June 25, 2019

Kelli Linville, Mayor
City of Bellingham
210 Lottie St
Bellingham WA  98225

Dear Mayor:

RE: Annual Title VI Report – CY2018

WSDOT is approving the CY2018 report as it sufficiently addresses the requirements under Title 23, Code of Federal Regulations (CFR), Part 200 and 49 CFR 21, as well as the provisions of Executive Order 12898 on Environmental Justice and Executive Order 13166 on Limited English Proficiency.

Title VI requirements apply to all phases of transportation-related projects/services no matter the funding source. The Standard Assurances are required in all contracts and agreements. More comments were in the transmittal email. The comments do not require an immediate response and are meant as steps towards improving your Title VI efforts in the upcoming year. The report for CY2019 is due Feb. 28, 2020.

Guidelines for completing reports are contained in Chapter 28 of WSDOT’s Local Agency Manual. Online resources regarding LEP and public participation requirements and regulations are at www.lep.gov.

WSDOT is committed to providing any assistance you may need with your Title VI Plan. If you have any questions concerning Title VI, please contact me or email our Office at TitleVI@wsdot.wa.gov.

Sincerely,

/s/ Gretchen Gleue
Program Specialist
Washington State Department of Transportation

City of Bellingham

2018 Reporting Year

Reporting Period January 2018-December 2018

As stipulated in this agency’s Title VI Program Non-Discrimination Agreement, WSDOT’s approval letter to that agreement, and WSDOT’s Highways and Local Programs Local Agency Guidelines Manual (Chapter 28), the annual accomplishment and update report for the reporting period reflected above is hereby submitted.

Current Chief Executive Officer:

- Name: Kelli Linville
- Title: Mayor

Planning or Public Works Director:

- Name: Ted Carlson
- Title: Public Works Director

Title VI Coordinator:

- Name: Kim Brown
- Title: ADA Coordinator

SUBMITTED by:

[Signature]

Kim Brown
Typed/Printed Name

Public Works ADA Coordinator
Title

[Date] 5/14/19

OEO: NDA Annual Report Form (Dec 1, 2010)
1. Report any changes in the organizational structure since the last reporting period.

   a. Report should identify the changes in the racial/gender composition of those persons involved in the transportation decision making, including planning and advisory staff.

During the 2018 reporting period, the City Council lost one female/Native American councilor then gained one female/Caucasian councilor. A list of decision-maker title, ethnicity and gender follows.

<table>
<thead>
<tr>
<th>Position Title</th>
<th>Ethnicity</th>
<th>Female</th>
<th>male</th>
</tr>
</thead>
<tbody>
<tr>
<td>City Council</td>
<td>Caucasian</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>Mayor</td>
<td>Caucasian</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Public Works Director</td>
<td>Caucasian</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Asst. Director, Engineering</td>
<td>Caucasian</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Asst. Director, Operations</td>
<td>Caucasian</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Asst. Director, Natural Resources</td>
<td>Caucasian</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Real Property Manager</td>
<td>Caucasian</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Construction Manager</td>
<td>Caucasian</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Transportation Planner</td>
<td>Caucasian</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Environmental Manager</td>
<td>Caucasian</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Development Manager</td>
<td>Caucasian</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>ADA/Title VI Coordinator</td>
<td>Caucasian</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Transportation Commission</td>
<td>Caucasian</td>
<td>2</td>
<td>7</td>
</tr>
</tbody>
</table>

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

The following demographic data is based on the 2013-2017 ACS Demographic and Housing Estimates prepared by the U.S. Census Bureau.

<table>
<thead>
<tr>
<th>Category</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gender</td>
<td></td>
</tr>
<tr>
<td>Male</td>
<td>49.6%</td>
</tr>
<tr>
<td>Female</td>
<td>50.4%</td>
</tr>
<tr>
<td>Age</td>
<td></td>
</tr>
<tr>
<td>Under 18 years</td>
<td>15.8%</td>
</tr>
<tr>
<td>21 years and over</td>
<td>74.3%</td>
</tr>
<tr>
<td>65 years and over</td>
<td>14.2%</td>
</tr>
<tr>
<td>Race</td>
<td></td>
</tr>
<tr>
<td>White or Caucasian</td>
<td>82.6%</td>
</tr>
<tr>
<td>Black or African American</td>
<td>1.5%</td>
</tr>
<tr>
<td>American Indian and Alaskan Native</td>
<td>1.6%</td>
</tr>
<tr>
<td>Asian</td>
<td>6.2%</td>
</tr>
<tr>
<td>Native Hawaiian and other Pacific Islander</td>
<td>0.2%</td>
</tr>
<tr>
<td>Other Race</td>
<td>2.7%</td>
</tr>
<tr>
<td>Two or more races</td>
<td>5.2%</td>
</tr>
<tr>
<td>Hispanic or Latino</td>
<td>8.3%</td>
</tr>
</tbody>
</table>
Non-Discrimination Agreement
Annual Report
Population Under 100,000

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.

There were no studies required or conducted during this reporting period.

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

See Attachment A for project list outreach activities.
See Attachment B for outreach examples.

Bellingham City Council Meetings: All City of Bellingham construction contracts, consultant agreements and right-of-way acquisition are approved at City of Bellingham Council meetings which are open to the public.

- Agendas, notices and minutes of all meetings are available via the City of Bellingham website. [https://www.cob.org/gov/council](https://www.cob.org/gov/council)
- Meetings are broadcast live on the City’s local television station BTV, with recorded meetings available on YouTube (with closed captioning). Meetings on DVD are available through the Council Office. During summer of 2019, City Council Chambers will be installed with a hearing loop and equipment for live captioning.
- Anyone can sign up to speak at the meeting directly to the Mayor or City Council at the beginning of each meeting. Speakers are generally limited to three minutes; however, accommodations are made for persons with disabilities or persons who use English as a second language.
- Assistive listening devices and qualified interpreters are provided on request.

All transportation plan and project activities are available on the City of Bellingham website, and public announcements and communications for public outreach events are provided in a manner akin to that of City Council meetings.

a. How were special language needs assessed?

Spanish speaking residents represent the largest LEP population in Bellingham. The Public Works Department sends direct mailings to all residents and property owners adjacent to project corridors that includes a statement in Spanish alerting recipients to translation options. Materials will be translated to other languages as appropriate.
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.

Outreach materials are provided in targeted languages when projects occur in specific neighborhoods with more than 5% Spanish as Home Language residents. Posters and flyers are distributed to language-appropriate venues in specific project areas. Translation services are available as needed. WSDOT Title VI Public Involvement forms are available in applicable languages at all public meetings.

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 provided for 2018 transportation projects. The sentence in Spanish below is on all written mailings.

Por favor, para información en Español, comunicarse con el Departamento de Obras Públicas al Telefono (360) 778-7700. Gracias.

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

N/A
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.) Identify the DMWBE contracts that were awarded and their dollar amount.

