State Fiscal Year 2015 Unified Planning Work Program
July 1, 2014 through June 30, 2015

Transportation Planning Guidance for
Metropolitan Planning Organizations and
Regional Transportation Planning Organizations

January 17, 2014

Prepared jointly by the WSDOT Multimodal Planning Division, Public Transportation Division, the Federal Highway Administration, and the Federal Transit Administration.
# SFY 2015 UNIFIED PLANNING WORK PROGRAM GUIDELINES

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I. PURPOSE OF GUIDELINES

The purpose of this Unified Planning Work Program (UPWP) Guidance document is to ensure that WSDOT adheres to responsibilities in 23 CFR Part 450.

- Provide WSDOT, FHWA, and FTA with specific work task details to ensure an appropriate 3C planning process is ongoing.
- Fulfill WSDOT’s responsibility to implement WAC 468-86-020
- Provide WSDOT sufficient detail to determine eligibility of work tasks, core functions, and activities to ensure the State’s fiduciary responsibility to FHWA/FTA.
- Assist Regional Transportation Planning Organizations in meeting work program requirements and the intent of agreements as outlined in RCW 47.80.010 through RCW 47.80.070 and WAC 468-86.

MPO and RTPO leadership and staff are encouraged to read the state and federal statutes and regulations listed above for a comprehensive refresher on the MPO and RTPO core planning elements. Briefing your technical advisory committees (TACs) and policy boards is also encouraged as you develop the UPWP. Formal adoption of the SFY 2015 UPWP by your respective board should not occur until federal and state partners have conducted the UPWP review for your MPO/RTPO.

II. FEDERAL REQUIREMENTS OF UPWP

Each organization can continue to develop the UPWP in a way that best suits their needs while addressing required components. In addition, for MPOs the CFRs provide specific direction on the level of detail required for each work task. The guidelines are not intended to be a comprehensive summary of all the federal and state requirements.

A. Required Elements of the Unified Planning Work Program (UPWP)

Each MPO, in cooperation with WSDOT and public transportation operator(s), is required to develop a UPWP that includes a discussion of the planning priorities facing the Metropolitan Planning Area. The UPWP shall identify:

- Work proposed for the next one or two-year period by major activity and task, including activities that address the planning factors in 23 CFR 450.306.
- Per 23 CFR 450.308 (c), Descriptions of the work must be in sufficient detail to indicate:
  - Who will perform the work (e.g., MPO, State, public transportation operator, local government, or consultant)
  - The schedule for completing the work
  - The resulting products
  - The proposed funding by activity/task
  - A summary of the total amounts and sources of federal and matching funds (this includes federal funds from sources other than Title 23 U.S.C. and/or Title 49 U.S.C.)
  - Unfunded tasks
B. Annual Performance and Expenditure Report
The annual report should summarize progress made on approved UPWP tasks and performing
the core functions. The monthly invoice detail provides a handy status log for use in developing
the annual report. The annual reports for some organizations were incomplete for SFY 2014. For
those annual reports due on September 30, 2014, the Statewide TPO will offer technical
assistance in developing an annual report.

WSDOT is required by 23 CFR 420.117 to submit MPO annual performance and expenditure
reports to FHWA and FTA, including a report from each MPO, which contains at a minimum:

- Comparison of actual performance with established goals
- Progress in meeting schedules
- Status of expenditures in a format compatible with the work program, including a
  comparison of budgeted (approved) amounts and actual costs incurred
- Cost overruns or underruns
- Approved work program revisions
- Other pertinent supporting data

Annual reports are due to WSDOT by September 30, 2013, 90 days after the end of the
reporting period. WSDOT will review and submit the annual reports to FHWA and FTA.

NOTE: WSDOT Planning is always available to assist the MPOs in developing UPWPs and
Annual Performance and Expenditure Reports that meet federal regulations.

