

APPENDIX C:

Title VI Plan

Amended September 14, 2011

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Policy Statement

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

In the event WCOG distributes federal aid funds to another entity or contractor, WCOG will include Title VI language in all written agreements and will monitor for compliance.

WCOG’s Executive Director is responsible for initiating and monitoring Title VI activities, preparing required reports, and other WCOG responsibilities as required by 23 CFR 200 and 49 CFR 21.

James G. Miller Date
Executive Director

Authorities

Title VI of the 1964 Civil Rights Act provides that no person in the United States shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance (please refer to 23 CFR 200.9 and 49 CFR 21).

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

Additional Authorities and Citations Include:

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; and 28 CFR 50.

Organization and Staffing - General

The Executive Director of WCOG is responsible for ensuring the implementation of WCOG Title VI program. The Title VI Coordinator (hereafter referred to as Coordinator), on behalf of the Executive Director, is responsible for oversight of the Title VI program. The day-to-day administration of the program lies with the Title VI Coordinator under the direct supervision of the Executive Director.

Title VI Coordinator Responsibilities

The Title VI Coordinator with assistance from program liaisons is assigned the responsibility for implementing, monitoring, and ensuring WCOG’s compliance with Title VI regulations. Title VI responsibilities are as follows:

1. Process the disposition of Title VI complaints received by WCOG.
2. Collect statistical data (race, color, sex, and national origin) of participants in, and beneficiaries of WCOG programs, i.e. citizens and affected communities.

3. Review Environmental Impact Statements prepared by WCOG for Title VI and Environmental Justice compliance.
4. Conduct Title VI review of program areas (planning, education and training, environmental affairs and contracting).
5. Conduct Title VI review of consultant contractors and recipients of federal funds directly distributed by WCOG.
6. Review internal policies and, where applicable, include Title VI and related requirements.
7. Make available training for WCOG employees on Title VI and related statutes for WCOG programs.
8. Prepare a yearly report of Title VI accomplishments for the past year.
9. Prepare Title VI information for dissemination to the general public and, where necessary and appropriate, in languages other than English.
10. Conduct approval reviews of WCOG programs and applicants for compliance with Title VI requirements, i.e. persons seeking contracts with WCOG.
11. Identify, investigate, and eliminate discrimination when found to exist in connection with WCOG programs.
12. Establish procedures for promptly resolving deficiency status and reducing to writing the remedial action agreed to be necessary, all within a period not to exceed 90 days.

Program Administration - General

The WCOG Executive Director will be responsible for ensuring the implementation of the WCOG Title VI program. The Coordinator will assist in the overall administration of the Title VI program, plan and assurances. WCOG Program Liaisons will assist the Coordinator in the day-to-day administration of the program.

A. Complaints

If any individual believes they or any other program beneficiaries have been the object of an unequal treatment or discrimination as to the receipts of benefits and/or services, or on the grounds of race, color, national origin or sex, they may exercise their right to file a complaint with WCOG. Every effort will be made to resolve complaints informally at the agency, subrecipient, and contractor's level.

B. Data Collection

Statistical data on race, color, national origin and sex of participants in, and beneficiaries of WCOG programs, e.g., citizens, and affected communities, will be gathered and maintained by the Coordinator for use in evaluating program compliance and improving affected populations' participation. Each of the Title VI program areas will maintain data, which will be incorporated into the Title VI Annual Update. Data gathering procedures will be reviewed regularly to ensure sufficiency of the data in meeting the requirements of the Title VI program administration.

C. Title VI Reviews

Title VI Program reviews will be performed by the Coordinator to assess administrative procedures, staffing, and resources available for Title VI compliance.

D. Annual Reviews

All programs will be reviewed annually to assure effectiveness in their compliance of Title VI provisions. This is in addition to the

day-to-day monitoring. The Title VI Coordinator and program representatives will coordinate efforts to ensure equal participation in all their programs and activities at all levels.

E. Operational Guidelines

All operational guidelines to contractors, subrecipients, and program areas will be reviewed annually to ensure inclusion of Title VI language, provisions, and related requirements, where applicable.

F. Training Program

Assist the Washington State Department of Transportation (WSDOT) in the distribution of information on available training programs regarding Title VI and related statutes to WCOG employees. Training is available to all WCOG employees as related to their job descriptions.

