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Originating Organization Highways and Local Programs, Engineering Services	

Remarks and Instructions

The complete manual, revision packages, and individual chapters can be accessed at www.wsdot.wa.gov/publications/manuals/m36-63.htm.

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Please contact Stacie Kelsey at 360-705-7383 with comments, questions, or suggestions for improvement to the manual.

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Approved By Dave Mounts	Signature /s/
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**Washington State
Department of Transportation**

Local Agency Guidelines

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Highways and Local Programs
Engineering Services

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Materials can be made available in an alternate format by emailing the WSDOT Diversity/ADA Affairs Team at wsdotada@wsdot.wa.gov or by calling toll free, 855-362-4ADA (4232). Persons who are deaf or hard of hearing may make a request by calling the Washington State Relay at 711.

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Foreword

This manual provides local agencies with statewide policies and standards to follow when using Federal Highway Administration (FHWA) funds for transportation projects. Considerable effort has been made to provide guidance on how to accomplish the work and document the results, and to incorporate the flexibility options provided by the Safe, Accountable, Flexible, Efficient Transportation Equity Act – A Legacy for Users (SAFETEA-LU).

Numerous committees are involved in this manual, directly and indirectly. A special thanks to the City and County Design Standards and Local Agency Guidelines (LAG) Committee members, and active participation by the Consultant Engineers Council of Washington, the Washington State Department of Transportation (WSDOT) advisors, and the FHWA.

Updating this manual is a continuing process. The LAG Committee will periodically meet to consider changes and issue revisions. Questions, observations, and recommendations are invited. The Comment Request Form is provided to encourage comments. Please use it to transmit comments, including marked copies of manual pages, to WSDOT Headquarters Highways and Local Programs.

/s/

Kathleen B. Davis
Director
Headquarters Highways and Local Programs

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12.1 General Discussion

This chapter describes the distribution of Federal Highway Administration (FHWA) funds administered by the Washington State Department of Transportation's (WSDOT) Headquarters Highways and Local Programs (H&LP), and presents the basic procedures for local agency participation.

FHWA funds may be used to reimburse project costs for general transportation planning, preliminary engineering, right of way acquisition, construction, and audit. FHWA funds may only be expended after authorization by WSDOT through FHWA. FHWA funds are not eligible for lobbying efforts.

To use donated lands as part of the agencies' match to the project under certain conditions, see Section 25.8.

.11 FHWA Eligible Roadways – Under the Federal Transportation Act: Moving Ahead for Progress in the 21st Century (MAP-21), roadways eligible for FHWA administered funds are:

- The National Highway System (NHS).
- The Interstate System, which is a component of the NHS.
- Non-NHS routes which include all other functionally classified routes (except rural minor collector and local access). The Act allows up to 15 percent of Surface Transportation Program (STP) rural dollars to be used on rural minor collectors.

The NHS provides an interconnected system of principal arterials and other highways serving major population centers, international border crossings, ports, airports, public and intermodal transportation facilities, and other major travel destinations to meet national defense needs and to serve interstate and interregional travel.

Routes which must be included on the NHS are principal arterials, interstate highways, highways on the Strategic Highway Network (STRAHNET), major STRAHNET connectors, and congressional high priority routes.

.12 FHWA Funding Programs – FHWA programs are reimbursement programs for financing eligible transportation projects. The following are funding categories (see Section 12.5):

- National Highway Performance Program (NHPP)
- Surface Transportation Program (STP)
- Congestion Mitigation and Air Quality (CMAQ)
- Highway Safety Improvement Program (HSIP)
- Railway Highway Crossing
- Transportation Alternatives Program (TAP)
- Ferry Boat Program (FBP)
- Emergency Relief Program (ER)

12.2 Programming Projects

.21 Planning Requirements – Since 1991, the Federal Transportation Act requires a continuous transportation planning process. This process involves:

- Transportation Management Areas (TMA) long-range transportation plans.
- TMA Congestion Management Process.
- Metropolitan Planning Organization (MPO) long-range transportation plans.
- A statewide long-range transportation plan.
- A Statewide Transportation Improvement Program (STIP).

The statewide planning process establishes a cooperative, continuous, and comprehensive framework for making transportation investment decisions throughout the state. The process for developing the statewide plan and transportation improvement program shall include metropolitan and non-metropolitan local officials with responsibility for transportation, including Indian tribal governments, and provide for consideration of all modes of transportation.

At the state and federal levels, policies and procedures have been established to provide for statewide coordination of transportation programs.

.22 Transportation Improvement Program (TIP) – A TIP is a listing of prioritized projects that a local agency expects to begin during the next six years. Projects in a TIP are all FHWA, Federal Transit Administration (FTA), or other federally funded projects, and regionally significant projects. All cities, towns, counties, tribal nations, and transit agencies are required to prepare and adopt their individual TIPs annually.

- Cities and towns are required to prepare and adopt a six-year TIP by June 30 annually and file a copy with the Secretary of Transportation not more than 30 days after adoption (RCW 35.77.010).
- Counties are required to prepare and adopt a six-year TIP by December 31 annually and file copies with the County Road Administration Board (CRAB) and the Secretary of Transportation not more than 30 days after adoption (RCW 36.81.121).
- Tribes are required to prepare a Tribal Transportation Improvement Program (TTIP) (25 CFR 170.402).
- Transit agencies are required to prepare a six-year transit development plan by September 1 of each year and file a copy with WSDOT, the Transportation Improvement Board, cities, counties, and regional planning councils where the transit agency is located (RCW 35.58.2795).

Once the agency TIPs are approved, the first four years of federally funded and regionally significant projects are submitted to MPOs and/or RTPOs for inclusion in the Regional TIP as applicable.

WSDOT developed a web-based system for agencies to prepare their six-year programs and submit them electronically. For additional information on the system, go to www.wsdot.wa.gov/localprograms/programmgmt/stip.htm.

12.3 Coordination With Agencies

.31 Metropolitan Planning Organizations (MPO) – An MPO is an organization of elected officials in urbanized regions with 50,000 or more population. MPOs, in cooperation with any affected public transportation operator(s) and the state, are required to develop long-range transportation plans and TIPs for the metropolitan planning area (23 CFR Part 450).

MPOs with populations over 200,000 are designated as Transportation Management Areas (TMAs). Some responsibilities of the TMA/MPO are:

- Carry out a continuing, coordinated, and comprehensive transportation planning process (3 Cs), which includes the establishment and use of a performance based approach to transportation decision making to support the national goals.
- Prepare a 20-year metropolitan transportation plan (MTP) that is financially constrained and serves as a basis for the selection of projects in the TIP.
- Develop criteria that relates to regional priorities, establish application procedures, project selection, inform local agency of selection, and monitor to ensure delivery of regional STP, CMAQ, and TAP funds that correlates with the MTP. Federal funds cannot be suballocated to individual jurisdictions or modes based on a predetermined percentage or formula (23 CFR 450.324).
- Develop a four-year TIP, which:
 - Is required to be updated at least once every four years and approved by the MPO and Governor or Governor’s designee.
 - Contains projects consistent with the current metropolitan transportation plan.
 - Includes a list of prioritized projects for four years.
 - Has reasonable opportunity for public comment prior to approval.
 - Includes a financial plan for implementing the projects that is also consistent with reasonable expectation of available funding.
 - Includes sufficient descriptive project descriptions (such as type of work, termini, length, and other similar factors) to identify the project or phase of the project.
 - Contains projects being funded by Title 23, FHWA or Title 49, FTA funding.
 - Estimates the total cost of the project (all phases, all funding sources).
 - Contains the amount of federal, state, and local funds to be obligated during each program year.
 - Contains regionally significant projects funded with federal funds other than those administered by FHWA or FTA and projects funded with non-federal funds.

- Contains a project or identified phase of a project, only if full funding can reasonably be anticipated to be available for the project or phase within the time period contemplated for completion of the project or the identified phase (see STIP Appendix C).
- Includes performance target achievement. The TIP shall include, to the maximum extent practicable, a description of the anticipated effect of the TIP toward achieving the performance targets established in the metropolitan transportation plan, linking investment priorities to those performance targets.
- Each year, include a listing of obligated projects (including investments in pedestrian walkways and bicycle transportation facilities). The listing shall be published by March 30 of each year, identifying the Title 23 and/or Title 49, FHWA funds, and FTA funds that were obligated in the preceding calendar year. For each federally funded project, the listing shall include:
 - All federal funded projects authorized or revised to increase obligations in the previous calendar year.
 - The agency responsible for carrying out the project or phase.
 - Sufficient project descriptions (such as type of work, termini, length, and other similar factors) to identify the project or phase of the project.
 - The amount of federal funds requested in the TIP.
 - The federal funding obligated during the previous calendar year.
 - The federal funding remaining for subsequent years.

After the MPO TIP is approved, it is submitted to WSDOT through the web-based system for inclusion in the STIP.

.32 Regional Transportation Planning Organizations (RTPO) – As part of the Growth Management Act (GMA), the legislature authorized the creation of RTPOs (RCW 47.80). RTPOs are voluntary organizations composed of local governments whose purpose is to coordinate transportation planning on a regional basis and to develop a regional transportation plan. Some of the responsibilities of RTPOs are:

- Establish a cooperative planning process with public involvement.
- Provide a forum for state and local agencies to coordinate their planning.
- Certify that local plans are consistent with the GMA and the regional plan.
- Prepare a regional transportation plan that identifies regionally important transportation facilities, outline a strategy and approach for the region to guide system development and a financing plan.
- Develop a six-year TIP which is required to be updated at least once every two years and includes a prioritized list of regional projects drawn from state, transit, tribal, city, and county TIPs and how the program of projects will be financed.

- Develop criteria that relates to regional priorities, establish application procedures, project selection, inform local agency of selection, and monitor to ensure delivery of regional TAP funds. Federal funds cannot be suballocated to individual jurisdictions or modes based on a predetermined percentage or formula (23 CFR 450.324).

After the RTPO TIP is approved, it is submitted to WSDOT through the web-based system for inclusion in the STIP.

A list of MPOs and RTPOs is at:

www.wsdot.wa.gov/nr/rdonlyres/91717186-9193-4054-807d-3b229d016fe8/0/mportpowsdotdirectory021113.pdf

A map of MPOs and RTPOs is at:

www.wsdot.wa.gov/nr/rdonlyres/cf5ead4f-f9c9-46f9-b97a-f0e7945f2254/0/mportpomapforweb.pdf

.33 County Lead Agencies – County lead agencies are responsible for developing a county-wide approach to select priority transportation projects in their respective regions. Transportation needs of the rural counties are often much different than the needs of metropolitan areas. Rural counties frequently partner with the smaller local jurisdictions to meet the broader needs of the county-wide transportation system. Responsibilities of county-lead agencies include:

- Develop criteria that relates to county-wide priorities, establish application procedures, project selection, inform local agencies of selection and monitor to ensure delivery of Surface Transportation Program (STP) funds. Federal funds cannot be suballocated to individual jurisdictions or modes based on a predetermined percentage or formula (23 CFR 450.324).
- Include non-metropolitan local officials with responsibility for transportation, including Indian tribal governments and provide for consideration of all modes of transportation.
- Public involvement through the respective agency's six-year program hearings and selection processes.

After projects are prioritized, selected, and approved through the county-wide process, the projects are programmed in the respective lead agency's TIP. Upon approval of the agency TIP, it is submitted to the RTPO or WSDOT (as applicable) for inclusion in the STIP.

.34 Local Agencies Outside MPOs – Local agencies outside MPOs are required to comply with the state six-year programming laws as well as federal law under the Federal Transportation Act, 23 USC, and 49 USC for any project they wish to finance with federal funds. Public involvement includes the six-year program hearings and the public comment processes for the local agency.

12.4 Statewide Transportation Improvement Program (STIP)

The Federal Transportation Act requires that each state develop a STIP as a condition to authorize federal funds for transportation projects. The STIP is a four-year prioritized program of transportation projects, compiled from local and regional plans along with the Washington Transportation Plan (WTP). The STIP includes projects such as pavement overlays, roadway widening, bridge replacement or repair, signal systems, safety enhancements, bicycle and pedestrian facilities, and transit improvements. Projects included in the STIP are funded by a combination of federal, state, and local sources. Federal aid projects must be included in the STIP before FHWA or FTA can authorize the expenditure of federal funds. Once projects are approved in the STIP, agencies may request project authorization with federal funds.

The STIP is developed annually beginning in October. A draft STIP is available for public review in November on WSDOT's website. FHWA and FTA approve the STIP in January. WSDOT launches the searchable database of the STIP, available to all on WSDOT's STIP web page.

The STIP includes:

- All TMA transportation improvement programs without change.
- All MPO transportation improvement programs without change.
- All transportation funding improvement programs for the remainder of the state.
- Involvement of:
 - Local Agencies
 - Regional Transportation Planning Organizations
 - Transportation Management Areas
 - Metropolitan Planning Organizations
 - WSDOT
 - Transit Agencies
 - Tribes
 - The Governor's Office

The basic required elements of the STIP are:

- All proposed highway and transit projects in the state funded under Title 23 and Title 49 USC, including federal lands projects.
- Consistent with the statewide transportation plan.
- In carbon monoxide, ozone, PM-10, or PM-2.5 nonattainment areas, include projects that conform with the State Implementation Plan (SIP).
- Consistent with expected available funding.

- Identify projects and selection priorities developed with appropriate consultation and/or coordination with local jurisdictions, metropolitan planning organizations, and federal lands agencies.
- Include regionally significant projects funded with federal funds other than those administered by FHWA or FTA and projects funded with non-federal funds.
- Meet the requirements of 23 USC 135(f), Statewide Planning, coordination with local jurisdictions, and approved by FHWA and FTA.
- Include a project or identified phase of a project, only if full funding can reasonably be anticipated to be available for the project or phase within the time period contemplated for completion of the project or the identified phase.

The STIP shall include for each project or phase:

- Project descriptions (such as type of work, termini, length, and other similar factors) to identify the project or phase of the project.
- Estimate the total project cost (all phases, all funding sources).
- Amount of federal, state, and local funds proposed to be obligated during each program year.
- Complete funding for the phase identified (all funding sources).

WSDOT is primarily responsible for implementation of the Washington State STIP. This cannot be accomplished without recognizing the requirements of all transportation providers in developing their various TIPs.

Agencies within an MPO must submit projects to the MPO, who will then submit to WSDOT for inclusion in the STIP.

Agencies with an RTPO need to check with their RTPO regarding the RTPO's policy regarding project submittal for inclusion in the STIP. There are RTPOs which require that projects are submitted to them and the RTPO will submit to WSDOT for inclusion in the STIP, while other RTPOs allow agencies to submit directly to WSDOT for inclusion in the STIP.

The following schedule shows the processes and responsibilities required by state and federal law to develop Washington's STIP. Many of the events on the schedule interact with others and require cooperation and communication between government agencies.

The schedule is crucial to managing transportation funding. Agencies must plan adequate time for discussion and analysis, public involvement, as well as time to submit information for review.

Annual STIP Timeline	
Deadline	Description
April 1	Transit agencies prepare a six-year transit development plan.
June 30	Cities and towns six-year transportation programs adopted.
July 31	Adopted TIPs due to WSDOT.
August/September	MPO/RTPO assemble regional TIP and MPOs prepare analysis for conformity finding (as applicable).
August	WSDOT reviews draft MPO/RTPO TIPs.
September/October	WSDOT, FHWA and FTA review MTIPs for air quality conformity.
October 15	All MPO and RTPO TIPs due to WSDOT.
November	WSDOT approves MPO TIPs. FHWA and FTA issue Regional Air Quality Conformity finding. Draft STIP available for public review.
December	WSDOT submits the STIP to FHWA and FTA for approval.
December	Counties adopt annual budgets and six-year programs.
January	FHWA and FTA approve the STIP.

The STIP is amended each month through October. The STIP amendment schedule is available at www.wsdot.wa.gov/ta/progmgt/stip/stip.php.htm.

12.5 Funding Sources

Once a project is selected to receive federal aid highway funding, the project *must* be developed in accordance with the federal requirements and procedures that apply to federal aid highway projects. The federal aid highway funding is administered through WSDOT which is responsible for ensuring that federal and state requirements and procedures are followed. Also, all FHWA funded programs are reimbursement programs for financing transportation projects.

.51 Surface Transportation Program – The STP program provides flexible funding that may be used by WSDOT and local agencies for projects to preserve and improve the conditions and performance on any federal aid highway, bridge and tunnel projects on any public road, pedestrian and bicycle infrastructure, and transit capital projects, including intercity bus terminals. For details on all eligible activities and additional details, go to www.fhwa.dot.gov/map21/guidance/index.cfm.

The agencies are expected to consider the relative importance of the route, roadway condition, and traffic impact on NHS routes as they prepare their six-year programs for their roadway systems. The local agencies and the responsible selection agencies will ensure their respective NHS routes are given priority in their programming process.

The federal participation rate is 86.5 percent.

Suballocation of STP

- 50 percent of STP funding is suballocated to MPOs, RTPOs, and county lead agencies based on 2010 census population as follows:
 - Urbanized areas greater than 200,000.

- Areas greater than 5,000 but no more than 200,000.
- Areas with population of 5,000 or less.
- The remaining 50 percent is available for use in any area of the state and distribution is left to the discretion of the state. Local agencies are provided a proportion of these funds in their annual allocation.

.52 National Highway Performance Program (NHPP) – The NHPP was created by the Moving Ahead for Progress in the 21st Century Act (MAP-21) of 2012.

The NHPP program provides funding for construction and preservation projects located on the newly expanded NHS, which includes the entire Interstate system and all other highways and roadways classified as principal arterials. The NHPP program provides funding that may be used by WSDOT and local agencies for projects located on the Interstate or newly expanded NHS including: construction, reconstruction, resurfacing, restoration, rehabilitation, and preservation of highways and bridges; bridge and tunnel inspection and evaluation, as well as training bridge and tunnel inspectors; transit capital; environmental restoration and mitigation; safety; construction, rehabilitation, or replacement of ferry boats and facilities; Intelligent Transportation Systems (ITS); and bicycle and pedestrian infrastructure.

In addition, MAP-21 eliminates dedicated funding for bridge repair. Therefore, the approximate 6 percent share of the NHPP program for local entities is dedicated to fund a portion of a statewide local agency competitive bridge program.

MAP-21 requires a new focus on performance and accountability and sets performance targets nationally. This requirement has states develop a risk-based asset management plan for the NHS. Once more information is provided, this section will be updated.

For information on the designated local NHS routes, go to www.wsdot.wa.gov/localprograms/.

For details on all eligible activities, go to www.fhwa.dot.gov/map21/guidance/index.cfm.

.53 Highway Safety Improvement Program (HSIP) – The HSIP continues in the Federal Transportation Act to achieve a significant reduction in traffic fatalities and serious injuries on all public roads, including non-state owned public roads and roads on tribal lands. The HSIP requires a data-driven, strategic approach to improving highway safety on all public roads that focuses on performance.

- a. **Strategic Highway Safety Plan** – The safety program requires each state to develop and implement a strategic highway safety plan that is approved by the Governor. Washington State’s plan is called Target Zero. Target Zero identifies safety problems and includes strategies to improve them. As part of the plan, the state is required to develop an evaluation process to assess results and use the information for future improvements.
- b. **Safety Program** – Safety projects selected after January 2007 will be consistent with the strategic highway safety plan.

WSDOT has two programs to address safety:

1. **City Safety Program** – The goal of the program is to fund the design/preliminary engineering, right of way, and construction phases of projects that will reduce fatal and serious injury collisions on city streets in cities of any population and state highways that serve as arterials within cities with a population above 25,000.
2. **County Safety Program** – The goal of the program is to fund the design/preliminary engineering, right of way, and construction phases of projects that will reduce run-off-road and intersection-related fatal and serious injury collisions on county roads.

Projects will be consistent with the strategic highway safety plan.

All projects funded through this program are required to report on subsequent crash data to FHWA for those years after completion of the project.

The federal participation rate is 90 percent.

For details on all eligible activities, go to www.fhwa.dot.gov/map21/guidance/index.cfm.

.54 Transportation Alternatives Program (TAP) – The current Federal Transportation Act created TAP. TAP provides funding for programs and projects defined as transportation alternatives, including on and off-road, pedestrian and bicycle facilities, infrastructure projects for improving non-driver access to public transportation and enhanced mobility, community improvement activities, environmental mitigation, recreational trail program projects, and Safe Routes to School projects.

Suballocation of TAP

- 50 percent of TAP funding is suballocated to MPOs, RTPOs, and county-lead agencies based on 2010 census population as follows:
 - Urbanized areas greater than 200,000.
 - Areas greater than 5,000 but no more than 200,000.
 - Areas with population of 5,000 or less.
- The remaining 50 percent is available for use in any area of the state and distribution is left to the discretion of the state. At this time, a proportion of these funds are dedicated to a statewide Safe Routes to School program and the remaining are provided to the RTPOs.

WSDOT and nonprofits are not eligible as direct grant recipients of the funds.

The federal share is 86.5 percent.

For details on all eligible activities, go to www.fhwa.dot.gov/map21/guidance/index.cfm.

.55 Congestion Management and Air Quality (CMAQ) – The CMAQ program provides funding for transportation projects and programs that will contribute to attainment of National Ambient Air Quality Standards (NAAQS). CMAQ provides funding for projects and programs in air quality nonattainment and maintenance areas for ozone, carbon monoxide (CO) and particulate matter (PM-10, PM-2.5) which reduce transportation related emissions. The Clean Air Act (CAA) of 1970 also provides for a set-aside for those areas with a classification for PM-2.5. For more information on Air Quality requirements, see the *Environmental Procedures Manual* M 31-11.

The primary intent is for these projects and programs to result in tangible reductions in ozone precursor and CO emissions within a timeframe to allow attainment as provided in the Clean Air Act Amendments (CAAA) of 1990. It is important to note that the Clean Air Act requires highest priority be given to the implementation of the transportation portions of applicable SIPs and Transportation Control Measures (TCMs) from applicable SIPs.

An evaluation and assessment of CMAQ projects and programs to determine the direct and indirect impact of the projects on air quality and congestion is required. Air quality benefits must be determined and documented to have projects qualify for CMAQ funds.

CMAQ funds are distributed to the five MPOs representing maintenance areas – Puget Sound Regional Council (PSRC), Spokane Regional Transportation Council (SRTC), Southwest Washington Regional Transportation Council (RTC), Yakima Valley Conference of Governments (YVCOG), and Thurston Regional Planning Council (TRPC). MAP-21 has a set-aside for MPOs designated as nonattainment or maintenance areas for PM-2.5 that are to be used to address PM-2.5 emissions. PSRC is expected to be designated in 2013.

CMAQ funds cannot supplant existing funds. If CMAQ eligible work is included within a project that is funded by another federal fund source, the CMAQ eligible work must be funded using the federal fund source for the rest of the project.

Project planning activities are eligible only if the project leads directly to construction of a CMAQ project; that is, system planning and other non-project specific planning is not eligible. Developing computerized systems, such as a Geographic Information System, are not eligible. Studies to analyze future transportation needs are eligible only to the extent they are needed to develop project specific construction plans.

Sidewalk extensions and wheelchair ramps are eligible if they are incidental to an eligible CMAQ project, but are not eligible if they are the only work in the project. Paving projects for dust control are eligible only in areas where PM-10 nonattainment has been attributed to transportation sources.

For details on all eligible activities, go to www.fhwa.dot.gov/map21/guidance/index.cfm.

If FTA determines eligibility, CMAQ funds may be transferred to FTA to purchase alternate fuel buses and refueling stations for bus fleets and transit conversion to alternate fuel and personal rapid transit systems. Converting municipal fleet operations to alternate fuel source such as compressed natural gas is eligible in areas that require conversion as a measure to mitigate noncompliance in the Clean Air Act.

MAP-21 requires performance measures be established by USDOT for states to use to assess traffic congestion and on-road mobile source emissions and target to address those performance measures to be set by the state. In Washington, PSRC (Transportation Management Area over one million in population representing a maintenance area) is required to develop and update biennially a performance plan to achieve air quality and congestion reduction targets.

The federal participation is 86.5 percent.

For details on all eligible activities, go to www.fhwa.dot.gov/map21/guidance/index.cfm.

.56 Ferry Boat Program (FBP) – The FBP was established in MAP-21 for the construction of ferry boats and for design, right of way, and construction of ferry terminal facilities. Funds will be allocated to states for distribution to the specific eligible public entity.

Federal aid highway funds are available for capital improvements to existing ferry facilities, as well as construction of new ferry facilities. Cost-effective preventive maintenance activities that extend the useful life of the ferry facility are also an eligible activity under 23 USC 116(e). However, operational costs of a ferry, such as costs of ferry service administration, crews, general maintenance, and fuel, are not eligible for direct federal aid highway funding.

The federal participation is 80 percent.

For details on all eligible activities, go to www.fhwa.dot.gov/map21/guidance/index.cfm.

.57 Emergency Relief (ER) Program – Refer to Chapter 33 for details.

12.6 FHWA Discretionary Programs

FHWA administers some discretionary programs through its various offices. These discretionary programs represent special funding categories where FHWA solicits for candidates and selects projects for funding based on applications received. Each program has its own eligibility and selection criteria that are established by law, by regulation, or administratively. Below is a brief description of these programs.

.61 Federal Lands and Tribal Transportation Programs – The Federal Transportation Act continues to acknowledge the importance of access to federal and tribal lands. Recognizing the need for all public federal and tribal transportation facilities to be treated under uniform policies similar to the policies that apply to federal aid highways and other public transportation facilities, a unified program was created for federal lands transportation facilities, federal lands access transportation facilities, and tribal transportation facilities.

- **Federal Lands Transportation Program** – Provides funding for projects that improve access within the federal estate, such as national forests and national recreation areas on infrastructure owned by the federal government. This program combines the former Park Roads and Refuge Roads programs, and adds three new Federal Land Management Agency (FLMA) partners. A portion of the funds will support traditional partner agencies at current funding levels with new partners competing for a modest portion. All FLMA partners will administer the program using a new performance management model.
- **Federal Lands Access Program** – Provides funding for projects that improve access to the federal estate on infrastructure owned by states and local governments. Replacing and expanding the forest highways program, projects providing access to any federal lands are eligible for this new comprehensive program. Funds are distributed by formula based on recreational visitation, federal land area, federal public road mileage, and the number of federal public bridges. Programming decisions will be made locally using a tri-party model in each state comprised of representatives from FHWA, state DOT, and local government, in consultation with applicable FLMAs. A new federal match is required for these funds. The Tribal Transportation Program provides funding for projects that improve access to and within Tribal lands. This program generally continues the existing Indian Reservation Roads (IRR) program, while adding new set asides for tribal bridge projects (in lieu of the existing Indian Reservation Road Bridge program) and tribal safety projects. It continues to provide set-asides for program management and oversight and tribal transportation planning. A new statutory formula for distributing funds among tribes, based on tribal population, road mileage, and average funding under SAFETEA-LU, plus an equity provision, is to be phased in over a four-year period.

For details on all eligible activities, go to www.fhwa.dot.gov/map21/guidance/index.cfm.

12.7 Transfer of STP and CMAQ Funds to the Federal Transit Administration (FTA)

Funds may be transferred from FHWA to FTA for projects that are eligible under FTA. If the project is a traditional transit project, it should be transferred to FTA. If the project involves construction of roads or highways, it should stay with FHWA.

For projects that are not clearly transit or highway, the project sponsor should select the administering federal agency. This selection should be done in informal consultation with the two agencies and the Washington State Department of Transportation. Park and ride lots, Transportation Demand Management (TDM) activities, and intermodal facilities might be eligible under both agencies' programs.

This matrix illustrates the FTA transfer options:

	FTA	FHWA
Transit Rolling Stock	X	
Park and Ride Lots	X	X
Pedestrian Ways	X	X
Refueling Bus	X	
Carpool and Vanpool	X	X
Regional Rideshare	X	X
Commute Trip Reduction	X	X
Bikeways		X
Intermodal Station	X	
Bus and Signal Priority		X
Transit Maintenance and Operations	X	
Ferry Terminals	X	X
Passenger Ferry Vessels	X	
People Mover	X	
Auto Ferry Vessels-Metro (Puget Sound)	X	
Auto Ferry Vessels-Rural		X

If the project is to be implemented through FTA, the entire project, including all phases, should be transferred. In some instances (some transit planning studies and selected projects not clearly defined above), funds to a transit agency may be approved through FHWA. Generally, these projects will have their scope of work and administrative oversight administered through WSDOT's Public Transportation Division.

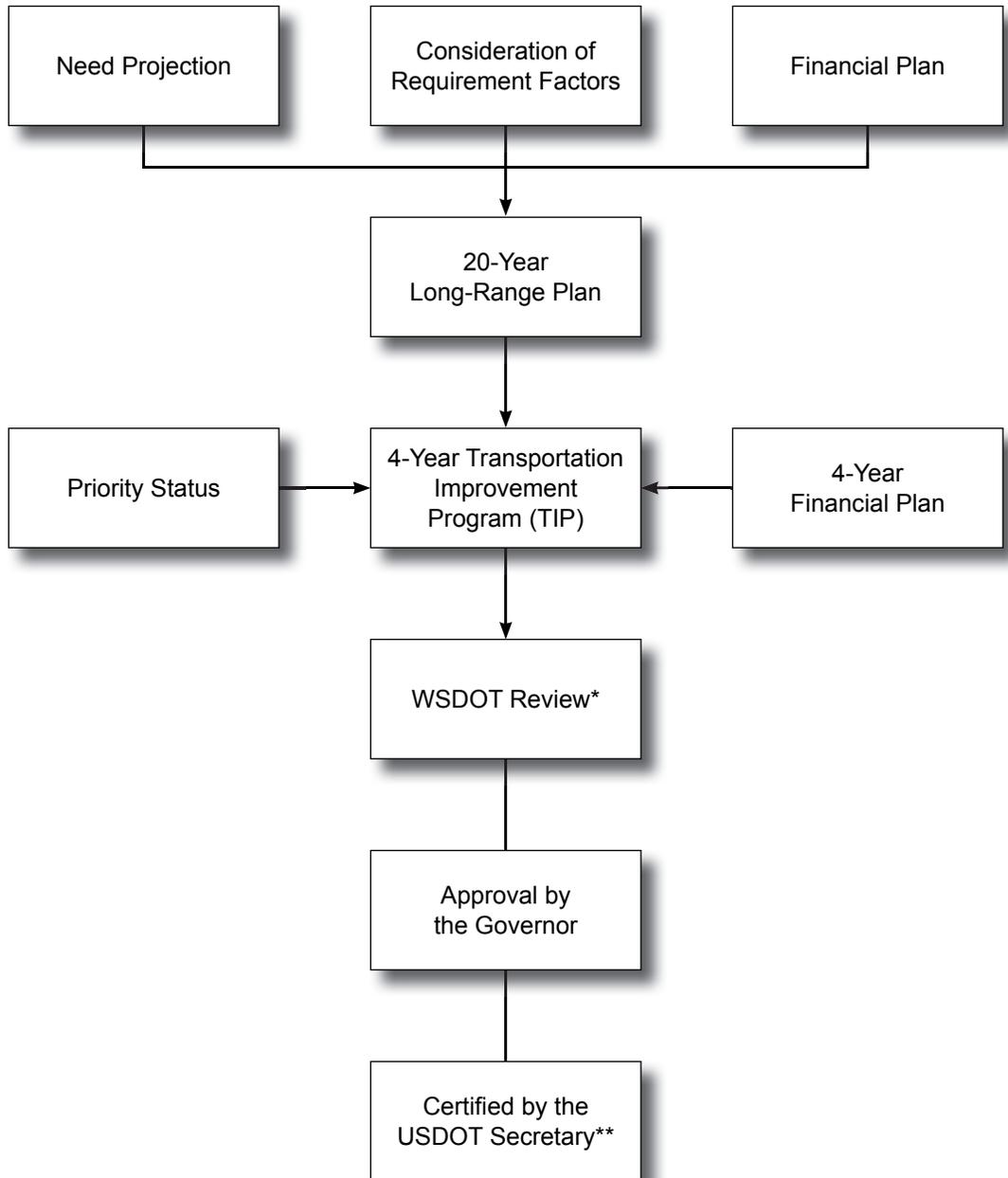
Once FTA has reviewed the application and it is complete and ready for approval, FTA requests the transfer through H&LP. H&LP will request the transfer of funds from FHWA to FTA. FHWA action to transfer the funds is considered an obligation of federal funds. FTA will subsequently work with the grant recipient to utilize the transferred funds.

