



# **TITLE VI PLAN**

**Adopted April 4, 2014**

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**I. Policy Statement, Authorities and Citations**

**A. Policy of Nondiscrimination**

Thurston Regional Planning Council (TRPC) 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 agency-sponsored program or activity. TRPC further assures 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 TRPC distributes federal funds to another entity, it will include Title VI language in all written agreements and will monitor for compliance.

Title VI compliance is a condition of receipt for federal funds. Assurance of compliance, therefore, falls under the proper authority of the TRPC pursuant to its budgetary authority and responsibility. The Executive Director is authorized to ensure compliance with provisions of this policy and with the law, including the requirements of 23 Code of Federal Regulation (CFR) 200 and 49 CFR 21.

  
\_\_\_\_\_  
Lon D. Wyrick  
Executive Director

4-29-14  
\_\_\_\_\_  
Date

**B. 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.

The Civil Rights Restoration Act of 1987 broadened 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, subrecipients, and contractors, whether such programs and activities are federally assisted or not (*Public Law 100-259 [S. 557]* March 22, 1988).

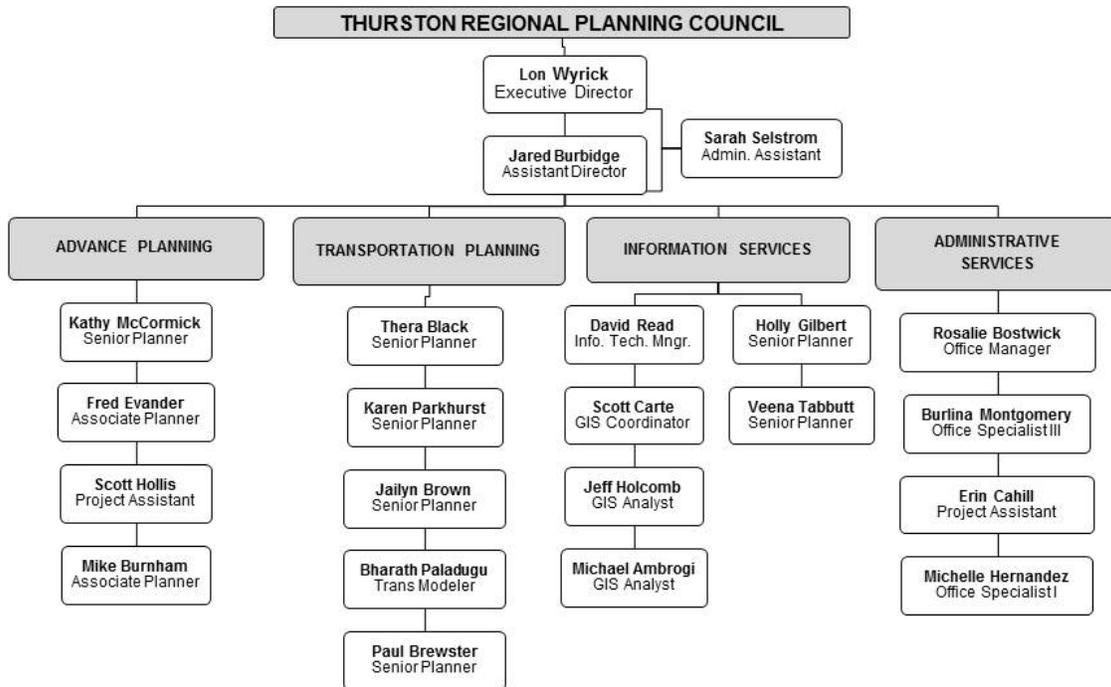
**C. Additional Citations**

*Title VI of the Civil Rights Act of 1964; 42 USC 2000d to 2000d-4; 42 USC 4601 to 4655; 23 USC*

*109(h); 23 USC 324; DOT Order 1050.2; EO 12250; EO 12898; 28 CFR 50.3.*

## II. Organization, Staffing and Structure

### A. Organizational Chart – Reporting Relationships



### B. Staffing and Structure

#### Executive Director

The Executive Director is authorized to ensure compliance with provisions of the agency's policy of nondiscrimination and with the law, including the requirements of *23 CFR Part 200 and 49 CFR Part 21*. Thurston Regional Planning Council's grants compliance function and Title VI coordination shall be performed under the authority of the Executive Director.

