

WASHINGTON STATE PATROL TITLE VI PROGRAM COMPLIANCE PLAN

**Federal Fiscal Year 2022
(October 1, 2021 to September 30, 2022)**



Prepared by

Commercial Vehicle Division

Washington State Patrol Commercial Vehicle Enforcement Bureau
FMCSA Applicant Title VI Program Compliance Plan

Policy Statement:

The Washington State Patrol (WSP) is committed to complying with 49 CFR Part 21 and 49 CFR Part 303. The provisions of this Title VI plan apply to all recipients of Federal assistance with and through the WSP. A recipient includes any public and private entity or any individual receiving the benefits of any Federal Motor Carrier Safety Administration program. The Title VI program applies to all WSP operations.

No person shall be discriminated against in regards to State Patrol activities and services because of race, national origin, color, sex, age, disability, low-income, or limited English proficiency (LEP).

WSP has designated the Human Resource Division Commander as the Title VI Program Coordinator/Affirmative Action Officer.

The attached FMCSA Title VI Program Assurance form will be completed and signed by the WSP Chief when submitting FMCSA grant applications.

The Title VI Program Coordinator and WSP Managers/Directors will have the authority and responsibility to effectively implement the Agency's Title VI Program.

Chief John R. Batiste

Date of Signature

FMCSA Title VI Assurance:

The United States Department of Transportation

Standard Title VI/Non-Discrimination Assurances

DOT Order No. 1050.2A

The Washington State Patrol (herein referred to as the “Recipient”), **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the United States Department of Transportation (USDOT), through the **Federal Motor Carrier Safety Administration (FMCSA)**, 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);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Title IX of the Education Amendments of 1972, as amended, (20 U.S.C. § 1681 *et seq.*), (prohibits discrimination on the basis of sex in education programs or activities);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability);
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 *et seq.*), (prohibits discrimination on the basis of disability);
- 49 C.F.R. Part 21 (entitled *Nondiscrimination In Federally-Assisted Programs Of The Department Of Transportation—Effectuation Of Title VI Of The Civil Rights Act Of 1964*);
- 49 C.F.R. Part 27 (entitled *Nondiscrimination On The Basis Of Disability In Programs Or Activities Receiving Federal Financial Assistance*);
- 49 C.F.R. Part 28 (entitled *Enforcement Of Nondiscrimination On The Basis Of Handicap In Programs Or Activities Conducted By The Department Of Transportation*);
- 49 C.F.R. Part 37 (entitled *Transportation Services For Individuals With Disabilities (ADA)*);
- 49 C.F.R. Part 303 (FMCSA’s Title VI/Nondiscrimination Regulation);
- 28 C.F.R. Part 35 (entitled *Discrimination On The Basis Of Disability In State And Local Government Services*);
- 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.

Although not applicable to Recipients directly, there are certain Executive Orders and relevant guidance that direct action by Federal agencies regarding their federally assisted programs and activities to which compliance is required by Recipients to ensure Federal agencies carry out their responsibilities. Executive Order 12898, 3 C.F.R. 859 (1995), entitled “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” emphasizes that Federal agencies should use existing laws to achieve Environmental Justice, in particular Title VI, to ensure nondiscrimination against minority populations. Recipients should be aware that certain Title VI matters raise Environmental Justice concerns and FMCSA intends that all Recipients evaluate and revise existing procedures (as appropriate) to address and implement Environmental Justice considerations. See the following Federal Highway Administration (FHWA) website for more information and facts about Environmental Justice:

https://www.environment.fhwa.dot.gov/env_topics/environmental_justice.aspx

Additionally, Executive Order 13166, 3 C.F.R. 289 (2001) on Limited English Proficiency, according to the U.S. Department of Justice in its Policy Guidance Document dated August 16, 2000 (65 Fed. Reg. at 50123), clarifies the responsibilities associated with the “*application of Title VI’s prohibition on national origin discrimination when information is provided only in English to persons with limited English proficiency.*” When receiving Federal funds Recipients are expected to conduct a Four-Factor Analysis to prevent discrimination based on National Origin. (See also U.S. DOT’s “*Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient (LEP) Persons,*” dated December 14, 2005, (70 Fed. Reg. at 74087 to 74100); the Guidance is a useful resource when performing a Four-Factor Analysis).