In the event an agency would like funds administered by another federal agency, the agency must submit to WSDOT a copy of the concurrence from the other federal agency to accept FHWA funds and administer the project.

12.8 Appendices

12.81 MPO Planning Flowchart

12.82 STP Lead Agencies



*TMAs exempted.
**TMAs only.

Figure 1-1
Regional Planning and Programming Process
(Simplified Chart for MPOs)

Adams County
Asotin County
Benton-Franklin Council of Governments
Chelan County
Clallam Long Range Transportation Planning Office
Columbia County
Cowlitz-Wahkiakum Council of Governments
Douglas County
Ferry County
Franklin County
Garfield County
Grant County
Grays Harbor Council of Governments
Island County
Jefferson County
Kittitas County
Klickitat County
Lewis County
Lincoln County
Mason County
Okanogan County
Pacific Council of Governments
Pend Orielle County
Puget Sound Regional Council
San Juan County
Skagit Council of Governments
Skamania County
Southwest Washington Regional Transportation Council
Spokane Regional Transportation Council
Stevens County
Thurston Regional Planning Council
Wahkiakim County
Walla Walla County
Wenatchee Valley Transportation Council
Whatcom Council of Governments
Whitman County
Yakima Valley Conference of Governments

14.1 General Discussion

The previous three chapters of this manual explained how local agencies may qualify to receive Federal Highway Administration (FHWA) funding for their transportation projects. The remainder of the manual explains procedures for developing specific projects.

Once a local agency has qualified to receive FHWA funds, as described in Chapter 12, the next action is to apply for funds to develop specific projects in its transportation program. Depending on their size and complexity, different projects may require different development procedures. The remaining chapters of the manual are arranged to reflect these differences.

Chapters 21–28, General Project Development Processes, describe activities required during preliminary engineering on all projects.

Chapters 31–34, Special Project Development Processes, describe activities that may be required on some projects.

Chapters 41–46, Design, and Chapters 51–53, Construction and Post Construction, offer the local agency a choice of procedures, depending on whether its projects are located in urban or rural areas and whether it or the state will administer its construction contracts.

Chapters 61, Local Agency Force Projects, describes procedures from project design approval through the closing of an FHWA project, using the agency's labor, equipment, and materials.

The specific requirements for a project may change as project development progresses and as more information about a project becomes available. Further details of the specific requirements are shown in the Project Development Process Flowchart and Checklist. The meanings of unfamiliar terms may be found in the Glossary. Once the local agency has identified the steps required on a particular project, only the parts in the manual that deal specifically with those steps need be referred to.

14.2 Project Development Process Overview

This section describes the project development process by setting forth project phases, documentation requirements, options for construction administration, and required reviews and approvals.

.21 Phases of Authorization – FHWA funds may be authorized for the following project phases:

- a. Preliminary engineering (planning).
- b. Right of way acquisition.
- c. Construction.

Phase Requirements When Utilizing FHWA Funds

For all phases, and at the time of each phase authorization, all funds necessary to complete the scope of work being authorized for the phase must be secured. The local agency must provide certification of secured funding with all authorization requests.

Preliminary Engineering Phase – FHWA Funds in PE Phase Only. For FHWA funds to be used in the PE phase of the project, the environmental documentation including FHWA NEPA approval, must be completed prior to advertising the project for construction. With no federal funds in the right of way or construction phases, the local agency must still follow federal environmental regulations and the Uniform Relocation Assistance and Real Property Acquisition Policies Act. A NEPA document must be approved by FHWA and all environmental commitments must be incorporated into the right of way and construction phases. Right of way must be acquired per the *Right of Way Manual* M 26-01 and acquisition may proceed during the PE Phase in accordance with the manual. Any study projects are excluded from NEPA approval.

Right of Way Phase – FHWA Funds in Right of Way Phase. For FHWA funds to be used in the right of way phase of the project, the environmental documentation including FHWA NEPA approval, approved relocation plan (if applicable), Project Funding Estimate, approved right of way plan must be completed prior to FHWA R/W authorization. All property acquisitions and relocations must be completed prior to advertising the project. All environmental commitments must be incorporated into the R/W and construction phases. The right of way must be certified by WSDOT prior to advertising the project, even if no federal funds are used in construction.

Construction Phase – FHWA Funds in Construction Phase. All federal laws are triggered with federal funds in the construction phase; examples include NEPA, Title 23 USC, Uniform Relocation Assistance and Real Property Acquisition Policies Act, Buy America, and Davis-Bacon. After approval of the NEPA document, right of way certification, and the DBE/Training goals are established the construction phase can be authorized by FHWA. Once FHWA authorizes construction funding the local agency has authority to advertise the project. For Intelligent Transportation Projects (ITS) or projects that include ITS components (cameras, signal interconnect, fiber optic, etc.) agencies must complete and submit the ITS information form (Appendix 41.53) with the construction authorization request.

Documentation Requirements When Utilizing FHWA Funds	PE Phase: FHWA Funds in PE Phase Only ¹	R/W Phase: FHWA Funds in the R/W Phase ²	CN Phase: FHWA Funds in the Construction Phase ³
Required Documentation			
STIP	X	X	X
Approved NEPA	X ⁴	X ⁴	X ⁴
Approved Relocation Plan (if applicable)		X	
Project Funding Estimate		X	
Approved R/W Plan		X	
WSDOT Approved Right of Way Certification		X	X
DBE/Training Goals			X
Design per LAG Manual			X
Environmental per LAG Manual	X	X	X
R/W Acquisition per LAG Manual		X	X
Construction per LAG Manual			X
Intelligent Transportation Systems Information Form (Appendix 41.53)			X

¹Local Agency must provide documentation after completion of the PE phase that the project has been or will be constructed with non-FHWA funds.

²Local Agency must provide documentation after completion of the PE and R/W phases that the project has been or will be constructed with non-federal funds.

³Local Agency must provide documentation after completion of the CN phase as documented in this manual.

⁴Any environmental commitments must be incorporated into the R/W and /or CN phases.

⁵Local Agencies must provide a completed form if the project includes ITS components (see Appendix 41.53).

.22 Documentation Required for Authorization of Funds

- a. **Planning With STP Funds** – “Urban Transportation Planning” is an interdisciplinary process for developing and monitoring long- and short-range transportation plans and improvement programs. These plans and programs are formulated with due consideration of present and anticipated future social, economic, and environmental factors and the safety and mobility needs of the population of the urban area. It is a dynamic process, in that it is continuously monitored to accommodate changes of land use, economic conditions and other factors influencing travel patterns. Because of the vast amount of capital expenditures required in the implementation of transportation systems (both highway and transit related), these projects could radically influence land use development in an area or region. Due to the substantial influences that transportation improvements have on the character of the land, it is important that transportation improvements reflect the overall regional social and economic objectives pertaining to community development.

FHWA funded planning activities and studies are identified in Title 23, Part 420 USC, as activities not included in a work program but necessary in development of procedures and project identification.

For planning and Transportation Demand Management (TDM) funding, the following documents are required:

1. Project prospectus planning scope of work (Chapter 21).
 2. Local Agency Agreement (Chapter 22).
 3. Evidence of STIP inclusion.
 4. Documented cost estimate.
 5. Updated Quarterly Project Report, if required.
- b. **Preliminary Engineering Funds** – When applying for preliminary engineering funds only, the following documents are required:
1. Project Prospectus (Chapter 21).
 2. Local Agency Agreement (Chapter 22).
 3. Typical sections, vicinity map, and evidence of STIP inclusion.
 4. Documented cost estimate
 5. Updated Quarterly Project Report, if required.
- c. **Right of Way Funds** – When applying for right of way funds, after preliminary engineering funds have developed right of way plans, the following documents are required, if appropriate:
1. Supplement to original Local Agency Agreement (Chapter 22).
 2. FHWA approval of environmental documents (Chapter 24).
 3. Relocation plan, if relocation is required (Chapter 25).
 4. Right of way plan (Chapter 25).
 5. Right of way Project Funding Estimate or True-Cost estimate (Chapter 25).
 6. Evidence of STIP inclusion.
 7. Updated Quarterly Project Report, if required.
- d. **Construction Funds** – The following documents must be submitted to request construction funds:
1. Supplement to Local Agency Agreement. The agency’s proposed advertisement date must be noted on the supplement, or the original LAA if construction is the first phase authorized.
 2. Right of way certification (if required).
 3. Final FHWA approval of environmental documents (Chapter 24).
 4. Evidence of STIP inclusion.
 5. Engineer’s Estimate.
 6. Evidence of assignment of DBE/training goals.
 7. Updated Quarterly Project Report, if required.

Request Construction Funds (Chapter 14)

Date or N/A	Initials	
_____	_____	Project in STIP
_____	_____	Send letter with the following attachments to Region Highways and Local Programs Engineer requesting construction funds:
_____	_____	Supplement to Local Agency Agreement, if project includes other phases
_____	_____	Letter of right of way certification
_____	_____	Final FHWA approval of environmental documents

Local Ad and Award Advertise for Bids (Chapter 46)

_____	_____	Get Highways and Local Programs Contract Number _____ from Region Highways and Local Programs Engineer
_____	_____	Approve ad period of less than three weeks
_____	_____	Publish notice of bid opening
_____	_____	Date of publication for sealed bids

Bid Opening (Chapter 46)

_____	_____	Issued addendum (if within one week of bid opening, bid opening should be delayed)
_____	_____	Opened bids
_____	_____	Prepared bid tabulation sheet
_____	_____	Checked submitted bids for tabulation errors
_____	_____	Completed bid and bidders tabulation sheet
_____	_____	Checked DBE participation project goals – verify DBE certification status
_____	_____	Request DBE concurrence to award from H&LP for contracts containing DBE Goals
_____	_____	Determine responsive bid
_____	_____	Determine contractor qualifications
_____	_____	Contractor registered by Washington State Department of Labor and Industries
_____	_____	Contractor licensed as required by the laws of the State of Washington
_____	_____	The System for Award Management (SAM) has been checked and documented (www.sam.gov/portal/public/sam/)
_____	_____	Award recommendation sent to approving authority
_____	_____	When low bid is over engineer's estimate, submit justification and letter of award recommendation to approving authority
_____	_____	Submit supplement to Local Agency Agreement
_____	_____	Supplement approved by Highways and Local Programs

Award of Contract (Chapter 46)

Initials	Date or N/A	
_____	_____	Establish contract award date _____
_____	_____	Sent "Award Letter" to successful low bidder
_____	_____	Sent request for a DBE Utilization Certification breakdown if a DBE goal was set
_____	_____	Sent "Condition of Award" to successful low bidder if DBE goals are set in the contract
_____	_____	Notify all unsuccessful bidders
_____	_____	Return bid bonds
_____	_____	Notify second and third bidders of holding bid bonds until execution
_____	_____	Sent award data to the Region Local Programs Engineer:
_____	_____	Tabulation of bids
_____	_____	Engineer's estimate
_____	_____	Actual versus estimated costs shown in Local Agency Agreement
_____	_____	Award letter
_____	_____	DBE Utilization Certification, DOT Form 272-056A EF (if applicable)
_____	_____	Estimated date of contract completion or number of working days for the contract
_____	_____	Names and addresses of all firms that submitted a quote to the successful low bidder

DATE OF AWARD IS CUTOFF FOR CHARGING TO PRELIMINARY ENGINEERING

Construction Administration Execution of Contract (Chapter 46)

_____	_____	Sent contract and contract bond papers to contractor for signature
_____	_____	"Certificate of Insurance" received from contractor
_____	_____	Approving authority executed contract documents
_____	_____	Notified the contractor by phone of the execution of the contract
_____	_____	Executed a copy of the contract to contractor
_____	_____	Sent notice to proceed to contractor, with cc to Region Highways and Local Programs Engineer
_____	_____	Returned bid bonds to second and third bidders

Preconstruction Conference (Chapter 51)

_____	_____	Notice of preconstruction conference to:
_____	_____	Contractor
_____	_____	Region Highways and Local Programs Engineer
_____	_____	Affected utility companies
_____	_____	Police department
_____	_____	Fire department
_____	_____	Hospital

Initials	Date or N/A	
_____	_____	_____ Ambulance service
_____	_____	_____ Post Office
_____	_____	_____ Others _____
_____	_____	_____ _____
_____	_____	_____ _____
_____	_____	Preconstruction conference agenda prepared
_____	_____	Preconstruction conference held
_____	_____	Minutes of meeting to:
_____	_____	_____ Contractor
_____	_____	_____ Subcontractors
_____	_____	_____ Region Highways and Local Programs Engineer
_____	_____	_____ Other attending persons
_____	_____	_____ Invited but not represented agencies
_____	_____	_____ Project file
_____	_____	“Training Program”:
_____	_____	_____ Received from contractor
_____	_____	_____ Approved by agency
_____	_____	“Apprentice/Trainee”:
_____	_____	_____ Approval request from contractor
_____	_____	_____ Approved by agency

Construction Documentation (Chapter 52)

_____	_____	“Record of Material” received from WSDOT Materials Laboratory
_____	_____	Contractor provides copies of permits obtained from other agencies and/or property owners:
_____	_____	_____ Washington State Department of Wildlife/Fisheries-Hydraulic Permit
_____	_____	_____ Washington State Department of Ecology
_____	_____	_____ Irrigation Regionals
_____	_____	_____ Burlington Northern Railroad
_____	_____	_____ Union Pacific Railroad
_____	_____	_____ Air Pollution Control Authority
_____	_____	_____ _____
_____	_____	_____ _____
_____	_____	_____ _____
_____	_____	Temporary water pollution control plan approved
_____	_____	Agency requests updated ESA species listing every six months
_____	_____	Approved contractor’s progress schedule
_____	_____	Received railroad insurance from contractor
_____	_____	Construction diary started
_____	_____	Inspector’s diary started
_____	_____	“Certification of Materials Origin” received from contractor
_____	_____	Material source approval received

Initials	Date or N/A	
_____	_____	Plans for falsework and forms:
_____	_____	Received from contractor
_____	_____	Approved by agency
_____	_____	Required job site posters placed by contractor:
_____	_____	WH 1321 – Employee Rights Under the Davis-Bacon Act (project engineer to fill in contact information on the form prior to supplying to the contractor)
_____	_____	FHWA-1022 – Notice Federal Aid Project (project engineer to fill in contact information on the form prior to supplying to the contractor)
_____	_____	EEOC-P/E-1 – Equal Employment Opportunity IS THE Law
_____	_____	Whistleblower (ARRA projects only)
_____	_____	WHD Publication 1088 – Employee Rights Under the Fair Labor Standards Act
_____	_____	WHD Publication 1420 – Employee Rights and Responsibilities Under the Family and Medical Leave Act
_____	_____	WHD 1462 – Employee Polygraph Protection Act
_____	_____	WISHA F416-081-909 – Job Safety and Health Law
_____	_____	F242-191-909 – Notice to Employees (L&I)
_____	_____	F700-074-909 – Your Rights as a Worker in Washington State
_____	_____	EMS 9874 – Unemployment Benefits
		If federal funds are involved, all of these posters are required, except that the Whistleblower poster is required only for ARRA funded projects.
_____	_____	Daily construction signing records started (checked twice daily and recorded)
_____	_____	Weekly statement of working days started
_____	_____	Material acceptance sampler appointed
_____	_____	Material independent assurance sampler appointed
_____	_____	Appointed office engineer for progress estimates and final records
_____	_____	Obtain a copy of the scale certifications
_____	_____	Daily scale check
_____	_____	Received FHWA Form 1391 for each July from contractor and subcontractors
_____	_____	FHWA Form 1392 prepared and sent to Region Highways and Local Programs
_____	_____	Received “Request to Sublet Work” and “Subcontractor or Agent Certification” from contractor
_____	_____	Approved request to sublet (subject to 70 percent limit)
_____	_____	Received “Intent to Pay Prevailing Wages” from contractor, subcontractors, and agents
_____	_____	Received approved “Intent to Pay Prevailing Wages” from Labor and Industries (required before first payment)
_____	_____	Checked first certified payroll from contractor and subcontractors to ensure payment of prevailing wages
_____	_____	Conducted random check of each successive payroll
_____	_____	Wage rate interviews conducted

Initials	Date or N/A	
_____	_____	Checked employee interview wage rate against certified payroll and Labor and Industries approved prevailing rate
_____	_____	Assigned Change Order Numbers _____ (Highways and Local Programs approval required when change order will alter the termini, character, or scope of work. Approval must be obtained before effective date of change order to be eligible for federal participation.)
_____	_____	Prepare change order that details basis and need for the change
_____	_____	Extension of time approved _____ days
_____	_____	Change order signed by contractor
_____	_____	Change order signed by surety (if required)
_____	_____	Verbal approval obtained from approving authority
_____	_____	Signed by approving authority
_____	_____	Original sent to contractor
_____	_____	Copy of approved change order sent to Region Highways and Local Programs Engineer
_____	_____	Supplement to Local Agency Agreement approved by the Director of Highways and Local Programs
_____	_____	Obtained copy of monthly estimate
_____	_____	Verified and documented that DBE is performing a commercially useful function prior to making a monthly payment
_____	_____	Prepared estimate
_____	_____	Checked estimate
_____	_____	Estimate sent to contractor
_____	_____	Estimate received from contractor
_____	_____	Obtain all "Intent to Pay Prevailing Wages" forms (for first month only; no payment can be made to the contractor until the form is received)
_____	_____	Overview of DBE Work (Chapter 26):
_____	_____	Verify work being done per Condition of Award Letter
_____	_____	Conduct on-site review(s) of each DBE to determine if the DBE is performing a commercially useful function (CUF)
_____	_____	Review change orders that affected DBE work
_____	_____	DBE goal change approved by the Director of Highways and Local Programs
_____	_____	Overview of EEO (Chapter 27):
_____	_____	Agency designates an EEO officer
_____	_____	Conduct on-site compliance review
_____	_____	Monitor DOT Form 820-010 EF each month for each trade
_____	_____	Notify contractor of compliance or noncompliance with the contract provisions
_____	_____	Ensure EEO signs are posted

Project Completion (Chapter 52)

Initials	Date or N/A	
_____	_____	Prefinal inspection by local agency and contractor completed
_____	_____	Final inspection by local construction agency and contractor completed
_____	_____	Report of Non-American Made Material (GSP 0605.GR1) received from contractor
_____	_____	Notice of completion sent to contractor
_____	_____	Extension of time request with justification received from contractor
_____	_____	Extension of time granted, _____ days
_____	_____	Extension of time refused, _____ days
_____	_____	_____ liquidated damages
_____	_____	Letter sent notifying contractor of assessed liquidated damages
_____	_____	Copy of completion notice requesting inspection and acceptance by Region Local Programs
_____	_____	Contractor submitted claim
_____	_____	No claim submitted
_____	_____	Notice of completion to:
_____	_____	Department of Labor and Industries
_____	_____	Department of Revenue
_____	_____	Received "Affidavit of Wages Paid" from contractor and subcontractors
_____	_____	Received ESA species listing for the project every six months
_____	_____	Received "Quarterly Report of Amounts Credited as DBE Participation" from contractor
_____	_____	Release received from Department of Labor and Industries
_____	_____	Release received from Department of Revenue
_____	_____	Comparison of preliminary and final quantities sent to approving authority
_____	_____	Material certification form sent to approving authority
_____	_____	Completed "Report of Contractor's Performance" for prime contractor
_____	_____	As built plan completed (to be retained indefinitely)
_____	_____	Final record book #1 completed
_____	_____	Final estimate approved by the approving authority
_____	_____	Final estimate received from contractor
_____	_____	Paid final estimate
_____	_____	Released retained percentage from escrow or mailed check to contractor

Project Closure (Chapters 32 and 53)

_____	_____	Completion letter sent to Region Highways and Local Programs Engineer (within 15 days after project is completed)
_____	_____	Final billing sent to Region Highways and Local Programs Engineer (within 90 days after completion)
_____	_____	Completed final field inspection by the Region Highways and Local Programs Engineer. Deficiencies (if any) will be noted on DOT Form 140-500 EF.
_____	_____	Resolve deficiencies found during the above field inspection
_____	_____	Informed by Region Highways and Local Programs Engineer of WSDOT final billing approval

Appendix 21.47

Local Agency Federal Aid Project Prospectus



Local Agency Federal Aid Project Prospectus

Federal Aid Project Number	Prefix	Route	()	Date	3/28/2013
Local Agency Project Number			(WSDOT Use Only)	Central Contractor Registration Exp. Date	
				Federal Employer Tax ID Number	

Agency		Federal Program Title <input type="checkbox"/> 20.205 <input type="checkbox"/> Other			
Project Title		Start Latitude N	Start Longitude W		
		End Latitude N	End Longitude W		
Project Termini From - To		Nearest City Name		Project Zip Code	
From:	To:	Length of Project	Award Type <input type="checkbox"/> Local <input type="checkbox"/> Local Forces <input type="checkbox"/> State <input type="checkbox"/> Railroad		
Federal Agency <input type="checkbox"/> FHWA <input type="checkbox"/> Others		City Number	County Number	County Name	WSDOT Region
Congressional District		Legislative Districts		Urban Area Number	TMA / MPO / RTPD

Phase	Total Estimated Cost (Nearest Hundred Dollar)	Local Agency Funding (Nearest Hundred Dollar)	Federal Funds (Nearest Hundred Dollar)	Phase Start Date	
				Month	Year
P.E.					
R/W					
Const.					
Total					

Description of Existing Facility (Existing Design and Present Condition)	
Roadway Width	Number of Lanes

Description of Proposed Work
Description of Proposed Work (Attach additional sheet(s) if necessary)

Local Agency Contact Person	Title	Phone
Mailing Address	City	State WA
	Zip Code	
Project Prospectus Approval		
By _____	Approving Authority	
Title _____	Date _____	

Agency	Project Title	Date 3/28/2013
--------	---------------	-------------------

Type of Proposed Work			Roadway Width	Number of Lanes
Project Type (Check all that Apply)				
<input type="checkbox"/> New Construction	<input type="checkbox"/> Path / Trail	<input type="checkbox"/> 3-R		
<input type="checkbox"/> Reconstruction	<input type="checkbox"/> Pedestrian / Facilities	<input type="checkbox"/> 2-R		
<input type="checkbox"/> Railroad	<input type="checkbox"/> Parking	<input type="checkbox"/> Other		
<input type="checkbox"/> Bridge				

Geometric Design Data				
Description	Through Route	Crossroad		
Federal Functional Classification	<input type="checkbox"/> Urban	<input type="checkbox"/> Principal Arterial	<input type="checkbox"/> Urban	<input type="checkbox"/> Principal Arterial
	<input type="checkbox"/> Rural	<input type="checkbox"/> Minor Arterial	<input type="checkbox"/> Rural	<input type="checkbox"/> Minor Arterial
	<input type="checkbox"/> NHS	<input type="checkbox"/> Collector	<input type="checkbox"/> NHS	<input type="checkbox"/> Collector
		<input type="checkbox"/> Major Collector		<input type="checkbox"/> Major Collector
		<input type="checkbox"/> Minor Collector		<input type="checkbox"/> Minor Collector
	<input type="checkbox"/> Local Access		<input type="checkbox"/> Local Access	
Terrain	<input type="checkbox"/> Flat <input type="checkbox"/> Roll <input type="checkbox"/> Mountain	<input type="checkbox"/> Flat <input type="checkbox"/> Roll <input type="checkbox"/> Mountain		
Posted Speed				
Design Speed				
Existing ADT				
Design Year ADT				
Design Year				
Design Hourly Volume (DHV)				

Performance of Work		
Preliminary Engineering Will Be Performed By	Others %	Agency %
Construction Will Be Performed By	Contract %	Agency %

Environmental Classification	
<input type="checkbox"/> Class I - Environmental Impact Statement (EIS)	<input type="checkbox"/> Class II - Categorically Excluded (CE)
<input type="checkbox"/> Project Involves NEPA/SEPA Section 404 Interagency Agreement	<input type="checkbox"/> Projects Requiring Documentation (Documented CE)
<input type="checkbox"/> Class III - Environmental Assessment (EA)	
<input type="checkbox"/> Project Involves NEPA/SEPA Section 404 Interagency Agreement	

Environmental Considerations

Agency	Project Title	Date 3/28/2013
--------	---------------	-------------------

Right of Way

<input type="checkbox"/> No Right of Way Required * All construction required by the contract can be accomplished within the existing right of way.	<input type="checkbox"/> Right of Way Required <input type="checkbox"/> No Relocation	<input type="checkbox"/> Relocation Required
--	--	--

Description of Utility Relocation or Adjustments and Existing Major Structures Involved in the Project

FAA Involvement
Is any airport located within 3.2 kilometers (2 miles) of the proposed project? Yes No

Remarks

This project has been reviewed by the legislative body of the administration agency or agencies, or it's designee, and is not inconsistent with the agency's comprehensive plan for community development.

Agency _____
Date _____ By _____
Mayor/Chairperson

22.1 General Discussion

A Local Agency Agreement is an agreement between a local agency and the Washington State Department of Transportation (WSDOT). An agreement is prepared for each federal aid project, and it covers all phases of work involved in the project (preliminary engineering, right of way acquisition, construction). Its purpose is to ensure that the federal funds in the agreed-upon amount are spent in accordance with all applicable state and federal laws and regulations. The agreement also specifies the procedure for payment and reimbursement on the project. Appendix 22.55 is used if funds are not available for the local match.

If the federal aid participation ratio entered in the agreement is not the full amount allowed by the Federal Highway Administration (FHWA), then the participation ratio entered becomes the limit of funding allowed.

No costs are eligible for federal aid reimbursement until authorized in writing by WSDOT. This authorization is separate from the agreement

The total cost of a project (including federal, state, agency, and private funds) must be shown on the Local Agency Agreement for each phase of work that includes federal or state funds. At the time of each phase authorization, all funds necessary to complete the scope of work for that phase must be secured. Certification of secured funding must be included with all authorization requests. This certification can be in the form of an email or memorandum from the local agency.

When authorizing construction, the agency's proposed advertisement date must be noted on the supplemental Local Agency Agreement, or the original LAA if construction is the first phase authorized. Local Agencies are expected to go to ad within six weeks of construction authorization.

All funds shown on the Local Agency Agreement must be supported by a documented cost estimate (23 CFR Part 630) that is based on an Agency's best estimate of costs. The cost estimate must demonstrate how the funds shown on the LAA were determined, and what information was used in the calculation.

22.2 Preparation Procedure

An original Local Agency Agreement signed by the approving authority must be submitted by the local agency to the Region Highways and Local Programs Engineer when the Project Prospectus (Chapter 21) is submitted. This agreement form will be retained by WSDOT. It is the responsibility of the local agency to submit an additional agreement form or a copy if they need an executed agreement for their files. To allow sufficient time for WSDOT review and execution, these documents should be submitted well in advance of the time when federal reimbursement is desired.

Agreements containing errors will be returned to the local agency for correction. Any changes must be initialed by the approving authority (Chapter 13). To avoid this delay, the agency should check all figures prior to submittal, and if in doubt, request assistance from the Region Highways and Local Programs Engineer.

An agreement form (DOT Form 140-039 EF) is contained in Appendix 22.51, with instructions for completing it in Appendix 22.52. Local agency cost estimates for each phase of a project are entered on the form, as well as the project name, length, termini, description, and method of construction financing. These methods are described in Appendix 22.52.

Local agency resolutions or ordinances that may be needed are discussed in Appendix 22.52.

22.3 Supplemental Agreement

Funds requested beyond the amount set forth in a Local Agency Agreement will require execution of a Supplemental Agreement.

Changes to the project funding must be made in accordance with this manual (see Chapter 12) and must be accompanied by documented cost estimates for phases already authorized or seeking authorization (23 CFR Part 630).

A Supplemental Agreement form (DOT Form 140-041 EF) is shown in Appendix 22.53, and instructions for completing it are given in Appendix 22.54. Like the original agreement form, the Supplemental Agreement form requires information about the project's name, length, termini, description, and funding.

22.4 Documented Cost Estimate

A documented cost estimate is an itemized estimate of costs broken down by phase for a project. Preliminary engineering estimates can be based on a percentage of historical construction costs, or based on historical labor and equipment needs used to complete similar design efforts. Right of way estimates will be the right of way project funding estimate (Appendix 25.172) or true cost estimate (Appendix 25.173). Construction estimates will be the engineer's estimate, including construction engineering costs. Bid tabulations, or award data may be used to justify increases when completing Supplemental Agreements.

Acceptable references for building a documented estimate may be historical construction costs, estimates from recent similar work, WSDOT Unit Bid Analysis, or other estimating methods. A cost estimate must be provided for each phase shown on the Local Agency Agreement, including preliminary engineering. Estimates for the Construction Phase should include funds for construction engineering in addition to the Engineer's Estimate.

When submitting a cost estimate with a Supplemental Agreement please provide a brief statement explaining what costs changed since the original Local Agency Agreement was created. Bid tabulations or award data may be used to justify Supplemental Agreement increases for construction phases of a project.

Chapter 23 Progress Billing (Reimbursement Costs)

23.1 General Discussion

All progress billings shall be submitted monthly to the Region Local Programs Engineer by the local agency in accordance with the terms of the Local Agency Agreement (Chapter 22). Billings will not be accepted before the Local Agency Agreement is executed and authorization in writing has been received from the Washington State Department of Transportation (WSDOT).

The execution of the Local Agency Agreement does not constitute approval of federal funds. This authorization from WSDOT is separate from the Local Agency Agreement.

The Local Agency Agreement, when completed, establishes a work order account which permits billing to the project. The Work Order Accounting Plan (WOAP) and the work order ledger may be seen at the region office where the Region Local Programs Engineer can answer questions pertaining to these items.

WSDOT assigns a contract number on all federal aid construction projects. This number identifies the project. It should be used in addition to the federal aid project number when corresponding with WSDOT.

23.2 Billing Procedures for Local Agency Ad and Award and Agency Force Work

Once Highways and Local Programs has executed the Local Agency Agreement and WSDOT has given the local agency written authority to proceed, the agency submits progress billings monthly for each phase of work. Any work that is performed before the official authorization date does not qualify for federal participation. Progress billings are submitted as follows:

1. Highways and Local Programs sends the local agency the original fund authorization letter.
2. The agency submits a request for payment to the Region Local Programs Engineer in accordance with the Local Agency Agreement. The first federal aid request for payment (PPC2; Appendix 23.71) must include the first date expenditures were actually incurred on the project.

All payment requests must be substantiated by the required standard documentation established in this manual, the *Construction Manual M 41-01*, requirements of the contract documents, and as defined by FHWA and must be available for review.

All payment requests, including the final request for payment may be submitted by hard copy or electronically via email. (Contact the Region Local Program Engineer.)

- All hard copy requests for payment must have an original signature in order to be processed.

- All email requests for payment must include all of the following in order to be processed:
 1. Agency.
 2. Project title.
 3. Federal aid project number.
 4. Local agency agreement number.
 5. “Submission of this request for payment certifies that in accordance with the laws of the State of Washington and under the conditions of approval for the project identified above, actual costs claimed have been incurred and are eligible for the purposes specified; also, that no other claims have been presented to or a payment made by, the State of Washington for those costs claimed for reimbursement.”

The form must be completed in accordance with the instruction outlined in Appendix 23.72.

23.3 Billing Procedures for State Ad and Award

Progress billings are submitted as follows:

- Requests for payment from contractors are submitted to the Regional Administrator in accordance with the Local Agency Agreement.
- The requests will be processed in the region using standard WSDOT procedures.

23.4 Number and Timing of Submittals

Progress billings will be numbered sequentially and submitted monthly.

If the billing is prepared properly, payment should normally be received within three weeks of submittal. If payment is not received within one month, the agency should contact the Region Local Programs Engineer.

FHWA requires WSDOT to conduct a quarterly review of local agency inactive projects for which no expenditures have been charged against the federal project for the past 12 months. (Financial Integrity Review and Evaluation (FIRE) program – 23 CFR 630 Subpart A Section 106.)