III. FEDERAL REQUIREMENTS – METROPOLITAN
PLANNING ORGANIZATIONS

A. Core Functions
The UPWP should identify core functions that are cross-referenced to the list of major
activities in the UPWP. Examples of the major activities include, but are not
limited to:

- Program Administration
  - Program Management and Support
  - Regional and Statewide Coordination
  - Professional Development and Training
- Unified Planning Work Program
- Public and Stakeholder Participation and Education
- Data Acquisition, Analysis, and Reporting
- Metropolitan Transportation Plan
- Transportation Improvement Program
- Congestion Management Process (required for TMAs)
- Intelligent Transportation Systems (as relevant to the particular MPO)
- Planning Consultation and Services (as relevant to the particular MPO)
- Special Studies and Plans (as relevant to the particular MPO)
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B. Governance
As a part of this work program, MPOs are requested to review, verify and update, as necessary, all agreements and bylaws affecting the authority and governance of the Metropolitan Planning Organization to insure consistency with the minimum requirements of Federal and State law. Specifically, the organization of the MPO, its policy board, its decision making process and the relationship to its lead agency must clearly be shown and that necessary parties are represented on the policy board to accomplish the transportation planning functions required of an MPO.

(23 USC 134 (2) METROPOLITAN PLANNING ORGANIZATION.—the term “metropolitan planning organization” means the policy board of an organization established as a result of the designation process under subsection (d).
23 CFR 450.310 (2) STRUCTURE.—Not later than 2 years after the date of enactment of MAP-21, each metropolitan planning organization that serves an area designated as a transportation management area shall consist of—(A) local elected officials; (B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area, including representation by providers of public transportation; and (C) appropriate State officials.

C. Self-Certification Process
In reviewing the 2013 Self-Certification documents for each MPO, WSDOT and each MPO identified areas of improvement that need to be addressed in the SFY 2015 UPWP. WSDOT staff looks forward to working with MPO staff to ensure that specifically identified items are included as work activities in the SFY 2015 UPWP.

D. Metropolitan Transportation Improvement Program (MTIP)
As a part of this work program, MPOs are requested to review and document their MTIP project identification, prioritization, and selection procedures to insure that the planning and programming of projects for all four years of the MTIP are consistent with Federal requirements. 23 CFR 450.104, 324 (a) and (h). (H) PRIORITIES.—the transportation improvement program shall reflect the priorities for programming and expenditures of funds, including transportation enhancement activities, required by this title and chapter 53 of title 49. MTIP project identification, prioritization, and selection procedures will be discussed at the UPWP review meeting (see agenda on p. 14).

E. Memorandums of Agreements (MOAs)
As required under 23 CFR 450.314, MOAs between MPOs and state transit providers must be reviewed and updated as referenced in the 2015 long form certification. WSDOT staff will work with MPOs to ensure these MOAs are completed.

F. Contact with Elected and Administration Officials
Use of federal and matching funds for lobbying are subject to the process described in 23 CFR Part 225 Appendix B, Part 220 Appendix A, which includes listing proposed allowable lobbying activities in indirect cost proposals. MPOs are advised to develop policies and procedures that specifically address contacts with elected and administration officials related to transportation issues and subsequent reporting.
G. Metropolitan Planning Area (MPA) Boundaries
For MPOs whose MPA boundaries are not countywide or whose MPA boundaries have not been updated in the past four years, these MPOs should include a task in their SFY 2015 UPWP to work with WSDOT on reviewing and updating their MPA boundaries. The MPA is determined by an agreement between the MPO and the Governor. WSDOT requires all MPA boundary proposals to include an accurate map of the new boundary and an updated interlocal agreement signed by all members within the new boundary.

IV. STATE REQUIREMENTS – REGIONAL TRANSPORTATION PLANNING ORGANIZATIONS

A. General
There have been no significant changes to state law or rule regarding RTPO duties have occurred since the mid-1990s; however, with the recent economic recession and current uncertainty surrounding development of state budgets, RTPO allocations are also subject to slight reallocation and are based on 2010 Census population numbers for each county. In calendar year 2014, WSDOT will lead a collaborative process to re-evaluate the existing allocation formula, determine a core or base funding level for RTPOs that do not also serve as a MPO, and prepare a summary document describing RTPO planning funding needs.