#### Title VI Coordinator

The Assistant Director has other duties and responsibilities in addition to Title VI.

### **III. Title VI Plan Implementation and Program Administration**

#### **Title VI Coordinator's Responsibilities and Program Administration**

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

##### **A. Program Administration.**

Administer the Title VI program and coordinate implementation of the plan. Ensure compliance with the assurances, policy, and program objectives. Perform Title VI program reviews to assess administrative procedures, staffing, and resources. Provide recommendations as required to the Executive Director.

##### **B. Complaints.**

Review any written Title VI complaints received by the TRPC following the adopted procedural guidelines (see Section IV – Complaint Procedures). Ensure every effort is made to resolve complaints informally at the local or regional level.

##### **C. Data Collection.**

Gather statistical data that meets the requirements of the Title VI program administration.

##### **D. Environmental Impact Statements.**

Ensure that available census data is included as a part of all Environmental Impact Statements/Assessments (EIS/EIA) for projects receiving Federal Highway Administration or other federal assistance.

##### **E. Training Programs.**

Conduct or facilitate training programs on Title VI issues and regulations for TRPC employees and facilitate Title VI training for appropriate contractors, and subrecipients. In the annual update, TRPC will provide a summary of training conducted.

##### **F. Title VI Plan Update.**

Review and update the TRPC's Title VI Plan as needed or required. Present updated plan to the Executive Director for approval; submit amended plan to Washington State Department of Transportation (WSDOT).

##### **G. Annual Accomplishment Report.**

Prepare an annual report of Title VI accomplishments and changes to the program in the preceding Federal fiscal year; identify goals and objectives for the upcoming year, as required; and submit by June 30 of each year.

## **H. Public Dissemination.**

Work with agency staff to develop and disseminate Title VI program information to staff, subrecipients, including contractors, subcontractors, consultants, and sub-consultants and beneficiaries, as well as the general public. Public dissemination may include postings of official statements, inclusion of Title VI language in contracts or other agreements, website postings, and annual publication of the agency's Title VI Policy Statement in newspaper(s) having a general circulation, and informational brochures. Ensure public service announcements or notices are posted of proposed projects, hearings, meetings, or formation of public advisory boards, in newspapers or other media reaching the affected community. Ensure the full utilization of available minority publications or media; and, where appropriate, provide written or verbal information in languages other than English. Ensure Title VI accommodation and complaint procedures are posted at TRPC, on the TRPC website, and at public meetings.

## **I. Maintain Legislative and Procedural Information.**

Federal laws, rules and regulations, WSDOT guidelines, the current TRPC Title VI Plan, Annual Accomplishment Reports, and other resource information pertaining to the implementation and administration of the agency's Title VI program will be maintained and updated by the Coordinator. Information will be made available to the public as requested or required.

# **IV. Complaint Procedures – Allegations of Discrimination in Federally Assisted Programs or Activities**

## **A. Overview**

These procedures cover all complaints filed under Title VI of the Civil Rights Act of 1964, as amended, 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 TRPC, as well 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 resolve complaints informally at the agency and sub-recipient level. The option of informal mediation meeting(s) between the affected parties and a designated mediator may be utilized for resolution.

## **B. Procedures**

1. Any individual, group of individuals, or entity that believes they have been subjected to discrimination prohibited by nondiscrimination requirements may file a written complaint with TRPC. A formal complaint must be filed within one hundred and eighty (180) calendar days of the alleged occurrence. TRPC will not officially act or respond to complaints made verbally.