The thresholds that will deem a project inactive and require evaluation and documented justification for remaining open include:

- Projects inactive for the past 12 months with unexpended balances more than \$500,000.
- Projects inactive for the past 24 months with unexpended balances of \$50,000 to \$500,000.
- Projects inactive for the past 36 months with unexpended balances less than \$50,000.

If a federal project remains open without acceptable justification and supporting documentation for remaining open, the project is at risk of being closed by FHWA. However, FHWA has the authority to tighten these requirements and request subsequent documentation. Examples of reasonable justification can be found in Appendix 23.73.

23.5 Identification of Federal Aid Participating and Nonparticipating Charges

Costs are eligible for Federal Highway Administration (FHWA) federal participation if claimed in accordance and in compliance with 23 CFR and 2 CFR 225.

No costs may be claimed for reimbursement if incurred prior to FHWA authorization to proceed with the work. All work must be programmed with FHWA.

All local governments and units of local governments that claim indirect costs under federal awards must prepare an Indirect Cost Rate Proposal (ICRP) and retain it for audit. The ICRP must be prepared in accordance with the instructions and regulations outlined in 2 CFR 225 – Cost Principles for State, Local and Indian Tribal Governments (formerly OMB Circular A-87). If the local government has been assigned a federal cognizant agency by OMB, they must submit their ICRP to their federal cognizant agency for review and approval in accordance with the federal requirements. If the local government has not been assigned a federal cognizant agency, they are required by the federal regulations to keep all records and supporting documentation used in developing their ICRP and to make it available for inspection by the auditors at the time of the audit.

Some costs have been deemed ineligible for federal participation. Ineligible costs include equipment purchase and repair (unless specifically approved by FHWA), future equipment replacement costs, and those costs unallowable under 2 CFR 225.

.51 Participating Functions – Classifications of work programmed with FHWA and eligible for federal aid:

- a. **Preliminary Engineering** – The work of locating and designing, making surveys and maps, sinking test holes, making foundation investigations, preparing plans, specifications and estimates, centerline, right of way plan preparation and other related preliminary work and incidental construction staking, to the extent such staking is necessary to review construction plans, and related general engineering preparatory to the letting of a contract for construction. The work may also include traffic counts, studies undertaken to determine traffic demands, holding of public hearings, preparation of right of way cost estimates, legal, and other costs incidental to the location and design of a highway project necessitating the acquisition of right of way thereon up to but not including the appraisal of individual parcels for acquisition purposes.

These engineering costs are generally incurred prior to the date of construction PS&E approval or the date construction plan changes are completed prior to the beginning of construction. The date of contract award is the cutoff for charging to preliminary engineering.

- b. **Acquisition of Rights of Way** – The continuation of preparation of right of way plans; appraisal for parcel acquisition; review of appraisals; preparation for and trial of condemnation cases; management of properties acquired; furnishing of relocation advisory assistance; and other related labor expenses. If RW costs are claimed after the date of contract award, please provide an explanation.
- Excess land (appraised value) including uneconomic remnants.
 - Improvements (appraised salvage value).
 - Right of way acquired after certification by the local agency that right of way necessary for a designated federal aid highway project has been acquired.
 - Judgments in condemnation cases not appealed when the attorney’s closing report indicates a basis for appeal. The amount in excess of the review appraiser’s determination of value is nonparticipating.
 - Landowners:
 - Attorneys’ fees;
 - Witness fees;
 - Expert witness fees; or
 - Similar costs to a landowner based on value of the services rendered to him which are paid by the local agency in connection with acquisition of rights of way, regardless of whether such costs are included in court judgments or court costs in litigated condemnation cases, e.g., statutory evaluation allowance.
- c. **Construction Engineering** – The work of supervising construction activities; the inspection of construction and related mechanical aspects (e.g., staking necessary to review construction plans together with those staking activities necessary for the local agency to control construction operations); testing of materials incorporated into construction, checking shop drawings and measurements for and preparations of progress and final estimates, and as-built drawings. Construction engineering costs are generally incurred only after approval of the PS&E, a contract number is issued, and also incurred prior to:
- Completion date of the final contract pay estimate and its submission to the contractor;
 - The final date of charges for required material testing; or
 - Completion date of the separation of contract cost by code type, location, etc., whichever is applicable to that portion of the construction engineering phase involved.
- d. **Highway Planning** – The orderly and continuing assembly and analysis of information about highways, such as the history of highway development and their extent, dimensions and conditions, use, economic and social effects, costs, and future needs.

- e. **Research and Development** – The search for more complete knowledge of the characteristics of the highway system and the translation of the results of research into practice.
- f. **Administrative Settlement Costs-Contract Claims** – Services related to the review and defense of claims against federal aid projects.
- g. **Miscellaneous Functions** – Costs incurred for other activities which are properly attributable to, and for the benefit of, federal aid projects but are not assignable to any of the previously defined functions.
- h. **Construction Costs Other Than Contractor Payments**
 - Royalty expenses for material furnished by the local agency that are used by the contractor.
 - Temporary signs, traffic control labor, traffic control devices, and temporary illumination furnished by the local agency. The initial basic cost of traffic control devices purchased for use on the project is an authorized participating cost.
 - Work performed by local forces.

.52 Standards for Selected Items of Costs – The following are standards for determining the allowability of selected items of cost. In general, costs must be reasonable, necessary, and allocable to the specific project. The allowability of the selected items of cost is subject to the general policies and principles stated above.

a. **Salaries and Wages**

1. Subject to appropriate authorization requirements, federal funds may participate in the cost of salaries, wages, and related payroll expenses incurred for periods of time public employees are actively engaged, either directly or indirectly, in project-related activities.
2. Salaries, wages, and related payroll expenses of a local agency for maintenance, general administration, supervision and other overhead are not eligible for reimbursement.

b. **Travel and Transportation**

1. Federal funds may participate in the cost of commercial transportation, privately owned automobiles, and per diem or subsistence essential to the completion of the project and is performed in accordance with prescribed procedures.
2. Reimbursement may be made for use of privately owned automobiles and per diem or subsistence incurred in conformance with the established reimbursement policy of the local agency.

c. Employee Leave and Holidays

1. A local agency may claim reimbursement for the costs of leave, e.g., annual, sick, military, jury, that is earned, accounted for, and used in accordance with established procedures. The cost of such leave must be a liability of the local agency, must be equitably distributed to all activities, and the pro rata costs distributed to a federal aid project must be representative of the amount that is earned and accrued while working on the project.
2. Compensatory leave granted by a local agency in lieu of payment of overtime to eligible employees may be claimed for reimbursement if accrued and granted under established policies on a uniform basis. Such leave costs must meet the criteria discussed in paragraph (a) of this section.
3. Costs for other leave of a similar nature which may be peculiar to a specific local agency may also be reimbursed provided it meets the criteria set forth in paragraph (a) of this section.

d. Social Security, Retirement, and Other Payroll Benefits

1. Federal funds may participate in allocable costs incurred for social security, retirement, group insurance premiums, and similar items applicable to salaries and wages of public employees engaged in work in federal aid projects.
2. The costs for such benefits must be a liability of the local agency and must meet the criteria set forth in paragraph 1 of c above.

.53 Utility Relocations, Adjustments, and Reimbursement – Federal participation is subject to the provisions of 23 CFR part 645, subpart A.

.54 Reimbursement for Railroad Work – Costs must be incurred per 23 CFR part 646, subpart B and will be reimbursed in accordance with 23 CFR part 140, subpart I.

.55 Other Costs Allowable Subject to FHWA’s Approval – Although some category of expenditures are not mentioned specifically in Part 140, “Reimbursement,” of 23 CFR as eligible for federal participation, should the local agency wish to seek federal participation it is allowed to request approval from the FHWA prior to billing. The expenditures that relate to the federal aid project should be well identified through proper documentation.

.56 Other Unallowable Costs – Other unallowable costs include those costs identified in 2 CFR 225.

23.6 Billing Reviews

Each year construction projects are selected for “Billing Reviews.” These reviews are conducted at the agency and include representatives of FHWA, WSDOT Highways and Local Programs, and the local agency. One or more progress bills for the selected project will be reviewed for compliance with documentation standards established in this manual, the *Construction Manual* M 41-01, requirements of the contract documents, and as defined by FHWA. During a billing review, the agency must have all the required backup documentation necessary to support the invoice. The documentation must be available and filed in a way that is easy for the reviewers to locate.

At the conclusion of the review, a report is generated by FHWA and issued to WSDOT Highways and Local Programs. The report will include descriptions of the items reviewed, the backup documentation located in the files to support the payments, and a “Supported or Unsupported” finding for each item. Any “unsupported” payment findings are considered improper payments which may require corrective action and possible repayment of federal funds. Highways and Local Programs provides a copy of the report to the agency and identifies any findings.

23.7 Appendices

- 23.71 Local Programs Progress Billing – Example
- 23.72 Local Programs Progress Billing – Instructions
- 23.73 Inactive Justification Examples

Appendix 23.71

Local Programs Progress Billing – Example

Local Programs Progress Billing

Address:

Fed Tax ID No.

Agency Billing Identification:

Federal Aid Project:
 Agreement Number:
 Last Supplement :
 Project Title:

Progress Bill No:
 Final Progress Bill?
 Billing Period from:
 through:

	1	2	3	4	5	6	7	8
	Total Eligible This Period	Total Eligible To Date	Participation Rate	Amount Claimed This Period <i>Col 1 x Col 3</i>	Amount Claimed Prior Periods	Total Claimed To Date <i>Col 4 + Col 5</i>	Amount Authorized Per Agreement	Remaining Federal Funds <i>Col 7 - Col 6</i>
PE								
Line:								
(a) - Agency				0.00		0.00		0.00
(b) - Other				0.00		0.00		0.00
(c) - Other				0.00		0.00		0.00
<i>(e) - Total Preliminary Engineering</i>	0.00	0.00		0.00	0.00	0.00	0.00	0.00
RW								
(f) - Agency				0.00		0.00		0.00
(g) - Other				0.00		0.00		0.00
(h) - Other				0.00		0.00		0.00
<i>(j) - Total Right of Way</i>	0.00	0.00		0.00	0.00	0.00	0.00	0.00
CN								
(k) - Contract				0.00		0.00		0.00
(l) - Other				0.00		0.00		0.00
(m) - Other				0.00		0.00		0.00
(n) - Other				0.00		0.00		0.00
CE								
(o) - Agency				0.00		0.00		0.00
				0.00		0.00		0.00
<i>(q) - Total Construction</i>	0.00	0.00		0.00	0.00	0.00	0.00	0.00
(r) - TOTAL PROJECT	0.00	0.00		0.00	0.00	0.00	0.00	0.00

Submission of this request for payment certifies that in accordance with the laws of the State of Washington and under the conditions of approval for the project identified above, actual costs claimed have been incurred and are eligible for the purposes specified; also, that no other claims have been presented to, or payment made by, the State of Washington for those costs claimed for reimbursement.

Signee _____ Title _____ Date _____ Approved by Regional Highways & Local Programs Office/Date _____ Revised 02/08/10

This form only reflects the amounts claimed and authorized for payment to the local agency. It does not include costs for state services.

Distribution of Form – After the Fund Authorization letter is received by the agency, a blank Local Programs Progress Billing form should be filled out for the first progress billing. Highways and Local Programs will mail subsequent progress billing forms to the agency when payment for the previous billing is made.

Funding Set Up – The amount of federal funding set up for a project is based on the local agency agreement. The funding set up for each line item is shown in column (7). Column (7) should be compared with column (6) to ensure that the amounts requested are within the funding amount set up by the local agency agreement.

Payments will not be made in excess of the amount in column (7). If the amount in column (6) exceeds the amount shown in column (7), a supplement to the local agency agreement must be submitted to reflect the revised cost before payment can be made.

Exception: Following the final settlement and closure of the agreement, a final payment may be made in excess of the amount authorized per agreement (column 7) up to, but not to exceed the total project Fund Authorization amount. Consult your Region Local Programs Engineer for specific project information. Only one billing will be accepted as final.

Data Required to Request Payment – As a minimum, only those line items for which payment is being requested need to be coded. The other lines can be left blank. The agency’s Federal Tax ID is always required.

Coding Instructions – The Local Programs Progress Billing is arranged in the same manner as the local agency agreement though not all lines from the local agency agreement are shown on the Local Programs Progress Billing. The lines for state services are not included because state costs are billed separately. Since the state services are not shown, the totals for PE, R/W, and Construction shown on the Local Programs Progress Billing will not agree with those shown on the local agency agreement. The Local Programs Progress Billing totals (column 7) will reflect the total amount available to the local agency based on the local agency agreement.

The top portion of the form includes project identification information that will automatically appear on each progress billing. This information includes: Agency, Agreement No., Federal Aid No., Title, Progress Bill No., and Billing Period. Please provide actual dates for the current billing period and indicate whether the billing represents a final progress bill. Crosscheck the billing period dates against prior bills(s). If dates overlap, please provide a statement confirming that costs are new and have not been claimed on prior bills(s).

A space has been provided for an “Agency Billing Identification” number. This eight character item is for the agency’s use and is not required to receive payment. You may enter any combination of alphabetic and numeric symbols. This number will be used to identify each billing on the Vendor’s Remittance Advice which is transmitted to agencies receiving Electronic Fund Transfers (EFT). The number will appear in the “Invoice Number” block on the Vendor’s Remittance Advice.

Details for Completing Local Programs Progress Billing Form

Line a	Agency Work for PE Eligible PE cost incurred by the local agency.
Line b-c	Other – For PE Same as shown on agreement, usually consultant cost paid by local agency.
Line e	Total PE Cost Estimate. This is the total amount claimed and authorized for payment to the local agency within the PE phase. Column (7) on this line shows the total amount of funds set up for the local agency based on the latest version of the Local Agency Agreement. It does not include (line d) state services.
Line f	Agency Work for R/W Eligible R/W cost incurred by local agency.
Line g-h	Other – R/W Same as shown on Local Agency Agreement, usually consultant (etc.) cost paid by the local agency.
Line j	Total R/W Cost Estimate. This is the total amount claimed and authorized for payment to the local agency within the R/W phase. Column (7) on this line shows the total amount of federal funds set up for the local agency based on the latest version of the Local Agency Agreement. It does not include (line i) state services.
Line k	Contract Eligible payments made to contractor.
Lines l-n	Other Other costs incurred by the local agency as indicated on the Local Agency Agreement, such as Day Labor, Agency Supplied Materials, etc.
Line o	Agency Work Eligible cost incurred by the local agency.
Line q	Total CN Cost Estimate. This is the total amount claimed and authorized for payment to the local agency within the Construction phase. Column (7) on this line shows the total amount of funds set up for the local agency based on the latest version of the Local Agency Agreement. It does not include (line p) state services.
Line r	Total Project Cost Estimate. Add the Total PE, Total R/W, and Total Construction. This is the total amount claimed and authorized for payment to the local agency. Column (7) on this line shows the total amount of federal funds for all phases of work for the local agency based on the latest version of the Local Agency Agreement. It does not include state services.

Column (1)	Total Expenditures Eligible for Federal Participation This Period Record the total eligible expenditures this period for each item of work.
Column (2)	Total Eligible to Date
Column (3)	Percent of Participation The current participation ratio will be provided.
Column (4)	Amount Claimed This Period Column (4) can never exceed column (1) times column (3), but may be less than. Multiply column (1) by column (3) and enter in column (4). This represents the amount of funds claimed on this progress bill.
Column (5)	Amount Claimed Prior Period This represents the total amount of funds previously claimed (column (6) on the previous billing). This amount will be provided on the form.
Column (6)	Total Claimed to Date
	Add column (4) and column (5) and enter the total in this column. The total claimed to date for PE, R/W, and Construction cannot exceed the amount authorized shown in column (7). Refer to funding setup section.
Column (7)	Amount Authorized Per Agreement This is the total amount of funds authorized for each line item per the latest version of the Local Agency Agreement. This amount will be provided on the form.
Column (8)	Remaining Funds Subtract column (6) from column (7) and enter the difference in this column. The difference represents the remaining funds available. This column cannot be a negative value. If negative, a supplement to the Local Agency Agreement must be prepared to receive full payment. An exception may be on the final progress bill. Consult your Region Local Programs Engineer for specific project information.

Sign and date the progress billing and distribute according to the instructions located at the bottom of the form.

- All hard copy requests for payment must have an original signature in order to be processed.
- All email requests for payment must include all of the following in order to be processed:
 1. Agency.
 2. Project title.
 3. Federal aid project number.
 4. Local agency agreement number.
 5. “Submission of this request for payment certifies that in accordance with the laws of the State of Washington and under the conditions of approval for the project identified above, actual costs claimed have been incurred and are eligible for the purposes specified; also, that no other claims have been presented to or a payment made by, the State of Washington for those costs claimed for reimbursement.”

If you have any questions, please contact your Region Highways and Local Programs Engineer.

Example 1**State: Washington****FMIS Project # 0000001**

The project is for the acquisition of right of way and is considered valid remaining open for the settlement of one remaining parcel of land relative to the construction of the roadway improvement at Case Boulevard in the County. The parcel was successfully acquired through condemnation procedures, but final settlement of the last parcel remains to be adjudicated through the Superior Court. Although deposited the fair value of the property at time of taking, final cost is to be determined by the court. The balance of unexpended federal aid project funds is anticipated to be sufficient to cover the cost of the property. Final settlement date has not been established. Federal dollars may not be invoiced to FHWA until settlement has taken place; the costs remain in the file awaiting future release. We have initiated discussion with the right of way division to determine whether the cost of the final parcel should be reclassified as nonparticipating for federal aid to permit the project to progress to final acceptance and closure because of the inordinate and continuing delay in settlement.

Example 2**State: Washington****FMIS Project # 0000002**

The project is valid because further expenditures are anticipated. The project is a Safe Routes to School sidewalk improvement administered by the local agency. The construction was completed and inspected by the state on April 24, 2012; however, the balance of the construction contract cost has not been billed under the agreement because of a contractual wage rate complaint filed on July 11, 2012. The complaint alleges the contractor failed to pay its workers the required prevailing rate of wages. There is no specified time frame for the resolution/adjudication of the complaint and payment to the contractor may be delayed for a substantial period of time. A copy of the complaint action is on file in the offices of FHWA. WSDOT will monitor the matter and update FHWA accordingly.

24.1 General Discussion

This chapter summarizes the regulations and federal coordination requirements that local agencies must follow on projects that receive funding from the Federal Highway Administration (FHWA). Detailed guidance for complying with the federal requirements is provided in the *Environmental Classification Summary (ECS) Guidebook* and in the *Environmental Procedures Manual M 31-11 (EPM)*.

Projects involving federal funds, permits, or land are governed by a number of environmental requirements, including but not limited to:

- National Environmental Policy Act (NEPA) of 1969, 42 USC 4321, et. seq.
- Council on Environmental Quality Regulations for Implementing NEPA, 40 CFR, Part 1500, et. seq.
- Federal Highway Administration and Federal Transit Administration Implementing Regulations, 23 CFR, Parts 771, 772, and 774
- Environmental Impact and Related Procedures, 49 CFR, Part 622
- Section 7 of the Endangered Species Act (ESA), 50 CFR, Part 402
- Section 106 of the National Historic Preservation Act, 36 CFR, Part 800
- Presidential Executive Order 12898 – Environmental Justice
- Section 4(f) of the U.S. Department of Transportation Act of 1966

FHWA's approval of NEPA, in particular their signature on the Environmental Classification Summary (ECS), does not signify an approval of the State Environmental Policy Act (SEPA), nor any applicable local, state, and federal permits. Local agencies are responsible for ensuring compliance with SEPA and obtaining all applicable local, state, and federal permits. While the local agency may utilize the analysis completed in the NEPA process to assist in the completion of SEPA and applicable permits, NEPA approval must not be misconstrued as a guaranteed approval of any other local, state, or federal requirement. The local agency must work with other agencies, as appropriate, to provide the required analysis to complete their responsibilities under SEPA and other local, state, and federal permit and process requirements.

24.2 NEPA Classification

Projects subject to NEPA fall into one of the three following classifications:

- Class I Projects require preparation of an Environmental Impact Statement (EIS) because the action is likely to have significant adverse environmental impacts.

- Class II Projects are Categorical Exclusions (CE) or Documented Categorical Exclusions (DCE) or Programmatic Categorical Exclusions (Programmatic CE). These actions are not likely to cause significant adverse environmental impacts. They meet the definitions contained in 40 CFR 1508.4 and 23 CFR 771.117.
- Class III Projects require preparation of an Environmental Assessment (EA) because the project's impact on the environment is not clearly understood.

.21 NEPA Class I Projects (EIS) – Actions that are likely to have significant impact on the environment because of their effects on land use, planned growth, development patterns, traffic volumes, travel patterns, transportation services, natural resources, or because they are apt to create substantial public controversy. See Appendix L in the ECS Guidebook and the EPM for guidance on preparing an EIS. Projects that usually require an EIS, as defined in 23 CFR 771.115, are:

- New controlled-access freeway.
- Highway project of four or more lanes in a new location.
- New construction or extension of fixed rail transit facilities (e.g., rapid rail, light rail, commuter rail, automated guideway transit).
- New construction or extension of a separate roadway for buses or high-occupancy vehicles not located within an existing highway facility.

Although examples are given, it is important to remember that the size and significance of the potential impacts determine the need for an EIS, not the size of the project.

.22 NEPA Class II Projects (CE, DCE, Programmatic CE) – Actions that meet descriptions contained in NEPA rules (40 CFR 1508.4, 23 CFR 771.117) and do not typically involve significant environmental impacts. Unless specifically requested by other agencies or due to public controversy, these actions do not require an EIS or an EA. Class II projects typically:

- Do not induce significant impacts to planned growth or land use.
- Do not require the relocation of significant numbers of people.
- Do not have a significant impact on any natural, cultural, recreational, historic, or other resource.
- Do not involve significant air, noise, or water quality impacts.
- Do not have significant impacts on travel patterns.
- Do not otherwise, either individually or cumulatively, have any significant environmental impacts.

Class II Projects are subdivided into three subcategories, which determine the documentation and approval requirements.

- a. **Categorical Exclusions (CE)** – Class II Projects that do not require documentation for FHWA concurrence. Federal actions meeting the CEQ and FHWA criteria for Categorical Exclusions (CEs) are listed in FHWA regulations (23 CFR 771.117 (c)). Known as the “c list,” these actions are generally minor actions that have little or

24.6 Tribal Consultation

In addition to the Section 106 process, FHWA and local agencies must consult with the affected tribes on projects that potentially affect treaty rights. H&LP's process for sharing discipline reports with tribes is described in the ECS Guidebook (Appendix I). Tribal contact information is available online at www.wsdot.wa.gov/tribal/tribalcontacts.htm.

24.7 Environmental Permitting

The local agency is responsible for ensuring that all required permits and approvals are obtained prior to initiating construction. The links below will direct users to a brief description of the federal, state, and local environmental permits.

- Federal Permits (www.wsdot.wa.gov/environment/permitting/permitfsl.htm)
- State Permits (www.wsdot.wa.gov/environment/permitting/state.htm)
- Local Permits (www.wsdot.wa.gov/environment/permitting/local.htm)

The Governor's Office of Regulatory Assistance has developed a web-based tool to assist users to identify the permits that are required for different types of projects. This tool can be accessed at <http://apps.ecy.wa.gov/opas/>.

24.8 Appendices

24.8.1 Local Agency Environmental Classification Summary

24.9 Environmental Classification Summary Guidebook

www.wsdot.wa.gov/nr/rdonlyres/87901eb4-008a-43a0-9db7-2179e0bc939f/0/ecsguidebooksecure.pdf

24.10 *Environmental Procedures Manual*

www.wsdot.wa.gov/publications/manuals/m31-11.htm

24.11 Plain Talk Toolkit

www.wsdot.wa.gov/library/pttoolkit.htm

24.12 Reader-Friendly Tool Kit

www.wsdot.wa.gov/environment/readerfriendly.htm



Local Agency Environmental Classification Summary

Part 1 - Project Description			
Federal Aid Project Number:	Route:	Date:	Intent of Submittal: <input type="checkbox"/> Preliminary <input type="checkbox"/> Final <input type="checkbox"/> Re-Evaluate
Agency:		Federal Program Title: <input type="checkbox"/> 20.205 <input type="checkbox"/> Other	
Project Title:			
Beginning MP: _____	Township(s): _____		
Ending MP: _____	Range(s): _____		
Miles: _____	Section(s): _____		
County			
Project Description (Describe the proposed project, including the purpose and need for the project):			

Part 2 - Environmental Classification	
NEPA	SEPA
<input type="checkbox"/> Class I - Environmental Impact Statement (EIS) <input type="checkbox"/> Class II - Categorical Excluded (CE) CE Type (from 23 CFR 771.117) _____ <input type="checkbox"/> Projects Requiring Documentation (Documented CE) (LAG 24.22) <input type="checkbox"/> Programmatic CE MOU <input type="checkbox"/> Class III - Environmental Assessment (EA)	<input type="checkbox"/> Categoricaly exempt per WAC 197-11-800 <input type="checkbox"/> Determination of Non-Significance (DNS) <input type="checkbox"/> Environmental Impact Statement (EIS) <input type="checkbox"/> Adoption <input type="checkbox"/> Addendum <input type="checkbox"/> Supplemental (For information purpose only)

NEPA Approval Signatures

_____	_____
Local Agency Approving Authority	Date
_____	_____
Regional Local Programs Engineer	Date
_____	_____
Highways and Local Programs Environmental Engineer	Date
_____	_____
Federal Highway Administration	Date

Completed By (Print Official's Name):	Telephone (include area code):	E-mail address:
---------------------------------------	--------------------------------	-----------------

Part 3 - Permits and Approvals Required					
Yes	No	Permit or Approval	Yes	No	Permit or Approval
<input type="checkbox"/>	<input type="checkbox"/>	Corps of Engineers <input type="checkbox"/> Sec. 10 <input type="checkbox"/> Sec. 404 <input type="checkbox"/> Nationwide Type <input type="checkbox"/> Individual Permit No. _____	<input type="checkbox"/>	<input type="checkbox"/>	Water Rights Permit
<input type="checkbox"/>	<input type="checkbox"/>	Coast Guard Permit	<input type="checkbox"/>	<input type="checkbox"/>	Water Quality Certification - Sec. 401 Issued by _____
<input type="checkbox"/>	<input type="checkbox"/>	Coastal Zone Management Certification	<input type="checkbox"/>	<input type="checkbox"/>	Tribal Permit(s), (If any) _____
<input type="checkbox"/>	<input type="checkbox"/>	Critical Areas Ordinance (CAO) Permit	<input type="checkbox"/>	<input type="checkbox"/>	Other Permits (List): _____
<input type="checkbox"/>	<input type="checkbox"/>	Forest Practices Act Permit	<input type="checkbox"/>	<input type="checkbox"/>	ROW acquisition required? If yes, amount needed _____
<input type="checkbox"/>	<input type="checkbox"/>	Hydraulic Project Approval	<input type="checkbox"/>	<input type="checkbox"/>	Is relocation required?
<input type="checkbox"/>	<input type="checkbox"/>	Local Building or Site Development Permits	<input type="checkbox"/>	<input type="checkbox"/>	Has ROW already been acquired for this project? If yes, attach responses to Appendix N in the ECS Guidebook.
<input type="checkbox"/>	<input type="checkbox"/>	Local Clearing and Grading Permit	<input type="checkbox"/>	<input type="checkbox"/>	Has and offer been made or have negotiations begun to acquire ROW for this project? If yes, attach responses to Appendix N in the ECS Guidebook.
<input type="checkbox"/>	<input type="checkbox"/>	National Pollutant Discharge Elimination System (NPDES) Baseline General for Construction	<input type="checkbox"/>	<input type="checkbox"/>	Is a detour required? If yes, please attach detour information.
<input type="checkbox"/>	<input type="checkbox"/>	Shoreline Permit			
<input type="checkbox"/>	<input type="checkbox"/>	State Waste Discharge Permit			
<input type="checkbox"/>	<input type="checkbox"/>	TESC Plans Completed			

Part 4 - Environmental Considerations	
<p>Will the project involve work in or affect any of the following? Identify proposed mitigation. Attach additional pages or supplemental information if necessary.</p>	
<p>1. Air Quality - Identify any anticipated air quality issues.</p> <p>Is the project included in the Metropolitan Transportation Plan? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, date Metropolitan Transportation Plan was adopted. _____</p> <p>Is the project located in an Air Quality Non-Attainment Area or Maintenance Area for carbon monoxide, ozone, or PM10? <input type="checkbox"/> Yes <input type="checkbox"/> No Is the project exempt from Air Quality conformity requirements? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, identify exemption - please refer to appendix H in the ECS Guidebook for the list of exemptions:</p>	
<p>2. Critical/Sensitive Areas - Identify any known Critical or Sensitive Areas as designated by local Growth Management Act ordinances.</p> <p>a. Is this project within: an aquifer recharge area <input type="checkbox"/> Yes <input type="checkbox"/> No a wellhead protection area <input type="checkbox"/> Yes <input type="checkbox"/> No a sole source aquifer <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If located within a sole source aquifer, is the project exempt from EPA approval? If Yes, please list exemption: _____ If No, date of EPA approval: _____</p> <p>b. Is this project located in a Geologically Hazardous Area? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please describe:</p> <p>c. Will this project impact Species/Habitat other than ESA listed species? <input type="checkbox"/> Yes <input type="checkbox"/> No Explain your answer.</p> <p>Is the project within Bald Eagle nesting territories, winter concentration areas or communal roosts? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Will blasting, pile driving, concrete saw cutting, rock drilling, or rock scaling activities occur within one mile of a Bald Eagle nesting area? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	

Part 4 - Environmental Considerations (continued)	
d. Are wetlands present within the project area? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, estimate the impact in acres: _____ Please attach a copy of the proposed mitigation plan.	
3. Cultural Resources/Historic Structures - Identify any historic, archaeological, or cultural resources present within the project's Area of Potential Effects. Does the project fit into any of the exempt types of projects listed in Appendix C of the ECS Guidebook <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, note exemption below. If No: Date of DAHP concurrence _____ Date of Tribal consultation(s) (if applicable) _____ Adverse effects on cultural/historic resources? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, date of approved Section 106 MOA _____	
4. Floodplains and Floodways Is the project located in a 100-year floodplain? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, is the project located in a 100-year floodway? <input type="checkbox"/> Yes <input type="checkbox"/> No Will the project impact a 100-year floodplain? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, describe impacts.	
5. Hazardous and Problem Waste - Identify potential sources and type(s). Does the project require excavation below the existing ground surface? <input type="checkbox"/> Yes <input type="checkbox"/> No Is this site located in an undeveloped area (i.e. no buildings, parking or storage areas or agriculture (other than grazing), based on historical research? <input type="checkbox"/> Yes <input type="checkbox"/> No Is the project located within a one-mile radius of a site on a Confirmed or Suspected Contaminated Sites List (CSCSL) maintained by Department of Ecology? <input type="checkbox"/> Yes <input type="checkbox"/> No Is this project located within a 1/2-mile radius of a site or sites listed on any of the following Department of Ecology databases? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, check the appropriate boxes below. <input type="checkbox"/> Voluntary Cleanup Program (VCP) <input type="checkbox"/> Underground Storage Tank (UST) <input type="checkbox"/> Leaking Underground Storage Tank (LUST) Has site reconnaissance (windshield survey) been performed? <input type="checkbox"/> Yes <input type="checkbox"/> No If so identify any properties not identified in the database search that may affect the project (name, address and property use). Based on the information above and project specific activities, is there a potential for the project to generate contaminated soils or groundwater? <input type="checkbox"/> Yes <input type="checkbox"/> No Please explain: If you responded Yes to any of the above question, contact your Region LPE for assistance before continuing with this form.	

Part 4 - Environmental Considerations (continued)

6. Noise

Does this project involve constructing a new roadway? Yes No

Is there a change in the vertical or horizontal alignment of the existing roadway? Yes No

Does this project increase the number of through traffic lanes on an existing roadway? Yes No

Is there change in the topography? Yes No

Are there auxiliary lanes extending 1-1/2 miles or longer being constructed as part of this project? Yes No

If you answered Yes to any of the preceding questions, identify and describe any potential noise receptors within the project area and subsequent impacts to those noise receptors. Please attach a copy of the noise analysis if required.