B. Regional Transportation Planning Organization (RTPO) Tasks
RTPO duties are defined in RCW 47.80.023 and WAC 468-86 in state law and rules. WSDOT encourages RTPOs to include the core requirements in this section of the UPWP.

C. RTPOs and Local Comprehensive Plans
“Efficient multimodal transportation systems based on regional priorities and coordinated with county and city comprehensive plans” is one of 13 statewide planning goals established by the Growth Management Act (GMA). The GMA sets up RTPOs as the venues for identifying regional priorities and coordinating transportation planning at all jurisdictional levels with local comprehensive plans.

The regional transportation plans prepared by RTPOs play an important role in achieving consistency between state, county, city, and town plans and policies. State law requires regional transportation plans to be consistent with:

- Countywide planning policies adopted under the GMA
- County, city, and town comprehensive plans
- State transportation plans

In order to achieve consistency, state law requires RTPOs to certify that the transportation elements of local comprehensive plans:

- Reflect guidelines and principles established by the RTPOs
- Are consistent with the adopted regional transportation plan
- Conform to the requirements of RCW 36.70A.070
WSDOT has prepared a list of GMA requirements and resources for statewide transportation planning that may help the local governments in your region understand and meet the requirements of RCW 36.70A.070. Additional guidance for preparing the transportation elements of local comprehensive plans are in WAC 365-196-430. State law requires RTPOs to certify that countywide planning policies are consistent with the regional transportation plan.

In addition to certifying adopted local plans and policies, WSDOT encourages RTPOs to work as partners with local governments in the early stages of local comprehensive plan and countywide planning policy development to more effectively identify and resolve consistency issues. There is no set schedule for updating countywide planning policies—check with the counties in your jurisdiction to determine if they are planning an update. Comprehensive plans may be amended once per year and must be updated periodically. (See the GMA Update Schedule Map for more information on the timing of periodic updates)

**D. Coordinated Human Services Transportation Plan (HSTP)**

Former SAFETEA-LU Federal Transit Administration (FTA) Section 5316, Job Access and Reverse Commute (JARC) and FTA Section 5317, New Freedom programs were repealed and consolidated under other programs in MAP-21. The MAP-21 enhanced Section 5310 program continues to require that projects selected for funding must be included in a locally developed coordinated public transit-human services transportation plan. While the federal requirement applies only to certain programs, WSDOT has extended the requirement to all projects selected for funding through WSDOT’s Public Transportation Consolidated Grant Program. For large UZAs, the TMA or MPO may develop and/or participate in the development of a HSTP and integrate HSTP goals, objectives, and projects as part of the MPOs MTP. HSTPs must be updated every four years, with the next update due in 2014.

**E. Incorporation of the Six State Transportation Policy Goals**

State Law requires that each UPWP describe the work programmed to support and address the six legislative transportation system policy goals of RCW 47.04.280. The transportation system policy goals include Economic Vitality, Preservation, Safety, Mobility, Environment, and Stewardship.

**F. Additional Work Tasks**

WSDOT and our federal partners recognize that shrinking budgets make it increasingly challenging to address the mandatory work elements described in state and federal statutes. As part of WSDOT's planning responsibilities, we engage in planning activities that invite MPOs and RTPOs to be active partners. We encourage each organization to allocate a portion of their budget to continue working with us on the following activities to ensure their plans and priorities are reflected in these statewide and corridor efforts.

- Involvement in state planning activities:
  - Statewide Freight Mobility Plan
  - State Rail Plan
  - Highway System Plan
  - Corridor Planning Studies
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- Incorporation of pertinent aspects of statewide transportation plans into your RTP/MTP if being updated in this timeframe
- Analysis of MAP-21 to understand impacts to planning practice in Washington State.

G. Title VI Reports
MPOs submit annual Title VI reports by following their Title VI plan steps. RTPOs that receive FTA funding must report their Title VI compliance following the guidance and requirements in FTA Circular 4702.1B. WSDOT, in cooperation with FHWA and FTA, has facilitated Title VI training in 2013 to assist agencies with understanding federal expectations for compliance.

