Develop on-the-job training opportunity and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the U.S. Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.
- f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with on-site supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news

Non-Discrimination Agreement

Annual Report

Population Under 100,000

media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.

- i. Direct its recruitment efforts, both oral and written to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
 - j. Encourage present minority and female employees to recruit other minority persons and women and where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.
 - k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
 - l. Conduct, at least annually, an inventory and evaluation of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
 - m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.
 - n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
 - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
 - p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through 7p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant, may be asserted as

Non-Discrimination Agreement

Annual Report

Population Under 100,000

fulfilling any one or more of the obligations under 7a through 7p of this Special Provision provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensure that the concrete benefits of the program are reflected in the Contractor's minority and female work-force participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrate the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).
10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
11. The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspensions, terminations and cancellations of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of this Special Provision, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.
14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the government and to keep records. Records shall at least include, for each employee, their name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable

form; however, to the degree that existing records satisfy this requirement, the Contractors will not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

(September 17, 2007)

Disadvantaged Business Enterprise Participation

The Disadvantaged Business Enterprise (DBE) requirements of 49 CFR part 26 apply to this contract. The requirements of this contract are to encourage DBE participation, supply a bidder's list, and to report race neutral accomplishments quarterly as described in this special provision. No preference will be included in the evaluation of bids/proposals, no minimum level of DBE participation shall be required as a condition for receiving an award and bids/proposals will not be rejected or considered non-responsive on that basis.

DBE Goals

No DBE goals have been assigned as a part of this contract.

Affirmative Efforts to Solicit DBE Participation

DBE firms shall have equal opportunity to compete for and perform subcontracts which the Contractor enters into pursuant to this contract. Contractors are encouraged to:

1. Advertise opportunities for Subcontractors or suppliers in a manner reasonably designed to provide DBEs capable of performing the work with timely notice of such opportunities. All advertisements should include a provision encouraging participation by DBE firms and may be done through general advertisements (e.g. newspapers, journals, etc.) or by soliciting bids/proposals directly from DBEs.
2. Utilize the services of available minority community-based organizations, minority contractor groups, local minority assistance offices and organizations that provide assistance in the recruitment and placement of DBEs and other small businesses.

In addition, the Office of Minority and Women's Business Enterprises has two DBE Supportive Services Offices available to assist you as follows:

Seattle: (206) 553-7356
Tacoma: (253) 680-7393

3. Establish delivery schedules, where requirements of the contract allow, that encourage participation by DBEs and other small businesses.

4. Achieve attainment through joint ventures.

In the absence of a mandatory goal, all DBE participation that is attained on this project will be considered as "race neutral" participation and will be reported as such.

DBE Eligibility (for reporting purposes only)

Selection of DBEs:

DBEs utilized on the contract will be eligible to be counted as race neutral participation only if the firm is identified as a DBE on the current list of firms certified by the Office of Minority and Women's Business Enterprises (OMWBE), the DBE firm is certified in the corresponding NAICS code(s) for the type of work to be performed, and the DBE firm performs a commercially useful function. A list of firms certified by OMWBE, including the NAICS codes for which they are certified, is available from that office and on line through their website (www.omwbe.wa.gov/directory/directory.htm) or by telephone at (360) 704-1181.

Counting DBE Participation For Reporting Race Neutral Accomplishments

When a DBE firm participates in a contract, only the value of the work actually performed by the DBE will be counted as race-neutral participation.

1. Count the entire amount of the portion of the contract that is performed by the DBE's own forces. Include the cost of supplies and materials obtained by the DBE for the work of the contract, including supplies purchased or equipment leased by the DBE (except supplies, materials, and equipment the DBE Subcontractor purchases or leases from the Prime Contractor or its affiliate, unless the Prime Contractor is also a DBE). Work performed by a DBE, utilizing resources of the Prime Contractor or its affiliates will not be counted as race-neutral participation. In very rare situations, a DBE firm may utilize equipment and/or personnel from a non-DBE firm other than the Prime Contractor or its affiliates. Should this situation arise, the arrangement must be short-term and have prior written approval from the Contracting Agency. The arrangement must not erode a DBE firm's ability to perform a Commercially Useful Function (See discussion of CUF, below).
2. Count the entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance.
3. When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted as race neutral participation only if the DBE's lower tier Subcontractor is also a DBE. Work that a DBE Subcontracts to a non-DBE firm does not count as race neutral participation.
4. When a non-DBE subcontractor further subcontracts to a lower-tier subcontractor or supplier who is a certified DBE, then that portion of the work further subcontracted may be counted toward the DBE goal, so long as it is a distinct clearly defined portion of the work of the subcontract that

the DBE is performing with its own forces in a commercially useful function.

DBE Prime Contractor

A DBE prime Contractor may only count the work performed with its own forces and the work performed by DBE Subcontractors and DBE suppliers.

Joint Venture

When a DBE performs as a participant in a joint venture, only that portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work that the DBE performs with its own forces will count as race neutral participation.

Commercially Useful Function

Payments to a DBE firm will count as race neutral participation only if the DBE is performing a commercially useful function on the contract.

1. A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, installing (if applicable) and paying for the material itself. Two party checks are not allowed.
2. A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation.