If impacts are identified, describe proposed mitigation measures.

7. Parks, Recreation Areas, Wildlife Refuges, Historic Properties, Wild and Scenic Rivers/Scenic Byways, or 4 (f)/6 (f).

a. Please Identify any 4(f) properties within the project limits and areas of impacts.

b. Please Identify any 6(f) properties within the project limits and areas of impact.

c. Please list any Wild Scenic Rivers and Scenic Byways within the project limits.

8. Resource Lands - Identify any of the following resource lands within 300 feet of the project limits and those otherwise impacted by the project.

a. Agricultural Lands Yes No If yes, please describe all impacts.

If present, is resource considered to be prime and unique farmland? Yes No

If Yes, date of project review by Natural Resource Conservation Service (NRCS): _____

b. Forest/Timber Yes No If yes, please describe all impacts.

c. Mineral Yes No If yes, please describe all impacts.

Part 4 - Environmental Considerations (continued)

9. Rivers, Streams (Continuous, Intermittent), or Tidal Waters

a. Identify all waterbodies within 300 feet of the project limits or that will otherwise be impacted.

Fisheries WA Stream No.: _____ Ecology 303d Report No. _____
(if known) Reason for 303d listing _____
Date of Report _____

Waterbody common name _____

b. Identify stream crossing structures by type.

c. Water Resource Inventory Area (WRIA) No. & Name: _____

10. Tribal Lands - Identify whether the project will impact any Tribal lands, including reservation, trust and fee lands.

11. Visual Quality

Will the project impact roadside classification or visual aspects such as aesthetics, light, glare or night sky
 Yes No If Yes, please identify all impacts.

12. Water Quality/Storm Water

Has NPDES municipal general permit been issued for this WRIA? Yes No

Amount of existing impervious surface within project limits: _____

Net new impervious surface to be created as a result of project: _____

Will this project's proposed stormwater treatment facility be consistent with the guidelines provided by either WSDOT's HRM, DOE's western or eastern Washington stormwater manual, or a local agency equivalent manual?
 Yes No

If no, explain proposed water quality/quantity treatment for the new and any existing impervious surface associated with the proposed project.

Part 4 - Environmental Considerations (continued)

13. Commitments

a. Environmental Commitments

- Describe existing environmental commitments that may affect or be affected by the project - If any.

b. Long-Term Maintenance Commitments

- Identify the agency and/or department responsible for implementing maintenance commitments associated with this project.

14. Environmental Justice

Does the project meet any of the exemptions, as noted in Appendix F of the ECS Guidebook Yes No
If Yes, please note the exemption and appropriate justification in the space below. Findings should be confirmed using at least two information sources. Please refer to ESC Guidebook for more information.

If No, are minority or low-income populations located within the limits of the project's potential impacts?

Yes No If no, attach appropriate data to support findings. If yes, describe impacts and attach appropriate supporting documentation.

Part 5 - Biological Assessment and EFH Evaluations

1. Do any listed species potentially occur in the project's action area and/or is any designated critical habitat present within the project's action area? Yes No **Please attach species listings.**

Affected ESA Listed Species	2. Will any construction work occur within 0.5 miles of any of the following?	3. Does the project involve blasting, pile driving, concrete sawing, rock drilling, or rock scaling activities within one mile of any of the following?
Spotted Owl management areas (CSAs, MOCAs, designated critical habitat or potentially suitable nesting, roosting or foraging habitat?)	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Marbled Murrelet nest or occupied stand, designated critical habitat or potentially suitable habitat?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Western Snowy Plover designated critical habitat?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Is the project within 0.5 miles of marine waters? If Yes explain potential effects on Killer Whales and Steller's Sea Lion, and on Marbled Murrelet foraging areas.	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Killer Whale designated critical habitat?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Grizzly bear potentially suitable habitat?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

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Part 5 - Biological Assessment and EFH Evaluations (continued)																																
Gray Wolf potentially suitable habitat?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No																														
Canada Lynx habitat	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No																														
Columbia White-tailed Deer potentially suitable habitat?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No																														
Woodland Caribou habitat?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No																														
Streaked Horned Lark proposed critical habitat or potentially suitable habitat?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No																														
Taylor's Checkerspot proposed critical habitat or potentially suitable habitat?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No																														
Mazama Pocket Gopher potentially suitable habitat?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No																														
Eulachon proposed critical habitat or potentially suitable habitat?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No																														
Rockfish proposed critical habitat or potentially suitable habitat?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No																														
A mature coniferous or mixed forest stand?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No																														
<p>4. Will the project involve any in-water work? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>5. Will any construction work occur within 300 feet of any perennial or intermittent waterbody that supports or drains to to waterbody supporting listed fish? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>6. Will any construction work occur within 300 feet of any wetland, pond, or lake that is connected to any permanent or intermittent waterbody? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>7. Does the action have the potential to directly or indirectly impact designated critical habitat for salmonids (including adjacent riparian zones)? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>8. Will the project discharge treated or untreated stormwater runoff or utilize water from a waterbody that supports or drains into a listed fish-supporting waterbody, wetland, or waterbody? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>9. Will construction work occur outside the existing pavement? If Yes, go to 9a. <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>9a. Will construction activities occurring outside the existing pavement involve clearing, grading, filling, or modifications of vegetation or tree cutting? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>10. Are there any Federal listed, Threatened or Endangered plant species located within the project limits? If yes, please attach a list of plant species within the action area. <input type="checkbox"/> Yes <input type="checkbox"/> No</p>																																
<p>Effect Determinations for ESA and EFH</p> <p>If each of the questions in the preceding section resulted in a "No" response or if any of the questions were checked "Yes", but adequate justification can be provided to support a "no effect" determination, then check "No Effect" below. If this checklist cannot be used for Section 7 compliance (i.e., adequate justification cannot be provided or a "may affect" determination is anticipated), a separate biological assessment document is required.</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 33%;"></td> <td style="width: 33%; text-align: center;">NOAA Fisheries</td> <td style="width: 33%; text-align: center;">USFWS</td> <td style="width: 33%;"></td> <td style="width: 33%;"></td> <td style="width: 33%; text-align: center;">Essential Fish Habitat Determination:</td> </tr> <tr> <td><input type="checkbox"/> No Effect</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td><input type="checkbox"/> No Adverse Effect</td> <td></td> <td></td> </tr> <tr> <td><input type="checkbox"/> NLTAA Date of Concurrence</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td><input type="checkbox"/> Adverse Effect. Date of NMFS's concurrence</td> <td></td> <td></td> </tr> <tr> <td><input type="checkbox"/> LTAA Date BO Issued</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td></td> <td></td> <td style="text-align: center;">_____</td> </tr> <tr> <td><input type="checkbox"/> RRMP 4(d)</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td></td> <td></td> <td></td> </tr> </table>				NOAA Fisheries	USFWS			Essential Fish Habitat Determination:	<input type="checkbox"/> No Effect	_____	_____	<input type="checkbox"/> No Adverse Effect			<input type="checkbox"/> NLTAA Date of Concurrence	_____	_____	<input type="checkbox"/> Adverse Effect. Date of NMFS's concurrence			<input type="checkbox"/> LTAA Date BO Issued	_____	_____			_____	<input type="checkbox"/> RRMP 4(d)	_____	_____			
	NOAA Fisheries	USFWS			Essential Fish Habitat Determination:																											
<input type="checkbox"/> No Effect	_____	_____	<input type="checkbox"/> No Adverse Effect																													
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<input type="checkbox"/> LTAA Date BO Issued	_____	_____			_____																											
<input type="checkbox"/> RRMP 4(d)	_____	_____																														

Analysis for No Effects Determination - If there are any Yes answers to questions in Part 5, additional analysis is required. Please attach additional sheets if needed.

Analysis for RRMP ESA 4(d) determination for NMFS

• **Maintenance Category** (check all that apply)

- | | | |
|---|---|--|
| <input type="checkbox"/> 1. Roadway Surface | <input type="checkbox"/> 2. Enclosed Drainage Systems | <input type="checkbox"/> 3. Cleaning Enclosed Drainage Systems |
| <input type="checkbox"/> 4. Open Drainage Systems | <input type="checkbox"/> 5. Watercourses and Streams | <input type="checkbox"/> 6. Stream Crossings |
| <input type="checkbox"/> 7. Gravel Shoulders | <input type="checkbox"/> 8. Street Surface Cleaning | <input type="checkbox"/> 9. Bridge Maintenance |
| <input type="checkbox"/> 10. Snow and Ice Control | <input type="checkbox"/> 11. Emergency Slide/Washout Repair | <input type="checkbox"/> 12. Concrete |
| <input type="checkbox"/> 13. Sewer Systems | <input type="checkbox"/> 14. Water Systems | <input type="checkbox"/> 15. Vegetation |

• **Describe how the project fits in the RRMP 4 (d) Program:**

Part 6 FHWA Comments

Use supplement sheet if additional space is required to complete this section.

25.1 General Discussion

The Real Estate Services website is located at www.wsdot.wa.gov/realestate/.

Since neither the Uniform Relocation Assistance and Real Property Acquisition Act (URA) nor its implementing regulations at 49 CFR Part 24 allow the certification of right of way (R/W) to be subdelegated, the Washington State Department of Transportation (WSDOT) has overall responsibility to the Federal Highway Administration (FHWA) for the acquisition of R/W on all FHWA funded transportation projects in the state.

For a project to be eligible for federal funding on any phase of the project (P.E., R/W, or construction), the project's R/W must be acquired in accordance with the requirements of this manual. R/W acquired prior to July 1, 1971, is exempt. Projects that do not use FHWA funding on any phase may choose not to follow the requirements of this chapter as outlined in RCW 8.26.010(2).

The acquisition process is regulated by Chapter 8.26 RCW and WAC 468-100.

WSDOT may, by written agreement, use the services of land acquisition organizations of counties, municipalities, or other state or local governmental agencies for acquiring rights of way for FHWA projects. Any such organization may be used only if it is adequately staffed, equipped, and organized to provide such services, and if its practices and procedures are in substantial conformity with WSDOT accepted procedures.

It is the responsibility of WSDOT to fully inform political subdivisions of their responsibilities in connection with federally-assisted transportation projects and to provide training to the local agencies. It is the local agencies responsibility to comply with the requirements of this chapter, the URA, and 49 CFR Part 24. The local agency will assess their staff's level of expertise with the requirements stated above. If the local agency determines their staff does not fully understand these requirements, it is their responsibility to request assistance and/or training to ensure the acquisition process is followed correctly.

It is essential that local agencies and WSDOT communicate freely and work closely together during the entire acquisition process to expedite projects and to assure that all federal and state requirements are met. Guidance is provided in the *Right of Way Manual* M 26-01.

The Local Agency Right of Way Coordinator (LAC) should be contacted immediately when it is determined that the local agency project requires the use of WSDOT's right of way. The LAC will advise the local agency of the process and timeline needed to acquire sufficient legal rights to construct and operate on WSDOT property (see Section 25.14 for more information).

.11 WSDOT Services – WSDOT is committed to an ongoing program which will provide effective assistance and guidance to local acquiring agencies. To this end, WSDOT will designate a LAC in each region to provide information and establish appropriate state staff contacts, provide training and educational opportunities for local agencies through workshops and acquisition course offerings, and provide mutually acceptable technical and advisory services as necessary to accomplish acquisition and relocation activities.

WSDOT will consult and advise the local agency concerning real property interests acquisition activities to ensure that R/W is acquired in accordance with provisions of state and federal laws and FHWA directives.

At the earliest possible date, the local agency should notify the LAC of upcoming projects with R/W acquisition that may be eligible for federal funding. In addition, the local agency should advise the LAC of the need for WSDOT assistance.

.12 Consultant Services – When the local agency does not have adequate staff to perform appraisal, negotiation, or relocation functions, it may contract for these services and obtain federal participation in the costs.

The local agency should contact the Region Local Programs Engineer for assistance in preparing any contract for services to assure FHWA participation in the contract. FHWA has determined that the consultant agreements for R/W services must meet the consultant contracting requirements as described in Chapter 31. See Chapter 31 appendices for consultant agreements for appraisal and negotiation examples.

25.2 Right of Way Acquisition Procedures

Before requesting authority to acquire R/W, the local agency must have secured approval of acquisition procedures (Appendix 25.171). Acquisition procedures are submitted on local agency letterhead to the Region Local Programs Engineer for review prior to final execution by the local agency. Region Local Programs forwards the procedures through the LAC for approval. The local agency will be approved to acquire R/W based upon the submitted procedures.

The level at which an agency will be approved will be dependent upon the agency's staff qualifications. An agency with minimal staff may be approved to acquire a single project with direct supervision by the Region LAC. Highways and Local Programs notifies the local agency of the approval with a copy to the Region LAC. Periodic reviews of procedures will be conducted by the LAC on agencies acquiring R/W on federal aid projects. If through these periodic reviews it is determined that the local agency acquisition practices are not in full compliance, WSDOT may request a change to the approved procedures.

Approved procedures will designate the title of the position. When staff changes occur, the agency will submit the person's experience and qualifications to the LAC.

Procedures shall include the following:

1. Agreement to comply with state and federal laws and FHWA regulations. The agency should agree to follow this manual and the *Right of Way Manual* M 26-01 or the agency's own manual if they have a WSDOT approved R/W manual.
2. A listing of the positions performing the separate functions of program administration, appraisal, appraisal review, acquisition, relocation, and property management. All agency positions that perform any of these separate functions should be listed. **Note:** Agency personnel such as administrators and members of the executive branch who might participate in the acquisition of R/W for federal aid projects need to be aware that their actions must conform to the Uniform Act and 49 CFR Part 24.
3. A listing of all current staff filling the above positions and a brief statement of their qualifications. (See minimum qualifications for appraisal, appraisal review, and acquisition in this chapter.)
4. A policy for handling administrative settlements including the approving authority(s) and process.
5. Appraisal waiver process (see Subsection 25.52).
6. Relocation Appeal process for projects involving relocation assistance.
7. Submit FHWA Annual ROW Statistical Report for active federal aid projects by October 25 each year. The data provided is for ROW activities from October 1 through September 30.

.21 No Right of Way Acquisition – No R/W acquisition means that the proposed project can be built entirely within the existing roadway facility (the facility may be something other than roadway for transportation enhancement projects). Existing R/W is defined as land already incorporated into the roadway facility or land previously certified under a previous federal aid project. Permits, easements, temporary construction easements (TCE), and slope easements are generally considered R/W acquisition. Contact the LAC if you have questions.

Local agencies, if after determining that additional R/W will not be required for the current project, should check the appropriate box on the project prospectus (see Chapter 21). If it is later determined that R/W is required, either a R/W Project Funding Estimate (PFE) or a True Cost Estimate must be prepared and submitted to the Region Local Programs Engineer who will notify the Region LAC. See Subsection 25.41 for explanations of the PFE and the True Cost Estimate.

New R/W is defined as land necessary for construction of the proposed project, or any prior acquisition that was made specifically for the current project including land that was previously purchased by the agency for the project. This includes temporary easements and permits that are required to complete the construction. If the agency already owns the land or property rights necessary for the project, the agency will provide adequate documentation in the ECS showing when and why the property was purchased. If the property was purchased for use on the project, then the R/W must have been acquired in accordance with the requirements of this manual.

If it can be documented that the land or property rights were purchased for a purpose other than the transportation related project, and that the land/property rights are no longer required for the original purpose, then the Uniform Act and 49 CFR Part 24 requirements do not apply.

.22 Acquiring Right of Way – Acquisition of R/W may be performed by the following entities:

- By a local agency that is adequately staffed, equipped, and organized to discharge its R/W responsibilities and has R/W procedures approved by WSDOT. Staff may consist of qualified contract personnel and/or licensed private Real Estate Brokers (see RCW 18.85 in addition to or in lieu of regular employees of the agency).
- By another local agency that meets the requirements above.

.23 Acquiring Sufficient Property Rights – A local agency must acquire real property interests that are adequate for the construction, operation, and maintenance of the project (23 CFR 1.23 and 710.201(e)). The preference is for local agencies to purchase fee rights or permanent easements. However, there are circumstances when other real property interests can be considered. For example, if the proposed project is on state or federally-owned land, the local agency could consider an easement.

If the local agency is considering acquiring something other than permanent real property interests, then they must provide documentation establishing how the real property interests that they are purchasing satisfy the requirement for sufficient property rights so FHWA is assured that their investment in the project is in the public interest and will last for a reasonable amount of time that is commensurate with the level of investment. There are no set guidelines that describe the appropriate term length, but 20 years is a minimum term that should be considered. Longer terms may be required. An analysis of the design life of the improvement must be done and the minimum term must equal the design life. Unless leases are with public agencies, leases should be considered only under rare and unusual circumstances since they typically have termination clauses that could require the removal of improvements with little notice, and possibly without cause. Things to discuss include:

- Is the term of the real property interest at least as long as the life cycle of the improvement? When will major maintenance be required and does the property interest term extend to when the first major maintenance is expected?
- Provide an explanation of why the project is a good investment for FHWA.

Note: If FHWA does not accept the local agency's justification, they must be prepared for FHWA to either make a finding that they have not acquired sufficient property rights (which would preclude ROW certification) or FHWA may consider a conditional approval that would require the local agency to either repay the project funding or reestablish a replacement improvement in a new with their own funds (and the right of way for the new location must have been acquired in accordance with the Uniform Act).

25.3 Voluntary Acquisition

A process called “Voluntary Acquisition,” under 49 CFR 24.101(b)(1), which differs from “Donations and Willing Seller Transactions,” may on rare occasion be appropriate for acquisition of property, but only if all of the following circumstances apply:

- No specific site or property needs to be acquired, although the agency may limit its search for alternative sites to a general geographic area. Where an agency wishes to purchase more than one site within a general geographic area on this basis, all owners are to be treated similarly. (See Appendix A, §24.101(b)(1)(i).)
- The property to be acquired is not part of an intended, planned, or designated project area where all or substantially all of the property within the area is to be acquired within specific time limits.
- The agency will not acquire the property if negotiations fail to result in an amicable agreement, and the owner is so informed in writing.
- The agency will inform the owner in writing of what it believes to be the market value of the property.

Since most acquisitions are for property needed for roadway projects, the only occasion where a voluntary acquisition may apply is to mitigation sites, and **only** if you can show that there are other viable mitigation sites being considered for acquisition.

If these circumstances appear to apply to a project, the Voluntary Acquisition process may apply, but **must** be approved by the LAC with Headquarters Real Estate Services before any steps are taken to initiate the acquisition process. If approved, steps to follow for voluntary acquisition are governed by WAC 468-100-101 and shall include:

1. Clearly advise the property owner, in writing, prior to making any offers that the agency will be unable to acquire the property in the event that negotiations fail.
2. Provide the owner with an estimate of the fair market value of the property.
3. Provide relocation assistance to any tenants upon mutual acceptance by the acquiring agency and property owner.

If approved, the local agency must work closely with the LAC on all steps of the voluntary acquisition process.

Note: Real estate transactions using this process are subject to real estate excise tax.

25.4 Funds for Right of Way

.41 Acquisition With Federal Funds – Prior to the authorization of federal funds for R/W, the following requirements must be met: compliance with Chapter 14, FHWA approval of environmental (NEPA) documents, and the submittal of the following documents to the Region Local Programs Engineer.

- Local Agency Agreement Supplement.

- Estimate of probable R/W costs and expenses broken down by parcel. There are two types of estimates:
 - **Project Funding Estimate (PFE)** is a detailed parcel-by-parcel estimate of total expected right of way acquisition costs and is used to obtain authorization and funding for the project. A PFE is based on market transactions (sales) that reflect the current real estate market. Ideally, it is completed by an appraiser, an appraisal reviewer, and a relocation expert. Other R/W staff with appropriate experience, including qualified consultants, may also prepare a PFE.
See Appendix 25.172 for instructions, worksheets, a sample estimate summary and a sample neighborhood analysis. See also *Right of Way Manual* Section 4-2 for the requirements for a PFE (42.1, paragraphs E, F, and G do not apply to local agencies).
 - **True Cost Estimate** can be used only when all parcels are to be appraised or donated. The R/W PFE **must** be used if the agency wishes to make use of the appraisal waiver process (see Subsection 25.52). True Cost Estimate is a parcel-by-parcel estimate of total expected right of way acquisition costs drawn from the County Assessor's records and is used to obtain authorization and funding for the project; therefore, the level of expertise required for its preparation may be less stringent than for a PFE.
A True Cost Estimate consists of two parts: a worksheet for each parcel to be acquired and a table summarizing all estimated acquisition costs. Both should generally conform to the examples provided in Appendix 25.173.
- R/W plan.
- WSDOT approved relocation plan (if relocation is required, contact the LAC for assistance).

The R/W plans should meet the requirements of WAC 332-130 and show at the minimum the following information:

- Survey line or centerline for the alignment.
- The old and new R/W limits with sufficient ties to the survey line to allow for legal descriptions of the areas to be acquired.
- Show all rights to be acquired, for example, easements and permits.
- Show the ownership boundaries of the parcels with rights to be acquired.
- Show the parcel identification number.
- Show the area of the parcel to be acquired.
- Show the area of the remainder.

All plan sheets shall carry the seal and signature of a registered Professional engineer or professional land surveyor in accordance with RCW 18.43.070 and RCW 58.09.

Once FHWA approval has been obtained, Highways and Local Programs will notify the local agency of authorization to acquire R/W. No acquisition costs are eligible prior to this authorization.

.42 Acquisition With Local Agency Funds – If federal funds are to be used in any part of the project, federal guidelines for acquisition of the R/W must be followed. For projects that involve local agency funds only for R/W acquisition, the local agency must submit the WSDOT approved relocation plan (if relocation is required) to the Region Local Programs Engineer prior to starting the acquisition process.

In order to minimize potential problems which surface during the certification process, it is advised that the local agency submit a copy of the R/W plan for review before starting the acquisition process. A copy of the R/W plan must be made available at the time of certification.

.43 Acquisition in Advance of NEPA Project Clearance – There are three circumstances under which R/W can be acquired in advance of NEPA clearance. In each case, federal guidelines must be followed in the acquisition process.

1. An agency may use its own funds to purchase R/W prior to NEPA clearance. Refer to the Early Acquisitions Section in of *Right of Way Manual* Chapter 6 and the ECS Form for documentation requirements.
 - a. An agency may apply market value (or if donated, the current appraised value) toward their share of project costs, as long as they meet the requirements of 23 CFR 710.501(b). The acquisition of advance R/W must not influence the environmental assessment for the project. Properties with a 4(f) Resource may not be purchased if the agency wants to apply the market value toward their share of project costs. The agency cannot be reimbursed for the cost of the appraisal or any other documentation necessary to meet the requirements of 23 CFR 710.501(b).
 - b. The agency may purchase property without requesting the market value toward their share of the project costs as long as they meet 23 CFR 771.113(d)(4) requirements. Under this option the agency may purchase property with a 4(f) resource.
2. An agency may purchase R/W prior to NEPA clearance under the protective buying and hardship acquisition provisions, as per 23 CFR 710.503, and be reimbursed with federal funds for reasonable costs. Note, however, that while these purchases are in advance of formal NEPA clearance of the project, individual clearance via a Categorical Exclusion is required. Consequently, although the project has not yet been cleared, the individual parcels have been cleared.

To use protective buying, the agency will have to provide documentation showing that development of the property is imminent and that the development would limit future transportation choices.

To use hardship acquisition, the agency must have a property owner's written submission providing justification that remaining on the property poses undue hardship compared to others and the property owner must provide written documentation showing their inability to sell the property. This process is described in greater detail in *Right of Way Manual* Section 6.3-3.

The agency must work with the LAC from the outset if they are proposing to use protective buying or hardship acquisition. **FHWA approval is required for protective buying and hardship acquisition.**

3. An agency may request to use federal funds for parcel acquisitions prior to Project NEPA clearance. This federally-funded early acquisition must be treated as a stand-alone project. Prior to requesting funding authorization, the Acquisition Project must be in the STIP. Furthermore, NEPA for the parcel must be complete.

.44 Procedures for Local Agency-Funded Acquisition in Advance of Project NEPA Decision (With Match) – If the local agency establishes that the parcel is to be acquired early (in advance), then standard acquisition procedures are followed.

Eminent domain will not be used.

When the project is funded and credit is sought, the local agency must provide documentation determining the following:

1. The property was lawfully obtained by the agency.
2. The property was not land described in 23 USC 138 (a.k.a. 4(f)).
3. The property was acquired in accordance with the provisions of 49 CFR Part 24 (a.k.a. Uniform Act).
4. The agency complied with the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4).
5. The agency determined and FHWA concurs that the action taken did not influence the environmental assessment for the project, including:
 - a. The decision on need to construct the project.
 - b. The other options that were considered and an explanation of why they were rejected in favor of the one that was selected.
 - c. The selection of the design or location.
6. The property will be incorporated into a federal aid project.
7. The original project agreement covering the project was executed on or after June 9, 1998.

The documentation shall be completed as part of the NEPA documentation (DCE/ECS, FONSI, ROD). The local agency will provide documentation to meet the requirements (1) through (7) above, by signing the ECS WSDOT and FHWA concur with the local agency's determination, and that the market value of the property can be used as match.

Use the fair market value (FMV) from the time of purchase of the property (historic acquisition costs) toward the match. Any settlement amounts above the FMV, relocation costs, appraisal fees, etc., are not eligible for match. Current fair market value (based on a new appraisal) may be used in those instances where: (1) there has been a significant lapse in time since the property was acquired, or (2) there has been

a significant change in market conditions (not caused by the project) since the property was acquired. This would require FHWA approval. If multiple parcels are used as match, the same method for determining Fair market Value must be used on all parcels.

All documentation shall be retained as required by Section 25.16.

.45 Procedures for Locally-Funded Acquisition in Advance of Project NEPA Decision (Without Match) – If the local agency establishes that the parcel is to be acquired early (in advance), then standard acquisition procedures are followed.

Eminent domain will not be used.

The documentation required as detailed in the Environmental Classification Summary (see Chapter 24) shall be completed as part of the NEPA (DCE/ECS, FONSI, ROD). The local agency will provide justification establishing that all of the documentation requirements for 40 CFR 1506.1 have been met.

All documentation shall be retained as required by Section 25.16.

.46 Procedures for Federally-Funded Acquisition in Advance of Project NEPA Decision – Prior to starting acquisition of right of way using federal funds under the advance acquisition process there are certain steps that must be completed in addition to standard activities. These additional steps are as follows:

- Verify that the project for which the right of way is being acquired for is funded for construction and that the early acquisition project meets all requirements for inclusion in the TIP/STIP.
- Submit project information for inclusion in the TIP/STIP to the appropriate MPO/RTPO to create the stand alone project.
- Complete the parcel level NEPA document.

Once the above three steps are completed, submit the LA agreement through H&LP for approval. H&LP on behalf of the local agency will certify that all requirements will be met.

H&LP will obtain FHWA concurrence in the advance acquisition through approval of the federal aid project.

The early acquisition documentation required as detailed in the Environmental Classification Summary (see Chapter 24) shall be completed as part of the Project NEPA (DCE/ECS, FONSI, ROD), not the Acquisition NEPA.

All documentation shall be retained as required by Section 25.16.

25.5 Appraisal/Appraisal Waiver – Administrative Offer Summary (AOS)

Per 49 CFR 24.102(n)(3), negotiators cannot supervise appraisers, review appraisers, or waiver valuation preparers, unless FHWA approves a waiver of this requirement, and appraisers, review appraisers, or waiver valuation preparers shall not have any interest, direct or indirect, in the property being valued.

.51 Appraisal – The requirements pertaining to the appraisal of property to be acquired are given in *Right of Way Manual* Chapter 4. If desired, a listing of WSDOT approved fee appraisers and appraisal reviewers is available from the Region LAC or via a link on the WSDOT Real Estate Services website at www.wsdot.wa.gov/realestate/.

The appraiser shall be an experienced, qualified appraiser. At a minimum, an appraiser should have a college degree or four years of active experience in the real estate field leading to a basic knowledge of real property interest valuation, or any combination of such experience and college study to provide a total of four years beyond high school graduation. An appraiser who is qualified under WSDOT criteria will be considered qualified for FHWA projects.

The appraiser shall prepare an appraisal report which is a written document containing among other elements, the following:

1. The purpose of the appraisal which includes a statement of the estimated value and the rights or interests being appraised.
2. The estimate of just compensation for the acquisition. In the case of a partial acquisition, allocate the estimate of just compensation for the property to be acquired and for damages to remaining property in either the report or a separate statement.
3. The data and analyses (or reference to same) to explain, substantiate, and document the estimate of just compensation.

A complete explanation of requirements for an acceptable appraisal report can be found in *Right of Way Manual* Chapter 4.

Examples of appraisal report forms can be found in Appendix 25.174.

.52 Appraisal Waiver (commonly referred to as Administrative Offer Summary (AOS)) – In certain cases, an appraisal can be waived. To qualify, the just compensation, based on the R/W Project Funding Estimate or its equivalent, must be no greater than the appraisal waiver limit as defined in the agency's approved R/W procedures (typically \$25,000), the acquisition **must be uncomplicated**, and the only damages will be minor cost to cure items. The PFE must be based on confirmed comparable sales and must reflect the current market.

For example, if the agency plans to acquire a strip of land that they believe is worth \$12,000, but the acquisition will change/limit the owner's ability to develop their property at some point in the future, the appraisal waiver process **cannot** be used because it is no longer uncomplicated and an appraisal must be prepared by a qualified appraiser.

In such instances where the appraisal is waived, just compensation should be based on current comparable sales. All data used to arrive at just compensation must be included in the project file. When the waiver is used, it is important that the local agency determines that the offer being made is fair and equitable.

If the AOS is \$10,000 or less, the offer must state that an administrative offer is being made and an appraisal has not been completed.

If the AOS is \$10,001 or greater, the offer must state that an administrative offer is being made, that an appraisal has not been completed and an appraisal will be prepared if requested by the property owner.

Appraisal Waiver (AOS) Value Limits	
\$10,000 or Less	\$10,001 to \$25,000
No requirement to offer to provide property owner with an appraisal.	Offer letter must include provision that the agency will provide an appraisal at the property owner's request.

If the owner requests an appraisal, the local agency **is required** to provide and pay for one that meets the standards outlined in Subsection 25.51. See Appendix 25.175 for an example appraisal waiver procedure.

25.6 Appraisal Review

The requirements pertaining to appraisal review of the property to be acquired is provided in *Right of Way Manual* Chapter 5.

The reviewing appraiser should be knowledgeable of the property values in the project area. The depth of review should be in direct relationship to the difficulty of the particular appraisal. The reviewing appraiser must be either a WSDOT review appraiser, on the approved list of review appraisers maintained by WSDOT, or an employee of the acquiring agency, who is authorized by their approved R/W procedures to review appraisals. To qualify as an agency review appraiser, an individual must, at a minimum, be a Certified General Appraiser with the Washington State Department of Licensing and have successfully completed at least one approved appraisal review training class.

The reviewing appraiser should field inspect the property appraised as well as the comparable sales which the appraiser(s) considered in arriving at the fair market value of the whole property and of the remainder(s), if any. If a field inspection is not made, the file shall contain the reason(s) why it was not made.

The reviewing appraiser shall examine the appraisal reports to determine that they:

1. Are complete in accordance with this manual and contain the criteria required by *Right of Way Manual*, Chapter 4, Appendix 4-1, Appraisal Guide.
2. Follow accepted appraisal principles and techniques in the valuation of real property interest in accordance with existing state law.
3. Include consideration of compensable items, damage, and benefits, but do not include compensation for items noncompensable under state law.

The reviewing appraiser shall place in the parcel file a signed and dated statement (Appendix 25.176) setting forth:

1. An estimate of just compensation including, where appropriate, the allocation of compensation for the property acquired and for damages to remaining property.
2. A listing of the buildings, structures, fixtures, and other improvements on the land which were considered part of the property to be acquired.
3. If applicable, a statement that there is an uneconomic remnant/remainder, and the value of the remainder.
4. A statement that the reviewing appraiser has no direct or indirect present or future interest in such property or in any monetary benefit from its acquisition.
5. A statement that the estimate has been reached independently, without collaboration or direction, and is based on appraisals and other factual data.