V. FEDERAL AND STATE EMPHASIS AREAS

A. Tribal Consultation
Although Tribes are not subject to GMA, RTPOs are encouraged to coordinate and invite participation with tribes on the development of their regional transportation plans. WSDOT encourages RTPOs to utilize technology, such as webinars, conference calls, and video conferencing, to engage Tribes in policy board and TAC meetings.

The 1989 Centennial Accord and 1999 Millennium Agreement between nearly all of the State of Washington and the Federally Recognized Tribes establishes the framework and commitment to a government-to-government relationship. WSDOT maintains government-to-government relations with 35 Federally Recognized Tribes located in the State of Washington and bordering states of Idaho and Oregon. WSDOT is committed to consulting with Tribes on decisions that may affect their rights and interests.

Consultation is defined as a “respectful, effective communication in a cooperative process that works toward a consensus, before a decision is made or an action is taken.” Additionally, the WSDOT Centennial Accord Plan outlines how the agency establishes and maintains government-to-government relationships with tribal governments. The

WSDOT Secretary’s Executive Order E 1025.01 on Tribal Consultation also provides WSDOT employees with specific roles, responsibilities, and procedures for working with Tribes on projects.

The Tribal Transportation Program Delivery Guide cites the statutory/regulatory requirements of 25 CFR 170, stating that Tribes should consider coordinating with and must inform (25 CFR 170.108(a)(1)) the State DOT and as appropriate any Metropolitan Planning Organization (MPO) on their transportation planning process to ensure any programs and projects adjacent to Tribal lands are consistent and appropriate with Tribal needs and interests. Further information may be found at: http://flh.fhwa.dot.gov/programs/ttp/guide/
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B. Annual Reports
Along with the federal requirement for MPOs to complete annual reports (see section II – B) WSDOT requires RTPOs to complete annual reports. RTPOs should complete annual reports using their UPWP and provide similar information as what it required by a MPO.

C. Interlocal Agreements
An Interlocal Agreement is a written arrangement between a grant recipient and another public body to provide eligible grant match contributions to a project. Interlocal agreements are subject to RCW 39.34, Interlocal Cooperation Act (WAC 173-95A-020). 49 CFR 450.316 describes the process for involving interest parties, participation, and consultation with those parties with the MPA boundary. Interlocal agreements should be created and updated by all MPOs and signed by member organizations. An interlocal agreement should be created or updated when:

- No interlocal agreement exists
- An interlocal agreement cannot be located
- There is an organizational structure change within an MPO or its member organizations
- An MPA boundary changes

D. Statewide Planning Efforts
MPOs are required to participate in statewide planning efforts with respect to the various state modal plans and the statewide long-range transportation plan. Per 23 CFR 450.314, MPOs will enter into agreements with WSDOT and the public transportation provider(s) in 2014 that will specifically identify the mutual responsibilities in carrying out the metropolitan transportation planning process.

E. Website Requirement
MPO websites are required to be updated with accurate information that must be readily available to the public. Per 23 CFR 450.316, (1)(iv) Making public information (technical and meeting notices) available to electronically accessible formats and means, such as the World Wide Web, is required. Please include the MPO website link in all UPWPs and verify that documents requiring to be made available to the public are posted in English with the option to the public of requesting a document in a different language, if applicable.

F. Corridor Planning
23 CFR 450.212 Transportation planning studies and project development.
(a) Pursuant to section 1308 of the Transportation Equity Act for the 21st Century, TEA-21 (Pub. L. 105-178), a State(s), MPO(s), or public transportation operator(s) may undertake a multimodal, systems-level corridor or subarea planning study as part of the statewide transportation planning process. To the extent practicable, development of these transportation planning studies shall involve consultation with, or joint efforts among, the State(s), MPO(s), and/or public transportation operator(s). The results or decisions of these transportation planning studies may be used as part of the overall project development process consistent with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 et seq.) and
associated implementing regulations (23 CFR part 771 and 40 CFR parts 1500-1508). Specifically, these corridor or subarea studies may result in producing any of the following for a proposed transportation project:

1. Purpose and need or goals and objective statement(s);
2. General travel corridor and/or general mode(s) definition (e.g., highway, transit, or a highway/transit combination);
3. Preliminary screening of alternatives and elimination of unreasonable alternatives;
4. Basic description of the environmental setting; and/or
5. Preliminary identification of environmental impacts and environmental mitigation.