2. Upon receiving the written complaint, TRPC will determine its jurisdiction, acceptability, need for additional information, and the investigative merit of the complaint. In some situations, TRPC may request that WSDOT Office of Equal Opportunity conduct the investigation. In the event WSDOT handles the investigation, it will follow adopted procedures for investigating discrimination complaints, per the current State Title VI Plan.
3. If the complaint is against a subrecipient, consultant, or contractor, under contract with TRPC, the appropriate division and/or agency shall be notified of the complaint, within fifteen (15) calendar days.
4. Once TRPC decides its course of action, the complainant and the respondent will be notified in writing of such determination within five (5) calendar days. The complaint will be logged into the records of the Title VI Coordinator, and the basis for the allegation identified including race, color, national origin, handicap/disability, age or sex.
5. In cases where TRPC assumes investigation of the complaint, it will provide the respondent with the opportunity to respond to the allegations in writing. The respondent will have ten (10) calendar days upon receipt, to furnish TRPC with a response to the allegations.
6. Within sixty (60) days of receipt of the complaint, the Coordinator or WSDOT investigator will prepare a written investigative report for the Executive Director. The report shall include a narrative description of the incident, identification of persons interviewed, findings and recommendations for disposition.
7. Once the investigative report becomes final, briefings will be scheduled with each party within fifteen (15) days. Both the complainant and the respondent shall receive a copy of the investigative report during the briefings and will be notified of their respective appeal rights.
8. A copy of the complaint and TRPC's investigative report will be issued to WSDOT's External Civil Rights Branch (or the appropriate oversight agency) within sixty (60) calendar days of the receipt of the complaint.
9. If the complainant or respondent is not satisfied with the results of the investigation of the alleged discriminatory practice(s) he or she shall be advised of their rights to appeal the agency's decision to WSDOT, U.S. Department of Transportation, or U.S. Department of Justice. The complainant has one hundred and eighty (180) calendar days after the appropriate agency's final resolution to appeal to USDOT. Unless facts not previously considered come to light, reconsideration of the final determination by the investigating agency will not be available.

10. An annual Log of Complaints must be maintained by each agency. The Log of Complaints must contain the following information for each complaint filed:
  - a. The name and address of the person filing the complaint
  - b. The date of the complaint
  - c. The basis of the complaint
  - d. The disposition of the complaint
  - e. The status of the complaint

Only qualified, well-trained investigators should conduct these investigations. TRPC will not investigate a complaint against itself.

## **V. Subrecipient Review and Remedial Action Procedures**

### **A. Title VI Review of Subrecipients of Federal-Aid Highway Funds.**

The Coordinator will assist WSDOT to periodically conduct Title VI compliance reviews. TRPC will review select recipients of Federal-aid highway or other federal funds, to ensure adherence to Title VI requirements (see Section VII). The Coordinator will work cooperatively to periodically confirm operational guidelines provided to consultants, contractors, and subrecipients, including Title VI language, provisions, and related requirements, as applicable.

### **B. Post-Grant Reviews.**

The Coordinator will conduct periodic post-grant reviews of select recipients of federal highway funds or other federal funds to ensure adherence to Title VI requirements (see Section VII). The Coordinator will periodically confirm that operational guidelines provided to consultants, contractors, and subrecipients include Title VI language and provisions and related requirements, where applicable.

### **C. Remedial Action.**

When irregularities occur in the administration of Federal-aid highway programs at the agency or subrecipient levels, corrective action will be taken to resolve identified Title VI issues. TRPC will seek the cooperation of the consultant, contractor or other subrecipients in correcting deficiencies found during periodic reviews. TRPC will provide technical assistance and guidance, upon request, to support voluntarily compliance by the subrecipient. When conducting Title VI compliance reviews, TRPC will reduce to writing any recommended remedial action agreed upon by TRPC and the subrecipient, and provide a copy of the letter within a period not to exceed forty five (45) days.

Subrecipients placed in a deficiency status will be given a reasonable time, not to exceed ninety (90) days after receipt of the deficiency letter, to voluntarily correct deficiencies. When a subrecipient fails or refuses to voluntarily comply with requirements within the allotted time frame, TRPC will submit to WSDOT and FHWA copies of the case file and a recommendation that the subrecipient be found in noncompliance.

A follow-up review will be conducted within one hundred and eighty (180) days of the initial review to ascertain if the subrecipient has complied with the Title VI Program requirements in correcting deficiencies previously identified. If the subrecipient refuses to comply, TRPC and WSDOT may, with FHWA's concurrence, initiate sanctions per *49 CFR 21*.