.61 Uneconomic Remainders – An uneconomic remainder is defined as a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner’s property and which the agency has determined has little or no value or utility to the owner (49 CFR Part 24.2(27)).

For partial acquisitions, the review appraiser determines (if staff) or recommends (if fee) whether the remainder is uneconomic. If the remainder will no longer have utility to the owner, and the **local agency determines** that it is uneconomic, the agency must offer to purchase the remainder from the property owner.

See *Right of Way Manual* Section 5-5.2 for detailed instructions regarding the review appraiser’s responsibilities for reporting and documenting uneconomic remainders.

25.7 Agency Concurrence for Setting Just Compensation

In conformance with 49 CFR 24.102(d), it is the responsibility of the **agency** to set just compensation. This can be done by adding a line to the bottom of the review appraiser’s certificate as shown in Appendix 25.176, or by stating the same information in a separate memo. In either case, the statement must be signed and dated by an employee of the agency who has approving authority **prior** to the time the offer is made.

25.8 Title

The agency will acquire evidence of the condition of title for all properties from which real property interest rights are to be acquired. It is suggested that a title report be ordered from a title company and the title to the property acquired cleared so that a policy of title insurance can be issued showing title vested in the agency subject only to those exceptions which can reasonably be accepted. If a title company is not used to provide this information, the acquisition file must include sufficient documentation to validate the signatories on the instruments and show that the interest acquired is free from unreasonable encumbrances.

In general, the elements necessary to acquire the needed real property interest(s) are:

1. Acquisition instruments signed by all parties with an interest in the fee title.
2. Releases from mortgages and deeds of trust by a qualified person within the agency or a qualified consultant determines to be reasonable.
3. Releases of encumbrances, such as easements, which adversely impact the rights being acquired.
4. Releases of priority liens, such as materialman's liens, judgments, state tax liens, and federal tax liens.

25.9 Negotiations

Various requirements in negotiating an acquisition of property are found in *Right of Way Manual* Section 3-4.1C.

If a local agency uses a consultant fee negotiator, the negotiator must meet the applicable state licensing requirements (verify with the Department of Licensing).

For local agency staff to be approved to acquire property without direct supervision by the LAC, they must have either an Associate Degree in real estate or a Bachelor Degree or equivalent experience. In addition, they must have two years full-time experience in real estate acquisition, sales leasing, appraisal, title, escrow, or property management. One year of experience must be in eminent domain acquisition. Additional experience in eminent domain acquisition can replace education on a year-for-year basis.

Local agencies using staff to negotiate who do not have the necessary qualifications must work closely with the LAC as explained in the Procedures Approval letter.

A diary or negotiator's log must be maintained for each parcel wherein each individual involved in a negotiation, a relocation, or a property management function shall enter and initial a suitable description of each contact and other information concerning that function. See Section 25.15 for additional direction on preparing diaries. Upon request, the Region LAC will provide explanations and examples of adequate records.

A separation of functions maintains the integrity of the acquiring agency's transactions. Thus, the appraisal, appraisal review, and negotiations for a parcel are performed by three different persons. Recognizing the fact that the use of two separate individuals as appraiser and negotiator on a low-value acquisition can be both difficult and expensive, the use of a single qualified individual to both appraise and negotiate a parcel is permitted where the value of the acquisition is \$10,000 or less if stated in the local agency's Approved Procedures. It should be noted that the appraisal shall be reviewed prior to negotiations, and the review appraiser shall be neither the appraiser nor the negotiator.

Before initiating negotiations for real property interest, the **agency** shall establish the just compensation which **shall not** be less than the approved appraisal of the property and shall make a written offer to acquire in that amount. Appraisals are not required if an AOS has been prepared or if the owner has indicated a willingness to donate

the R/W after being informed of their right to receive just compensation. If an appraisal waiver was used to set just compensation, the negotiator must notify the property owner that they can request an appraisal be prepared if the appraisal waiver is over \$10,000. The local agency is responsible for providing and paying for this appraisal.

A donation may be accepted only after the owner has waived, in writing, their right to just compensation (see Appendix 25.177). This applies to individuals, businesses, corporations, and other private entities. Donations from government agencies are exempt from these requirements. If a donation is accepted in advance of NEPA clearance, additional documentation will be needed in the ECS form.

R/W obtained through normal zoning, subdivision, or building permit procedures may be incorporated into a federal aid project without jeopardizing participation in other project costs.

The agency must notify the property owner of the availability of a statutory evaluation allowance not to exceed \$750 to help defray the owner's expenses actually incurred in evaluating the agency's offer (RCW 8.25.020).

When negotiations are complete, the negotiator shall keep in the project file a signed statement for each parcel that:

1. The written agreement embodies all considerations agreed to by the negotiator and the property owner.
2. The negotiator understands that the acquired property is for use in connection with a federal aid transportation project.
3. The negotiator has no direct or indirect interest in the property or in any monetary benefit from its acquisition, at present or in the future.
4. The agreement has been reached without any type of coercion.

.91 Negotiations by Mail – If no relocation is involved, the local agency may conduct R/W negotiations as follows:

1. Mail to the owner the fair-offer letter, a summary statement (explains nature of acquisition, conditions affecting remainder after construction, and other pertinent details which would have been explained in a face-to-face meeting with owner), the document of acquisition (deed, easement, or other document required for signature), property plat or sketch showing acquisition limits and effects on any remainder, and a copy of an acquisition brochure. For an AOS offer letter template, see Appendix 25.181(a) or 25.181(b).
2. Within a reasonable period of time, typically about two weeks, make a follow-up phone call (documented in the diary). Answer questions or, if owner requests it, make an appointment for personal contact.
3. Follow normal procedures for further negotiations.

.92 Acquisition of Contaminated Properties – The agency should take reasonable care to determine if properties needed for a project are contaminated. In the case where properties being acquired by the agency will become part of a state highway, the agency must involve WSDOT in the acquisition process as early as possible to ensure that the property will be in an acceptable condition for WSDOT to accept the transfer of ownership. The local agency should contact the LAC if they are considering acquisition of contaminated properties.

.93 Global Settlements – A global settlement is the combining of just compensation and relocation benefits into a lump sum settlement.

Because global settlements could compromise the entire project's federal aid eligibility, FHWA will not accept a project R/W certification if it includes a global settlement. The local agency should contact the LAC if they are considering global settlements.

.94 Functional Replacements – When publicly-owned real property, including land and/or facilities, is to be acquired for a federal aid highway project, in lieu of paying the fair market value for the real property interest, the local agency may provide compensation by replacing the publicly-owned real property with another facility which will provide equivalent utility.

The local agency must contact the LAC if they are considering a functional replacement. **FHWA will be involved in this process and will have final approval.**

25.10 Donated Property

Donations of right of way can be accepted only after the owner has been notified of their rights to receive just compensation. A signed donation statement must be included in each parcel file (Appendix 25.177). Section 323 of 23 USC provides for using the value of donated lands as part of the match against an agency's contribution to the project. Certain conditions need be met:

- The credit may only be applied to a federal aid project if federal financial assistance was not used in any form to acquire the land. Credit to the matching share may not exceed the matching share of costs for that project and excess costs may not be utilized on other projects.
- The donation must be related to the project requiring the donated land.
- Donations of privately-owned real estate made after April 2, 1987, and subsequent to NEPA clearance, are eligible for credit purposes. If a donation is accepted in advance of NEPA clearance, additional documentation will be needed in the ECS form. The value of publicly-owned real estate donated after June 8, 1998, is eligible for match credit.

For donation letter examples, see Appendix 25.177.

25.11 Administrative Settlements

The Uniform Act requires that “The head of a federal agency shall make every reasonable effort to expeditiously acquire real property interests by negotiation.” Negotiation implies an honest effort by the acquiring agency to resolve differences with property owners. Additionally, the legislative history of the Uniform Act indicates that offers can be flexible, and there is no requirement that they reflect a “take it or leave it position.” Negotiations should recognize the inexact nature of the process by which just compensation is determined. Further, the law requires an attempt by agencies to expedite the acquisition of real property interests by agreements with owners and to avoid litigation and relieve congestion in the courts.

In addition to the mandates of the Uniform Act, there are significant cost savings which can be realized through an increased use of administrative and legal settlements. Cost savings are in the areas of salaries, witness fees, travel, per diem, court costs, etc.

FHWA and WSDOT encourage local agencies to carefully consider and maximize use of administrative settlements in appropriate situations.

An administrative settlement or stipulated settlement is a negotiated settlement of a R/W acquisition case in which the agency has administratively approved payment in excess of fair market value as shown on the agency’s approved determination of value. Since relocation benefits by regulation cannot be waived, care should be taken not to include “relocation” in a blanket settlement as the agency may still be required to pay additional benefits as part of the relocation program. This is sometimes called a global settlement (see Subsection 25.93).

1. Any administrative settlement which exceeds the fair market value must be documented and thoroughly justified in order to be eligible for federal aid funds. The rationale for the settlement shall be set forth in writing. The extent of written explanation is a matter of judgment and should be consistent with the circumstances and the amount of money involved. If the local agency has any doubt as to eligibility, it should obtain prior approval from WSDOT through the Region LAC.
2. The local agency shall document the following and make it available for review by WSDOT if it is not already part of the agency’s approved procedures:
 - a. Identify the responsible official who has the authority to approve administrative settlements.
 - b. Describe the procedure for handling administrative settlements.
3. The designated local agency representative may approve an administrative settlement when it is determined that such action is in the public interest. In arriving at a determination to approve an administrative settlement, the designated official must give full consideration to all pertinent information. The settlement justification must include an analysis of the circumstances of each individual parcel that convince the agency that an administrative settlement is in the agency’s and

public's best interest. This documentation shall be completed and approved by the designated local agency official prior to payment(s) being made. The list below is a sample of items to be considered for an administrative settlement, and should not be used as a template.

- The negotiator's recorded information, including parcel details, estimates, bids, research information, all available appraisals, including the owner's and the owner's rationale for increased compensation. This is the most important part of the justification.
- Recent trends in court awards in cases involving similar acquisition and appraisal problems and the length of time it takes to get on the court's schedule.
- A statement can be made that condemnation will take additional time and money, but do not attach a dollar amount to the statement since it would be speculative. You should include items such as updating the appraisal for trial, pretrial, conference, staking of right of way, attorney's expenses, and witness fees (appraisers, consultants, etc.) will be additional incurred costs. You should not speculate about increased project costs resulting from a delay. You could try to quantify your administrative costs resulting from condemnation proceedings such as additional staff time.
- Describe the trial risks based on experience in the particular jurisdiction (e.g., county, city).

Note: Specific information about the parcel, including copies of appraisals, estimates, bids, research information, etc., **must** carry the most weight in the justification.

For additional guidance, reference *Right of Way Manual* Section 6-12.

25.12 Relocation

The regulations governing relocation assistance are covered in 49 CFR Part 24.

Those agencies that have trained staff and are approved by WSDOT through the procedures process to provide relocation services may do so. All other agencies should contact their Region LAC for advice on contracting with private consultants. WSDOT does not maintain a list of qualified relocation consultants.

If a project includes relocation, a WSDOT approved relocation plan must be submitted prior to R/W funding authorization. The local agency must have the WSDOT approved relocation plan **prior** to starting the acquisition process when the project includes relocation.

To maintain a project's federal aid eligibility, a relocation plan needs to be submitted and approved prior to starting acquisition activities, even if there are no federal funds in a R/W Phase. **This is also true in the case of advanced acquisition** (see Subsection 25.43).

You may contact WSDOT for sample relocation plans or refer to *Right of Way Manual* Chapter 12 for guidance. Contact the Region LAC for assistance in preparing relocation plans and carrying out relocation activities.

25.13 Right of Way Certification

Prior to R/W certification, the local agency must ensure that the R/W plans were reviewed and approved as part of the design approval (see Appendix 43.62).

After R/W acquisition has been completed and about one month before the federal aid project is to be advertised for contract, the R/W certification on agency letterhead must be submitted to the Region Local Programs Engineer.

The certification provides the following information and assurances.

1. Sufficient property rights to construct, operate, and maintain the facility as shown on PS&E has been acquired.
2. Right of way has been acquired in accordance with Uniform Act requirements.
3. Relocation assistance has been completed in accordance with the Uniform Act and meets the requirements of *Right of Way Manual* Chapter 12.
4. Properties acquired in advance of NEPA Clearance (including donations) shall be identified by parcel number. (This information could take the form of an address or a county tax ID if parcel numbers are not assigned.)

For specifics on certification procedures, requirements, and examples, see *Right of Way Manual* Chapter 17.

25.14 Property Management

If using FHWA funding, the acquiring agency shall establish property management policies and procedures that will assure control and administration of R/W, excess lands, and improvements acquired. These procedures shall establish:

1. Property records showing:
 - a. An inventory of all improvements acquired as a part of the R/W.
 - b. An accounting of excess properties acquired with FHWA funding.
 - c. An accounting of the property management expenses and the rental payments received.
 - d. An accounting of the disposition of improvements and the recovery payments received.
2. Methods for accomplishing the clearing of R/W when such clearance is performed separately from the control for the physical construction of the project.
3. The methods for managing the rodent control program.

4. The methods for employing private firms or public agencies for the management of real property interests.
5. The methods for accomplishing the disposition of improvements through resale, salvage, owner retention, or other means.

If the agency permits an owner or tenant to occupy the real property acquired on a rental basis for a short term or for a period subject to termination by the agency on short notice, the amount of rent required shall not exceed the fair rental value of the property to a short-term occupier.

Property management activities shall be handled in a manner consistent with the public interest and designed to reflect the maximum long-range public benefit.

The agency is responsible for the preservation of the improvements and for reasonable safety measures when it has acquired ownership and possession of the property.

Should rights of way, including uneconomic remnants, acquired with FHWA funds become excess, they may be disposed of only with the approval of WSDOT. If the disposal is to a private party, the agency must determine fair market value (either through the appraisal process or by public sale). FHWA will either be credited for its share of the net proceeds of the sale or lease payment, or the agency may use the federal share of the net proceeds for activities eligible for funding under Title 23 of the United States Code for transportation purposes. A disposal may be made to a governmental agency for a continued public highway use without charge, and no credit to FHWA is required; however, a reversionary clause is required in the deed per 23 CFR 710.403

FHWA approval is required for disposal of any rights of way or uneconomic remnants sold at less than fair market value.

Federal regulations provide for the use of airspace for non-highway purposes above, at, or below the highway's established gradeline, lying within the approved R/W limits. Allowing an airspace lease for recreational activities could result in the parcel becoming a protected 4(f) resource, costs associated with mitigating impacts to these resources will not be eligible for federal aid participation. The airspace may be put to various public and private uses, such as parks, play areas, parking, trails, etc., as long as it does not interfere with the roadway operations and does not create a safety hazard to the traveling public. Any such lease will need to describe what activities are allowed on the land.

Where an acquiring agency has acquired sufficient legal right, title, and interest in the R/W of a highway on a federal aid system to permit the use of certain airspace, the right to temporary or permanent occupancy or use of such airspace may be granted by the state subject to prior FHWA approval. If the use of airspace is contemplated, the Region LAC should be contacted for more detailed policies and procedures that must be considered.

25.15 Diaries

.151 General – The diary (also can be referred to as a negotiator’s log) is one of the most important elements of an acquisition or relocation file. It is crucial that it be accurate and complete, for it is frequently the only document in a file that explains how a difficult or complex real property interest transaction proceeded. Diaries are also often the only written documentation that is available to show that R/W transactions were done in compliance with the Uniform Act and 49 CFR Part 24. Therefore, diaries need to provide a complete record of the transaction. They need to be well organized and factual, and they should be written to be understandable by someone unfamiliar with the transaction. Also, they should reference any appropriate documents in the file such as brochures provided to property owners or estimates obtained to support an administrative record.

Each diary entry shall clearly show the month, day, and year of the contact; the name of the individual who made such a contact; how the contact was made (i.e., in person or by phone) and the name(s) of the individual(s) contacted. Each diary entry shall provide a summary of the contact. It is not sufficient to enter a simple posting of events as they occurred. For example, merely recording that the agent presented an offer or that “discussions were held” on a given date is not sufficient. The entry should indicate, at the least, where the event took place, what questions the owner asked and what answers the agent supplied. These elements are at the very heart of the negotiation process, and when an acquisition becomes difficult or negotiations break down, a wellwritten diary may be the most important document protecting the acquiring agency’s interests.

Multiple contacts should not be combined into one diary entry. These entries need to be made as soon as possible to ensure accuracy. Upon completion of activity entry, the specialist should initial each entry. Electronic diaries are recommended. Once a diary is complete, it must be dated and signed at the end.

Diary entries need to be limited to a recitation of the facts because the diary is subject to the rights of discovery by all parties in any court proceeding or appeal case. **All persons** who participate in negotiations with a property owner to acquire real property interests, whether a staff or consultant agent/negotiator, a member of an agency’s administrative or executive branch, or an agency’s attorney, shall maintain an appropriate diary or log of such activities and discussions with the property owner.

A collection of emails pertaining to the acquisition of a parcel does not constitute a diary. Information taken directly from email correspondence often contributes to a good diary, but care should be taken to exclude extraneous information.

Relocation diaries are further discussed in *Right of Way Manual* Chapter 12.

25.16 Document Retention

The acquiring agency shall maintain all records of its R/W activities for at least three years after payment of the final voucher for the project, not per parcel, to demonstrate compliance with 23 CFR 710.201(f).

25.17 Appendices

Cautionary Note: Please contact your LAC prior to changing any templates in the appendices.

- 25.171 Right of Way Procedures
- 25.172 Right of Way Project Funding Estimate
- 25.173 True Cost Estimate
- 25.174 Acquisition Appraisal Report
- 25.175 Appraisal Waiver Procedure
- 25.176 Review Appraiser Form
- 25.177 Donation Statements – Example
- 25.178 Federal Aid Requirement Checklist
- 25.179 Acquisition Process Flowchart
- 25.180 Governmental Agreement for Aid
- 25.181(a) AOS Offer Letter Template (Offers Less Than \$10,000)
- 25.182(b) AOS Offer Letter Template (Offers Between \$10,001–\$25,000)

AGENCY _____

The _____ (“AGENCY”), desiring to acquire Real Property in accordance with the state Uniform Relocation Assistance and Real Property Acquisition Act (Chapter 8.26 RCW) and state regulations (Chapter 468-100 WAC) and applicable federal regulations hereby adopts the following procedures to implement the above statutes and Washington Administrative Code. The _____ (“Department”) of the AGENCY is responsible for the real property acquisition and relocation activities on projects administered by the AGENCY. To fulfill the above requirements the _____ (“Department”) will acquire right of way in accordance with the policies set forth in the *Right of Way Manual M 26-01* and *Local Agency Guidelines*. The AGENCY has the following expertise and personnel capabilities to accomplish these functions:

1. Include the following as they relate to the AGENCY’s request.
 - a. List the functions below for which the agency has qualified staff and the responsible position. Attach a list of the individuals on the AGENCY staff who currently fill those positions and a brief summary of their qualifications. This list will need to be updated whenever staffing changes occur. An AGENCY will be approved to acquire based upon staff qualifications.

(1) PROGRAM ADMINISTRATION

Agency Position

(2) APPRAISAL

Agency Position

(3) APPRAISAL REVIEW

Agency Position

(4) ACQUISITION

Agency Position

(5) RELOCATION

Agency Position

(6) PROPERTY MANAGEMENT

Agency Position

- b. Any functions for which the Agency does not have staff will be contracted for with WSDOT, another local agency with approved procedures or an outside contractor. An AGENCY that proposes to use outside contractors for any of the above functions will need to work closely with the WSDOT Local Agency Coordinator and Highways and Local Programs to ensure all requirements are met. When the AGENCY proposes to have a staff person negotiate who is not experienced in negotiation for FHWA funded projects the Coordinator must be given a reasonable opportunity to review all offers and supporting data before they are presented to the property owners.
 - c. An AGENCY wishing to take advantage of an Appraisal Waiver process on properties valued up to \$25,000 or less should make their proposed waiver process a part of these procedures. The process outlined in *Local Agency Guidelines* Appendix 25.175 has already been approved. The AGENCY may submit a process different than that shown and it will be reviewed and approved if it provides sufficient information to determine value.
 - d. Attach a copy of the Agency's administrative settlement policy showing the approving authority(s) and the process involved in making administrative settlements.
- 2. All projects shall be available for review by the FHWA and the state at any time and all project documents shall be retained and available for inspection during the plan development, right of way and construction stages and for a three year period following acceptance of the projects by WSDOT.
 - 3. Approval of the AGENCY's procedures by WSDOT may be rescinded at any time the Agency is found to no longer have qualified staff or is found to be in noncompliance with the regulations. The rescission may be applied to all or part of the functions approved.

Mayor or Chairman

Date

WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

Approved By:

Real Estate Services

Date

- A. A Project Funding Estimate (PFE) is prepared for every project where right of way will be acquired.
- B. As a minimum, the PFE contains the following information.
 - 1. A parcel-by-parcel list of right of way costs reported on the Right of Way Estimate.
 - 2. A total project right of way cost summary reported on the Right of Way Project Cost Breakdown and Summary.
 - 3. A project data package including sales, sales map, neighborhood and project description, scope of sales search and, if applicable, damage studies, cost to cure documentation, and Assumptions and Limiting Conditions.
Note: The PFE Parcel Worksheet is not a part of the data package.

The Agent assigned to do the PFE completes the estimate as follows:

- A. Inspect the project and becomes familiar with the engineering features of the plan.
- B. View individual parcels to determine the effects of acquisition.
- C. Prepares a Neighborhood and Project Description which defines existing uses, zoning, trends, transportation and utilities, economic influences, a synopsis of the project and its effect on parcels, and any changes in the aforementioned likely to be caused by the project.
- D. Gathers sufficient comparable land sales and listings for the various types of parcels and remainders within the project. All sales shall be inspected, photos taken and written up on Market Data (Form RES-210) sheets. (If the sales are to be used exclusively on parcels where the Agency has determined to waive the appraisal, the sales need not be confirmed. In all other cases, a reasonable effort shall be made to confirm all sales. Unconfirmed sales will contain an explanation of the confirmation effort along with names and phone numbers of uncontracted parties.)
- E. Prepares project and sales vicinity map.
- F. Prepares PFE Parcel Worksheet for each parcel on the project.
- G. Includes any applicable damage studies.
- H. Includes cost-to-cure documentation for estimates and/or bids.
- I. Includes applicable Assumptions and Limiting Conditions if data Package will be referred to in the preparation of Abbreviated Appraisals.

PFE PARCEL WORKSHEET

PROJECT: _____

OWNERS NAME: _____

PROPERTY LOCATION: _____

BEFORE AREA: _____ AFTER AREA: _____

ACQUISITION AREA

FEE: _____ EASEMENT: _____
(area) (type) (area)

CURRENT USE: _____ ZONING: _____

HIGHEST & BEST USE: _____

EFFECTS OF ACQUISITION: _____

SALES RELIED ON : _____ (contained in Data Package for this project dated _____).

Subject Sold within last 5 Years? _____. If yes, is Sale included in Data package? _____

ACQUISITION COMPENSATION

FEE
LAND:

_____ \$ _____
(area) (unit value)

_____ \$ _____
(area) (unit value)

IMPROVEMENTS:

_____ \$ _____
(type and size) (unit value)

_____ \$ _____
(type and size) (unit value)

EASEMENT: _____ \$ _____
(unit value)

DAMAGES: _____ \$ _____

_____ \$ _____

TOTAL: _____ \$ _____

Sheet ____ of ____ Sheets

Parcel _____

Plan Approval Date _____ Revision Date _____ Worksheet Date _____

RIGHT OF WAY PROJECT FUNDING ESTIMATE SUMMARY

Project: _____ FA # _____

Date: _____

1 Parcel Number	2 Just Compen (Offer)	3 Appraisal Fee Costs	4 Appraisal Review Fee Costs	5 Negotiation Fee Costs	6 Title, Escrow Costs	7 Prop. Mgmt. Service Costs	8 Relocation Service Costs	9 Relocation Payments	10 Condemn. and Incid. Costs	11 Total Parcel Costs
Total R/W Costs										

S A M P L E
NEIGHBORHOOD DESCRIPTION
FOR PROJECT: YAKIMA COUNTY: SUNSET HILL ROAD WIDENING No. 311

Date: October 21, 1986

The project vicinity is rural Yakima County lying about 25 miles (40 km) westerly of Yakima city limits in an area commonly called Sunset Hill. The county road connecting the area to the city of Yakima is the Sunset Hill Road, which is currently a two-lane arterial. The area is primarily devoted to agricultural uses, such as cattle raising and forest products, but also is developing with single family lot subdivisions and ranchette residential uses. This part of the county is becoming a bedroom area for commuters to Yakima and several commercial uses have developed along the Sunset Hill Road. Zoning here is Agricultural (AG) minimum 20 acres (8 ha), with areas bordering the Sunset Hill Road zoned Single Family Residential (SR 13), minimum 13,000 square feet (1210 square meters) per site, and a strip along said arterial between Henderson Road and White Bluff Boulevard being zoned for commercial and/or office uses (CPD), with a minimum area required of 15,000 square feet (1 395 square meters) per site. Utilities available along Sunset Hill Road are Puget Power, West Yakima Water (Community System), PNB telephone, and sewers are by individual septic systems (soils percolate adequately). There appears to be minimal demand for new commercial development along Sunset Hill Road.

Traffic along the Sunset Hill Road is heavy during the rush hour. Hence, the proposed project is to widen this arterial to four traffic lanes with a dual-left turn lane in the center. A traffic light is planned at the intersection of Henderson Road. The project will be at present grade and will include curbing. Access points will be controlled at existing locations. The right of way needed is a 20-foot (6-meter) strip of fee land from each side of Sunset Hill Road between Henderson Road and White Bluff Boulevard.

Eleven parcels will be affected: seven homes, a tree farm (2,000 acres (810 ha) in size), one convenience store, a small wholesale lumber mill, and a new professional (medical) office complex. One of the residences is partially in the take and possibly will require relocating the owner-occupant family. A machine shed on the lumber mill site is partially in the take and it contains tenant-owned equipment. The convenience store's gasoline dispensers and canopy are partially in the take. About 10 of the 40 parking stalls for the medical office are in the taking, possibly resulting in loss of one tenant. The project should generally benefit the neighborhood by improving traffic flow during the rush hour. The neighborhood should continue to moderately change from agricultural to single family uses, with no major zoning changes immediately foreseeable, since neighborhood commercial services should remain adequate for the next five or more years.

TRUE COST PARCEL WORKSHEET

Project: _____ Parcel # _____

Notes:

Assessor's Tax Parcel Number(s):

Zone Size Min. = _____ : Assessed Value Land = _____ :

A.V. Bldg.#1 = _____ : Bldg.#2 = _____ : Bldg.#3 = _____ :

Bldg.#4 = _____ : Total Property Assessed Value = _____

R/W Map Info:

Before Area = _____ : After Area = _____ : Fee Take = _____ :

Permanent Esmt Take = _____ : Temporary Esmt Take = _____

Property Costs:

Total Take = (total property A.V. x 1.20) = \$ _____

Or

Partial Take:
Fee Land = _____ @ \$ _____ (A.V. land per unit) x 1.20 = \$ _____

Yard/Site Improvements in Take @ Administrative Lump Sum = \$ _____

Major Building in Take @ (A.V. of Bldg. # _____) x 1.20 = \$ _____

Perm. Esmt. = _____ @ \$ _____ (A.V. land per unit) = \$ _____

Temp. Esmt. = _____ @ \$ _____ (A.V. land per unit) x 10% = \$ _____

TOTAL PROPERTY COSTS (put in column 2 of True Cost) = \$ _____

Administrative Costs (put in respective columns of True Cost):

3. Appraisal Fee = _____ 4. Appraisal Review Fee = _____

5. Negotiation Fee = _____ 6. Title and Escrow Fee = _____

7. Prop. Mgmt. Services = _____ 8. Relocation Services = _____

9. Relocation Payments = _____ 10. Condemn & Incidentals = _____

S A M P L E
NEIGHBORHOOD DESCRIPTION
FOR PROJECT: YAKIMA COUNTY: SUNSET HILL ROAD WIDENING No. 311

Date: October 21, 1986

The project vicinity is rural Yakima County lying about 40 km (25 miles) westerly of Yakima city limits in an area commonly called Sunset Hill. The county road connecting the area to the city of Yakima is the Sunset Hill Road, which is currently a two-lane arterial. The area is primarily devoted to agricultural uses, such as cattle raising and forest products, but also is developing with single family lot subdivisions and ranchette residential uses. This part of the county is becoming a bedroom area for commuters to Yakima and several commercial uses have developed along the Sunset Hill Road. Zoning here is Agricultural (AG) minimum 8 ha (20 acres), with areas bordering the Sunset Hill Road zoned Single Family Residential (SR 13), minimum 1 210 square meters (13,000 square feet) per site, and a strip along said arterial between Henderson Road and White Bluff Boulevard being zoned for commercial and/or office uses (CPD), with a minimum area required of 1 395 square meters (15,000 square feet) per site. Utilities available along Sunset Hill Road are Puget Power, West Yakima Water (Community System), PNB telephone, and sewers are by individual septic systems (soils percolate adequately). There appears to be minimal demand for new commercial development along Sunset Hill Road.

Traffic along the Sunset Hill Road is heavy during the rush hour. Hence, the proposed project is to widen this arterial to four traffic lanes with a dual-left turn lane in the center. A traffic light is planned at the intersection of Henderson Road. The project will be at present grade and will include curbing. Access points will be controlled at existing locations. The right of way needed is a 6-meter (20-foot) strip of fee land from each side of Sunset Hill Road between Henderson Road and White Bluff Boulevard.

Eleven parcels will be affected: seven homes, a tree farm (810 ha (2,000 acres) in size), one convenience store, a small wholesale lumber mill, and a new professional (medical) office complex. One of the residences is partially in the take and possibly will require relocating the owner-occupant family. A machine shed on the lumber mill site is partially in the take and it contains tenant-owned equipment. The convenience store's gasoline dispensers and canopy are partially in the take. About 10 of the 40 parking stalls for the medical office are in the taking, possibly resulting in loss of one tenant. The project should generally benefit the neighborhood by improving traffic flow during the rush hour. The neighborhood should continue to moderately change from agricultural to single family uses, with no major zoning changes immediately foreseeable, since neighborhood commercial services should remain adequate for the next five or more years.