G. Performance Measures
As performance measures are developed by USDOT in response to Section 1203 of MAP-21, WSDOT and MPOs will cooperatively work together in SFY 2015 to develop state and local performance measures and performance targets. The MAP-21 Implementation Schedule identifies the approximate time frame for setting and adopting performance measures for all categories.

VI. KEY ISSUES AND TIMELINES FOR MANAGING THE UPWP

A. Roles and Responsibilities
- MPO/RTPO Staff is responsible for developing the UPWP or making any revisions, and submitting the approved/revised UPWP to the WSDOT Statewide Transportation Planning Office (TPO).
- WSDOT regional coordinators, planning managers, and public transportation division project managers are responsible for reviewing the UPWPs and providing comments to the Statewide TPO.
- WSDOT Statewide TPO is responsible for reviewing comments and submitting them to the MPO/RTPO.
- Upon receipt of the final UPWP that is approved and adopted by the MPO/RTPO respective policy boards, UPWPs will be sent to FHWA and FTA for approval prior to July 1, 2014.
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#### B. UPWP Development Schedule

<table>
<thead>
<tr>
<th>KEY DUE DATES</th>
<th>KEY ACTION DUE</th>
</tr>
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<tbody>
<tr>
<td>February 2014</td>
<td>Statewide Transportation Planning Office schedules reviews</td>
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| Monday, March 24, 2014                | MPOs send draft UPWPs electronically to the WSDOT Statewide Transportation Planning Office, the Federal Highway Administration, and the Federal Transit Administration. RTPOs send draft UPWPs electronically to only the WSDOT Statewide Transportation Planning Office.  
RTC: UPWP Due Date – Thursday, February 6, 2014  
LCVMPO: UPWP Due Date – Tuesday, August 12, 2014 |
| April – June, 2014 On-site review meetings | Statewide Transportation Planning Office, Public Transportation Division, WSDOT Region Planners, FHWA, and FTA representatives meet with MPOs to review draft UPWPs. Note: WSDOT will meet separately with RTPOs not affiliated with MPOs during this same time period. |
| 5 business days after the on-site review | WSDOT Statewide Transportation Planning Office submits comments to the MPOs and RTPOs.                     |
| May - June, 2014                      | MPOs and RTPOs take final UPWPs to Policy Boards for adoption.                                            |
| Friday, June 20, 2014                 | MPOs and RTPOs submit the adopted UPWP electronically to the WSDOT Statewide Transportation Planning Office. New financial agreements are signed and the UPWPs are attached as the scope of work for the fiscal period. |
| Wednesday, June 25, 2014              | WSDOT Statewide Transportation Planning Office submits MPO adopted UPWPs electronically to FHWA/FTA for federal review. |
| Monday, June 30, 2014                 | FHWA/FTA UPWP approval is due to the WSDOT Statewide Transportation Planning Office.                        |
| Tuesday, July 1, 2014                 | Approved SFY 2015 UPWPs take effect.                                                                        |
| Wednesday, December 31, 2014          | WSDOT Statewide Transportation Planning Office provides estimated planning funding allocations to MPOs and RTPOs for SFY 2016. |

#### C. Budget/Financial Table to be Used in UPWP

WSDOT has developed a budget/financial table template (Appendix A) strongly recommended for MPOs to use when developing their UPWP. The budget/financial table has been developed using previous UPWP funding tables from MPOs in Washington State. This table will ensure that MPOs are in compliance with CFR and will allow for efficient invoicing...
and reimbursements to occur in SFY 2015 so that planning activities are directly related to revenues and expenditures. This is also intended to streamline the compilation of funds for the UPWP Annual Report.