## **VI. Title VI Implementation Activities in Special Emphasis Program Areas**

### **A. Planning and Location Activities**

1. Public Involvement in Planning Activities and Title VI
  - a. Invite participation of a cross-section of the populace from social, economic, and ethnic groups in the planning process by disseminating written program information to minority media and ethnic organizations, and providing public service announcements for all local media, when forming citizen advisory committees or planning boards, and requesting involvement.
  - b. TRPC will obtain demographic statistics at applicable community meetings and public hearings involving transportation planning sessions. Data will be gathered through use of a voluntary self-reporting form, which includes race, gender, and national origin. Copies of the completed forms will be provided to Title VI Coordinator after each meeting.
  - c. To ensure access to public meetings, evening meetings will be conducted in a variety of community buildings. Sites should be served by transit routes. If translation services are anticipated, they should be provided. When minority communities will be impacted by planning processes, every effort should be made to hold meetings in these communities.
2. Authorities. *23 CFR 450; RCW 35.77; RCW 36; RCW 47.06 Statewide Transportation Planning; RCW 47.80 Regional Transportation Planning Organization (RTPO)*.

### **B. Consultant Contracts Activities**

1. Consultant Contracts Administration. TRPC's Assistant Director is responsible for contract administration. The agency's guidelines for contracts will be followed when selecting consultants and awarding contracts.
2. Authorities. Agency Ordinance 90-81; WSDOT Local Agency Guidelines; *48 CFR 31; 23 CFR 172*.
3. Title VI Assurances and Provisions
  - a. TRPC will follow the policies and procedures outlined in its Disadvantaged Business Enterprise Plan when selecting consultants and awarding contracts.

- b. Title VI assurance and provision language will be included in all federally funded consultant contracts. Periodically, documents and language will be reviewed to ensure compliance with current laws and regulations.

## **EXHIBIT 1**

### **Thurston Regional Planning Council's Title VI Notice to the Public**

TRPC hereby gives public notice that it is the agency's policy to assure full compliance with Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, and related statutes and regulations in all programs and activities. Title VI requires that no person shall, on the grounds of race, color, sex, or national origin, be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination under any Federal HighwayAid (FHWA) program or other activity for which TRPC 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 TRPC. Any such complaint must be in writing and filed with the agency Title VI Coordinator within one hundred and eighty (180) days following the date of the alleged discriminatory occurrence.

## **EXHIBIT 2**

### **Thurston Regional Planning Council's Title VI Assurances**

TRPC in the State of Washington, (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 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 through the Washington State Department of Transportation, including the U.S. Department of Transportation and 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:

*Thurston Regional Planning Council 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 into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, or national origin in consideration for an award.*

3. That the Recipient shall insert the clauses of Exhibit 1 of this Plan in every contract subject to the Act and the Regulations.
4. The Recipient shall provide for such methods of administration for the program as are found by the Secretary of Transportation, or the official to whom he or she delegates specific authority to give reasonable guarantee that it, other recipients, sub-grantees, 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.
- 5 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.

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 U.S. Department of Transportation under the Federal Aid Highway Program and is binding on it, other recipients, sub-grantees, contractors, subcontractors, transferees, successors in interest and other participants in the Federal Aid Highway Program. The person whose signature appears below is authorized to sign this Assurance on behalf of the Recipient.

## **EXHIBIT 2A**

### **1 – Title VI Assurances for Consultants, Contractors, Subcontractors, Suppliers, and Manufacturers**

TRPC will insert or add the following clauses into every contract subject to the Act and Regulations associated with the receipt of Federal financial assistance:

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

1. **Compliance with Regulations.** The contractor shall comply with the Regulations relative to nondiscrimination in Federally assisted programs of the Department of Transportation (hereinafter 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 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 the 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 Thurston Regional Planning Council or the Washington State Department of Transportation 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 Thurston Regional Planning Council, or the Washington State Department of Transportation 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, Thurston Regional Planning Council and the Washington State Department of Transportation 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 (6) 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 Thurston Regional Planning Council or the U.S. Department of Transportation, 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 Thurston Regional Planning Council enter into such litigation to protect the interests of the agency and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

### **EXHIBIT 3**

#### **Strategy for Engaging Individuals with Limited English Proficiency (LEP) Four-Factor Analysis**

The U.S. Department of Justice offers guidance on providing meaningful access to LEP individuals. The guidance suggests a “four-factor analysis” process, which is used to determine the number and proportion of individuals with LEP in the region and how to cost effectively provide information services to these individuals. The guidance also offers a threshold of five (5) percent of the affected population or 1,000 people in an affected neighborhood.