ACQUISITION APPRAISAL REPORT

- 1. OWNER:**
- 2. LOCATION OF SUBJECT:**
- 3. SUBJECT LEGAL DESCRIPTION:**
- 4. DELINEATION OF TITLE (5 years):**
- 5. DESCRIPTION OF SUBJECT PROPERTY including Neighborhood, Larger Parcel, Zoning, Present Use, Improvements, Highest and Best Use-Vacant and Improved:**
- 6. PROPERTY RIGHTS TO BE ACQUIRED AND EFFECTS OF ACQUISITION / PROJECT:**
- 7. VALUATION-BEFORE**
 - A. Land as Though Vacant**
 - (1) Scope of Data Search
 - (2) Comparative Analyses
 - (3) Correlation and Conclusion-Land Value Before
 - B. Whole Property**
 - (1) Scope of Data Search
 - (2) Comparative Analyses
 - (3) Correlation and Conclusion-Property Value Before
- 8. DESCRIPTION OF SUBJECT REMAINDER:**
- 9. VALUATION-AFTER:**
 - A. Land as Though Vacant**
 - (1) Scope of Data Search
 - (2) Comparative Analyses
 - (3) Correlation and Conclusion-Land Value After
 - B. Whole Property**
 - (1) Scope of Data Search
 - (2) Comparative Analyses
 - (3) Correlation and Conclusion-Property Value After
- 10. EXPLANATION, MEASUREMENT, AND ALLOCATION OF DAMAGES / SPECIAL BENEFITS:**
- 11. REPORT OF CONTACT WITH OWNER:**

Person(s) Contacted Address: Phone: Comments:	Date of Contact: Relationship to Owner: Date of Joint Inspection:
--	---

Appraiser:

Page

Parcel:

Washington State
Department of Transportation

Parcel No.:
Federal Aid No.:
Project:
Map Sheet of Sheets
Map Approval Date:
Date of Last Map Revision:

CERTIFICATE OF APPRAISER

I certify that, to the best of my knowledge and belief:

- ◆ the statements of fact contained in this appraisal are true and correct;
- ◆ the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conclusions, and are my personal, unbiased professional analyses, opinions, and conclusions;
- ◆ I have no present or prospective interest in the property that is the subject of this appraisal, and I have no personal interest or bias with respect to the parties involved;
- ◆ my compensation is not contingent upon the reporting of a predetermined value or direction that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event;
- ◆ my analyses, opinions, and conclusions were developed, and this appraisal has been prepared, in conformity with the appropriate State and Federal laws, regulations, policies and procedures applicable to the appraisal of right of way for such purposes;
- ◆ I have made a personal inspection of the property that is the subject of this report. I have made a personal inspection of the comparable sales contained in the report addenda;
- ◆ I have afforded the owner or a designated representative of the property that is the subject of this appraisal the opportunity to accompany me on the inspection of the property.
- ◆ no one provided significant professional assistance to the person signing this report. (If there are exceptions, the name of each individual providing significant professional assistance must be stated);
- ◆ I have disregarded any increase in Fair Market Value caused by the proposed public improvement or its likelihood prior to the date of valuation. I have disregarded any decrease in Fair Market Value caused by the proposed public improvement or its likelihood prior to the date of valuation, except physical deterioration within the reasonable control of the owner;

The property has been appraised for its fair market value as though owned in fee simple, or as encumbered only by the existing easements as described in the title report dated _____.
The opinion of value expressed below is the result of, and is subject to the data and conditions described in detail in this report of _____ pages.

I made a personal inspection of the property that is the subject of this report on _____.
The **Date of Value** for the property that is the subject of this appraisal is _____. Per the FAIR MARKET VALUE definition contained in the Acquisition Appraisal Salient Information, the value conclusions for the property that is the subject of this appraisal are on a cash basis and are:

FAIR MARKET VALUE BEFORE ACQUISITION \$ _____

FAIR MARKET VALUE AFTER ACQUISITION \$ _____

DIFFERENCE \$ _____

Date of Assignment or Contract: _____ Name: _____
Date Signed: _____ Signature: _____

Washington State-certified general real estate appraiser certification number: _____

CERTIF1
DO NOT WRITE BELOW THIS LINE _____

Headquarters Service Center Date Stamp Region Date Stamp

WAIVER OF APPRAISAL

The (*Agency*) desiring to acquire Real Property according to 23 CFR, Part 635, Subpart C and State directives and desiring to take advantage of the \$25,000.00 appraisal waiver process approved by the Federal Highway Administration for Washington State, hereby agrees to follow the procedure approved for the Washington State Department of Transportation as follows:

Rules

- A. The (*Agency*) may elect to waive the requirement for an appraisal if the acquisition is simple and the compensation estimate indicated on the PFE (Project Funding Estimate) is \$25,000.00 or less including cost-to cure items.
- B. The (*Agency*) must make the property owner(s) aware that an appraisal has not been completed on the property for offers \$10,000 or less.
- C. The (*Agency*) must make the property owner(s) aware that an appraisal has not been completed on the property for offers \$10,001 or greater and up to \$25,000. An appraisal will be prepared if requested by the property owner(s).
- D. Special care should be taken in the preparation of the waiver. As no review is mandated, the preparer needs to assure that the compensation is fair and that all the calculations are correct.

Procedures

- A. An Administrative Offer Summary (AOS) is prepared using data from the PFE.
- B. The AOS is submitted to (*Position Title Only*) for approval.
- C. _____ (*Position Title Only*) signs the AOS authorizing a first offer to the property owner(s).

APPROVED:

(Agency)

By: _____

Real Estate Services
Washington State Department
of Transportation

ADMINISTRATIVE OFFER SUMMARY

PROJECT: _____

OWNERS NAME: _____

PROPERTY LOCATION: _____

BEFORE AREA: _____ AFTER AREA: _____

ACQUISITION AREA

FEE: _____ EASEMENT: _____
(area) (type) (area)

CURRENT USE: _____ ZONING: _____

HIGHEST & BEST USE: _____

EFFECTS OF ACQUISITION: _____

SALES RELIED ON : _____ (contained in Data Package for this project dated _____.)

ACQUISITION COMPENSATION

FEE
LAND: _____ \$ _____
(area) (unit value)

IMPROVEMENTS: _____ \$ _____
(type and size) (unit value)

_____ \$ _____

EASEMENT: _____ \$ _____
(unit value)

DAMAGES: _____ \$ _____

TOTAL: _____ \$ _____

Sheet ___ of ___ Sheets Parcel _____

Plan Approval Date _____ Revision Date _____ Worksheet Date _____

Prepared By: _____ Date: _____

I concur in the value estimate herein and authorize an Administrative Offer be made in said amount.

(Region RES Manager) (Date)

This form is prepared in conformance with WSDOT policy and procedures. It does not constitute an appraisal as defined by the USPAP.

Federal Aid # _____ Parcel # _____



REVIEW APPRAISER'S CERTIFICATE NO. 1

FROM: _____, Review Appraiser

TO:

Agency:
Parcel No.:
Owner:
Federal Aid No.
Project:

Map Sheet:
Map Approval Date:
Date of last map revision:

The following appraisals have been made on subject property:

APPRAISER	VALUATION DATE	BEFORE VALUE	AFTER VALUE	VALUE DIFFERENCE	ALLOCATION \$	
		\$	\$	\$	TAKING \$	DAMAGES \$
I.						

The following prior certificate(s) of value have been made on subject property:

REVIEW APPRAISER	DATE OF PRIOR DV	BEFORE VALUE	AFTER VALUE	JUST COMPENSATION	ALLOCATION \$	
		\$	\$	\$	TAKING \$	DAMAGES \$
I.						

Comments:

The appraiser completed a narrative appraisal report as contracted. The data used is adequate and relevant and any adjustments made to the data are proper. The appraisal methods and techniques used are appropriate. The analyses, opinions and value conclusions in the report under review are appropriate and reasonable.

I, the review appraiser, have both the experience and the knowledge to perform this appraisal review competently. Attached are my Appraisal Review Assumptions and Limiting Conditions and my Appraisal Review Salient Information which are made a part of this appraisal review report.

I inspected the subject property and the sales data used in the appraisal report on _____.

My value conclusions and appraisal review findings are as follows:

<p>REVIEWER'S DETERMINATION OF VALUE (This Review):</p> <p>VALUE BEFORE ACQUISITION: \$</p> <p>VALUE AFTER ACQUISITION: \$</p> <p>VALUE DIFFERENCE: \$</p>	<p>Reviewer's Allocation of Just Compensation:</p> <p>Acquisition: \$</p> <p>Damages: \$</p>
<p>JUST COMPENSATION IS \$ AS OF</p>	

CERTIFICATE OF REVIEW APPRAISER

I, the review appraiser, certify that, to the best of my knowledge and belief:

1. The facts and data reported by the review appraiser and used in the review process are true and correct.
2. The analyses, opinions, and conclusions in this review report are limited only by the assumptions and limiting conditions stated in this review report, and are my personal, unbiased professional analyses, opinions, and conclusions.
3. I have no present or prospective interest in the property that is the subject of this report and I have no personal interest or bias with respect to the parties involved.
4. My compensation is not contingent on an action or event resulting from the analyses, opinions, or conclusions in, or the use of, this review report.
5. My analyses, opinions, and conclusions were developed and this review report was prepared in conformity with the appropriate State laws, regulations, procedures and policies applicable to appraisal of right-of-way for such purposes.
6. I did personally inspect the subject property of the report under review.
7. No one provided significant professional assistance to the person signing this review report.

I further certify that if this determination is to be used in conjunction with a Federal aid highway project or other Federally funded project, none of the approved just compensation is ineligible for Federal reimbursement.

Washington State-certified general
real estate appraiser certificate
number:

Signature: _____

_____, Review Appraiser,

Date:

ACQUIRING AGENCY CONCURRENCE AND AUTHORIZATION:

The _____ of _____ does hereby indicate
the concurrence with the above certification and does authorize further action by
_____ to proceed according to established procedures with the
acquisition of the designated property.

_____ (Date) _____.

Proposed Donation Letter

Date

Subject: Project Title
Parcel Number

Sirs:

(My/Our) donation of (parcel number or property description) to the (name of local agency) for highway/transportation purposes is made voluntary and with full knowledge of (my/our) entitlement to receive just compensation therefore. (I/We) hereby release the (name of local agency) from obtaining an appraisal of the acquired property.

Sincerely,

Proposed Donation Letter (Through Local Agency)

Date _____

Regional Administrator/Chief Right of Way Agent
Washington State Department of Transportation
Transportation Building
Olympia, WA 98504

Subject: (Project Title)
(Federal Aid Number)
Parcel Number _____

Sirs:

The attached instrument for donation of right of way to the agency is in compliance with the provisions of * _____.

Sincerely,

Concur and Approve

Accept and Approval

STATE OF WASHINGTON
DEPARTMENT OF TRANSPORTATION

Title _____

(Local Agency)

*(Typical language)
City/County Commission Resolution No. 111
City/County Ordinance No. 111
City/County Conditional Use Permit No. 111
City/County Building Permit No. 111

(For use when a local agency project is adjacent to WSDOT right of way and WSDOT does not have an active project at this location.)

Appendix 25.178

Federal Aid Requirement Checklist

Informational Only

Agency _____ Region _____ Date _____

Project _____
(Federal Aid Number) (Name)

Federal Funds Will Be Used For: PE _____ R/W _____ CONST. _____

Persons Will Be Displaced: YES _____ NO _____

Right of Way Acquired for This Project: YES _____ NO _____

(Reminders)

(Comments)

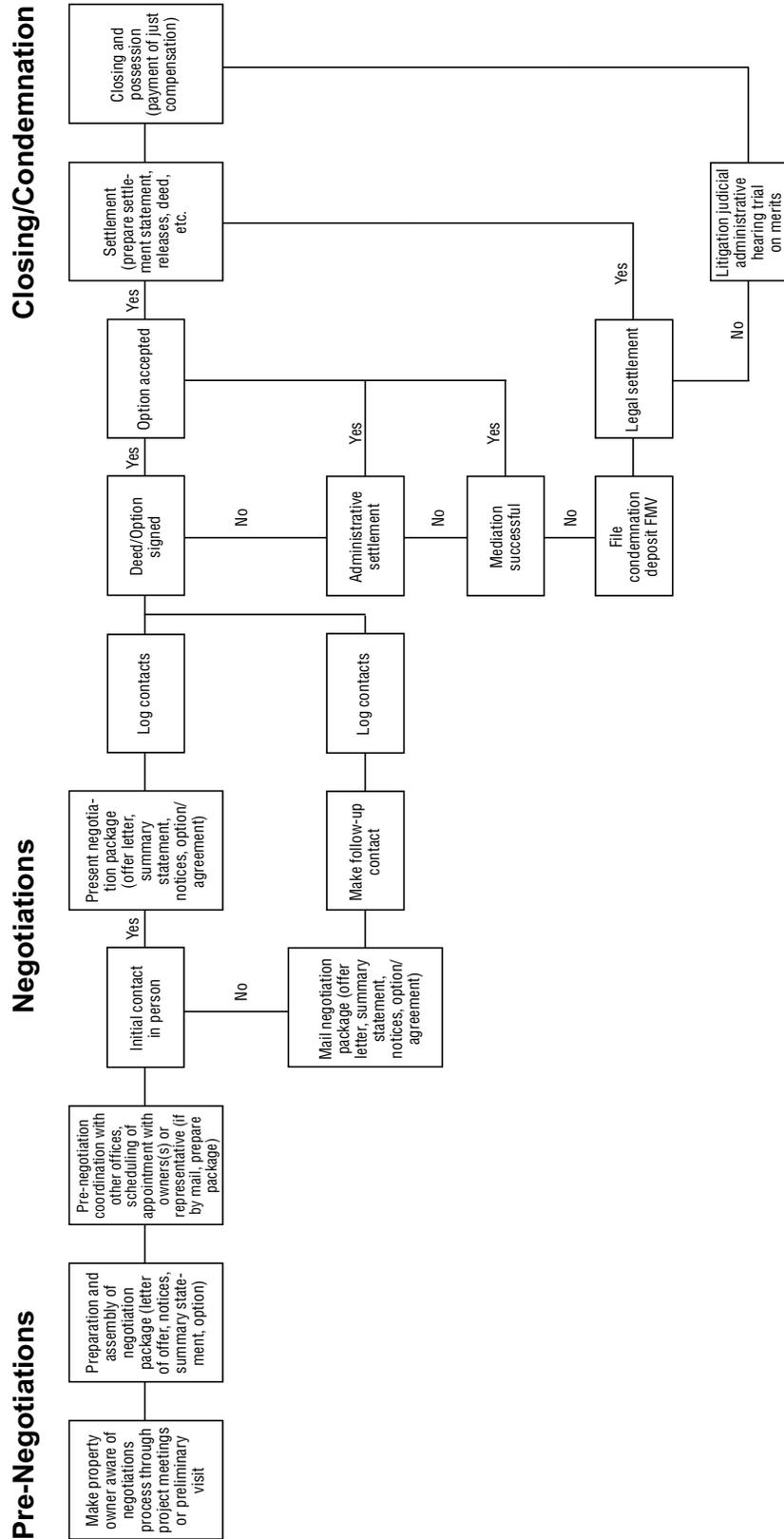
1. Real property must be appraised before initiation of negotiations with the owner, per 49 CFR 24.102(c) and 24.108.
2. Owners must be given an opportunity to accompany each appraiser during his inspection of the property, per 49 CFR 24.102(c).
3. The acquiring agency must establish just compensation before initiation of negotiations with the owners, per 49 CFR 24.102(d).
4. No increase or decrease in the FMV due to the project except physical deterioration, is to be considered in the valuation of the property, per 49 CFR 24.103(d).
5. Appraisals are not to give consideration nor include any allowance for relocation assistance benefits.
6. The owner is not to be left with an uneconomic remnant that the acquiring agency did not offer to acquire, per 49 CFR 24.102(k).
7. The owner is to be given a written statement of the amount offered as just compensation, and where appropriate, the compensation for real property to be acquired and the compensation for damages, if any, to the remaining real property shall be separately stated in the written statement, per 49 CFR 24.102(e).

8. No owner shall be required to surrender possession before the agreed purchase price has been paid or the approved amount of compensation has been paid into the court, per 49 CFR 24.102(j).
9. No lawful occupant shall be required to move unless the occupant has been given at least 90 days advance written notice of the earliest date by which the occupant may be required to move, per 49 CFR 24.203(c).
10. The rental amount charged to owners and/or tenants permitted to occupy the property subsequent to acquisition must not exceed the fair rental value for such occupancy, per 49 CFR 24.102(m).
11. No action must be taken to advance condemnation, defer negotiations or condemnation or taken any other action coercive in nature in order to compel an agreement on the price to be paid for the property, per 49 CFR 24.102(h).
12. The acquiring agency must acquire an equal interest in all buildings, etc., located upon the real property acquired, per 49 CFR 24.105.
13. The acquiring agency must pay recording fees, transfer taxes, etc.; penalty costs for pre-payment of a pre-existing mortgage and the pro rata share of real property taxes paid subsequent to vesting title in the acquiring agency, per 49 CFR 24.106.
14. No property owner can voluntarily donate his property prior to being informed of his right to receive just compensation.
15. Provisions have been made for rodent control should it be necessary.
16. No owner was intentionally required to institute legal proceedings to prove the fact of the taking of his real property.

Prepared by _____

Title _____

Acquisition Process





<p>Government Agreement For Aid</p> <p>Work by State - Actual Cost</p>	Organization and Address
Agreement Number	Federal Employers I.D. Number
Region	Land Acquisition, Relocation, and Related Services (For Highway, Road, and Street Purposes Only)

THIS AGREEMENT, made and entered into by and between the Washington State Department of Transportation, hereinafter the "WSDOT," and the above named organization, hereinafter the "AGENCY."

WHEREAS, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (PL 91-646, 84 Stat. 1894) amended by Uniform Relocation Act Amendments of 1987 (PL 100-17, 101 Stat. 246-256) as implemented by the United States Department of Transportation (49 CFR 24), Chapter 8.26 Revised Code of Washington (RCW), and Chapter 468-100 Washington Administrative Code (WAC), all of which are hereinafter referred to as the REGULATIONS, establish a uniform policy for the expedient and consistent treatment of owners subjected to land acquisition practices and provide for the fair and equitable treatment of persons displaced in connection with or as a result of public works programs or projects of a State agency or local public body; and

WHEREAS, the AGENCY may propose to acquire or to administer the acquisition of real property in connection with public works programs or projects which may necessitate displacement of an individual, a family, business, farm, or nonprofit organization; and

WHEREAS, the DEPARTMENT has an established organization to complete project impact studies and to conduct land acquisition, property management, and relocation assistance programs in compliance with the REGULATIONS and is empowered to provide such services to other governmental agencies pursuant to RCW 47.28.140; and

WHEREAS, the AGENCY, assures the DEPARTMENT that the AGENCY's requests for services under this AGREEMENT will not result from bidding, negotiation, or other competition involving private enterprise; and

WHEREAS, the AGENCY may desire to obtain such services from the DEPARTMENT and the DEPARTMENT is willing to furnish such services to the AGENCY, and both deem it in the interest of the public to enter into this AGREEMENT;

WHEREAS, the actual work to be performed shall be specified in a Task Assignment signed by both parties;

WHEREAS, the AGENCY shall pay for any work identified in a Task Assignment as specified by the terms of the Task Assignment and this AGREEMENT;

NOW, THEREFORE, in consideration of the stated premise and in the interest of providing expedient, fair, equitable, and uniform treatment of landowners and persons to be displaced by proposed land acquisition projects and pursuant to RCW 8.26.095, the parties hereto agree as follows:

**I
GENERAL**

- A. The DEPARTMENT shall, to its maximum ability, provide the AGENCY with impact study, appraisal, appraisal review, acquisition, relocation assistance, or property management services described hereinafter, all in accordance with the appropriate elements of the department's operating requirements set forth in the departmental publication M26-01 (HW), Right of Way Manual, except where specific operating requirements are otherwise described herein. All such requirements shall conform to the REGULATIONS. All work to be performed shall be identified in a Task Assignment signed by both parties.

- B. The normal workload of the department shall have priority over any work performed under this AGREEMENT or any Task Assignment. The work performed under this AGREEMENT and the associated Task Assignments shall be pursued with care and diligence, making every effort to recognize pertinent schedules of the AGENCY. The DEPARTMENT shall promptly notify the AGENCY of any hardship or other inability to perform under this AGREEMENT including postponement of the agency's work due to priority given to the department's work.
- C. This AGREEMENT may be increased or decreased in scope or character of work to be performed if such change becomes necessary, but any such change shall be accomplished by written supplement executed by all parties to said AGREEMENT.
- D. The parties shall agree on a satisfactory completion date for work performed under any Task Assignment ("work completion date"), which shall be specified in the Task Assignment. The AGENCY shall, upon satisfactory completion of work performed pursuant to a Task Assignment, issue a letter of acceptance that shall include a release and waiver of all future claims or demands of any nature resulting from the performance of the work under the Task Assignment. If the DEPARTMENT does not receive a letter of acceptance within 90 days following the work completion date, the work will be considered accepted by the AGENCY. The AGENCY may withhold acceptance of work by submitting written notification to the DEPARTMENT within a 90-day period. This notification shall include the reasons for withholding acceptance.

**II
WORK ASSIGNMENT/REQUEST**

- A. Specific assignments shall be made in the form of a written Task Assignment to the DEPARTMENT by the AGENCY and signed by both parties. Each Task Assignment shall contain an agreed upon budget and schedule for all services to be rendered. AGENCY approval is required for budget and schedule changes. The agreed upon budget will include estimated DEPARTMENT staff and related costs in addition to applicable acquisition/relocation cost estimates. The AGENCY shall make such assignments before any negotiations for property acquisition and before any discussion of price with the property owner, when required by the REGULATIONS.
- B. The AGENCY shall furnish the DEPARTMENT with all information that has been compiled by or is available to the AGENCY concerning the property to be affected by each particular project. Such information shall include, but not be limited to, copies of approved right of way plan sheets showing limits of parcels, rights to be acquired, and sufficient engineering data to develop legal descriptions; a list identifying each property affected by the project by parcel number; a tabulation of improvements on each property; the geographical location and boundaries of each property; and a description of how the project affects each property.
- C. The DEPARTMENT shall furnish all labor, materials, supplies, and incidentals necessary to complete the work assigned by the AGENCY and shall furnish all information necessary to the conduct of a land acquisition program.
- D. The DEPARTMENT will at its discretion and upon written request from the AGENCY furnish the following as required:

Impact Studies: Impact studies shall be made and reported in written narrative addressing potential influences by a program or project on land economics or land use factors, displacement/relocation factors, acquisition costs, and relocation plans, as requested.

Appraisal: Property shall be evaluated and value conclusions reported to conform with departmental operating requirements. Any request by the AGENCY for court preparation and testimony will be a separate Task Assignment under this AGREEMENT and shall be submitted to the DEPARTMENT in a timely manner to provide not less than ninety (90) days notice in advance of any expected court appearance.

Appraisal Review: Appraisal reports shall be reviewed to conform with departmental operating requirements for validity of value conclusions provided such reports are accompanied by a copy of the appraiser's contract and provided that the AGENCY (or its agent) has determined that such reports appear to comply with the agency's procedural requirements and include adequate description of the property appraised and the interest to be acquired and appear to include adequate data supporting said conclusions. The AGENCY shall be responsible for obtaining any necessary replacements for unacceptable appraisal reports or for obtaining any substantive revisions of inadequate reports where such reports were furnished to the DEPARTMENT by the AGENCY.

Acquisition: Every reasonable effort will be made to acquire real property by negotiations in accordance with the REGULATIONS and the AGENCY's condemnation authority, including the AGENCY's authority to acquire limited access where applicable. The DEPARTMENT shall attempt to acquire all property within the project limits without commencing condemnation proceedings. A written offer will be presented to each owner at the time price is first discussed for the property. The offer will be documented and retained as part of the parcel file. Individual parcel diaries will be maintained containing adequate written records of the negotiations including, but not limited to, the following:

1. Date and place of contacts;
2. Persons present;
3. Offers made (actual dollar amount);
4. Counter offers made;
5. Reasons settlement could not be reached (if appropriate).

Each request by the AGENCY shall specify the name of the grantee in whose name the property is to be conveyed. The DEPARTMENT shall provide the AGENCY with deeds to all property acquired and, wherever possible, instruments to clear encumbrances of title from those deeds. The DEPARTMENT will provide information leading to clearing of encumbrances that the DEPARTMENT cannot clear without legal action. Upon completion of a review of each acquisition by the DEPARTMENT's Title Section, all instruments and materials pertaining thereto will be provided to the AGENCY. Clearing remaining encumbrances of title and making the actual payment for the property shall be the responsibility of the AGENCY. Should it become apparent that negotiations for attempted acquisition have reached an impasse and sufficient time has elapsed for a property owner to make a decision, the DEPARTMENT will, either at its discretion or upon written request by the AGENCY, submit to the AGENCY a condemnation report that will contain a summary of negotiations, amounts of counter offers, if any, and other historic data relative to such attempted acquisition. The actual filing of condemnation and subsequent litigation shall be the responsibility of the AGENCY.

Relocation Assistance: Relocation assistance services shall be provided to conform with departmental operating requirements. All relocation payment claims presented by displacees will be processed by the DEPARTMENT, but the actual disbursement of monies shall be made by the AGENCY. As may be requested by the AGENCY, the DEPARTMENT may assist the AGENCY, on a case by case basis, with an appeal as to relocation assistance benefits filed by an aggrieved displacee. However, the AGENCY shall remain responsible for any appointment of a hearing officer, conducting hearings, maintaining records thereof, and rendering the final decision of the AGENCY.

Property Management: Effective management of agency- controlled properties will be provided in the name of the AGENCY in conformity with departmental operating requirements.

E. At the completion of the Task Assignment, the DEPARTMENT will turn over to the AGENCY all records including appraisal and appraisal review reports, acquisition, relocation assistance, and property management records pertinent to the work performed by the DEPARTMENT.

III PAYMENT

The DEPARTMENT shall be paid by the AGENCY for completed work and for services rendered under this AGREEMENT and associated Task Assignments as provided hereinafter. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, and incidentals necessary to complete the work. The DEPARTMENT acknowledges and agrees that only those costs actually allocable to a project shall be charged to such project.

- A. The DEPARTMENT shall be reimbursed in full by the AGENCY for its direct and related indirect costs accumulated in accordance with its current accounting procedures.
- B. Partial payments will be made by the AGENCY within 30 days of receipt of the billings from the DEPARTMENT. Billings will not be more frequent than one per month. It is agreed that payment of any particular claim will not constitute agreement as to the appropriateness of any item and that at the time of final billing all required adjustments will be made.
- C. Upon termination of this AGREEMENT as provided in Section VI, the DEPARTMENT shall be paid by the AGENCY for services rendered to the effective date of termination less all payments previously made. No payment shall be made by the AGENCY for any expense incurred or work done following the effective date of termination unless authorized, in writing, by the AGENCY.
- D. Final payment of any balance due the DEPARTMENT of the ultimate gross reimbursable amount, prior to the effective date of termination, will be made upon ascertainment of such balance by the DEPARTMENT and certification thereof to the AGENCY.

IV LEGAL RELATIONS

- A. **INDEMNIFICATION:** Each of the parties to this AGREEMENT shall protect, defend, indemnify and save harmless the other party from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including without limitation, reasonable attorney's fees, arising out of or related to the terms, covenants or conditions of this AGREEMENT and such parties' performance or failure to perform any aspect of this AGREEMENT; provided, however, that if the claims or suits are caused by or result from the concurrent negligence of (a) the AGENCY, its agents or employees, and (b) the DEPARTMENT, its agents or employees, including those actions covered by RCW 4.24.115, the obligations shall be valid and enforceable only to the extent of the parties' negligence; and provided further, that nothing herein shall require either party to hold harmless or defend the other party from any claim arising from the sole negligence of the other party.

B. DISPUTE RESOLUTION:

1. The AGENCY and the DEPARTMENT shall confer to resolve disputes that arise under this AGREEMENT as requested by either party.
2. The following individuals are the Designated Representatives for the purpose of resolving disputes that arise under this agreement:

AGENCY	DEPARTMENT
Name/Title _____	<u>Region Real Estate Services Manager</u>
Address _____	_____

3. In the event the Designated Representatives are unable to resolve the dispute, the following individuals shall confer and resolve the dispute.

AGENCY	DEPARTMENT
Name/Title _____	<u>Real Estate Services Program Administrator</u>
Address _____	<u>PO Box 47338, Olympia, WA 98504-7338</u>

The AGENCY and the DEPARTMENT agree that they shall have no right to seek relief in a court of law until and unless the Dispute Resolution process has been exhausted.

- C. **VENUE:** In the event that any party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this AGREEMENT, the parties hereto agree that any such action or proceeding shall be brought in a court of competent jurisdiction situated in Thurston County, Washington.

**V
NONDISCRIMINATION**

The DEPARTMENT shall comply with Chapter 49.60 RCW and with Title VI of the Civil Rights Act of 1964, 42 USC § 2000d et seq. With respect to the work to be performed by the DEPARTMENT during the contract, the DEPARTMENT shall not discriminate on the grounds of race, color, sex, national origin, marital status, age, or the presence of any sensory, mental, or physical handicap in the selection and retention of agents, subcontractors or in the procurement of services or materials, leases, or equipment.

**VI
COMMENCEMENT AND TERMINATION OF AGREEMENT**

The work is of a continuing nature and will be in force as of the date of this AGREEMENT. The DEPARTMENT may terminate this AGREEMENT at any time upon not less than sixty (60) days written notice to the AGENCY with or without cause. The AGENCY may terminate this AGREEMENT or Task Assignment at any time provided that the AGENCY reimburses the DEPARTMENT for all direct and indirect costs incurred to date. This AGREEMENT shall terminate five years from the date of execution hereof unless otherwise terminated or unless extended in writing signed by both parties. Upon termination of this AGREEMENT, the DEPARTMENT will turn over to the AGENCY all records including appraisal and appraisal review reports, acquisition, relocation assistance, and property management records pertinent to the work performed by the DEPARTMENT.

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT as of the day and year last written below.

AGENCY	STATE OF WASHINGTON DEPARTMENT OF TRANSPORTATION
By: _____	By: _____
Title: _____	Title: <u>Region Real Estate Services Manager</u>
Date: _____	Date: _____

Date

Subject: Project Title
FA No.
Parcel Number

Dear:

The (agency name) plans to proceed with the above-titled public project. As a part of the project, we need to purchase your property and/or property rights identified on the “Right of Way Plan” by the “parcel number” listed above. The bearer of this letter is the Agency’s agent in completing this transaction.

In those cases where property rights being acquired involve a payment of less than \$10,000, the agency will administratively establish an amount to be offered. This administrative offer is based on market research performed by a person having sufficient understanding of the local real estate market.

You may wish to employ professional services to evaluate the Agency’s offer. If you do so, we suggest that you employ well-qualified evaluators so that the resulting evaluation report will be useful to you in deciding whether to accept the Agency’s offer. The Agency will reimburse up to \$750.00 of your evaluation costs upon submission of the bills or paid receipts.

An administrative offer of \$ _____ is being made for your property or property rights. This offer consists of:

- describe acre/square feet of acquisition
- type of acquisition – fee, easement, temporary construction easement
- improvements
- minor cost to cure damages

If you have personal property presently located on the property being acquired by the Agency that needs to be moved, the Agency will reimburse you for the cost of moving it through the Relocation Assistance program.

(If the acquisition will result in the displacement of person or personal property, add the following paragraph)

Owners and tenants of dwellings, businesses, farm operations, or nonprofit organizations being displaced cannot be required to move from the referenced property without being given a written assurance of at least 90 days prior to the date by which they will be required to vacate the property. In most cases, the Agency will provide this assurance in the relocation letter entitled, "Notice of Relocation Eligibility, Entitlements, and 90-Day Assurance." Occupancy of the property beyond the date the Agency acquires possession will require that a rental agreement be signed and rent be paid.

Payment for your property and/or property rights will be made available to you after acceptance of the Agency's offer. The date on which payment is made available to you is called the "payment date." On that date, the Agency becomes the owner of the property and/or property rights purchased and responsible for its control and management.

(Optional paragraph)

If you decide to reject the Agency's offer, the Agency, acting in the public interest, will use its right of eminent domain to acquire your property for public use.

We have attempted by this letter to provide a concise statement of our offer and summary of your rights. We hope the information will assist you in reaching a decision. Please feel free to direct any questions you may have to the undersigned. May we please have your early reply as to acceptance or rejection of this offer?

Thank you.

Sincerely,

By: Agent
(000) 000-0000

Receipt of this letter is hereby acknowledged.
I understand that this acknowledgment does not
signify my acceptance or rejection of this offer.

Signature

Date

AOS Offer Letter Template
(Offers Between \$10,001–\$25,000)

Appendix 25.181(b)

Date

Subject: Project Title
FA No.
Parcel Number

Dear:

The (*agency name*) plans to proceed with the above-titled public project. As a part of the project, we need to purchase your property and/or property rights identified on the “Right of Way Plan” by the “parcel number” listed above. The bearer of this letter is the Agency’s agent in completing this transaction.

In those cases where property rights being acquired involve a payment greater than \$10,001 and less than \$25,000, the agency will administratively establish an amount to be offered. This administrative offer is based on market research performed by a person having sufficient understanding of the local real estate market.

You may wish to employ professional services to evaluate the Agency’s offer. If you do so, we suggest that you employ well-qualified evaluators so that the resulting evaluation report will be useful to you in deciding whether to accept the Agency’s offer. The Agency will reimburse up to \$750.00 of your evaluation costs upon submission of the bills or paid receipts.

You have the right to request the agency appraise your property any time prior to accepting the offer.