<table>
<thead>
<tr>
<th>Project Name/Number</th>
<th>Contractor/Consultant &amp; Subs (* = DMWBE)</th>
<th>Type of Service</th>
<th>Total Dollar Amount &amp; DMWBE amount</th>
</tr>
</thead>
</table>
|                                                          | Reece Grinding* Granitize Construction   | Landscaping                                           | $187,177  
|                                                          | S&S Concrete Kamps                        | Pavement Grinding                                    | $51,000   |
|                                                          |                                          | Paving                                               |                                  |
|                                                          |                                          | Electrical                                            |                                  |
|                                                          |                                          | Concrete                                              |                                  |
|                                                          |                                          | Pavement Striping                                     |                                  |
| Columbia Neighborhood Water Quality Improvements & Storm Drain Mnt Project EV-0120/ 25B-2017 | Faber Construction Lopez Valley Landscaping* Quimby's Concrete* WRS Paving PSE Surveying | Construction                                          | $1,778,640  
|                                                          |                                          | Landscaping                                           | $96,046   
|                                                          |                                          | Concrete                                              | $217,055  |
|                                                          |                                          | Asphalt Paving                                        |                                  |
|                                                          |                                          | Surveying                                             |                                  |
| ES-0540 Roeder Ave. Overlay                              | Port of Bellingham                      | Interlocal Agreement                                  | $0                                 |
| Roosevelt Water Quality Improvements EV-0130/ 60B-2017  | Tiger Construction Custom Concrete* LDES Surveying* Matia Contractors* Sail Electric | Construction                                          | $785,929   
|                                                          |                                          | Concrete                                              | $46,280   
|                                                          |                                          | Surveying                                             | $6,560    
<p>|                                                          |                                          | Landscaping                                           | $33,400   |
|                                                          |                                          | Electrical                                            |                                  |
|                                                          |                                          | Surveying                                             |                                  |
|                                                          |                                          | Permitting                                            |                                  |
|                                                          |                                          | Hydrology                                             |                                  |
|                                                          |                                          | Cultural Resources                                     |                                  |</p>
<table>
<thead>
<tr>
<th>Project Description</th>
<th>Contractor/Design</th>
<th>Services Provided</th>
<th>Total Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Texas St. Improvements ES-0539/ 25B-2018</td>
<td>Colacurcio Bros. Const.</td>
<td>Custom Concrete*</td>
<td>$1,003,061</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Forest Clouds*</td>
<td>$161,266</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Kamps</td>
<td>$36,745</td>
</tr>
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<td></td>
<td></td>
<td>Lakeside Paving</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Castle Wall</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Sail Electric</td>
<td></td>
</tr>
<tr>
<td>ES-0538 4 Hawk Signals along the Lakeway Corridor</td>
<td>WSDOT</td>
<td>Grant Dispersement</td>
<td>$1,736,268</td>
</tr>
<tr>
<td>EV-0159/ RFQ 98-2018 Lake Whatcom Water Quality Design</td>
<td>Herrera</td>
<td>Design Services</td>
<td>$215,959</td>
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<tr>
<td></td>
<td></td>
<td>Sub-consultant</td>
<td></td>
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<tr>
<td>ES-0538 Lakeway and Lincoln Pedestrian and Bicycle Improvements ES-0538</td>
<td>Colacurcio Brothers</td>
<td>Construction</td>
<td>$1,749,723</td>
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<tr>
<td></td>
<td></td>
<td>Electrical</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Concrete Striping</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Concrete Cutting</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Paving</td>
<td></td>
</tr>
<tr>
<td>N. Samish Way Otis St./Maple St. Intersection TIB Funds $250,000</td>
<td>WA State TIB</td>
<td>Grant Disbursement</td>
<td>$250,000</td>
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<tr>
<td>WF-1011 grade crossing signal installation agreement BNSF No. BFL 0011 134</td>
<td>BNSF</td>
<td>Admin</td>
<td>$358,657</td>
</tr>
<tr>
<td>WF-1011, Granary Ave and Laurel St permit agreement tracking No.17-57423</td>
<td>BNSF</td>
<td>Admin</td>
<td>$3,700</td>
</tr>
<tr>
<td>WF-1011 L Granary Ave and Laurel St Permit Agreement tracking No. 17-57420</td>
<td>BNSF</td>
<td>Admin</td>
<td>$3,700</td>
</tr>
<tr>
<td>WF-1011, Granary Ave and Laurel St Pipeline License tracking No.17-57422</td>
<td>BNSF</td>
<td>Admin</td>
<td>$3,700</td>
</tr>
<tr>
<td>WF-1011 Granary Ave and laurel St Permit Agreement tracking No. 17</td>
<td>BNSF</td>
<td>Admin</td>
<td>$3,700</td>
</tr>
<tr>
<td>WF-1011 Granary Ave and Laurel St Permit Agreement 17-57468</td>
<td>BNSF</td>
<td>Admin</td>
<td>$3,700</td>
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<tr>
<td>WF-1011 Granary Ave and Laurel St Permit Agreement 17-57457</td>
<td>BNSF</td>
<td>Admin</td>
<td>$3,700</td>
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<tr>
<td>Willow Springs-Final Phase EN-0049/21B-2018</td>
<td>Williamson Construction</td>
<td>Construction</td>
<td>$60,601</td>
</tr>
</tbody>
</table>
Non-Discrimination Agreement
Annual Report
Population Under 100,000

<table>
<thead>
<tr>
<th>Project Description</th>
<th>Contractor</th>
<th>Role</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2018 TBD Pedestrian &amp; Bicycle Improvements ES-0535/ 378-2018</td>
<td>Colacurcio Brothers, Inc.</td>
<td>Construction</td>
<td>$1,019,866</td>
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<tr>
<td>2018 Watermain Replacements EW-0233/ 76B-2018</td>
<td>Dawson Construction, LLC</td>
<td>Construction</td>
<td>$1,512,047</td>
</tr>
<tr>
<td>2018 Watermain Replacements EW-0233/ 76B-2018</td>
<td>Pacific Surveying &amp; Engineering Services, Inc.</td>
<td>Consulting Engineer</td>
<td>$153,000</td>
</tr>
<tr>
<td>2019 Overlay-Harrison St &amp; James St ES-0544/ RFQ 63B-2018</td>
<td>Trantech Engineering, LLC</td>
<td>Consulting Engineer</td>
<td>$156,619</td>
</tr>
<tr>
<td>Cordata/Stuart Roundabout ES-0530/ 49B-2018</td>
<td>Ram</td>
<td>Construction</td>
<td>$1,328,996</td>
</tr>
<tr>
<td>ES-0541 Horton Rd Extension Phase 1&amp;2</td>
<td>Reichhardt &amp; Ebe</td>
<td>Design</td>
<td>$833,574</td>
</tr>
<tr>
<td></td>
<td>LDES - Land Development Survey and Engineering*</td>
<td>Survey</td>
<td>$83,189</td>
</tr>
<tr>
<td></td>
<td>HWA - HWA GeoSciences, Inc.*</td>
<td>Design</td>
<td>$32,650</td>
</tr>
<tr>
<td>Mahogany Ave Improvements ES-0489/ 62B-2017</td>
<td>Strider Construction</td>
<td>Construction</td>
<td>$5,554,501</td>
</tr>
<tr>
<td></td>
<td>Bianchi*</td>
<td>Construction</td>
<td>$599,391</td>
</tr>
<tr>
<td></td>
<td>FM Flagging*</td>
<td>Construction</td>
<td>$177,523</td>
</tr>
<tr>
<td></td>
<td>AAA*</td>
<td>Construction</td>
<td>$166,980</td>
</tr>
<tr>
<td></td>
<td>Twisted Metal*</td>
<td>Construction</td>
<td>$76,558</td>
</tr>
<tr>
<td></td>
<td>Roy Finkbonner*</td>
<td>Construction</td>
<td>$75,000</td>
</tr>
<tr>
<td></td>
<td>Reece Construction*</td>
<td>Construction</td>
<td>$4,500</td>
</tr>
</tbody>
</table>

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

Consultant contracts for professional services are publicly advertised on the City's website and in the local newspaper, the Bellingham Herald. It is policy of the City of Bellingham to comply with 49 codes of Federal Regulations, Part 26 to ensure that Disadvantaged Businesses, including minorities and women, have an equal opportunity to receive and participate in federally assisted contracts. The City of Bellingham does not exclude any person from participation in, deny any person the benefits of, or otherwise discriminate in connection with the award or performance of any contract covered by 9 CFR part 26 on the basis of race, color, sex, or national origin.