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, national origin, sex, age, disability, low-income, or LEP 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 FMCSA.”

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 Assurances, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted **FMCSA 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 Highway Programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

*“The **Washington State Patrol**, 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, all contractors will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of the owner’s race, color, national origin, sex, age, disability, income-level, or LEP in consideration for an award.”;*
3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations;
4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient;
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith;
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property;
7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
 - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or

structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:

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

By signing this ASSURANCE, The Washington State Patrol 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 **FMCSA** 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 **FMCSA**. You must keep records, reports, and submit the material for review upon request to **FMCSA**, 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 ***Washington State Patrol*** 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 Department of Transportation under the **FMCSA Program**. This ASSURANCE is binding on the Washington State Patrol, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the **FMCSA Program**. The person (s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

Washington State Patrol

by

Chief John R. Batiste

DATED _____

Description of Federal Aid Programs:

The Washington State Patrol Commercial Vehicle Enforcement Bureau (CVEB) applies for federal funding from the U.S. Department of Transportation through the Federal Motor Carrier Safety Administration (FMCSA) annually. The funds provided by FMCSA are used by CVEB to improve highway safety by reducing the number and severity of crashes that involve commercial vehicles. WSP is the lead MCSAP agency in the state.

Funds provided to CVEB by FMCSA are used for commercial vehicle safety related activities. These activities include: commercial vehicle inspections, commercial vehicle safety investigations, commercial vehicle crash investigations, commercial vehicle safety education and awareness projects, commercial vehicle and traffic enforcement in high crash areas throughout the state, and passenger carrier inspections.

CVEB receives both matching and 100% funding from FMCSA for different activities within the program.

The CVEB Division's activities benefit all of the people traveling through the state which includes minority groups. Increasing the safety on Washington roadways benefits all members of the Public.

CVEB uses inspection selection software to identify carriers for inspections done at roadside.

Notification to Beneficiaries/Participants:

The WSP hereby gives notice that it is the policy of the Department to assure full compliance with Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, E.O. 12898, and related nondiscrimination authorities in all programs and activities. Title VI and related non-discrimination authorities require that no person in the United States shall, on the grounds of race, color, national origin, sex, age, disability, low-income or LEP, be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the WSP receives federal financial assistance.

Any person who would like more information regarding WSP's Title VI Program and/or believes they have been aggrieved may contact the WSP to request the information and/or file a formal complaint with the WSP. Information on how to file a complaint can be found on the WSP website at wsp.wa.gov. Any such complaint may be filed in writing or electronically either with the WSP Office of Professional Standards located at 106 11th Avenue SW, Olympia, WA 98504 or through a local detachment office.

The language above will be accessible to the members of the public through:

1. The Commercial Vehicle Enforcement Page at <http://www.wsp.wa.gov/title-vi/>
2. Posters in facilities accessible to the public.

Sub-Recipient Compliance Reports:

The WSP provides MCSAP funding to the Washington Utilities and Transportation Commission (UTC) for inspection and compliance reviews on motor coach companies operating within the state of Washington. To ensure compliance with Title VI, the WSP will:

1. Require UTC to annually submit a signed FMCSA Title VI Program Assurance.
2. Require UTC to periodically submit Title VI Program documentation, to include a Policy Statement, Notice to the Public, Complaint Disposition Process, etc.
3. Review Title VI Program requirements with UTC annually to ensure they understand their program responsibilities. During the review, have UTC personnel responsible for the Title VI program provide investigative reports on all Title VI complaints received, to include any resolutions.
4. Additional on-site reviews will be conducted whenever the WSP receives information of a potential Title VI violation.
5. Ensure FMCSA Title VI Program Assurance language is used by UTC in contracts involving FMCSA funding provided to them through the WSP.
6. Have UTC report on their quarterly MCSAP report on any policy changes affecting their Title VI program, any Title VI complaints received by UTC, and the resolution to the complaint.

Training:

Training is provided to employees including all relevant updates. The Title VI Program Coordinator/Affirmative Action Officer, the Human Resource Division Commander, is responsible for identifying training needs and ensuring training is provided when necessary.