D. Special Studies
RTPOs and MPOs may contract with another agency or a private firm for services to implement tasks identified in the UPWP. Before pursuing contracted services, please discuss your needs with your WSDOT Region Planning Manager, as WSDOT may already have some of the technical resources you need.

Please refer to the sections in the Metropolitan/Regional Transportation Planning Organization Two-Year Financial Agreement related to subcontracting and purchases.

The WSDOT Statewide Transportation Planning Office is a resource for each MPO/RTPO considering contracting out for UPWP activities. WSDOT must recommend approval of the UPWP expenditure of Metropolitan Planning (PL) funds, Federal Transit Administration section 5303 funds, and approve state RTPO funds before any consultant selection process begins. Subcontracting agreements are subject to specific requirements as outlined in the money agreements.

E. Unfunded Work
MPA unfunded planning activities should be listed as an appendix, or at the end of your UPWP. Having these unfunded lists across the state is helpful in conveying the magnitude of transportation planning work that could and should be done if resources become available. We appreciate this section being included.

F. Sources of Other Federal Planning Funds
MAP-21 (23 CFR 450.308) requires that UPWPs list other federal funding being received for transportation planning.

G. On-Site Review and Draft Agenda
A suggested agenda template for the spring 2014 MPO/RTPO on-site UPWP review meeting is below (Figure 1). We encourage that the meeting follow this format, as it is the one event each year where WSDOT HQ, region staff, FHWA and FTA staff visit MPOs on-site.

It is important that WSDOT’s Statewide Transportation Planning Office and Public Transportation Division, as well as your WSDOT Region Planning Manager, FHWA and FTA receive your draft UPWP by Monday, March 24, 2014, so the federal and state review team can prepare for the meeting in advance. The Statewide TPO will conduct phone meetings with each organization prior to the on-site review to allow the MPO/RTPO to seek clarification on issues in order for these topics to be addressed by the organization prior to the arrival of the review team.
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WSDOT requires that meeting attendees include the MPO/RTPO Transportation Manager, Executive Director, Technical Advisory Committee Chair, Policy Board Chair, WSDOT Region Planning Manager, WSDOT Headquarters Statewide Transportation Planning Office and Public Transportation Division, Federal Highway Administration, and Federal Transit Administration.

Organizations that are solely RTPOs can expect a similar review agenda with only WSDOT representatives. Because they do not have an MPO, the meetings at Northeast Washington RTPO, Palouse RTPO, Peninsula RTPO, and Quad County RTPO will not include representatives from FHWA or FTA. Federal agency feedback and federal team assistance is unnecessary as these RTPOs receive only state transportation planning funds.
FIGURE 1

Agenda
MPO/RTPO SFY 2015 Unified Planning Work Program
On-Site Review Meeting

1. Introductions and meeting objectives  WSDOT Headquarters Staff

2. MPO/RTPO Presentation  MPO/RTPO Staff
   a. Successes and Key Accomplishments during State Fiscal Year 2014 to date
   b. Major work in progress
   c. Issues and challenges facing the MPO/RTPO
   d. Overview of membership, organizational structure, and decision-making processes
   e. Tribal consultation process
   f. MAP-21 changes
      o Project Prioritization criteria for STP and TA funds
   g. MTIP & RTIP project identification, selection, and prioritization
   h. Overview of the proposed MPO/RTPO SFY 2015 Unified Planning Work Program and how it addresses these challenges (timeline of deliverables)

3. How can the federal-state team assist more?  WSDOT Headquarters Staff

4. What training topics are high priorities for your staff?  MPO/RTPO Staff Leadership/Members

5. Federal Agency Feedback  FHWA & FTA
   o Identify high points
   o Identify any feedback that will be included in writing

6. WSDOT Feedback  WSDOT Headquarters Staff
   o Identify high points
   o Identify any feedback that will be included in writing