All federal construction contracts and all bid packages have appropriate language, goal setting programs, and monitoring to address the use of minority firms in capital construction.
• **Identify the DMWBE contracts that were awarded and their dollar amount.**
  DMWBE contracts are identified with an asterisk in the above table.

• **Is there a Title VI Non-Discrimination statement included in all contracts and public notices?**
  There is a Title VI Non-Discrimination statement included in all Federal contracts and public notices.

• **How did your organization ensure that minority, women, and disadvantaged firms were provided equal opportunity to participate in the contracting arena?**
  A Title VI Policy Statement is included in post award packets of information materials that City of Bellingham sends to prime contractors for each contract that has been publicly bid and advertised. The Policy Statement is posted on our web site in both Spanish and English, Purchasing Home page next to “Current bids, Request for Proposals or Requests for Qualifications.”

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:**

   a. **How impacts were minimized/mitigated.**
      No projects adversely impacted minority or low-income populations.

   b. **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.

      The City of Bellingham had 8 projects in 2018 that specifically provide opportunities for community cohesion.

      • **Roeder Avenue Overlay** – replacing sidewalks and curb ramps (all ADA compliant) and adding bicycle lanes improved transportation safety and access for pedestrians and bicycle riders. Access to properties for homeless and low-income residents was improved - specifically for residents of Lighthouse Mission homeless shelter and the 24/7 Drop-In Center.

      • **Columbia Neighborhood Water Quality Improvements & Storm Drain Maintenance** – replacing ADA ramps to current standards improved access for people with disabilities, families with strollers and elderly persons.

      • **Roosevelt Water Quality Improvements** - replacing ADA ramps to current standards improved access for people with disabilities, families with strollers and elderly persons.

      • **State & Ellis Bridge Replacement** – Improved access to properties for low-income, elderly and people with disabilities living in Bellingham Housing Authority affordable housing unit.
• Texas Street Improvements - adding sidewalks and curb ramps (all ADA compliant) improved transportation safety and access for pedestrians, including low-income residents.
• Lakeway & Lincoln Pedestrian & Bicycle Improvements – new pedestrian crossings, sidewalks, and curb ramps (all ADA compliant) improved access for senior housing and student housing projects.
• Cordata/Stuart Roundabout – new crosswalks, sidewalk and curb ramps (all ADA compliant) improved transportation safety and access for pedestrians.
• Horton Road Extension Phase 1&2 – new sidewalk and curb ramps (all ADA compliant) improve transportation safety and access for residents of a Bellingham Housing Authority low-income housing complex.

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?

No minority, low-income or elderly and disabled persons were identified or affected. No translation services were required this reporting period.

7. List and describe any Title VI related complaints as a result of transportation activities and projects. Include:

What was the allegation or concern?
Title VI/DBE Program Violations Complaint

• Procedures used.
DBE construction firm filed an email complaint with WSDOT NW Region OEO in August, 2018.
• Action taken.
Investigation by WSDOT NW Region DBE Program Compliance Manager and Program Manager.
City of Bellingham (COB) Human Resources Department completed an investigation into COB staff activity and administrative action was taken.
COB key project personnel attended WSDOT DBE program training.
WSDOT NWR DBE Compliance Manager is invited to attend pre-con meetings.
• Resolution.
Final Investigative Report

We received one complaint during the reporting period. (see Attachment C)
### Attachment A

**Printed Public Outreach Materials 2018**  
All materials contain a Spanish portion for additional information

<table>
<thead>
<tr>
<th>Project</th>
<th>Outreach materials</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017 Annual Overlay-Roeder Ave (ES-0540/74B-2018)</td>
<td>Direct mail to affected residents and property owners.</td>
</tr>
<tr>
<td>Columbia Neighborhood Water Quality Improvements &amp; Storm Drain Mnt Project (EV-0120/25B-2017)</td>
<td>Direct mail to affected residents and property owners.</td>
</tr>
<tr>
<td>Roosevelt Water Quality Improvements (EV-0130/60B-2017)</td>
<td>Direct mail to affected residents and property owners.</td>
</tr>
<tr>
<td>Texas St. Improvement ES-0539/25B-2018</td>
<td>Direct mail to affected residents and property owners. Hand-delivered in specific areas.</td>
</tr>
<tr>
<td>Lakeway and Lincoln Pedestrian &amp; Bicycle Improvements (ES-0538)</td>
<td>Direct mail to affected residents and property owners. Posters for Open House.</td>
</tr>
<tr>
<td>Willow Springs-Final Phase (EN-0049/21B-2018)</td>
<td>Direct mail to affected residents and property owners.</td>
</tr>
<tr>
<td>2018 TBD Pedestrian &amp; Bicycle Improvements (ES-0535/37B-2018)</td>
<td>Direct mail to affected residents and property owners.</td>
</tr>
<tr>
<td>2018 Watermain Replacements (EW-0233/76B-2018)</td>
<td>Direct mail to affected residents and property owners.</td>
</tr>
<tr>
<td>Cordata/Stuart Roundabout (ES-0530/49B-2018)</td>
<td>Direct mail to affected residents and property owners.</td>
</tr>
</tbody>
</table>
Columbia Stormwater Improvements

This project will install 10 raingardens, three enhanced water quality filter vaults and will rehabilitate and replace existing stormwater mains, catch basins, manholes and pedestrian sidewalk ramps. Stormwater improvements will treat runoff to an enhanced level before being discharged to Bellingham Bay.

The project is partially funded by a Washington Department of Ecology grant and loan.

What to expect:
- Localized construction disturbances, primarily in intersections and segments of streets temporarily closed with local access to homes maintained.
- Construction equipment and noise.
- Flaggers and construction personnel will direct traffic and pedestrians through or around the work zone.

For more information, contact the Project Engineer:
Craig Mueller, P.E. • (360) 778-7922 • camueller@cob.org
or visit the project webpage at: www.cob.org/Projects and search “Columbia”.

Por favor, para información en Español, comunicarse con el Departamento de Obras Públicas al Telefono (360) 778-7700. Gracias.
Columbia Stormwater Improvements

- Raingarden installation
- Stormwater system upgrades.
- Stormwater quality filter vaults installed.
- Catch basin, manhole and pedestrian ramp replacements.

Work begins in January 2018!!