The ‘four-factor analysis’ process includes:

- determining the number and proportion of individuals with LEP within the population;
- the frequency with which individuals with LEP will come in contact with the program;
- the importance of the program to people’s lives; and
- the resources available to provide translation services.

TRPC has conducted an analysis based on the above guidance and has found as follows:

- **Number and Proportion.** Many languages are spoken in Thurston County (population 252,264), but the number and proportion of households that are linguistically isolated is low. According to 2010 Census figures, a language other than English is spoken by 13.5 percent (32,794 people) of the County’s households. However, only 1.9 percent (4,793 people) of these households is defined as linguistically isolated, or one in which no member 14 years old and over (1) speaks only English, or (2) speaks a non-English language and speaks English “very well.” In other words, Thurston County has very few households that cannot understand some English.

The top two languages other than English that are spoken in Thurston County are Asian Pacific Island Languages and Spanish. Households that speak Asian and Pacific Island Languages make up 4.7 percent (11,856 people) of the total County population, but are distributed unevenly among Thurston County jurisdictions, with the majority of these households living in Lacey (7.7 percent or 3,264 people), Olympia (5.2 percent or 2,416 people), and Bucoda (5.1 percent or 562 people). Spanish is spoken by 5.1 percent (12,865 people) of the County’s households, but are distributed unevenly among Thurston County jurisdictions, with the majority of these households living in Lacey (5.9 percent or 2,501 people), Bucoda (5.6 percent or 31 people), Olympia (4.7 percent or 2,184 people), and Tumwater (4.6 percent or 799 people). Only Lacey had more than 2 percent of its residents (975 Asian and Pacific island language-speaking people) classified as linguistically isolated.

- **Frequency of Contact with Programs.** The frequency and extent with which LEP individuals come into contact with TRPC programs is estimated to be somewhat low, and highly dependent on jurisdiction. TRPC serves as a forum for local governments to develop policies and make decisions about regional growth and transportation issues; however, the Council solicits and encourages public comment on its policies, programs, and funding and is continually seeking ways to increase opportunities for public involvement, particularly by historically underserved populations, including those with LEP.
- **Importance of Programs.** While the work of the Council is essential to the long-term livability and economic vitality of the region, transportation and growth management planning is not as important as other services provided by governmental entities. Basic services such as health care, employment, or financial assistance would rate much higher in the continuum of essential services.
- **Resources for Programs.** TRPC will seek cost-effective ways to address the needs of individuals with LEP, providing written and oral translation services for all public communications as indicated by the Plan below.

### **Language Assistance Plan**

When appropriate, TRPC may employ some or all of following outreach strategies for LEP engagement.

The more important the program, the more frequent the contact with LEP populations and the likelihood that language translation services will be needed:

- Schedule meetings at times and locations that are convenient and accessible for minority and LEP communities.
- Employ different meeting sizes and formats. Coordinate with community organizations, educational institutions, and other organizations to implement public engagement strategies that reach out specifically to members of affected and/or LEP communities. Consider radio, television, or newspaper ads on stations and in publications that serve LEP populations.
- Provide opportunities for public participation through means other than written communication, such as interviews or use of audio or video recording devices to capture oral comments.

During planning processes that involve a high concentration of LEP residents, the Council will translate vital documents, materials and meeting content, as needed. A vital document is any that is critical for ensuring meaningful access to TRPC's major activities and programs. Whether or not a document (or the information it solicits) is "vital" may depend upon the importance of the program, information, encounter, or service involved, and the consequence to the LEP community if the information in question is not provided accurately or in a timely manner. Oral translation services will be provided at meetings, as needed.

The Title VI Coordinator will be responsible for researching and recommending the provision of services in this area.