An administrative offer of \$ _____ is being made for your property or property rights. This offer consists of:

- describe acre/square feet of acquisition
- type of acquisition – fee, easement, temporary construction easement
- improvements
- minor cost to cure damages

If you have personal property presently located on the property being acquired by the Agency that needs to be moved, the Agency will reimburse you for the cost of moving it through the Relocation Assistance program.

(If the acquisition will result in the displacement of person or personal property, add the following paragraph)

Owners and tenants of dwellings, businesses, farm operations, or nonprofit organizations being displaced cannot be required to move from the referenced property without being given a written assurance of at least 90 days prior to the date by which they will be required to vacate the property. In most cases, the Agency will provide this assurance in the relocation letter entitled, "Notice of Relocation Eligibility, Entitlements, and 90-Day Assurance." Occupancy of the property beyond the date the Agency acquires possession will require that a rental agreement be signed and rent be paid.

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(Optional paragraph)

If you decide to reject the Agency's offer, the Agency, acting in the public interest, will use its right of eminent domain to acquire your property for public use.

We have attempted by this letter to provide a concise statement of our offer and summary of your rights. We hope the information will assist you in reaching a decision. Please feel free to direct any questions you may have to the undersigned. May we please have your early reply as to acceptance or rejection of this offer?

Thank you.

Sincerely,

By: Agent
(000) 000-0000

Receipt of this letter is hereby acknowledged.
I understand that this acknowledgment does not signify my acceptance or rejection of this offer.

Signature

Date

11. **Prompt Payment** – Refer to Amendment Section 1-08, Prosecution and Progress (March 6, 2000) and RCW 39.04.250 for “Prompt Payment” requirements.
12. **During Construction and Upon Completion** – For all federal aid projects, the contractor shall submit Local Agency Quarterly Report of Amounts Credited as DBE Participation, DOT Form 422-103 EF (Appendix 26.31), to the local agency. On this form, the contractor shows the actual amount paid to the DBE firm for the contact work. The local agency shall forward a copy to the Region Local Programs Engineer. This completed form is required quarterly and a final at the completion of the project must be submitted to the Highways and Local Programs Project Development Engineer as specified on the form.
13. **Records and Reports** – The local agency will maintain such records and provide such reports as necessary to ensure full compliance with the Plan.

Upon request from the OMWBE, WSDOT, or the USDOT (or its operating administrations), the local agency shall submit the records deemed necessary for inspection, auditing, and review purposes.

26.3 Appendices

- 26.31 Local Agency Quarterly Report of Amounts Credited as DBE Participation
- 26.32 Disadvantaged Business Enterprise Utilization Certification
- 26.33 DBE On-Site Review
- 26.34 DBE Written Confirmation Document

Local Agency Quarterly Report of Appendix 26.31 Amounts Credited as DBE Participation



**Washington State
Department of Transportation**

Local Agency Quarterly Report of Amounts Credited as DBE Participation

Check appropriate reporting period and enter reporting year. <input type="checkbox"/> 1st Quarter - January (Oct. - Dec.) <input type="checkbox"/> 4th Quarter - October (July - Sept.) <input type="checkbox"/> 2nd Quarter - April (Jan. - Mar.) <input type="checkbox"/> Final <input type="checkbox"/> 3rd Quarter - July (April - June) Reporting Year _____		Federal Aid Number _____ Federal Employer I.D. Number _____							
Contractor _____		Agency _____							
DBE Participant Name and Federal Employer I.D. Number	Contract Type	Date of Payment	*Dollar Credit Amount						
<p style="text-align: center;">Contract Type:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%;">S = Subcontractor</td> <td style="width: 50%;">A = Agent</td> </tr> <tr> <td>M = Manufacturer</td> <td>R = Regular Dealer</td> </tr> <tr> <td>J = Joint Venture</td> <td>V = Service Provider</td> </tr> </table>				S = Subcontractor	A = Agent	M = Manufacturer	R = Regular Dealer	J = Joint Venture	V = Service Provider
S = Subcontractor	A = Agent								
M = Manufacturer	R = Regular Dealer								
J = Joint Venture	V = Service Provider								
<p>I, the undersigned, do hereby certify that in connection with all work on the project for which this statement is submitted, each DBE participant contracted by me has been paid on the dates shown. *Further, I certify that the amounts shown under "Dollar Credit Amount" are in accordance with the "DBE Eligibility" portion of the DBE Special Provision.</p>									
Signature _____ Title _____									

**This form is due on the 20th of the month following the end of the respective
Quarter (January, April, July, October).**

DOT Form 422-103 EF
Revised 2/2006

Disadvantaged Business Enterprise Utilization Certification

Local Agency Disadvantaged Business Enterprise Utilization Certification

To be eligible for award of this contract the bidder must fill out and submit, as part of its bid proposal, the following Disadvantaged Business Enterprise Utilization Certification relating to Disadvantaged Business Enterprise (DBE) requirements. The Contracting Agency shall consider as non-responsive and shall reject any bid proposal that does not contain a DBE Certification which properly demonstrates that the bidder will meet the DBE participation requirements in one of the manners provided for in the proposed contract. The Bidder must submit good faith effort documentation with the DBE Utilization Certification *only in the event* the bidder's efforts to solicit sufficient DBE participation has been unsuccessful. The successful bidder's Disadvantage Business Enterprise Utilization Certification shall be deemed a part of the resulting contract. Information on certified firms is available from OMWBE, telephone 360-753-9693 or Toll Free 1-866-208-1064.

_____ certifies that the Disadvantaged Business Enterprise (DBE)
(Box 1) Name of Bidder

Firms listed below have been contacted regarding participation on this project. If this bidder is successful on this project and is awarded the contract, it shall assure that subcontracts or supply agreements are executed with those firms where an "Amount to be Applied Towards Goal" is listed. (If necessary, use additional sheet.)

Column 1 Name of DBE Certificate Number	Column 2 * Project Role <small>(Prime, Joint Venture, Subcontractor, Manufacturer, Regular Dealer)</small>	Column 3 Description of Work	Column 4 ** Amount to be Applied Towards Goal
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			

Disadvantaged Business Enterprise Subcontracting Goal: _____ DBE Total \$ _____
Box 2 Box 3

* Regular Dealer status must be approved prior to bid submittal by the Office of Equal Opportunity, Wash. State Dept. of Transportation, on each contract.
 ** See the section "Crediting DBE Participation Toward Meeting the Goal" in the Contract Document.
 *** The Contracting Agency will utilize this amount to determine whether or not the bidder has met the goal. In the event of an arithmetic difference between this total and the sum of the individual amounts listed above, then the sum of the amounts listed shall prevail and the total will be revised accordingly. Participation in excess of the goal amount will be considered voluntary or race-neutral participation.
 SR

To be eligible for reimbursement of Federal Highway Administration (FHWA) funds for payments to a consultant, the procedures in this chapter shall be followed. If a Local Agency elects to retain the consultant at its own cost, state law must be followed.

This chapter covers agreements for architects, landscape architects, land surveying, and engineering services outlined in RCW 39.80 (see Section 31.1). The definitions of these four professions are described in RCW Chapters 18.08, 18.43, and 18.96. These will be referred to as architectural and engineering (A&E) services, or engineering services, in this chapter.

This chapter also covers agreements for long-range planning, economic analyses, real estate negotiations, and environmental and biological assessments. These will be referred to as personal services, as outlined in RCW 39.26 (see Section 31.2).

Throughout this chapter the term “project” means the work to be undertaken by the consultant. An A&E services project may include construction engineering, but does not include the contracted construction work.

The “Definitions” chapter of the *Consultant Services Manual M 27-50* contains a detailed description of which categories of work are considered A&E services or personal services.

The basic steps for entering into a consultant agreement are:

1. Determine the need for services.
2. Advertise the need for services.
3. Evaluate the applicants’ qualifications.
4. Select the most qualified firm.
5. Negotiate with the most qualified firm.
6. Execute the contract (Standard Agreement, Exhibits, and Supplements – see appendices).

31.1 A&E Services Consultants

A&E consultant services include the following:

1. Professional or technical expertise to accomplish a specific study, project, task, or other work statement.
2. Any phase of project development, as well as special studies or other assignments within any phase.
3. Periodic examination and consultation or full-time technical inspection during the construction phase.

4. Consultant design and preparation of plans, specifications, and estimates is common when an Agency's staff is small or when an Agency needs additional expertise.

Consultant services do not include purchased services provided by a vendor to accomplish routine, continuing, and necessary services. These may be acquired through use of purchased service agreements. Purchased services include services for equipment maintenance and repair, operation of a physical plant, security, computer hardware and software maintenance, data entry, key punch services, computer time-sharing, contract programming, and analysis (RCW 39.26).

Section 319 of Public Law 101-121 prohibits federal funds from being expended by consultants or subconsultants who receive a federal contract, grant, loan, or cooperative agreement to pay, any person for influencing or attempting to influence a federal Agency or Congress in connection with awarding any of the above.

.11 Determine the Need for A&E Consultant Services – Before an Agency advertises for A&E consultant services, it must have a clear definition of the work to be accomplished. This includes identification of:

1. The nature and scope of effort required.
2. The technical requirements and qualifications of the consultant services needed.
3. The level of funding resources available.
4. The time frame for performing the work.
5. The expected results and products to be received.

If assistance is needed in describing the desired scope of work, the Agency should seek information from the Region Local Program Engineer or from other Local Agencies that have had similar projects.

Because selection of the most qualified consultant firm is based on evaluations by the Agency, it must develop clear selection guidelines (see Section 31.13). The selection criteria should enable the Agency to identify and select the consultant best qualified to meet the Agency's needs and ensure that the selected consultant understands and provides services for the Agency's needs in the most cost-effective manner.

The basic agreement types are lump sum, cost plus fixed fee, provisional hourly rates, negotiated hourly rates, and cost per unit of work (see Section 31.32). The Agency should determine the type of agreement to be developed with the consultant (though this may be modified during negotiations with the selected consultant).

Consultant selection shall provide for maximum open and free competition and should provide opportunities for small and disadvantaged business enterprises to obtain an equitable share of the work, consistent with the project scope and capabilities of available small and disadvantaged owned firms.

Personal Services consultants may be solicited for:

1. A specific study (i.e., Economic Study).
2. A specific project (i.e., Acquisition of Real Estate).
3. A specific task (i.e., Real Estate negotiations).
4. For a combination of the above.

.22 Advertise the Need for Personal Services Consultants – State law (RCW 39.26) requires that each Agency must competitively solicit that Agency’s requirement for personal services. An Agency can comply with these requirements by either:

1. Using a competitive solicitation process that provides an equal and open opportunity to qualified parties.
2. Publishing an annual notice to establish an “On Call Roster” (or rosters by specialty) to receive qualifications from consultants for projected requirements for any category or type of personal services consultants. In addition, responsible consultants shall be added to the appropriate “On Call Roster(s)” at any time upon the submittal of a written request and a list of their qualifications. (See Section 31.14 for more information about establishing an “On Call Roster.”)

The need for consultant services must be advertised at least one day per week for two consecutive weeks (14 day minimum) in the area newspaper used for publication of legal notices. A three week minimum response time from the initial date of publication should be provided to consultants. These advertisements may be supplemented by additional advertisements in special interest publications such as the Daily Journal of Commerce, trade magazines, or publications utilized by disadvantaged business enterprises.

.22a Advertisement Content – The advertisement should contain the same information listed in Section 31.12a (see Appendix 31.74 for an advertisement example).

.23 Personal Services Consultant Evaluation and Selection Process – The Local Agency shall establish guidelines for technical evaluation of the qualifications received, determination of finalists for the purpose of written or oral discussions, and selection for agreement award. Consultants will be selected based upon the qualifications they present. Fees may be considered as an evaluation factor in the personal services selection process, but it is not a “low-bid” consultant selection where the low bidder wins the contract automatically. For more guidance, refer to the Municipal Research and Services Center (MRSC) of Washington guide, “Contracting for Professional Services in Washington State,” Informational Bulletin Number 485.

One of the following is required as part of the consultant selection process:

1. **Written Response Only to the Request for Qualifications (RFQ)** – This approach is best for smaller, clearly defined projects, or projects which are heavily reliant upon their written presentation such as environmental reports.

2. **“Live” Interviews and Presentation of the RFQ by Consultant Individuals or Teams** – Provides for interaction with the Agency and showcases the consultant’s presentation skills. This approach is best for larger, more complex projects but does increase travel time and costs to the applicant. Video presentation or teleconferencing may be considered as an alternative to reduce travel costs.
3. **Telephone Interviews** – Provides for interaction but eliminates travel time and cost. This approach is useful for smaller projects or for selecting from an on-call or small works roster.

Exceptions to the competitive process used for consultant selection:

1. **Sole Source** – Sole source agreements may be requested from Highways and Local Programs when the consultant provides professional or technical expertise of such a unique nature that the consultant is clearly and justifiably the only practicable source to provide the service. The Local Agency must provide the Region Local Programs Engineer written justification (see Appendix 31.75) for requesting this option based upon:
 - a. The unique nature of the services and/or the unique qualifications, abilities, or expertise of the consultant to meet the Agency’s needs (e.g., are they highly specialized or one-of-a-kind? what is their past performance, their cost effectiveness (learning curve), and/or the follow-up nature of the required services?).
 - b. Other special circumstances that may be relevant such as confidential investigations, copyright restrictions, or time constraints.
 - c. Availability of consultants in the location required.
2. **Emergency** – To address a set of unforeseen circumstances beyond the Agency’s control which present a real, immediate threat to the proper performance of essential functions or may result in the material loss or damage to property, bodily injury, or loss of life, if immediate action is not taken (see Chapter 33).
3. **Contract Amendments or Added Scope** (beyond the original advertisement) – Amendments that do not significantly alter the scope of work can be renegotiated with the existing consultant. However, this should not be used to avoid the responsibility of providing competition for consultant selection.

Highways and Local Programs must approve consultant procedures that are exceptions to the competitive process.

.24 Document Selection – Following consultant selection, the Local Agency shall retain the following documentation in the project file:

1. The names of a minimum of three consultants considered for the work (excluding exceptions detailed above); and
2. Consultant selected and reasons why this consultant was chosen over the others.

31.3 Negotiation With Selected Firm, A&E, and Personal Services

The Local Agency will notify the consultant of their selection in writing, meet with the consultant to reach a complete and mutual understanding of the scope of services, and begin negotiations on the terms of the agreement.

In this meeting with the selected consultant, the Local Agency should include key people with appropriate technical expertise within the Agency to ensure that their concerns are addressed. The following are typically discussed while developing an agreed upon scope of services:

1. A list of meetings the consultant is expected to attend, expected location of the meetings, and key personnel.
2. The anticipated design schedule. The Local Agency shall designate the basic premises and list criteria to be used in design development.
3. Any special services required.
4. Complexity of the design.
5. Safety and operational considerations.
6. Environmental considerations.
7. Survey and geotechnical testing requirements.
8. Inspection services during construction.
9. Quality control during construction.
10. Preparation of forms, letters, and documents.
11. Property map preparation.

.31 Agency Preparation for Negotiations – Following receipt of the consultant's proposal, Agency responsibilities include:

Compare the consultant's proposal with the Agency's own estimate, examining the scope of work, work hours, and estimate of cost. (See Appendix 31.76, Independent Estimate for Consulting Services, DOT Form 140-012 EF.) The Agency is to prepare its independent cost estimate using:

1. The salary rates by position from the consultant's Payroll Register.
2. Multiplying these by the Agency's estimates of staff hours by position for work elements.
3. Applying the consultant's overhead rate and profit/fixed fee (see below) to develop the total project staff cost estimate.

The Agency uses this independent estimate, along with estimates of nonsalary costs, to negotiate the agreement with the consultant.

1. Ensure the consultant has divided the project into work units and related time units in such a manner that the estimate can be readily reviewed for work hours, rates of pay, overhead, profit, and itemized direct nonsalary costs.
2. Request records to confirm the consultant's rates (i.e., their Payroll Register, giving payroll rates by name and position of staff working on the project).
3. Request the consulting firm's audited overhead rate from the WSDOT Audit Office. An audited rate conducted by another governmental agency will satisfy this requirement if the audit criteria used by the other agencies conforms with 48 Code of Federal Regulations (CFR) Part 31. An audited rate conducted by a private accounting firm must be reviewed and accepted by the WSDOT Audit Office before being accepted for use in an agreement. If the firm does not have an audited rate, the Audit Office will conduct an abbreviated audit to determine the rate. The Local Agency Agreement should anticipate a charge averaging \$1,000 for these costs. A lower overhead cost rate may be used if submitted by the consultant firm; however, the consultant's offer of a lower rate shall not be a condition for selecting a consultant.
4. Calculate the consultant's profit/fixed fee amount. WSDOT's procedure for calculating this is described in *Consultant Services Manual M 27-50, Appendix L*. The fee is determined through evaluation of the following:
 - a. Degree of risk.
 - b. Relative difficulty of work.
 - c. Size of job.
 - d. Period of performance.
 - e. Assistance of agency.
 - f. Subconsulting.
 - g. An acceptable profit for a federally funded project may not exceed 15 percent of the total of direct labor plus overhead costs or the fixed fee/profit percentage may not exceed 35 percent of direct labor costs only. Maximum allowable profit percentage rates (30 to 35 percent) are reserved for the most difficult, complex, and risky projects. Mark-ups are not allowed on direct "nonsalary" costs.
 - h. A Management Reserve Fund (MRF) may be established to be used for:
 - (1) Overruns of direct salary and overhead costs that might occur under the existing scope of work, or
 - (2) The consultant to perform additional work that is outside the agreement or supplement's scope of work (but within the scope of the advertised project).

The maximum MRF set up at the beginning of the agreement is \$100,000 or 10 percent of the agreement, whichever is less. If the original MRF is less than \$100,000, the MRF may be increased by preparing a supplement

to a total accumulative amount that cannot exceed \$100,000, (or exceed the cumulative 10 percent). An MRF cannot be included in a Lump Sum agreement. The Agency cannot authorize, and the consultant cannot utilize, the MRF until a task order agreement is set up (see Appendix 31.79, Exhibit A-2.) To set up a task order agreement, the Agency and consultant must negotiate the scope, schedule, and budget for the increase in direct salary and overhead costs, or the increase in additional work to use all or a portion of the MRF.

5. Record and retain an explanation of differences in work hours or costs between the Agency's independent estimate and the negotiated consultant fee.

.32 Agreement Types/Payment Options – The following are the types of agreements that contain acceptable methods of payment for FHWA funded projects. Refer to the Standard Agreement Exhibits for further guidance and required forms (see Section 31.4):

1. **Lump Sum** – This type of agreement is only appropriate where the scope of work (quantity and type) can be clearly defined in advance. It is not recommended for construction engineering agreements. The agreement should state the exact service to be provided within a specific time frame, and when the lump sum payment is to be made. Payments may also be paid in installments as the work proceeds.

Scope of work changes and Management Reserve Funds are not allowed with this type of payment.

Lump sum payment is generally used for investigations, studies, and basic services on design projects. Examples include designs, plans specifications and estimates (PS&E), and preparation of operating, maintenance, or training manuals. A qualified representative for the Agency must prepare, date, and sign an estimate detailing the hours required for each type of work, as well as the hourly rate.

2. **Actual Costs Plus a Fixed Fee** – This type of agreement is used when the extent, scope, complexity, character, or duration of the work cannot be reasonably determined in advance. Examples include preparation of environmental documents, project design documents, PS&E for large or complex projects including major bridges, and may include construction inspection. The consultant is reimbursed for all eligible direct and indirect costs within defined limits, plus a predetermined amount as a fixed fee. The costs for methods 1-3 above are determined by:
 - a. Salaries of employees with time directly chargeable to the project and salaries of principals for the time they are productively engaged in work necessary to fulfill the terms of the agreement. Actual rates of pay for employees and principals actively involved in the project will be included in each agreement.
 - b. Direct nonsalary costs incurred in fulfilling the terms of the agreement. Travel costs, (excluding air, train, and rental car costs), shall be in accordance with the Agency's travel rules and procedures. Air, train and rental car costs shall be reimbursed in accordance with 48 CFR Part 31.205-46 "Travel Costs."

- c. The consultant's overhead or indirect costs properly allocable to the project. A break out of overhead items will be included in each agreement.
- d. The consultant's overhead schedule must be prepared in compliance with CFR Part 31.
- e. Management reserve funds are an Agency option and are to address overruns of direct salary and overhead costs that might occur under the existing scope of work or a need for additional work beyond the existing agreement scope of work, but within the advertised project scope of work.
- f. Profit/fixed fee is derived by considering the degree of risk, relative difficulty of work, size of job, period of performance, assistance by the Agency, and subconsulting assumed by the consultant at the time of the negotiations (see Section 31.31).

Shown as exhibits to the agreement are the consultant's estimate of work, cost rates, overhead rate, and the fixed fee.

3. **Specific Rates of Pay Agreement.** This type of agreement is based upon specific rates of pay for each class of employee and is appropriate for relatively minor items of work of indeterminable extent. This method requires constant and direct control of the time and class of employees used by the consultant. Examples include certain types of soils investigations, planting inspections, bridge inspections, expert witness testimony, training presentations, construction inspections, supplementing Agency staff on small design projects or studies, and "on-call services." The rate of pay may be established through one of two processes:
 - a. **Negotiated hourly rate** payment option establishes the rates of pay through use of the consultant firm's Payroll Register, the audited overhead rate obtained from WSDOT's Audit Office, plus the calculation of the consultant's profit/ fixed fee. (See Section 31.31 for guidance in developing the independent estimates of these costs for use in negotiations with the consultant firm.) The following items also apply to negotiated hourly rate agreements.
 1. Direct nonsalary costs incurred in fulfilling the terms of the agreement. Travel costs, (excluding air, train, and rental car costs), shall be in accordance with the Agency's travel rules and procedures. Air, train, and rental car costs shall be reimbursed in accordance with 48 CFR Part 31.205-46 "Travel Costs."
 2. The consultant's overhead or indirect costs properly allocable to the project. A break out of overhead items will be included in each agreement.
 3. The consultant's overhead schedule must be prepared in compliance with 48 CFR Part 31.
 4. Management reserve funds are an Agency option and are to address overruns of direct salary and overhead costs that might occur under the existing scope of work or a need for additional work beyond the existing agreement scope of work, but within the advertised project scope of work.

5. Profit/fee is derived by considering the degree of risk, relative difficulty of work, size of job, period of performance, assistance by the Agency, and subconsulting assumed by the consultant at the time of the negotiations (see Section 31.31).
- b. **Provisional hourly rate payment** option establishes rates of pay through the use of the consultant firm's Payroll Register, plus an overhead rate based on industry standards if an audited overhead rate is not available from WSDOT's Audit Office within the time frame it is needed. Provisional rates are established at the beginning of the project and are used until the results of an audited overhead rate are known. The provisional rates are then retroactively adjusted to reflect the rate established from the new audit. The following items also apply to provisional hourly rates.
1. Direct nonsalary costs incurred in fulfilling the terms of the agreement. Travel costs, (excluding air, train, and rental car costs), shall be in accordance with the Agency's travel rules and procedures. Air, train, and rental car costs shall be reimbursed in accordance with 48 CFR Part 31.205-46 "Travel Costs."
 2. The consultant's overhead or indirect costs properly allocable to the project. A break out of overhead items will be included in each agreement.
 3. The consultant's overhead schedule must be prepared in compliance with 48 CFR Part 31.
 4. Management reserve funds are an Agency option and are to address overruns of direct salary and overhead costs that might occur under the existing scope of work, or a need for additional work beyond the existing agreement scope of work, but within the advertised project scope of work.
 5. Profit/fee is derived by considering the degree of risk, relative difficulty of work, size of job, period of performance, assistance by the Agency, and subconsulting assumed by the consultant at the time of the negotiations (see Section 31.31).
- c. **Task Order Agreements** – This type of agreement is used with Negotiated and Provisional Hourly Rate methods of payment (see Appendix 31.79, Exhibit A-2.) Each item of work is listed by task assignment in the scope of work and each assignment is individually negotiated with the consultant. The maximum amount established for each assignment is the maximum amount payable for that assignment, unless modified in writing by the Local Agency.

While a regular negotiated hourly rate agreement is for a specific project, a single task order agreement can be used for a series of projects. Once the agreement is established, and each time the consultant's services are needed, a formal task assignment document is completed that describes the work, location, maximum amount payable, and completion date for the task. The agreement does not have to be renegotiated for each new task, therefore saving time. An example of a task order agreement would be one for performing construction inspection over a two-year period.

4. **Cost Per Unit of Work** – This type of agreement is used when the unit cost of the work can be determined in advance with reasonable accuracy, but the extent of the work is indefinite. Examples include soils investigation where costs are based on per foot of drilling, installation of observation wells, soil testing, structural foundation analysis and reports, expert witness testimony, and construction engineering services. Construction engineering services include, but are not limited to, construction management, construction administration, materials testing, materials documentation, contractor payments, general administration, construction oversight, and inspection and surveying.

.33 Agency/Consultant Negotiations – Negotiate an agreement with the selected consultant and retain a record of these negotiations (see Appendix 31.78). Negotiations may include the following:

1. The Agency negotiator and the consultant meet in person or by telephone and go over any significant areas of discrepancy between the Agency estimate and consultant proposal. Either the consultant satisfactorily explains differences or agrees to address concerns in a revised proposal.
2. The Agency reviews revised proposals and revises their detailed cost analysis accordingly. Steps 1 and 2 are repeated, if required.
3. The consultant submits a final fee proposal.
 - a. Provide a final offer in writing.
 - (1) The final agreement must specify the maximum amount payable.
 - (2) The basis for establishing the maximum amount should be documented.
 - (3) Procedures for adjustments to the maximum amount to accommodate changes in the work distribution or workload shall be explained.
 - b. When unresolved differences exist between the consultant and Local Agency, the Agency shall notify the Region Local Programs Engineer. The Local Programs Engineer will review and confirm that the Agency has followed all the required procedures and will notify the Agency of the finding. The Agency will then notify the consultant in writing that negotiations are terminated and proceed to the next highest ranked consultant to begin the negotiation process again. Negotiation steps and records will be repeated with the alternate consultant selected.

31.4 Standard Agreement, Exhibits, and Supplements to Agreements, A&E, and Personal Services

When the cost of consulting services is \$10,000 or more, Local Agencies must use the Local Agency Standard Consultant Agreement. (See sample agreement in Appendix 31.79, DOT Form 140-089 EF, and Appendix 31.710.) Standard agreement forms are available online at www.wsdot.wa.gov/consulting/submittalinformationpack.htm. (Select either the Package for Prime Consultants or Subconsultants.) The standard

agreement was developed to allow the Local Agency to select the appropriate exhibits and assemble them into a complete agreement package for all types of consulting work. The agreement completion date (expiration date) shall be established based on the project schedule. The agreement completion date establishes the last possible date the consultant may work, and be paid for that work, utilizing federal funds. Any work performed after expiration of the agreement will be considered non-federally participating. It is of the utmost importance that the Agency monitor the project completion date and extend the date by supplemental agreement, if appropriate, prior to the completion date.

The time period for completion of the agreement is dependent upon the complexity of the project's scope of work. The duration may vary from two years for a relatively simple project, to six or more years for a complex project having multiple phases of work.

.41 Exhibits – Exhibits for the Standard Agreement are provided (see Appendix 31.79). The various payment methods require their own exhibits. Examples of types of work for each agreement payment type have already been discussed under Section 31.32, “Agreement Types/Payment Options.” Most exhibits are common to any agreement; others require selection by the person creating the standard agreement.

.42 Supplements to the Agreements – An agreement shall be supplemented in writing when work that falls outside the scope of the original agreement is requested, when supplemental language to the standard agreement is desired, or when there is a need for time extension or wage adjustment. This may be done by a supplemental agreement only when the agreement completion date has not expired. (See Appendix 31.711, DOT Form 140-063 EF.) The work in the supplement must have been included in the advertisement for consultant services regarding the original agreement.

The supplemental agreement should include:

1. A statement that the original agreement will be supplemented to add/change/amend conditions.
2. A scope of work described in sufficient detail to clearly outline what additional work the consultant is to do or what changes are authorized to the existing scope.
3. The method of payment, i.e., cost-plus-fixed-fee, specified hourly rate, daily rate, and any indirect cost. (**Note:** Always include a maximum amount payable.) Section V of the original agreement should be reviewed prior to negotiating any supplements.
4. A specific time for beginning/continuing work under the supplement and completing the project in calendar days or day and month of the year.
5. A summary of the estimated costs of the original agreement plus those of the supplement(s).
6. Provisions that give both parties of the agreement the authority to act.

7. Specific rates of pay shall be established for the supplemental agreement in the same manner as described in Section 31.32, Agreement Types/Payment Options, Sub-Part d, Specific Rates of Pay.

.43 Patent or Royalty Rights – Agreements that involve research, developmental, experimental, or demonstration work may include patent or royalty rights. In this case, the Standard Agreement should be supplemented by adding the appropriate language to account for this. The Region Local Programs Engineer is to be contacted for assistance in developing these supplemental agreements.

.44 Risk Management and Added Insurance Requirements – The Agency may change Section XIII of the Standard Agreement to reduce the requirement for the Consultant Professional Liability from one million dollars to the amount of the Agreement; whichever is the lesser of the two. This should be done for work that involves minimal risk, such as studies. For many consultant firms, covering the one million dollar liability would be an added cost to their overhead or directly to the project.

In the event the Agency determines that added liabilities or an insurance policy are warranted beyond the amount allowed in the Standard Agreement, they should negotiate this with the Consultant after the selection process is complete. This ensures that engineering qualifications, rather than the ability to obtain insurance, is the criteria for selection.

The Agency will determine the sufficiency of insurance normally provided within the consultant's overhead costs, and will identify the costs beyond that amount on Exhibit L. This exhibit is not needed if the standard agreement provisions are used. These costs will be considered direct project costs, and will not be billed to an FHWA funded project. In the event that Exhibit L is warranted, it should be sent with the risk analysis to the Region Local Programs Engineer for approval, who will forward it to Headquarters for review, prior to execution by the Agency and the consultant.

The Agency risk analysis should show that the work warrants this added cost and that consideration has been given to less costly solutions, including assuming the risk; insuring the risk outside of the agreement as an Agency cost; or adding a third tier of engineering overview to check the work.

To calculate the risk requires an ability to judge the likely amount of a jury's award if liability is determined. A suggested method is to determine the number of comparative cases presently existing within this state and to develop the probabilities based upon historic awards.

31.5 Audit Requirements

A Pre-Award Audit is no longer required. The Agency is now to negotiate the consultant's fee using the audited overhead rate for the consulting firm obtained from WSDOT's Audit Office, the Payroll Register of the firm, and the calculation of the consultant's profit/fee, or percentage, to validate and negotiate financial information supplied by a consultant in a cost proposal (see Section 31.3). The consultant is to also be aware of FHWA's cost eligibility and documentation requirements of 49 CFR 18.

If the Agency has questions about the information provided, it may request a Pre-Award Audit. In the event a project must begin before an audit can be completed, provisional wages based on industry standards may be paid through completion of the audit with wage adjustments made in a supplemental agreement. If the Local Agency requests a Pre-Award Audit, the Local Agency Agreement should anticipate a charge averaging \$5,000 for these costs.

WSDOT and/or FHWA may at their discretion require an intermediate or post audit for any project exceeding \$100,000. The Agency, WSDOT External Audit Office, or FHWA will determine the need for either of these.

31.6 Oversight of the Agreement and Project Closure

The Local Agency shall assign one of its personnel as project administrator to work with the consultant. The project administrator's responsibilities are to:

1. Prepare supplements to existing agreements for services beyond the scope of the original agreement and include the Agency's independent estimate of the costs for the work involved.
2. Ensure that no work is done or costs incurred until the agreements and supplements are approved by the approving authority and executed by the proper parties.
3. Conduct regular meetings with the consultant to track progress and identify potential concerns.
4. Act as a liaison between the Agency and the consultant to assure compliance with the terms of the agreement, including OEO provisions and the use of mandatory forms.
5. Monitor the consultant's progress reports to ensure that problem areas are reported and corrective action taken.
6. Make sure that all work is within the agreement's scope of work.
7. Establish controls to monitor the time for completion of the agreement to ensure that the specified time limitations are not exceeded.
8. Ensure the accuracy of bills presented by the consultant and their consistency with the work performed.
9. Maintain cumulative cost records to assure that costs are allowable, allocable, and reasonable. Track bills to ensure compliance with agreement and fixed fees (see Appendix 31.712).
10. Establish controls to prevent overpayment of the agreement and fixed fees.
11. Ensure that all terms and conditions of the agreement have been met prior to final release of the consultant.