Please share this information—our aim is to reach everyone who may be impacted.
City of Bellingham
ES-0538
LAKEWAY/LINCOLN PEDESTRIAN/BIKE IMPROVEMENTS

Legend
- Project Area
- City Limits
- Urban Growth Area

Attachment B(2)

Coming to your neighborhood...
Traffic and travel may be impacted by planned improvements on Lincoln, Lakeway, Orleans and Nevada streets. To improve pedestrian and bicycle transportation in the Puget and York Neighborhoods, the City will:

- Upgrade or install crossing signals at
  Lakeway and Grant
  Lakeway and Orleans
  Lakeway and Undine
- Sidewalk and striping improvements throughout the area
- Lincoln Street Pedestrian Crossing Specifics:
  Remove the existing flashing crossing at the south Fred Meyer access
  Install a new HAWK signal near the existing WTA stop on Lincoln
  Add a pedestrian access to the Fred Meyer parking lot near the WTA stop
  Add a pedestrian access through the concrete block wall to 2nd Street in Lakeway Estates for easy HAWK crossing access

Improvements will cost $1.9 million, paid mostly by grant money from the state Department of Transportation as well as $665,000 from the state Transportation Improvement Board and the local voter-approved Transportation Benefit District.

Construction to begin July 2018

For more information, contact the Project Engineer:
Freeman Anthony, P.E. • (360) 778-7924 • fanthony@cob.org • visit the project webpage at: www.cob.org/Projects and search “Lakeway Lincoln.”

Please share this information—our aim is to reach everyone who may be impacted.
Attachment C

Title VI/DBE Program Violations Complaint

Against the City of Bellingham

Final Investigative Report

Contract TA5437 (STPUS5564 (001)) Mahogany Ave Improvements

Complaint # 180828 – 032, Brian Bianchi representing Bianchi Construction

Investigated By

Mellody Stell, WSDOT NW Region DBE Program Compliance Manager
John Huff, WSDOT HQs DBE Program Manager
Introduction

When a local agency (City, County, or Township) receives federal funds through the Washington State Department of Transportation (WSDOT), the Office of Equal Opportunity’s (OEO) Disadvantaged Business Enterprise (DBE) Compliance Unit is tasked with ensuring that all laws and contractual obligations regarding multiple Civil Rights Programs such as Title VI of the Civil Rights Act of 1964 and the Disadvantaged Business Enterprise program are in fact being complied with. Local Agencies are responsible for ensuring they are compliant and administering their contracts containing federal-aid funding in accordance with state and federal statutory authorities. Local Agencies who fail to comply with the statutory and contractual laws and agreements could see punitive damages up to loss of the ability to receive federal aid for transportation related projects.

Allegations

1. Bianchi Construction and its employees are being held to different standards than other contractors on the project and are continually harassed by the City’s on-site representatives and other personnel.

2. Progress payments have not been made in a timely manner to Strider Construction (Prime) for the work Bianchi Construction has performed and payments to Bianchi have been over two months late.

3. Work has been stopped by the City of Bellingham several times with no justifiable reason or explanation from either the City or Strider.

4. Bianchi Construction employees have continuously been subjected to harassment and been kicked off the job by the City of Bellingham.

5. Work performed by Bianchi Construction which had been previously approved by one City of Bellingham Inspector was deemed unsatisfactory by a different Inspector which led to Bianchi Construction having to redo work and without financial compensation for the additional work.

6. Bianchi Construction employees were told by the City of Bellingham to quit work for Bianchi Construction and to go to work for Strider.

7. Bianchi Construction feels the City of Bellingham is purposely failing their waterline samples in their lab to cause Bianchi Construction further harm.
Synopsis

On August 28, 2018, the Headquarters (HQ) OEO received a complaint via email from Brian James Bianchi. Mr. Bianchi is the owner of Bianchi Construction, a Disadvantaged Business Enterprise (DBE) firm. John Huff, HQ, OEO DBE Program Manager and Mellody Stell Northwest Region (NWR) DBE Program Compliance Manager interviewed Mr. Bianchi on September 12, 2108.

Mr. Bianchi’s complaint was filed as a “Discrimination” complaint under the authority of Title VI of the Civil Rights Act of 1964. Title VI prohibits discrimination on the basis of race, color, or national origin in any program or activity that receives Federal funds or other Federal financial assistance.

Mr. Bianchi stated in his complaint that “Bianchi Construction felt they were being discriminated against by the City of Bellingham”. Listed below are a compilation of Mr. Bianchi’s core allegations followed by key statements made during interviews with personnel form Bianchi Construction, Strider Construction, and the City of Bellingham.

There are other comments from the interviews that are not included below but that may have had some merit as to the direction of course the investigation followed.

Responses to Allegation #1

Mr. Bianchi stated from day one Strider Construction was case building against Bianchi Construction. He stated it was what it seemed like, due to him receiving certified letters regarding safety, Mr. Bianchi stated Bianchi Construction was in compliance.

Mr. Bianchi stated Nick Beutler, Strider Construction Forman made the comment that he had never seen anyone else held to the standards that Bianchi Construction was being held to having to do things perfect. Mr. Bianchi was asked if he saw the City of Bellingham doing things to other contractors that they were doing to Bianchi Construction. Mr. Bianchi stated Bianchi Construction was cited for safety violations by the City of Bellingham, Mr. Bianchi stated per the City of Bellingham safety plan it is a requirement to wear hard hats and safety vest. Mr. Bianchi stated Sail Electric Inc. employee(s) did not wear hard hats safety glasses and safety vests. Mr. Bianchi stated that from day one the City of Bellingham was trying to get them off the project. He stated that it felt as if they did not want a DBE on the project. Mr. Bianchi said, “It felt like they were offended that they had to have a DBE on their project.”

Mr. Bianchi stated the day before he left the project site Kirk Juneau, Senior Construction Inspector, City of Bellingham asked if Bianchi had a competent person on site, Mr. Juneau did not ask Strider employees if they had a competent person on site.
Mr. Bianchi stated both Bianchi Construction and Strider Construction were performing the same scope of work which was excavating and that both firms would need to have a competent person on site. Mr. Bianchi stated Strider Construction employees were not asked this same question. Mr. Bianchi stated he received a phone call from his employee (Nick Beutler) the next day and email from the City of Bellingham stating they would need to have a competent person on the job site. Mr. Bianchi stated he asked Brandon Wide, Strider Construction employee if they were asked the question regarding a competent person on site, Mr. Bianchi stated Mr. Wide stated there were not asked this question. Mr. Bianchi stated Bianchi Construction employees were working in close proximity of each other. Mr. Bianchi stated they are being pulled into two different directions they are being stopped at every junction. Mr. Bianchi stated the next day received a letter pertaining to production. Mr. Bianchi stated Mr. Juneau would talk to Bianchi Construction employees when he was not present. Mr. Bianchi stated Bianchi Construction employees were asked for rigging cards for cranes, Mr. Bianchi stated Bianchi Construction was not using cranes on the project.

Mr. Doerge stated that Bianchi had been held to a different standard than other subcontractors on this project that would not be considered industry standard.

Mr. Abbott stated that he had witnessed Strider employees on the project site not wearing their Personal Protective Equipment (PPE) and riding on the back of equipment where there was no seat and no seat belts. He stated that Kirk Juneau was allowing a “double standard” to exist on the project site with respect to safety.

Mr. Abbott said he found out why he was removed (for cussing on the project site) after the fact and that he had heard Steve McCauley and Kirk cussing all the time.

Nick Beutler stated he did not get involved with issues regarding the allegations of Bianchi Construction employees being held to different standards. Nick did state that Bianchi employees had been accused of being unsafe for not wearing all of their Personal Protective Equipment (PPE) and yet he had seen Mr. Juneau on the project site without PPE.

Darren Mullen, Estimator Project Manager, Strider Construction stated Bianchi Construction did not have a competent lead person on hand and that the City of Bellingham was touchy about Bianchi Construction not having a lead person on hand.