Trucking

Use the following factors in determining whether a DBE trucking company is performing a commercially useful function:

1. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is listed on a particular contract.
2. The DBE must itself own and, with its own workforce, operate at least one fully licensed, insured, and operational truck used on the contract.
3. The DBE receives credit only for the total value of the transportation services it provides on the contract using trucks it owns or leases, licenses, insures, and operates with drivers it employs.
4. For purposes of this paragraph a lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

Non-Discrimination Agreement
Annual Report
Population Under 100,000

5. The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE may report race-neutral participation for the total value of the transportation services the lessee DBE provides on the contract.
6. The DBE may also lease trucks from a non-DBE firm and may enter an agreement with an owner-operator who is a non-DBE. The DBE who leases trucks from a non-DBE or employs a non-DBE owner-operator is entitled to count race-neutral participation only for the fee or commission it receives as a result of the lease arrangement. The DBE may not count the total value of the transportation services provided by the lessee, since these services are not provided by a DBE.
7. In any lease or owner-operator situation, as described in paragraphs 5 & 6 above, the following rules shall apply:
 - A written lease/rental agreement on all trucks leased or rented, showing the true ownership and the terms of the rental must be submitted and approved by the Contracting Agency prior to the beginning of the work. The agreement must show the lessor's name, trucks to be leased, and agreed upon amount or method of payment (hour, ton, or per load). All lease agreements shall be for a long-term relationship, rather than for the individual project. Does not apply to owner-operator arrangements.
 - Only the vehicle, (not the operator) is leased or rented. Does not apply to owner-operator arrangements.
8. In order for payments to be counted as race-neutral participation, DBE trucking firms must be covered by a subcontract or a written agreement approved by WSDOT prior to performing their portion of the work.

Expenditures paid to other DBEs

Expenditures paid to other DBEs for materials or supplies may be counted toward race neutral participation as provided in the following:

Manufacturer

1. Counting
If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies toward race neutral participation.
2. Definition
To be a manufacturer, the firm operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.

Non-Discrimination Agreement

Annual Report

Population Under 100,000

3. In order to receive credit as a DBE manufacturer, the firm must have received an "on-site" review and been approved by WSDOT-OEO to operate as a DBE Manufacturing firm. To schedule a review, the manufacturing firm must submit a written request to WSDOT/OEO and may not receive race neutral credit, until the completion of the review. Once a firm's manufacturing process has been approved in writing, it is not necessary to resubmit the firm for approval unless the manufacturing process has substantially changed. Information on approved manufacturers may be obtained from WSDOT-OEO.

Regular Dealer

1. Counting

If the materials or supplies are purchased from a DBE regular dealer, 60 percent of the cost of the materials or supplies will count toward race neutral participation.

2. Definition

- a) To be a regular dealer, the firm must own, operate or maintain a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. It must also be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question.
 - b) A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business, as provided elsewhere in this specification, if the person both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis.
 - c) Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers.
3. Regular dealer status is granted on a contract-by-contract basis. To obtain regular dealer status, a formal written request must be made by the interested supplier (potential regular dealer) to WSDOT/OEO. Included in the request shall be a full description of the project, type of business operated by the DBE, and the manner the DBE will operate as a regular dealer on the specific contract. Rules applicable to regular dealer status are contained in 49 CFR Part 26.55.e.2. Once the request is reviewed by WSDOT-OEO, the DBE supplier requesting it will be notified in writing whether regular dealer status was approved.

Materials or Supplies Purchased from a DBE

With respect to materials or supplies purchased from a DBE who is neither a manufacturer nor a regular dealer, the entire amount of fees or commissions

Non-Discrimination Agreement

Annual Report

Population Under 100,000

charged for assistance in the procurement of the materials and supplies or fees or transportation charges for the delivery of materials or supplies required on a job site may be counted as race neutral participation. No part of the cost of the materials and supplies themselves may be applied as race neutral participation.

Procedures Between Award and Execution

After award of the contract, the successful bidder shall provide the additional information described below. A failure to comply shall result in the forfeiture of the bidder's proposal bond or deposit.

A list of all firms who submitted a bid or quote in an attempt to participate in this project whether they were successful or not. Include the correct business name, federal employer identification number (optional) and a mailing address.

The firms identified by the Contractor may be contacted to solicit general information as follows:

1. age of the firm
2. average of its gross annual receipts over the past three-years

Procedures After Execution

Reporting

The Contractor shall submit a "Quarterly Report of Amounts Credited as DBE Participation" (actual payments) on a quarterly basis for any calendar quarter in which DBE work is accomplished or upon completion of the project, as appropriate. The quarterly reports are due on January 20th, April 20th, July 20th, and October 20th of each year. The dollars reported will be in accordance with the "**Counting DBE Participation For Reporting Race Neutral Participation**" section of this specification.

In the event that the payments to a DBE have been made by an entity other than the Prime Contractor (as in the case of a lower-tier subcontractor or supplier), then the Prime Contractor shall obtain the quarterly report, including the signed affidavit, from the paying entity and submit the report to the Contracting Agency.

Payment

Compensation for all costs involved with complying with the conditions of this specification and any associated DBE requirements is included in payment for the associated contract items of work.