G. Annual Reports

An annual summary and Plan Update will be submitted to WSDOT in February for the previous year. The Annual Report will review Title VI accomplishments achieved during the previous year. The Coordinator will be responsible for coordination and preparation of the report.

H. Public Dissemination

WCOG will disseminate Title VI Program information to WCOG employees, subrecipients, and contractors, as well as the general public as necessary for WCOG programs. Public Dissemination will include the electronic posting of public statements on the agency's web site, inclusion of Title VI language in contracts, annually publishing the Title VI Policy Statement in newspapers having a general circulation in the community and in minority publications where appropriate (see Addendum 3).

I. Post Grant Reviews

Post-grant Title VI Compliance reviews of consultants with WCOG will be conducted. The reviews will determine the contractor's compliance with Title VI contractual provisions. Post-grant reviews are to be conducted on those subrecipients that have already received WCOG federal funds.

J. Remedial Action

WCOG will actively pursue the prevention of any Title VI deficiencies or violations and will take the necessary steps to ensure compliance with program administrative requirements. If irregularities occur in the administration of the federal-aid highway program's operation, corrective action will be taken to resolve Title VI issues. When conducting Title VI reviews on subrecipients, WCOG will reduce to writing remedial action agreed to be necessary, all within a period not to exceed 90 days.

WCOG will seek the cooperation of the subrecipient in correcting any deficiencies found during the review. WCOG will also provide the technical assistance and guidance needed to aid the subrecipient to comply voluntarily. Subrecipients placed in a deficiency status will be given a reasonable time, not to exceed 90 days after receipt of the deficiency letter, to voluntarily correct deficiencies.

If a subrecipient fails or refuses to voluntarily comply with requirements within the time frame allotted, the Coordinator will submit to the Executive Director two copies of the case file and a recommendation that the subrecipient be found in noncompliance.

A follow-up review will be conducted within 180 days of the initial review to ensure that the subrecipient has complied with the Title VI Program requirements in correcting deficiencies previously identified. If the subrecipient refuses to comply, WCOG may, with WSDOT and FHWA's concurrence, initiate sanctions per 49 CFR 21.

WSDOT will be notified of any complaint filed involving Title VI issues, as well as its resolution.

K. WCOG will develop an internal procedure to assist in day-to-day administration of the Title VI Program. This procedure will be updated regularly to incorporate changes and additional responsibilities.

L. WCOG will make every effort to provide services to Limited English Proficient (LEP) people, either through translation or interpreter, available prior to scheduled meetings, such as public hearings or project meetings.

When a need has been identified by WCOG or WCOG receives a request, WCOG shall make every effort to provide services requested in a timely manner. WCOG will pay for the translation of vital documents and interpreter services.

M. A Four Factor Analysis process will be conducted at least every 3 years to determine what languages need assistance and what activities can be done to provide reasonable access. The resulting tables and maps identifying the areas with higher proportions of LEP persons are attached to this plan as Addendum 6.

Planning

A. Whatcom Council of Governments

WCOG has the responsibility to develop long- and short-range transportation plans for Whatcom County. WCOG is located in Bellingham, Washington.

B. Authorities

The Metropolitan Planning Organization Regulations

23 CFR 450

RCW 47.80 Regional Transportation Planning Organization (RTPO)

C. Planning Process

A comprehensive transportation planning process is used which incorporates input from the public into the various Metropolitan Planning Organization (MPO) activities. The process further entails the monitoring and collection of varied data pertaining to transportation issues. WCOG coordinates urban transportation planning and public involvement, and as well as provides technical support to jurisdictions and agencies when needed.

D. Title VI Responsibilities

Ensure that all aspects of the planning process complies with Title VI.

Ensure the opportunity for participation of a cross section of various social, economic, and ethnic interest groups in the planning process by disseminating program information to minority media and ethnic organizations, and conducting workshops related to projects in predominantly minority communities.

Gather and organize the data necessary to develop the Annual Title VI Update Report. Review the WCOG work program, FHWA/FTA Joint Planning Regulations, and other directives to ensure compliance with Title VI program requirements.

Ensure equal participation opportunity on Citizens Advisory Committee on Transportation (CACT), provide information pertaining to selection criteria for CACT members, and furnish to WSDOT information on membership make-up (race, gender, and position within the organization) for review.

WCOG coordinates urban transportation planning and public involvement, and provides technical support to jurisdictions and agencies when needed.