Steve McCauley, Superintendent, Strider Construction, stated every crew had to have someone who has the ability to stop the work if they see a safety issue.

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1 The Construction Industry generally recognizes a “Competent Person” as being an individual who is recognized as having the necessary ability knowledge, or skill to do something successfully and who carries a card or ticket acknowledging their skill/abilities.
Chad Schulhauser, City Engineer/Assistant Director, City of Bellingham, was asked does the city of Bellingham require a competent person to be on their project site. Mr. Schulhauser stated yes.

Sam Shipp, Project Engineer, City of Bellingham was asked does the City of Bellingham require a competent person to be on their project sites, Mr. Shipp stated yes.

Kirk Juneau, Senior Construction Inspector, City of Bellingham, was asked does the City of Bellingham require a competent person to be on their project sites, Mr. Juneau stated this is a labor & Industry (L&I) requirement to have a competent trench person in a confined space. Mr. Juneau stated he asked Strider Construction employees for a competent employee card before he asked a Bianchi Construction employee.

Responses to Allegation #2

Mr. Bianchi stated he was told by Strider Construction that Bianchi Construction would be paid by the 15th of the month, Mr. Bianchi states this was the first pay estimate. Mr. Bianchi stated he was billed for material on hand but was rejected.

Mr. Bianchi stated he had an old bill with Star Rental, he told Star Rental he would pay them on the 15th because he was expecting payment from, Strider Construction. Mr. Bianchi stated that by Strider Construction paying Bianchi Construction late it put them out of business Mr. Bianchi stated his contract bond was pulled.

Mr. Bianchi stated non-payment was timely issue; he had to wait an additional month. Mr. Bianchi stated Strider Construction did not get paid for two (2) months.

Mr. Bianchi stated he submitted force account items; scope of work was extra work. Mr. Bianchi stated Strider Construction passed it on to the City of Bellingham.

Mr. Bianchi stated that he submitted invoices for Material on Hand and was denied.

Mr. Doerge stated that he assisted Mr. Bianchi on this project with attempting to get progress payments from the prime and the city. He stated that he believes that some of the progress payments were running 45 to 60 days late. Mr. Doerge believed that Bianchi was back-due $200,000 to $300,000 dollars.

Darren Mullen, Estimator Project Manager, Strider Construction, stated the City of Bellingham, Project Engineer generates progress payments. Mr. Mullen stated many times; Strider Construction receives progress payment after coordinating a review of the pay estimates with the City Inspector who then turns in the pay estimates.
Elizabeth O’Neill, Project Manager, Strider Construction stated that L&I had alerted Strider Construction that there was a problem with Bianchi’s licensing. She also stated that when Strider was doing pay estimates with Bianchi they could not get Brian to provide required documentation such as “gravel tickets”.

Steve McCauley stated the subcontractor invoices Strider Construction, the inspector does a pay estimate, the inspector initiated payment to Strider Construction. Mr. McCauley stated Liz O’Neill, Shelly Delaney and Stephanie Hickox, Strider Construction employees are involved in the process.

Mr. Schulhauser was asked who is responsible for tracking when progress payments are made. Mr. Schulhauser stated Mr. Juneau tracks the work and then submits for a progress payment to be made to the prime. Mr. Schulhauser stated the project engineer reviews and signs the pay estimate. Paul Reed reviews and initials the documentation and then he signs off.

**Responses to Allegation #3**

Mr. Bianchi stated the City of Bellingham made it physically impossible for Bianchi Construction to get the job done. Mr. Bianchi stated the egregiousness of the acts occurring against Bianchi Construction was so hostile he had no choice in stopping work because it was less painful and costly than staying on the job. Mr. Bianchi stated it was so stressful he thought he was going to have a heart attack. He stated he had never experienced anything like this in his entire career.

Mr. Bianchi stated that during excavation Bianchi Construction (encountered) unknown underground utilities and had to abandon the trenching (JUTNW). Mr. Bianchi stated during this time Bianchi was suspended and Strider Construction self-performed this scope of work. He also stated that his firm was doing excavating and ran into some stumps. According to Mr. Bianchi, this occurred during the daytime and Strider (at that time) was working nights so his crew called the City to get an answer as to what the City wanted. He stated that he got “reamed” for calling the City.

Mr. Beutler was asked if he was aware of work being stopped by the City of Bellingham. Mr. Beutler stated that he and Mr. Bianchi were water testing and that Mr. Juneau and Mr. McCauley, Strider employee were poking fun at Mr. Bianchi because the water testing was incomplete. Mr. Beutler stated Mr. McCauley (Strider) had to send his employees home due to the City of Bellingham delaying Bianchi Construction. Mr. Beutler went on to state that Mr. Juneau made snide comments about delaying Strider and delaying us.

Mr. Beutler stated Bianchi Construction was delayed on multiple occasions.
Mr. Beutler stated Mr. Juneau came back from vacation and instructed Bianchi Construction employees to excavate the pipe where they had a little belly in it. Mr. Beutler stated Mr. Juneau wanted that section of the pipe dug up and raised. Mr. Bianchi had received acceptance and approval from the previous inspector for the way the pipe had been installed, which was in conformance with the plans. Mr. Beutler stated that Mike asked Mr. Juneau "are you instructing us to raise it and Kirk said yes."

Mr. Beutler stated that Bianchi was installing reverse thrust blocks to anchor the pipe and that the excavated site had been open for four days. Mr. Beutler stated Mr. Juneau saw how things were laid out as he had walked buy this layout for days. Mr. Beutler stated that fourteen (14) minutes before the concrete was supposed to be at the site, Mr. Juneau told Mr. Bianchi that they could not pour one of the thrust blocks because the bell of the pipe landed inside the thrust block. Mr. Beutler stated Mike Abbott, Bianchi Construction Site Forman, told him that there was nothing in the plans stating they could not pour the one thrust block. Mr. Beutler stated Bianchi Construction employees had to excavate another thrust block further down the line which increased the distance of the block from three feet to eight to ten feet. Mr. Beutler stated Bianchi Construction had to leave the hole opened which meant it was impeding access to the road and that the road went from two lanes to one lane narrowed the road.

Mr. Beutler stated Mr. Juneau inspected the pipe in the lay-down yard and told us not to lay any more pipe because the inner coating of the pipe was sweating. Mr. Beutler stated that Bianchi Construction had delayed work due to Mr. Juneau requiring a pipe representative to come out and inspect the pipe Mr. Beutler stated it took a few days to get someone out on the job site to inspect the pipe. Mr. Beutler stated Mr. Juneau wanted an email from the pipe representative stating the pipe is ok.

**Responses to Allegation #4**

Mr. Bianchi stated Mr. Juneau, unjustly kicked Mike Abbott Forman for Bianchi Construction employee off the job sighting safety and behaviors for cussing. Mr. Bianchi stated Mr. McCauley was a witness to the incident.

Mr. Bianchi stated two weeks into the project Derrick Eden, Bianchi Construction Forman, left the project because of the harassment.

Mr. Bianchi stated Mike Abbott was screaming at Bianchi employees to hurry up and get the job done. Mr. Bianchi stated it was apparent that Mr. Juneau was doing everything to inhibit the progress of Bianchi Construction.
Mr. Doerge stated that he did have some involvement in this project and that he had witnessed the harassment of Bianchi employees. Mr. Doerge also stated that he was aware of a letter that came from Strider removing Mike Abbott (Bianchi Foreman) from the job due to his cussing on the project site.