7. Next Steps  WSDOT Headquarters Staff
   o Submission of written comments to MPO/RTPO
   o Review dates of the UPWP approval process within the MPO/RTPO
   o Confirm timetable for completion

8. Closing Comments and agreed to next steps  MPO/RTPO Staff

FHWA has asked WSDOT to consider a two-part review approach. Day 1 pm items 1-4 and day 2 am items 5-8. This will allow for travel time as well as more relationship/staff development.
H. Implementing the UPWP
The UPWP document should be used to guide planning tasks/activities for your MPO/RTPO in SFY 2015. The UPWP will assist the MPO/RTPO in actively participating and adhering to federal and state planning requirements.

I. Amendments
The WSDOT Multimodal Planning Division approves UPWP amendments for RTPOs while FHWA and FTA jointly approve UPWP amendments for all MPOs. The Statewide Transportation Planning Office is available to assist in making this process simple.

WSDOT, in consultation with MPOs/RTPOs, will be proposing a structured UPWP amendment process in 2014 to keep minor amendments streamlined. If a MPO or RTPO determines they need to reprioritize work, address changes in funding, or address new issues, they should consult with the Statewide Transportation Planning Office. Depending on the scale and content of the amendment, Statewide TPO will coordinate with the MPO/RTPO to keep the process flexible while getting necessary federal and state approvals.
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Reference 1

Lobbying
2 CFR Part 225, Appendix B

24. Lobbying

a. General. The cost of certain influencing activities associated with obtaining grants, contracts, cooperative agreements, or loans is an unallowable cost. Lobbying with respect to certain grants, contracts, cooperative agreements, and loans shall be governed by the common rule, “New Restrictions on Lobbying” (see Section J.24 of Appendix A to 2 CFR part 220), including definitions, and the Office of Management and Budget “Government-wide Guidance for New Restrictions on Lobbying” and notices published at 54 FR 52306 (December 20, 1989), 55 FR 24540 (June 15, 1990), and 57 FR 1772 (January 15, 1992), respectively.

b. Executive lobbying costs. Costs incurred in attempting to improperly influence either directly or indirectly, an employee or officer of the Executive Branch of the Federal Government to give consideration or to act regarding a sponsored agreement or a regulatory matter are unallowable. Improper influence means any influence that induces or tends to induce a Federal employee or officer to give consideration or to act regarding a federally-sponsored agreement or regulatory matter on any basis other than the merits of the matter.

Reference 2

2 CFR Part 220, Appendix A, Section J

28. Lobbying

Reference is made to the common rule published at 7 CFR part 3018, 10 CFR parts 600 and 601, 12 CFR part 411, 13 CFR part 146, 14 CFR part 1271, 15 CFR part 28, 18 CFR part 1315, 22 CFR parts 138, 227, 311, 519 and 712, 24 CFR part 87, 28 CFR part 69, 29 CFR part 93, 31 CFR part 21, 32 CFR part 282, 34 CFR part 82, 38 CFR part 85, 40 CFR part 34, 41 CFR part 105–69, 43 CFR part 18, 44 CFR part 18, 45 CFR parts 93, 604, 1158, 1168 and 1230, and 49 CFR part 20, and OMB's government-wide guidance, amendments to OMB's government-wide guidance, and OMB's clarification notices published at 54 FR 52306 (12/20/89), 61 FR 1412 (1/19/96), 55 FR 24540 (6/15/90) and 57 FR 1772 (1/15/92), respectively. In addition, the following restrictions shall apply:

a. Notwithstanding other provisions of this Appendix, costs associated with the following activities are unallowable:

(1) Attempts to influence the outcomes of any Federal, State, or local election, referendum, initiative, or similar procedure, through in kind or cash contributions, endorsements, publicity, or similar activity;
(2) Establishing, administering, contributing to, or paying the expenses of a political party, campaign, political action committee, or other organization established for the purpose of influencing the outcomes of elections;

(3) Any attempt to influence the introduction of Federal or State legislation; The enactment or modification of any pending Federal or State legislation through communication with any member or employee of the Congress or State legislature, including efforts to influence State or local officials to engage in similar lobbying activity; or any government official or employee in connection with a decision to sign or veto enrolled legislation;