Education and Training

A. Staff Development

WSDOT will provide training opportunities to WCOG staff and subrecipients, including training provided by the National Highway Institute (NHI).

B. Operational Guidelines

Training is available to all WCOG employees per the WCOG Personnel Manual.

C. Title VI Responsibilities

Assist WSDOT in the distribution of information on training programs regarding Title VI and related statutes.

Ensure equal access to, and participation in, applicable NHI courses for qualified WCOG employees.

Consultant Contracts Coordination

A. Consultant Contracts

The WCOG Planning Director is responsible leading the process for consultant selection, negotiation, and the administration of consultant contracts.

B. Authorities

WCOG's "Procurement Policy"

48 CFR 31

23 CFR 172

RCW 39.29

RCW 39.80

C. Consultant Selection Process

The WCOG operates under its internal contract procedures and all relevant federal and state laws. Selection of consultants is generally made by a Consultant Selection Committee, which is established for each major project. The committee is typically composed of WCOG staff members, technical staff from local areas, and staff from affected agencies.

D. Title VI Responsibilities

Ensure DBE opportunities exist.

Ensure that all federally funded consultant contracts administered by the WCOG have the appropriate Title VI provisions included.

Review directives and procedures to ensure Title VI compliance.

Maintain necessary data and documentation required for completion of the WCOG's Title VI Update Annual Report.

ADDENDUM 1 - WCOG Title VI Assurances

The Whatcom Council of Governments (hereinafter referred to as the "Recipient"), HEREBY AGREES THAT as a condition to receiving any federal financial assistance from the U.S. Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000d—42 USC 2000d—4 (hereinafter referred to as the "Act"), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the "Regulations"), and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, no person in the United States shall, on the grounds of race, color, sex, or national

origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives federal financial assistance from the Department of Transportation, including the Federal Highway Administration, and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement. This Assurance is required by Subsection 21.7(a) (1) of the Regulations.

More specifically and without limiting the above general assurance, the Recipient hereby gives the following specific assurances to its Federal Aid Highway Program.

1. That the Recipient agrees that each "program" and each "facility", as defined in Subsections 21.23(e) and 21.23(b) of the Regulations, will be (with regard to a "program") conducted or will be (with regard to a "facility") operated in compliance with all requirements imposed by, or pursuant to, the Regulations.
2. That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Regulations made in connection with the Federal Aid Highway Program, and in adapted form in all proposals for negotiated agreements:
3. "The Whatcom Council of Governments, in accordance with Title VI of the Civil Rights Act of 1964 and 78 Stat. 252, 42 USC 2000d—42 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, part 21: Nondiscrimination in Federally Assisted Programs of the Department of Transportation Issued Pursuant to Such Act, hereby notifies all bidders that it will affirmatively ensure that any contract entered pursuant to this advertisement will afford minority business enterprises full opportunity to submit bids in response to this invitation, and will not discriminate on the grounds of race, color, sex,

or national origin in consideration for an award.”

4. That the Recipient shall insert the clauses of Appendix 1 of this Assurance in every contract subject to the Act and the Regulations.
5. That where the Recipient receives federal financial assistance to construct a facility, or part of a facility, the Assurance shall extend to the entire facility and facilities operated in connection therewith.
6. That this Assurance obligates the Recipient for the period during which federal financial assistance is extended to the program, or is in the form of personal property, or real property or interest therein or structures or improvements 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.
7. The Recipient shall provide for such methods of administration for the program, as are found by the State Secretary of Transportation or the official to whom s/he delegates specific authority, to give reasonable guarantee that it, other recipients, subgrantees, contractors, subcontractors, transferees, successors in interest, and other participants of federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations, and this Assurance.
8. The Recipient agrees that the United States has a right to seek judicial endorsement with regard to any matter arising under the Act, the Regulations, and this Assurance.

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

James G. Miller Date

Executive Director

Appendix 1 (of ADDENDUM 1)

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

1. Compliance With Regulations

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

2. Nondiscrimination

The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment.

The Contractor shall not participate either directly or indirectly in discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

3. Solicitations for Subcontracts, Including Procurement of Materials and Equipment

In all solicitations either by competitive bidding or negotiations made by the Contractor for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this contract and the Regulations relative to nondiscrimination on the ground of race, color, sex, or national origin.