Mr. Abbott stated that he witnessed harassment of Bianchi employees. Mr. Abbott stated that Mr. McCauley and Mr. Juneau would have Strider employees drive up behind the excavator and start honking their vehicle horn which would startle the excavator operator.

Mr. Beutler was asked if he was aware of Bianchi Construction employees continuously being subjected to harassment and being kicked off the job by the City of Bellingham. Mr. Beutler stated he was a witness to the incident in which Mr. Abbott was kicked off the job.

Mr. Beutler stated that Mr. Juneau stated to him and Cajun that “he would rather not work for the City of Bellingham because it is full of Libertards and that Mr. Juneau called Cajun a dumbass”.

Mr. Mullen was asked if he was made aware of any discrimination/harassment against any contractor on the Mahogany project. Mr. Mullen stated Mr. Bianchi sent out an email stated he felt he was being harassed. Mr. Mullen provided a copy of an email from Mr. Bianchi to him.

Mr. Mullen was asked who from the City of Bellingham directed Strider Construction not to have Bianchi Construction employees on the job site. Mr. Mullen stated that the City had directed Strider to have an employee (Mike Abbott) removed for safety reasons.

Ms. O’Neill stated that Bianchi employees had some sort of altercation at the project site where a water main tap on NW Ave. was occurring. She stated that City Water employees were there and they informed Strider that they heard Bianchi employees screaming and swearing at each other. According to Ms. O’Neill, after that incident Bianchi was directed to remove Mike Abbott from the project.

Mr. McCauley was asked was he made aware of any discrimination/harassment against any contractor on this project. Mr. McCauley stated Mr. Bianchi told him he felt he was being treated roughly.

Mr. McCauley was asked if he had received any complaints verbally/writing regarding discrimination or harassment from any contractor on this project. Mr. McCauley stated from Mr. Bianchi.

Mr. Schulhauser was asked if he was made aware of any discrimination and or harassment complaints against any contractor on the project.
Mr. Schulhauser stated, "Other than Bianchi; no". He went on to state that the harassment allegations by Bianchi was based on Bianchi claiming that the water samples were intentionally being compromised.

Mr. Schulhauser was asked if he had received any complaints verbally/writing regarding discrimination or harassment from any contractor on the Mahogany project. Mr. Schulhauser stated yes and that the City of Bellingham Human Resources (HR) office was investigating a Title VII complaint.

Mr. Shipp was asked if he were made aware of any discrimination/harassment against any contractor on this project. Mr. Shipp stated, "No not discrimination if there is a personnel complaint or human resource issue, it would usually go to the Chief Inspector or the manager of the person being complained about. He is not involved with this".

Mr. Juneau stated he knew Bianchi Construction made the claim that he was harassing their employees and sabotaging their water sampling. Mr. Juneau stated Bianchi Construction made complaints to Strider Construction and sent an email to Mr. Schulhauser, City Engineer/Assistant Director Public Works. Mr. Juneau stated Mr. Schulhauser informed Bianchi Construction that they needed to contact Strider Construction and work through Strider Construction. Mr. Juneau stated that the claim of harassment and discrimination never came up until Bianchi Construction failed their water testing.

**Responses to Allegation #5**

Mr. Bianchi stated Mr. Juneau would stop by Bianchi Construction's work site and make them redo the work. Mr. Bianchi stated they were held to a different standard than other contractors. Mr. Bianchi stated Mr. Juneau would harass Bianchi Construction employees.

Mr. Beutler stated he was a witness to the incident in which Mr. Abbott was kicked off the job. Mr. Beutler stated Bianchi Construction was excavating the water tap for the tie in. Mr. Beutler stated an Operator employee by the name Allen (last name unknown) was doing the digging. Mr. Abbott was in the trench spotting. Allen hit a piece of pipe while digging. Allen tried to tell Mr. Abbott that he hit a piece of pipe in the ground. Mr. Abbott was telling Allen to dig deeper and that they needed to get down lower. Allen said he can't go deeper. Mr. Abbott told Allen the pipe does not matter and then Allen reached and grabbed the pipe with the excavator and removed it. Mr. Abbott wanted it done a different way so he began yelling at Allen using cuss words. At that time, Allen got out of the excavator and went to the restrooms. Mr. Juneau asked him what happened and Mr. Beutler stated he told Mr. Juneau exactly what happened. The next day Mr. Abbott was no longer allowed on the job.
Mr. Mullen was asked who makes the decision to have a contractor redo work that has been performed on the City of Bellingham projects. Mr. Mullen stated the City of Bellingham, if the work is unacceptable. Mr. Mullen stated it would be Strider Construction Superintendent or the Project Manager.

Mr. McCauley was asked who makes the decision to have a contractor redo work that has been performed on the City of Bellingham projects. Mr. McCauley stated the City of Bellingham would bring it to his attention and he and the City of Bellingham Inspector would make the decision.

Mr. Schulhauser was asked who makes the decision to have a contractor redo work that has been performed on the City of Bellingham projects. Mr. Schulhauser stated it would be the Inspector or the Engineer and that it depends on the circumstances. He stated there was a situation in which Bianchi wanted to go deeper with the trench and never received a direct approval from the city. He stated that Bianchi did not pothole this portion of the trench.

Mr. Schulhauser was asked who has the authority to approve deviation from the existing plans and specs on City of Bellingham projects. Mr. Schulhauser stated it depends on the level of the issue and can be the Inspector or the Engineer.

Mr. Ship was asked who makes the decision to have a contractor redo work that has been performed on the City of Bellingham projects. Mr. Shipp said it depends on the type of work and yes, an Inspector can make that decision.

Mr. Shipp was asked who has the authority to approve deviation from the existing plans and specs on City of Bellingham projects. Mr. Shipp stated that he, Mr. Schulhauser (City Engineer) and Chief Inspector could make minor subjective changes.

Mr. Juneau was asked who makes the decision to have a contractor redo work that has been performed on the City of Bellingham projects. Mr. Juneau stated he has the authority to make that decision if the work has not been done properly or if the pipe has not been installed properly.

Mr. Juneau was asked who has the authority to approve deviation from the existing plans and specs on City of Bellingham projects. Mr. Juneau stated he has the authority to deviate from the existing plans and spec depending on what it is. Mr. Juneau stated Sam Shipp, PE has the authority on major changes to the existing plans and specs.
Responses to Allegation #6

Mr. Bianchi stated Mr. Juneau called Cajun Lankford (who was an apprentice for Bianchi Construction) a “dumb ass” and told the pipe layer “Nick Beutler” that he should save himself from Bianchi and go to work for Strider. Mr. Bianchi stated he has emails pertaining to this incident. Mr. Bianchi stated that Northwest Laborers, Local 391 were looking into the incidents involving the attempted recruitment of his employees to Strider.

Mr. Beutler stated that Kirk Juneau approached him while he was performing water testing and told him “you should quit Bianchi and go to work for Steve at Strider.” Mr. Beutler stated he told Mr. Bianchi about Mr. Juneau’s comment who in turn contacted Adam Lambe, Union Representative. Mr. Lambe spoke with Mr. Beutler about the comment Mr. Juneau made. Mr. Beutler stated he was by himself one day working on the project when Mr. Juneau approached him in a standoff manner and confronted him by saying “I see how it’s going to be.” Mr. Beutler stated Mr. Juneau was pissed off and that Mr. Juneau accused Steve with Strider of coaching the union on what to say about him.