(4) Any attempt to influence the introduction of Federal or State legislation; or the enactment or modification of any pending Federal or State legislation by preparing, distributing, or using publicity or propaganda, or by urging members of the general public, or any segment thereof, to contribute to or participate in any mass demonstration, march, rally, fund raising drive, lobbying campaign or letter writing or telephone campaign; or

(5) Legislative liaison activities, including attendance at legislative sessions or committee hearings, gathering information regarding legislation, and analyzing the effect of legislation, when such activities are carried on in support of or in knowing preparation for an effort to engage in unallowable lobbying.

b. The following activities are excerpted from the coverage of subsection J.28.a of this Appendix:

(1) Technical and factual presentations on topics directly related to the performance of a grant, contract, or other agreement (through hearing testimony, statements, or letters to the Congress or a State legislature, or subdivision, member, or cognizant staff member thereof), in response to a documented request (including a Congressional Record notice requesting testimony or statements for the record at a regularly scheduled hearing) made by the recipient member, legislative body or subdivision, or a cognizant staff member thereof, provided such information is readily obtainable and can be readily put in deliverable form, and further provided that costs under this section for travel, lodging or meals are unallowable unless incurred to offer testimony at a regularly scheduled Congressional hearing pursuant to a written request for such presentation made by the Chairman or Ranking Minority Member of the Committee or Subcommittee conducting such hearings;

(2) Any lobbying made unallowable by subsection J.28.a.(3) of this Appendix to influence State legislation in order to directly reduce the cost, or to avoid material impairment of the institution's authority to perform the grant, contract, or other agreement; or

(3) Any activity specifically authorized by statute to be undertaken with funds from the grant, contract, or other agreement.

c. When an institution seeks reimbursement for F&A costs, total lobbying costs shall be separately identified in the F&A cost rate proposal, and thereafter treated as other
unallowable activity costs in accordance with the procedures of Section B.1.d of this Appendix.

d. Institutions shall submit as part of their annual F&A cost rate proposal a certification that the requirements and standards of this section have been complied with.

e. Institutions shall maintain adequate records to demonstrate that the determination of costs as being allowable or unallowable pursuant to this section complies with the requirements of this Appendix.

f. Time logs, calendars, or similar records shall not be required to be created for purposes of complying with this section during any particular calendar month when:

(1) the employee engages in lobbying (as defined in subsections J.28.a and b of this Appendix) 25 percent or less of the employee's compensated hours of employment during that calendar month; and

(2) within the preceding five-year period, the institution has not materially misstated allowable or unallowable costs of any nature, including legislative lobbying costs. When conditions in subsections J.28.f.(1) and (2) of this Appendix are met, institutions are not required to establish records to support the allowability of claimed costs in addition to records already required or maintained. Also, when conditions in subsections J.28.f. (1) and (2) of this Appendix are met, the absence of time logs, calendars, or similar records will not serve as a basis for disallowing costs by contesting estimates of lobbying time spent by employees during a calendar month.

g. Agencies shall establish procedures for resolving in advance, in consultation with OMB, any significant questions or disagreements concerning the interpretation or application of this section. Any such advance resolutions shall be binding in any subsequent settlements, audits, or investigations with respect to that grant or contract for purposes of interpretation of this Appendix, provided, however, that this shall not be construed to prevent a contractor or grantee from contesting the lawfulness of such a determination.

h. Executive lobbying costs.

Costs incurred in attempting to improperly influence either directly or indirectly, an employee or officer of the Executive Branch of the Federal Government to give consideration or to act regarding a sponsored agreement or a regulatory matter are unallowable. Improper influence means any influence that induces or tends to induce a Federal employee or officer to give consideration or to act regarding a federally-sponsored agreement or regulatory matter on any basis other than the merits of the matter.
SFY 2015 UNIFIED PLANNING WORK PROGRAM GUIDELINES

Budget/Financial Table Template

Appendix A

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