4. Information and Reports

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

5. Sanctions for Noncompliance

In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, the Whatcom Council of Governments shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

Withholding of payments to the Contractor under the contract until the Contractor complies; and/or

Cancellation, termination, or suspension of the contract, in whole or in part.

6. Incorporation of Provisions

The Contractor shall include the provisions of paragraphs (1) through (5) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontractor or procurement as the Whatcom Council of Governments or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance.

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

ADDENDUM 2 - Nondiscrimination Complaint Procedures for Federally Assisted Programs or Activities

These procedures cover all complaints filed under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Civil Rights Restoration Act of 1987, and the Americans with Disabilities Act of 1990, relating to any program or activity administered by WCOG as to subrecipients, consultants, and contractors. Intimidation or retaliation of any kind is prohibited by law. The procedures do not deny the right of the complainant

to file formal complaints with other state or federal agencies, or to seek private counsel for complaints alleging discrimination. Every effort will be made to obtain early resolution of complaints at the lowest level possible. The option of informal mediation meeting(s) between the affected parties and the Title VI Coordinator may be utilized for resolution.

Procedure

1. Any individual, group of individuals, or entity that believes they have been subjected to discrimination prohibited by Title VI nondiscrimination provisions may file a written complaint with WCOG's Title VI Coordinator. A formal complaint must be filed within 180 calendar days of the alleged occurrence.
2. Upon receipt of the complaint, the Title VI Coordinator will determine its jurisdiction, acceptability, and need for additional information, as well as investigate the merit of the complaint. In cases where the complaint is against one of WCOG's subrecipients of federal funds, WCOG will assume jurisdiction and will investigate and adjudicate the case.
3. Once WCOG decides to accept the complaint for investigation, the complainant and the respondent will be notified in writing of such determination within five calendar days. The complaint will receive a case number and will then be logged in the WCOG's records identifying its basis and the race, color, national origin, and gender of the complainant.
4. In cases where WCOG assumes the investigation of the complaint, WCOG will provide the respondent with the opportunity to respond to the allegations in writing. The respondent will have 15 calendar days to furnish WCOG his/her response to the allegations.
5. Within 60 calendar days of receipt of the complaint, WCOG's Investigator* will prepare an investigative report for the Executive Director's review. The report shall include a narrative description of the incident, identification of persons interviewed, findings, and recommendations for disposition.
6. *This can be one of WCOG's Title VI Liaisons, WCOG's Title VI Coordinator the Title VI Specialist for a subrecipient of federal funds, or the WSDOT Title VI Liaison in the Western Region.
7. The investigative report and its findings will be sent to WCOG's Legal Counsel for review.
8. Any comment(s) or recommendation(s) from WCOG's Legal Counsel will be reviewed by WCOG's Investigator. The Investigator will discuss the report and recommendations with the Executive Director. The report will be modified as needed and made final for its release.
9. Once WCOG's investigative report becomes final, the parties will be properly notified of the outcome and appeal rights.
10. WCOG's investigative report and a copy of the complaint will be forwarded to WSDOT's Office of Opportunity within 60 calendar days of the receipt of the complaint. The Office of Equal Opportunity will share the report with FHWA, Washington Division Office, as part of its Annual Title VI Update and Accomplishment Report.
11. If the complainant is not satisfied with the results of the investigation, s/he shall be advised of their rights to appeal WCOG's determination to the WSDOT Office of Equal Opportunity. If a complainant is still not satisfied, the next

right of appeal is to FHWA, Washington Division Office; United States Department of Transportation (USDOT); or the United States Department of Justice (USDOJ). Appeals must be filed within 180 days after WCOG's final resolution. Unless new facts not previously considered come to light, reconsideration of WCOG's determination will not be available.