Mr. Beutler stated Mr. Juneau’s Union Representative from AFSCME gave Mr. Juneau an “ass chewing” about what Mr. Juneau had said to him. Mr. Beutler stated Mr. Juneau spoke with him about the incident in a vindictive way asking Mr. Beutler if he had spoken with his union rep about the comment he made. Mr. Beutler stated Mr. Juneau “was pissed, hauled ass in his truck and left.” Mr. Beutler stated that Mr. Juneau told Steve that he was coaching Mr. Bianchi and Mr. Beutler on what to say to the union. Mr. Beutler stated Mr. Juneau stated “he was going after Steve as well.”

Responses to Allegation #7

There were numerous responses during the interviews pertaining to the water sampling. Mr. Bianchi told the Investigation Team that he had additional water samples done by a lab different from the cities lab.

The reason we are not listing the significant comments here as we did above is due to the fact that the City of Bellingham Public Works contract language explicitly states that the City will only allow samples to be performed through their lab. Since this language is contained within the embodiment of the Contract between the City and the prime contractor, the allegations surrounding the testing of the water sample become a contractual issue.

Additional Information

Mr. Bianchi stated harassment occurred just about on a daily basis.
Mr. Bianchi was asked if it affects others, he stated yes, that employees would not work on the project unless he was on the project because they could not handle Mr. Juneau daily attacks. Mr. Bianchi was asked if others benefit from the actions/activities. Mr. Bianchi Strider Construction benefited because they self-preformed the remainder of Bianchi Construction's scope of work. Mr. Bianchi was asked if he felt he suffered a harm and if so, what is that harm. Mr. Bianchi stated yes and the harms were financially, mentally, physically and his reputation. Mr. Bianchi stated this project is in his community he stated he gets phone calls asking what is going on. Mr. Bianchi was asked what his response/reaction was when the alleged acts started occurring. Mr. Bianchi stated to try to work through it and get along and to do what he was told.

Mr. Bianchi was asked when the unwanted activity started did he notify anyone. Mr. Bianchi stated not when it first started. Mr. Bianchi stated he did notify the City of Bellingham twice, he notified Paul Reed (Chief Inspector, City of Bellingham) once verbally and once by email to Paul and Public works Director.

Mr. Bianchi stated everyday was a nightmare and he and his staff would be followed around the project. Mr. Bianchi stated that Mr. Juneau would look for anything to cost Bianchi Construction production and money. Mr. Bianchi went on to state the day he received an email stating Bianchi Construction would not get paid on certain items (work his company had performed) led to extreme stress and that he could not take it anymore.

Mr. Bianchi stated he had emails that would substantiate the level of discrimination that he endured from the City of Bellingham employee. Mr. Bianchi was asked if the discrimination was ongoing and Mr. Bianchi stated he could not take it any longer when Mr. Juneau sent email stating the City of Bellingham would not pay Bianchi Construction for their gravel and they would not be reimbursed for force account items. Mr. Bianchi stated that he was asked where his family was from and that Nick Beutler may have heard him being asked.

**Observations**

Mr. Bianchi's complaint had three aspects; one being Title VI law which refers to discrimination based on race, color, or national origin, the second one being non-compliance with the DBE Program as required by 49 CFR Part 26 and the third being allegations that do not fall under Title VI law or DBE Program regulations. This investigation looked at each allegation separate and yet relative to the aspects mentioned in the previous sentence. Our findings address each allegation in aggregate.
Allegation #1 - Bianchi Construction and its employees are being held to different standards than other contractors on the project and are continually harassed by the City's on-site representatives and other personnel.

There is evidence through both, documentation and interviews that substantiate the firm was being treated differently. The firm was being held to safety standards (PPE) that neither the prime contractor nor the City were enforcing with their own personnel. Both Investigators observed Strider personnel and the City field Inspector without complete PPE while being on the project site.

There were reports that both, the City Field Inspector and the Strider Site Supervisor were allowing Strider personnel to ride on the back of equipment where there was no seat or safety belt. It was also reported that these same individuals would have Strider employees drive up behind an active excavator and blast their vehicle horns. The investigation was unable to find any evidence to substantiate these unsafe acts other than what was being reported through interviews. There were other safety issues mentioned during interviews such as unsafe trench shoring. Pictures were provided showing the correct type of trench shoring and the incorrect type.

Much was said about Bianchi being asked if they had a “Competent Person” onsite. The city confirmed that they require a “Competent Person” to be on their work sites, however this was the first time these Investigators have heard of this. We were able to substantiate this requirement through the Washington State Department of Labor & Industries website.

Findings

This investigation was unable to align the alleged differential treatment to any of the protected classes under Title VI. There was enough evidence to substantiate that Bianchi was being treated differently for safety issues pertaining to PPE. There was also enough confirmation through interviews to question Bianchi’s ability to provide safe trenching equipment.

It was also shared with the Investigators that Kirk Juneau got in a wrestling match with an employee of another subcontractor that ended up on the ground. According to witnesses, it got pretty serious.

It is our understanding that the City of Bellingham Human Resources Department is investigating this matter, as well as other actions by city personnel.
Allegation #2 - Progress payments have not been made in a timely manner to Strider Construction (Prime) for the work Bianchi Construction has performed and payments to Bianchi have been over two months late.

Requirements for prompt pay fall under both state (RCW 39.04.250) and federal (49 CFR Part 26) laws. Documentation reviewed does show some delays in Bianchi getting paid.

The delays in getting paid appear to be in part related to the City’s accounting procedures which basically creates a 30 day lag time. However, it was also noted through both interviews and documentation that Strider did provide Bianchi forward payments even prior to them being paid by the City.

At the time of the interviews with Strider personnel, Strider had received notices of intent to lean.

Findings

The investigation was unable to validate that progress payments were intentionally or substantially late.

Allegation #3 - Work has been stopped by the City of Bellingham several times with no justifiable reason or explanation from either the City or Strider.

There were many reasons offered for the work stoppages that occurred. The majority of the work stoppages appear to be for legitimate reasons and within normal industry standards. During the interviews, numerous interviewees claimed that Bianchi had completed some work and the work had been signed off on and accepted by the City Field Inspector. The next day Kirk Juneau came back and said the work was not accepted and had Bianchi redo the work without additional compensation.

Five different personnel from the City and Strider gave different answers to the question, who makes the decision to have a contractor redo work that has been performed on the City of Bellingham projects?

Findings

While this investigation found no evidence of harassment associated to the protected classes of Title VI, it did substantiate that Bianchi was told that work that had already been accepted was no longer acceptable. These Investigators still do not understand how work could have been accepted and signed off on with telling Bianchi to move forward on their work to having Mr. Juneau come back the next day and say it was not accepted.
While there is no direct correlation to Title VI, there are questionable activities here that lend themselves to the tone of harassment and a hostile environment. Mr. Juneau coming back and telling Bianchi that work was unapproved after it had been previously approved should have been well documented and approved and signed off by the project engineer at a minimum.

For DBE program purposes, the fact that the City directed Bianchi to do additional work, without well-documented justification that the work had not met required standards could lend itself to the requirement for additional compensation.

Allegation #4 - Bianchi Construction employees have continuously been subjected to harassment and been kicked off the job by the City of Bellingham.

Information obtained from both, documentation and interviews substantiates that one (1) Bianchi employee was removed from the job. His removal was directed by the City through Strider and occurred based on safety issues that were validated by another City department.