The Title VI Program training PowerPoint, case study and FMCSA Enforcement Memorandum regarding limited English proficiency are located on the WSP training site. Managers and supervisors are required to review the PowerPoint annually. Documentation of compliance will be recorded on the Employee Annual Review Checklist.

Access to Records:

The Title VI coordinator or his/her designee will maintain permanent records, which include but are not limited to, implementation of Title VI Program requirements, Title VI complaints or lawsuits, and related documentation, records of correspondence to and from complainants, and Title VI investigations. These documents shall be made available to FMCSA staff upon request for compliance reviews and/or complaint investigations conducted by the FMCSA. These documents shall also be made available to FMCSA Staff through periodic submissions as required by FMCSA. The documents specified in this section as being available for FMCSA review only apply to those programs or incidents which occurred during the utilization of FMCSA grant

funds.

CMV Inspection Selection & Unbiased Enforcement

The Washington State Patrol Commercial Vehicle enforcement Bureau is currently working on a combined inspection selection and unbiased enforcement policy for the bureau. This policy will be added to the CVD/MCSD Standard Operating Procedures Manual. The WSP will coordinate with the FMCSA National Title VI Program Manager to assure compliance. It is anticipated to have the Inspection Selection policy in place by January 2022. Quarterly updates will be provided to the FMCSA.

Complaint Disposition Process:

ACCEPTING COMPLAINTS:

The WSP considers all complaints against the agency and any of its employees and fully investigates all such complaints as appropriate. A complaint can come from either an external or internal source and can be accepted from:

1. Aggrieved person.
2. Third party.
3. Any employee.
4. Employing agency.
5. Notice of civil claim.
6. Governmental agency.
7. Human rights complaint.
8. Anonymous person.

A Title VI complaint may be given to the agency in person, telephone, e-mail, or by letter. No employee shall attempt to discourage, interfere, or delay an individual from making a complaint. Employees accepting complaints shall be responsive and courteous. Information regarding the Title VI complaint shall be sent to the Title VI coordinator.

COMPLAINT PROCESS:

Supervisors and command employees shall initiate a local investigation when the alleged misconduct is reported or is a part of the routine supervisory/management discipline process. Local investigations shall follow the procedures outlined in the Administrative Investigation Manual.

Employees, who receive complaints, including anonymous complaints, shall report the information, irrespective of the chain of command, to the appropriate supervisor.

If the complaint alleged is against a member of the Office of Professional Standards (OPS), employees shall report the complaint directly to the Chief. The Chief shall determine if the complaint requires the investigative expertise of Internal Affairs.

Upon completion of the investigation, the commander in consultation with the Title VI Coordinator shall make a finding regarding the incident as outlined in the Administrative Investigation Manual.

COMPLAINTS FROM MEMBERS OF THE PUBLIC:

Employees shall courteously and promptly record in writing any complaint made by a member of the Public against any employee or the department. Employees may attempt to resolve the complaint, but shall never attempt to dissuade any member of the Public from lodging a complaint. Employees shall follow established department procedures for processing complaints.

INTERFERENCE WITH DISCIPLINE

From the time a complaint is received until the case is completely adjudicated, employees shall not influence, or attempt to influence, any of the participants in a department disciplinary procedure, except as expressly provided by regulation. Employees shall not ridicule, embarrass, or threaten witnesses for having given evidence in a disciplinary matter. Information for the general public to file a complaint is located on the WSP website at <http://www.wsp.wa.gov/title-vi/>

WSP Human Resource Division maintains a Title VI Program Complaints Log (that contains the information required in the FMCSA Title VI Program Checklist), which it makes available to FMCSA upon request.

Status of Corrective Actions Implemented by Applicant to Address Deficiencies Previously identified During a Title VI Compliance Review:

The WSP CVEB does not currently have any Title VI corrective actions or deficiencies identified during an audit or review.

Community Participation Process:

This section is not applicable to the WSP. The Washington Department of Licensing is the CDL Program Grantee for the state of Washington.

Title VI Program Coordinator Contact Information:

Human Resource Division Commander
Washington State Patrol
Human Resource Division
Title VI Program Coordinator / Affirmative Action Officer
(360) 704-2300