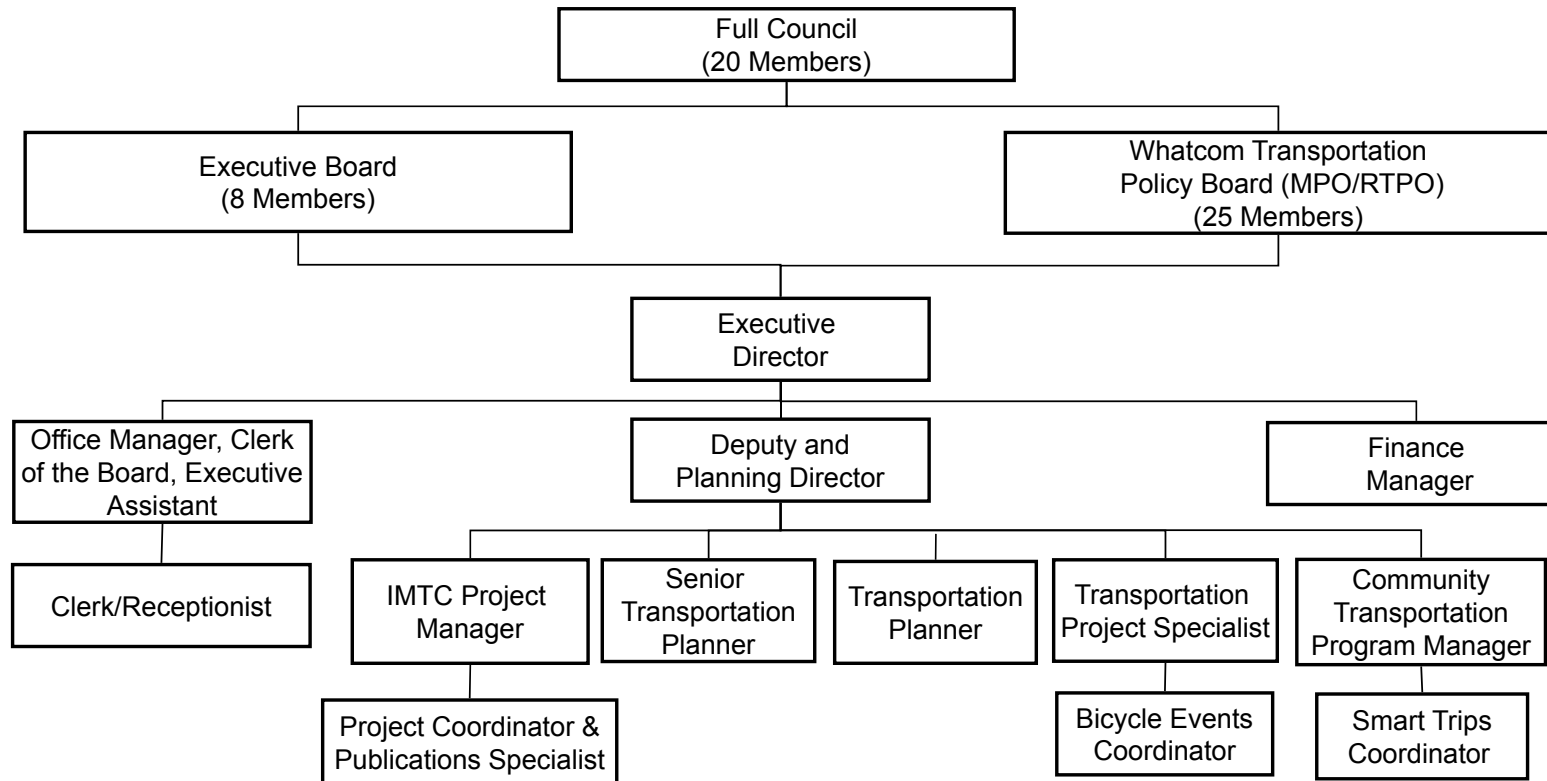
12. WCOG will serve as an appeal forum to a complainant that is not satisfied with the outcome of an investigation conducted by one of its subrecipients. WCOG will analyze the facts of the case and will issue its conclusion to the appellant within 60 days of the receipt of the appeal.

ADDENDUM 3 - WCOG Title VI Notice to Public

WCOG hereby gives public notice that it is the policy of the agency to assure full compliance with Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, Executive Order 12898 on Environmental Justice, and related statutes and regulations in all programs and activities. Title VI requires that no person in the United States of America shall, on the grounds of race, color, sex, or national origin, be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which WCOG 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 WCOG. Any such complaint must be in writing and filed with the WCOG Title VI Coordinator within one hundred eighty (180) days following the date of the alleged discriminatory occurrence. Title VI Discrimination Complaint Forms may be obtained from the WCOG at no cost by calling (360) 676-6974.

ADDENDUM 4 - Whatcom Council of Governments Organization Chart

Whatcom Council of Governments Organization Chart



ADDENDUM 5 - Whatcom Council of Governments Title VI Organization Chart