Findings

This investigation found no merit to the allegation that a Bianchi employee was removed due to discrimination or harassment. The employee according to multiple interviewees, as well as another City department, was causing an unsafe situation.

The investigation was unable to validate allegations that the initial Bianchi Foreman, Derek Eden and an Operator walked off the job due to harassment by the City prior to the end of the second week of the job executing.

Allegation #5 - Work performed by Bianchi Construction which had been previously approved by one City of Bellingham Inspector was deemed unsatisfactory by a different Inspector which led to Bianchi Construction having to redo work and without financial compensation for the additional work.

There was enough verbal validation from multiple sources that this did occur. As stated above, is why and how this can occur.

Findings

There was no reasonable explanation give as to why and how this occurred. This investigation was unable to discredit the allegation that this could have occurred as a form of harassment or bullying of a subcontractor by City personnel.
Allegation #6 - Bianchi Construction employees were told by the City of Bellingham to quit work for Bianchi Construction and to go to work for Strider.

This allegation does not fall under Title VI or the DBE program.

Findings

This investigation found no merit to this allegation being a Title VI or DBE program violation.

Allegation #7 - Bianchi Construction feels the City of Bellingham is purposely failing their waterline samples in their lab to cause Bianchi Construction further harm.

Our investigation revealed two completely different sides or positions pertaining to the quality of the water samples and how they were handled. We do not understand how two different labs can come up with different results taken at the same time and at the same location. We have been made aware that the City of Bellingham has contract language that stipulates that the water samples can only be processed by the city’s lab.

There were numerous photos provided and testimony from different interviewees. A majority of those personnel interviewed had comments pertaining to the way the samples were taken and handled.

Findings

While this investigation found no evidence to support Bianchi’s allegation that the water samples were being sabotaged, we found no evidence to prove the samples were not being messed with.

Conclusion

This investigation found enough collaboration in the interviews conducted and the documentation reviewed to believe that all three parties (Bianchi, Strider, and the City of Bellingham) had some level of responsibility and culpability to the actions and activities that occurred on this project.

Numerous interviews provided collaboration that Bianchi appears to have been treated with hostility in a bullying environment. It was also clear that when Mr. Bianchi was on site that there appeared to be less problems and tension. Strider personnel stated that Mr. Bianchi knew the work, but that once he left the site everything would fall apart.

This investigation cannot guess as to the type of business decisions that were being made by Mr. Bianchi, but it does seem that there were problems between his site supervisor and both the prime and the city. Mr. Doerge had previously worked for Strider but that had not been shared with us when we interviewed Mr. Doerge. Mr. Doerge.
Bianchi's first site supervisor and an Operator left the project before the end of week two. Why? Did they leave because of issues with their company or because of a bad environment created by a single or multiple individuals from the prime or the city?

There were statements made during interviews that Bianchi personnel walked off the jobsite leaving an open trench uncovered in a traffic pedestrian area.

Strider appears to have attempted to help Bianchi when and where they could. They provided evidence of giving Bianchi advance progress payments. Strider was responsible as the prime contractor for ensuring that any DBE firm being used on that project was in fact performing a Commercially Useful Function (CUF).

Strider, as the Prime Contractor, had overall responsibility for ensuring that the project work was being done timely, and correctly (to industry standards) while maintaining a safe environment and work zone. This investigation questions whether or not Strider lost control of their work site, as it appears that Kirk Juneau was having a lot of direct contact with Bianchi when he should have been communicating directly with Strider, except for situations where safety required a direct intervention.

The City of Bellingham has a responsibility (per being signatory to WSDOT's Local Program under the Local Agency Guidelines) to administer the DBE Program in good faith. There is questionable activity by the Senior Field Inspector, Kirk Juneau. Multiple people stated that Mr. Juneau got in a wrestling match that went to the ground and that to observers was pretty serious.

This investigation was notified by the City that they are doing their own investigation into the activities and actions of their personnel. This investigation will defer to the City's investigation for any Title VII violations that may have occurred.

There was enough collaboration and documentation evidence to lead a "reasonable person" to the conclusion that Bianchi was being subjected to a hostile environment. The question this investigation was unable to answer was why. Was it because of frustration over the lack of knowledge or skills by the Bianchi Site Supervisors? This question became more obvious with both the City and the Prime confirming that when Mr. Bianchi was on site everything was okay. Both the City and the prime acknowledged Mr. Bianchi's knowledge and skills. So what went wrong here?

This investigation team strongly believes that there was a loss of professionalism of character by all the key stakeholders on this project and that all share a direct responsibility.

There is no evidence of discrimination based on any of the protected classes. There was what appears to be a hostile environment created by one person. As stated above, work that was accepted and signed off on by one Field Inspector was not accepted the next day by a different Field Inspector. We still do not understand how this can happen.
The investigation found no evidence that prompt pay issues were a direct result of discrimination, but was in fact due to the accounting process used by the city. This did not stop the prime from advancing payments to Bianchi even though the prime had not been paid. Bianchi did show through documentation that the firm had been at one point in time two months behind in getting paid but additional documentation showed that the prime also had been two months behind in getting paid.

There was no direct evidence that work stoppages occurred other than for legitimate reasons. There was evidence that supports that Bianchi were continuously being subjected to harassment such as referring them to "Dumb Asses." The alleged harassment appears to have come from one person, Mr. Kirk Juneau. There was an employee of Bianchi, Mr. Mike Abbott who was removed from the job site at the request of the city. This removal was not based on a harassment of Bianchi employees, but was based on unsafe and unprofessional conduct as recognized and reported by another city agency.

There was evidence that Mr. Juneau had approached Bianchi employees about going to work for other companies. This is not a Title VI or DBE program related issue. It is unclear as to what Mr. Juneau’s intent was in doing this.

There was a plethora of statements made with respect to the water sample tests. The City of Bellingham has language in their contracts that state water samples must be processed through the city’s lab. This investigation cannot defer away from that requirement. We do however; question how you can have water samples taken from the same location at the same time processed at two different labs with two entirely different results. Allegations call in to question whether or not the integrity of the water sampling was maintained. This investigation produced no direct evidence as to whether or not that integrity was maintained.

**Recommendations**

The Washington State Department of Transportation, Local Programs Division will be conducting training pertaining to the DBE program and reporting requirements. This investigation team highly encourages both the City and Strider to have all key project personnel attend that training. A copy of this Final Investigation Report will be provided to the WSDOT Local Programs Headquarters Division.

Ms. Mellody Stell, WSDOT’s Northwest Region (NWR) DBE Program Compliance Manager has volunteered to be available to the City of Bellingham to attend and participate in pre-con meetings in as much as her schedule allows. This investigation team encourages the City of Bellingham to take advantage of the offer.

This investigation encourages the City of Bellingham to have their Human Resources Department conduct respectful workplace training to its Public Works project personnel.
While most respectful workplace classes cater to an office environment, there are still valuable lessons that can be learned regarding the respectful treatment of others, even in a construction environment.

Work that has to be redone for legitimate reasons should be well documented as to why that work did not meet standards and should require a senior level engineer signing off on it. Bianchi was told to redo work after it had already been accepted. We recommend that the city revisit the activity that occurred to ensure that there is no liability remaining as to additional compensation to Bianchi for the redo work seeing that it had already been inspected, accepted, and approved.

cc: Brian Bianchi, Owner – Bianchi Construction
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    Kyle Gebhardt, Operations Manager, Strider Construction
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