.61 Invoicing – The invoice will include the following:

1. By name, all employees that worked on the project during the billing period;
2. The classification of each employee, the hours worked, the actual hourly payroll rate, and the total wages paid; and
3. Direct nonsalary costs. Nonsalary costs should be supported for auditing purposes by copies of the invoice or billing instruments the consultant received for payment. Either the consultant or the Agency may retain these copies.

The Local Agency may disallow all or part of a claimed cost, which is not adequately supported by documentation.

.62 Documentation – Original documents may include but are not limited to signed time sheets, invoices, payroll records, rental slips, and gasoline tickets that support the costs billed to WSDOT. The consultant is responsible to account for costs and for maintaining records, including supporting documentation adequate to demonstrate that costs claimed have been incurred, are allocable to the agreement, and comply with Part 31 of CFR 48. Time sheets should document hours worked, the billing rate of pay, and must be signed by the supervisor or his designee and the employee. Records will be retained for a period of three years after receipt of final payment.

.63 Closure – Upon completion of the work under the consultant agreement, the Agency will ensure that all terms and conditions of the agreement have been complied with and that all services to be performed under the agreement have been completed prior to final release of the consultant. The Local Agency should evaluate the consultant's performance and retain this in their records (see Appendix 31.713).

31.7 Appendices

- 31.71 Personal Services Contract for Appraiser
- 31.72 Consultant Agreement for Negotiation Services
- 31.73 Vacant
- 31.74 Advertisement – Example
 - 31.74(a) Submittal Information Form (Prime)
 - 31.74(b) Submittal Information Form (Subconsultant)
- 31.75 Request for Sole Source Consultant Services
- 31.76 Independent Estimate for Consulting Services
- 31.77 Consultant Fee Calculation Worksheet
- 31.78 Record of Negotiations – Example

- 31.79 Local Agency Standard Consultant Agreement (includes Exhibits A-1 Scope of Work, A-2 Task Order Assignment, B-1 DBE Utilization Certification, C Electronic Exchange of Engineering and Other Data, D-1 Lump Sum Payment, D-2 Cost Plus Fixed Fee Payment, D-3 Negotiated Hourly Rate Payment, D-4 Provisional Hourly Rate Payment, E-1 Consultant Fee Determination Sheet – Lump Sum, Cost Plus Fixed Fee, Cost Per Unit of Work, E-2 Consultant Fee Determination Worksheet – Specific Rates of Pay, F Breakdown of Overhead Cost, G Subcontracted Work, G-1 Subconsultant Fee Determination Worksheet, G-2 Breakdown of Subconsultants Overhead Cost, H Title VI Assurances, I Payment Upon Termination of Agreement, J Alleged Consultant Design Error Procedures, K Consultant Claim Procedures, L Supplemental Language for Insurance Requirements, M-1(a) Certification of Consultant, M-1(b) Certification of Agency Official, M-2 Debarment Certification, M-3 Federal Fund Restrictions, M-4 Current Cost or Pricing Data)
- 31.710 Supplemental Signature Page for Standard Consultant Agreement
- 31.711 Supplemental Agreement
- 31.712 Invoice Tracking Sheet
- 31.713 Performance Evaluation Consultant Services

This chapter provides information and instructions on procedures applicable to emergency projects funded by FHWA under the Emergency Relief (ER) Program. Agencies should notify the Region Local Programs Engineer of damages to roadway systems caused by an emergency/disaster.

When an emergency exceeds the capability of state and local government, federal assistance can be requested from FHWA (ER and ERFO) and FEMA for the purposes noted below:

- The Federal Highway Administration (FHWA) under Title 23, USC, Section 125 provides Emergency Relief (ER) funds for the restoration of all damaged public roads and bridges except for rural minor collectors and local roads and streets.
- FHWA's Western Federal Lands Highway Division Office directly handles ERFO funds (Emergency Relief for Federally Owned Lands) for repairs to federal roads maintained by federal agencies (Forest Service, Park Service, etc.) that were damaged by a disaster and determined to be eligible by the FHWA Administrator.
- Federal Emergency Management Agency (FEMA) provides federal funds under Public Law 93-288, as amended, "Robert T. Stafford Disaster Relief and Emergency Assistance Act, Nov. 1988," for restoration of damaged roads and bridges on rural minor collectors and local roads and streets.

Congress annually authorizes \$100 million nationwide for FHWA's ER program. The type of events that qualify for ER funding are:

- A widespread natural disaster. Examples are floods, hurricanes, severe storms, earthquakes, volcanic eruptions, landslides, or tidal waves.
- A catastrophic failure. This is defined as the sudden and complete failure of a major element or segment of roadway system that causes a disastrous impact to transportation services. The cause must be external to the facility, such as a barge hitting a bridge and causing it to collapse.

References

- State of Washington Comprehensive Emergency Management Plan
- WSDOT *Emergency Relief Procedures Manual* M 3014, February 2012
- WSDOT *Disaster Plan* M 54-11, April 2007
- USDOT/FHWA *Emergency Relief Manual*, Interim update November 2009

33.1 Steps Following a Disaster

Local Agency Process – Outlined below are the initial steps a local agency follows immediately after a disaster.

- a. **Initial Notification** – A local Emergency Management Office immediately notifies the Washington State's Emergency Management Division (EMD) via the fastest means possible.

- b. **Local Agency Proclamation** – A proclamation is signed by elected official(s) in accordance with the State of Washington Comprehensive Emergency Management Plan. In accordance with RCW 38.52, the state and each political subdivision (e.g., local agency) have prepared a Comprehensive Emergency Plan which is put into effect when a disaster occurs (Appendix 33.91).
- c. **Recording Site Specific Costs** – It is very important to document all expenses incurred by an agency in coping with the disaster or catastrophe. Records must be site specific, identified by route, M.P. and/or by cross street identifiers within the route. Cost records must have supporting documentation for labor, equipment, and materials. Failure to document costs as outlined above is a major reason for ineligibility findings.
- d. **Additional Data Gathering** – Agencies should gather evidence of the disaster such as newspaper clippings and photos. This information is helpful in the preparation of the field reports to request emergency relief funds.
- e. **Requesting State Assistance** – During and immediately after the disaster, the local Emergency Management Office conducts “damage assessments” to determine the magnitude, dollar value, effects, and impacts of the emergency/disaster. There will also be a site visit from the Local Programs Engineer and FHWA.

It is very important to make timely and accurate damage reports to the EMD. These reports should describe the disaster and any local response. The “Incident Report” and “Disaster Analysis Report” forms provided by EMD and completed by the local agency (see Comprehensive Emergency Management Plan) are approved means of providing such a report. In addition, this notification should include the local agency’s “Proclamation of Emergency.”

- f. **Proclamation by the Governor** – From the information received EMD will inform the Governor’s Office. If the situation warrants state assistance, EMD will coordinate the state response to supplement the efforts of local governments. The Governor will proclaim a State of Emergency when necessary. The Governor’s proclamation is required to obtain assistance under both ER and FEMA (Appendix 33.92).

From this point on, the processing of ER or FEMA projects are different, and the procedures are shown separately in the following sections.

33.2 FHWA’s Emergency Relief Program Guidelines

The Emergency Relief (ER) Program is administered by FHWA through WSDOT. To qualify for ER funds the damages to be corrected must have resulted from the declared disaster or catastrophic failure (as described above) and be for emergency opening, repair, or reconstruction of roadways and bridges on federally functionally classified routes except for rural minor collectors and local roads and streets. In addition, the total statewide damage for the entire event must exceed \$700,000, effective 6/1/2000. Individual sites must have \$5,000 or more in repair costs to be eligible for ER funds.

41.1 General Discussion

This chapter identifies the design standards document, deviation approval authority and design approval for a specific facility. The deviation process, Value Engineering, and Work Zone Safety and Mobility are also discussed below. This part of the manual is organized into six chapters relating to the design phase General Design Information; City and County Design Standards for Non NHS facilities; Location and Design Approval; Plans, Specifications, and Estimates; State Advertising and Award Procedures; and Local Advertising and Award Procedures.

Compliance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 is required in the design, construction, operation and maintenance of transportation facilities (i.e., pedestrian facilities, park and ride lots). Where sidewalks are provided, public agencies shall provide pedestrian access features such as continuous, unobstructed sidewalks, and curb cuts with detectable warnings at highway and street crossings. See 28 CFR Part 36, Appendix A, for minimum federal requirements for curb ramps. The design standards document and approving authority are shown in the following table.

Facility	Design Standards	Deviation Approval	Design Approval
Interstate			
New/Reconstruction	WSDOT <i>Design Manual</i>	WSDOT/FHWA	WSDOT/FHWA
ITS Over \$1,000,000	WSDOT <i>Design Manual</i>	WSDOT HQ	WSDOT HQ
All Other	WSDOT <i>Design Manual</i>	WSDOT HQ	WSDOT Region
National Highway System (NHS)			
State Highways outside of incorporated cities, or on a limited access highway	WSDOT <i>Design Manual</i>	WSDOT HQ	WSDOT Region
State Highways within incorporated cities between back of curb to back of back curb	WSDOT <i>Design Manual</i>	WSDOT HQ	WSDOT Region
State Highways within incorporated cities beyond curb line	*City and County Design Standards See Chapter 42	WSDOT H&LP	City
City Streets (non-State highways)	*City and County Design Standards See Chapter 42	WSDOT H&LP	City
County Roads	*City and County Design Standards See Chapter 42	WSDOT H&LP	County

Facility	Design Standards	Deviation Approval	Design Approval
Non-National Highway Systems (Non-NHS)			
State Highways outside of incorporated cities, or on a limited access highway	WSDOT <i>Design Manual</i>	WSDOT HQ	WSDOT Region
State Highways within incorporated cities between back of curb to back of back curb	WSDOT <i>Design Manual</i>	WSDOT HQ	WSDOT Region
State Highways within incorporated cities beyond curb line	*City and County Design Standards See Chapter 42	WSDOT H&LP	City
City Streets (non-State Highways)	*City and County Design Standards See Chapter 42	WSDOT H&LP	City
County Roads	*City and County Design Standards See Chapter 42	WSDOT H&LP	County

*Bicycle facilities and multi-use facilities per RCW 35.75.060 and 36.82.145 must follow the current AASHTO bicycle design standards and/or standards submitted by the local agency which have been approved by H&LP for any facility allowing bicycle traffic.

Different standards apply to the design of new construction/reconstruction, 3-R (resurfacing, restoration, and rehabilitation), and 2-R (resurfacing and restoration). Each of these terms is defined in Chapter 42. Local agencies must determine which standards apply before beginning design. See Chapter 42 for design standards on non-NHS routes.

See Section 43.4 for information on Value Engineering.

41.2 Work Zone Safety and Mobility

All projects on the Interstate system must comply with the FHWA/WSDOT “Work Zone Safety and Mobility” rules. This rule applies to all federally funded projects advertised on or after October 12, 2007. It is recommended that any other federally funded project over \$10 million or any project that includes a detour also apply the “Work Zone Safety and Mobility” rules. WSDOT *Design Manual* M 22-01 Chapter 1010 has a list of requirements and key elements as well as checklist for developing a formal Transportation Management Plan (TMP) document.

41.3 Intelligent Transportation Systems (ITS)

Intelligent Transportation Systems (ITS) improve transportation safety and mobility and enhance productivity through the use of advanced communications technologies and their integration into the transportation infrastructure and in vehicles. These systems encompass a broad range of wireless and wire line communications-based information and electronics technologies.

A systems engineering process is required on all federal aid projects that incorporate ITS, as noted in 23 CFR 940.11. Systems engineering is a systematic process that was developed specifically for complex technology projects. Using systems engineering on ITS projects has been shown to increase the likelihood of a project's success. This means a project that is completed on time and within budget, that meets the project scope and stakeholder/project sponsor expectations, and that is efficient to operate and maintain.

The systems engineering process, often referred to as the "V" diagram, is shown in Appendix 41.52. As shown in the appendix, the systems engineering process contains a number of steps that are not included in the traditional project delivery process. An ITS project begins on the left side of the "V" and progresses down the left side of the "V" and then up the right side. Then the project is evaluated by looking at the elements on the right side of the "V" and validating/verifying them with the elements on the left side. For more information on systems engineering, please see:

- 23 Code of Federal Regulations (CFR), Part 940, *Intelligent Transportation System Architecture and Standards*
- USDOT's *Systems Engineering for Intelligent Transportation Systems*, FHWA-HOP-07-069, January 2007
- USDOT's *Systems Engineering Guidebook for Intelligent Transportation Systems, Version 3*, November 2009

The level of systems engineering used for a project should be on a scale commensurate with the scope, size, and risk of the project. The Intelligent Transportation Systems Information form in Appendix 41.53 must be completed for all ITS projects. This will satisfy the minimum requirements in 23 CFR 940.11 for a federal aid project. This form must be kept in the project design file for the entire document retention period of the project. Agencies must also submit this form with the construction authorization request for all federal aid projects that include ITS. In addition to completing the Intelligent Transportation Systems Information form, adaptive signal control projects shall follow the USDOT's *Model Systems Engineering Documents for Adaptive Signal Control Technology (ASCT) Systems*, FHWA-HOP-11-027, published in August 2012. This step is needed to complete Concept of Operations, System Requirements, System Verification, and System Validation documents which must be used to implement the adaptive signal control project. A complete record of the Concept of Operations, System Requirements, System Verification, and System Validation documents produced through the use of the FHWA-HOP-11-027 model document shall be kept in the project file for the entire document retention period.

41.4 Deviations

.41 General – The Agency is authorized to design projects to the standards as indicated in the table shown in Section 41.1. In the event all design standards cannot be incorporated into the design, the agency shall submit a deviation request for review and approval.

.42 Documentation – An agency shall document their reasons for the deviation. The deviation request shall include a description of the problem and its proposed solution and a vicinity map in sufficient detail to aid in evaluating the problem. The deviation request document is a stand alone engineering document. If references to other sources or documents are required, the document should use the appropriate quotes and excerpts as necessary.

An analysis of the engineering and financial aspects of the proposal as compared to the standard and options considered shall be provided. The analysis shall specifically address safety issues, including accident history and projections. It shall address applicable operational characteristics, including traffic speeds, traffic volumes, capacity and route continuity. It should include financial considerations such as high construction costs, unusual or extraordinary site conditions, or environmental requirements that may impact the decision. The analysis may include a Benefit/Cost comparison, and/or Life Cycle Costing of alternatives considered. The analysis should also include any other information which may be helpful as a future reference.

The level of detail of the request should be based on the relative complexity and scope of the project and the deviation requested. Requests will be considered based on the merits presented. This analysis and deviation request shall be documented and completed prior to the agency's completion of PS&E documents.

.43 Format – Appendix 41.51 is a Deviation Analysis Format sheet for use on locally owned facilities (deviations approved by WSDOT H&LP). Refer to the WSDOT *Design Manual M 22-01* for format on all other deviations. The example is intended to present format only.

41.5 Appendices

- 41.51 Deviation Analysis Format
- 41.52 Design Process V Diagram
- 41.53 Intelligent Transportation Systems Information Form

42.1 Introduction

The City Design Standards Committee and the County Design Standards Committee, in accordance with RCW 35.78.030 and 43.32.020, meet on a regular basis to review and update the city and county design standards for all facilities (NHS and Non-NHS).

The Local Agency Engineer may approve use of the minimum AASHTO and related standards as contained in the references. Design deviations must have the approval of the Washington State Department of Transportation (WSDOT) Highways and Local Programs in accordance with RCW 35.78.040 or RCW 36.86.080 as appropriate. When AASHTO and/or related design standards as contained in the references are updated and published, agencies must incorporate the new design standards for all projects no later than two years after of the publication date.

All projects are subject to Americans with Disabilities Act (ADA) requirements for accessibility. For guidance on ADA standards, please see *Design Manual M 22-01* Section 1025 and the Local Agency ADA Planning and Design Resource web page at www.wsdot.wa.gov/ta/operations/localplanning/ada.html.

These standards apply to new construction and reconstruction projects, 3R and 2R projects, and low volume road and street projects on all routes which are classified as Principal Arterials, Minor Arterials, or Collectors. These standards are applicable to new or reconstructed bridges on rural minor collectors, local roads, and local streets.

Included in the standards are the Local Agency Design Matrices. The matrices are used to standardize design element requirements based on project type for all facilities. The Local Agency Design Matrices Checklists may serve as design documentation for decisions made.

In adopting these standards, the committees seek to encourage standardization of road design elements where necessary for consistency and to assure that motoring, bicycling, and pedestrian public safety needs are met. Considerations include safety, convenience, context sensitive solutions, proper drainage, and economical maintenance. The committees recognize that cities and counties must have the flexibility to carry out the general duty to provide streets, roads, and highways for the diverse and changing needs of the traveling public.

These standards cannot provide for all situations. They are intended to assist, but not to substitute for, competent work by design professionals. It is expected that land surveyors, engineers, and architects will bring to each project the best skills from their respective disciplines. These standards are also not intended to limit any innovative or creative effort, which could result in better quality, better cost savings, or both. An agency may adopt higher standards to fit local conditions. Special funding programs may also have varying standards.

The decision to use a particular road design element at a particular location should be made on the basis of an engineering analysis of the location. Thus, while this document provides design standards, it is not a substitute for engineering judgment.

Engineers should take into account all available information, including available funding, and use the professional judgment that comes from training and experience to make the final design determination. There shall be a record, of the matters considered during the design process that justify decisions made regarding the final project design. The project design must be approved by the approving authority as outlined on the agency's Certification Acceptance Agreement or the acting designated authority for a Non-Certification Acceptance agency. See Chapter 43 and Appendix 43.62.

42.2 Committee Membership

City Design Standards Committee RCW 35.78.020	County Design Standards Committee RCW 43.32.010	Other Participants
Jim Parvey, PE Senior Principal Engineer City of Tacoma jparvey@cityoftacoma.org	Jim Whitbread, PE County Engineer Stevens County jwhitbre@co.stevens.wa.us	Alison Hellberg Association of Washington Cities alisonh@awcnet.org
Dan Handa, PE Development Services City of Puyallup dhanda@ci.puyallup.wa.us	Bryan Thorp, PLS Design and Construction Manager Benton County bryan.thorp@co.benton.wa.us	Randy Hart, PE County Road Administration Board randy@crab.wa.gov
Mike Johnson, PE Design Engineering and Construction Advisor City of Seattle mike.johnson@seattle.gov	Dale Rancour, PE County Engineer Thurston County rancoud@co.thurston.wa.us	Greg Armstrong, PE Chief Engineer Transportation Improvement Board grega@tib.wa.gov
Mike Taylor, PE City Engineer City of Spokane mtaylor@spokanecity.org	Jon Brand, PE Assistant Director of Roads and Engineering Kitsap County jbrand@co.kitsap.wa.us	John Donahue WSDOT Design donahjo@wsdot@wa.gov
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Michael Pawlak City Engineer City of Pasco pawlakm@pasco-wa.gov	Ramiro Chavez, PE Project Engineering Manager Pierce County rchavez@co.pierce.wa.us	Mike Horton Operations Mgr. for Transportation AECOM michael.horton@aecom.com

These design standards were developed with the approval and authorization of:

Aaron Butters, PE, Committee Chair
Engineering Services Manager
Headquarters Highways and Local Programs
Washington State Department of Transportation

↓ Project Type	Roadways														
	Horiz. Align.	Vert. Align.	Lane Width	Shldr Width	Lane & Shldr Taper	Pedestrian Facilities	Cross Slope Lane	Cross Slope Shldr	Fill/ Ditch Slopes	Safety Improvements	Shared Bike/Ped Facilities	Turn Radii	I/S Sight Dist	I/S Angle	Guardrail & Barrier
New Construction ⇨	D	D	D	D	D	1	D	D	D	A	1	A	D	A	A
Re-Construction	A	A	A	A	A	1	A	A	A	A	1	A	A	A	A
3R	AE	AE	AE	AE	AE	1	AE	AE	AE	2	1	AE	AE	AE	1
2R							AE	AE		2	1				1
Railroad (if roadway work included, use 3R line)										AE	1		AE		1
Bridge Rehabilitation, Paint, Seismic, Scour, etc.															
Trails	1	1	1	1			1	1	1	1	1	1		1	
Pedestrian Facility Improvement Projects						1					1				
Other, Interpretive Centers, etc.	1	1	1	1	1	1	1	1	1	A	1	1	1	1	1
Parking Facilities	A	A	A	A	A	1	A	A	A	A	1	A	A	A	1

- D Design Level D
- A Design Level A
- AE Agency Evaluate to Design Level A
- (1) When provided, must meet current applicable standards.
- (2) Refer to Safety Improvements on page Z. Mandatory Upgrade items 1 and all others are AE.

Local Agency Design Matrix
Table 1.1

↓ Project Type	Cross Roads						
Design Elements ⇨	Horiz. Align	Vert. Align	Lane Width	Shldr Width	Fill/Ditch Slopes	Safety Improvements	Shared Bike/Ped Facilities
New Construction	AE	AE	AE	AE	AE	2	1
Re-Construction	AE	AE	AE	AE	AE	2	1
3R	AE	AE	AE	AE	AE	2	1
2R							1
Railroad (If roadway work included, use 3R line)							
Bridge Rehabilitation, Paint, Seismic, etc.							
Trails							
Pedestrian Facility Improvement Projects							
Other, Interpretive Centers, etc.	1	1	1	1	1	1	1
Parking Facilities	A	A	A	A	A	1	1

D Design Level D

(1) When provided, must meet current standards.

A Design Level A

(2) Refer to Safety Improvements on page Z. Mandatory Upgrade items 1 and all others are AE.

AE Agency Evaluate to Design Level A

Local Agency Design Matrix

Table 1.2

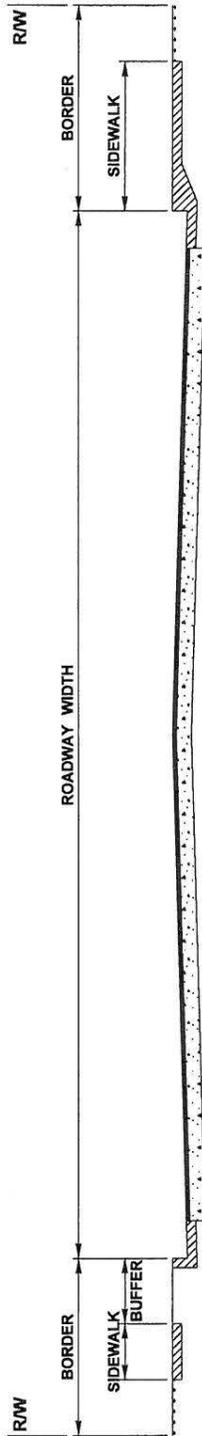
↓ Project Type	Bridges				
Design Elements ⇨	Lane Width	Shldr Width	Vertical Clearance	Structural Capacity	Bridge Rail
New Construction	D	D	D	D	D
Re-Construction	A	A	D	D	D
3R	AE	AE	AE	AE	1
2R			AE	AE	1
Railroad (If roadway work included, use 3R line)					1
Bridge Rehabilitation, Paint, Seismic, etc.					
Trails	1	1	1	1	1
Pedestrian Facility Improvement Projects					
Other, Interpretive Centers, etc.	1	1	1	1	1
Parking Facilities	A	A	AE	AE	1

Local Agency Design Matrix

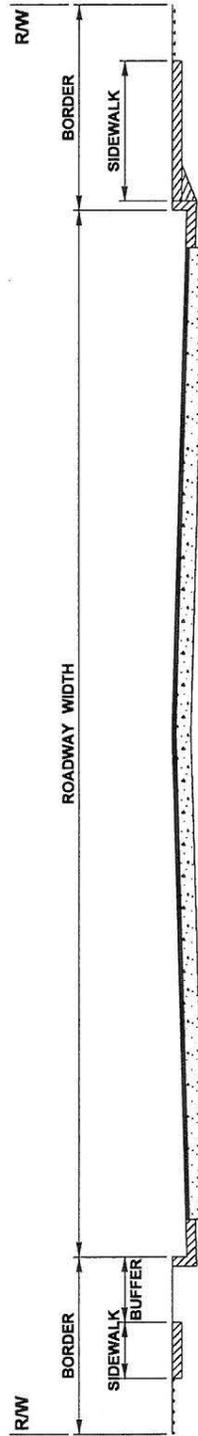
Table 1.3

DEFINITION OF ROADWAY ELEMENTS

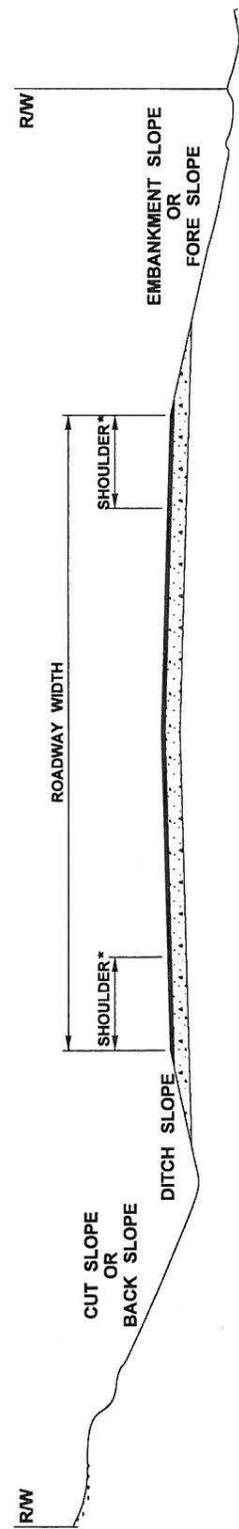
ROADWAY WITH MONOLITHIC CURB AND SIDEWALK



CURBED ROADWAY WITH SIDEWALK JOINT



SHOULDERED ROADWAY



* DOES NOT INCLUDE WIDENING FOR GUARDRAIL OR
OTHER SPECIAL PURPOSES

Cross Section

42.5 Design Level D Standards for Two Way Roads and Streets

Design Standards	Arterial							Collector				
	Principal			Minor								
	Curbed(4)		Shouldered	Curbed(4)		Shouldered		Curbed(4)		Shouldered		
	DHV All	DHV Below 200	DHV 200 and Over	DHV All	DHV Below 100	DHV 100 to 200	DHV 201 and Over	DHV 400 and Over	ADT 400 to 750	ADT 751 to 1000	DHV 100 to 200	DHV 201 and Over
Right of Way	Not less than required for all design elements.											
Roadway Width(1)(2)(7)(9)	24ft	36ft	40ft	24ft	32ft	36ft	40ft	24ft	26ft	28ft	34ft	40ft
Lane width:												
(A) Exterior(2)(7)	12ft	12ft	12ft	12ft	12ft	12ft	12ft	12ft	10ft	10ft	11ft	12ft
(B) Interior Thru(2)	11ft	11ft	11ft	11ft	11ft	11ft	11ft	11ft	10ft	10ft	11ft	11ft
(C) Two Way Left Turn(2)	11ft	11ft	11ft	11ft	11ft	11ft	11ft	11ft	10ft	10ft	11ft	11ft
(D) Exclusive Turn(2)	11ft	11ft	11ft	11ft	11ft	11ft	11ft	11ft	10ft	10ft	11ft	11ft
(E) Parking(2)	10ft(3)			10ft(3)					(5)			
Shoulder Width(6)(7)(9)(2)		6ft	8ft		4ft	6ft	8ft		3ft	4ft	6ft	8ft
Clear Zone/Side Slopes	AASHTO(10)											
Ditch Slope (in slope)	Slopes steeper than 4:1 should only be used when achieving a 4:1 slope is impractical.											

- (1) For curbed, distance from face of curb to face of curb. For shouldered, distance from paved edge to paved edge of shoulder.
- (2) May be reduced to minimum allowed by AASHTO.
- (3) 8 feet may be acceptable when the lane is not likely to become a traffic lane in the foreseeable future.
- (4) Curbed section is appropriate for urban setting.
- (5) Industrial areas 8 feet to 10 feet. Residential areas 7 feet to 10 feet.
- (6) When guardrail is necessary, provide 2 feet of widening or longer posts to ensure lateral support.
- (7) For roads with traffic volumes of less than 400 ADT, the low volume road and street standards may be used.
- (8) Federal functional classification defined by WSDOT.
- (9) For guidance for one-way streets, see AASHTO, and the current uniform fire code.
- (10) When using AASHTO guidance for clear zone determinations, the designer should take into account all AASHTO materials relating to clear zone and project circumstances. See the reference section of this publication.

Note: Design Hourly Volume (DHV). The DHV is generally the 30th highest hourly volume (30 DHV) of the future year chosen for design. On the average rural road or arterial, DHV is about 15 percent of ADT. For urban areas, DHV is usually between 8 to 12 percent of the ADT or AADT.

Detectable Warnings (Truncated Domes)	For dimensions, see WSDOT <i>Standard Plans</i> , F40 series. For material contrast requirements, see proposed ADA guidance from the U.S. Access Board at www.access-board.gov/ada-aba.htm U.S. Access Board at www.access-board.gov/prowac/draft.htm
New Sidewalks (when provided)	<ul style="list-style-type: none"> • Minimum Width – 60 inches continuous clear width or 48 inches clear width with 60 inch by 60 inch clear passing spaces at 200-foot minimum intervals. • Surface – Firm, stable, and slip resistant. • Crosslopes – 1:50 (2 percent) maximum. • Running Slope – When adjacent to road, must be consistent with the slope established by the roadway. If separate from the roadway must conform to ADA guidance. • Buffer – Separation from vehicular ways by curbs or other barriers.

On all projects, which include structures with deficient safety features, consideration must be given to correcting the deficient features. When complete upgrading is not practical, a partial or selective upgrading and/or other improvements should be considered to mitigate the effects of the substandard elements.

42.8 2R Projects

.81 General Discussion – Funding restrictions do not always allow improvement of existing roadways to the standards desired. Therefore, when pavement condition reaches a minimal condition, cost effective pavement improvements are needed.

Resurfacing and restoration (2R) projects involve work to restore the existing roadway surface and appurtenances for safe and efficient highway operation. This type of project provides for resurfacing of the existing roadway to provide structural adequacy, to restore the roadway surface condition, and to consider making minor safety improvements.

Resurfacing of the roadway will normally be to the existing width. This should consider paving of previously unpaved shoulders. If short lengths of narrower lanes or shoulders exist within the project limits, widening should be considered to provide roadway section continuity within the project limits.

42.9 References

The designer must use the standards and rationales incorporated into the following manuals (see the following page for addresses to acquire reference materials).

AASHTO

- *A Policy on Geometric Design of Highways and Streets*, 2004 Edition
- *Guide for Design of Pavement Structures*
- *Highway Drainage Guidelines*
- *Guide for Roadway Lighting*
- *Roadside Design Guide*
- *Geometric Design of Very Low Volume Local Roads (ADT<400)*
- *AASHTO Guide for the Development of Bicycle Facilities*

Transportation Research Board (TRB)

- *Highway Capacity Manual*

Washington State Department of Transportation (WSDOT)

- *Standard Specifications for Road, Bridge, and Municipal Construction M 41-10*
- Supplement to MUTCD (WAC 468-95)
- *Bridge Design Manual M 23-50*
- *Highway Hydraulics Manual*

- *Standard Plans for Road, Bridge, and Municipal Construction* M 21-01
- *Design Manual* M 22-01
- *Pavement Design Manual*

Institute of Transportation Engineers (ITE)

- *Traffic Engineering Handbook*

FHWA

- *Manual of Uniform Traffic Control Devices (MUTCD)*
- 49 CFR Part 27 and Designing Sidewalks and Trails for Access, Part II

ADA

- 28 CFR Part 35, 28 CFR Part 36, Appendix A, and the Access Board's Proposed Public Right of Way Guidelines
- Public Rights of Way Access Advisory Committee (PROWAAC)
http://ite.org/accessible/prowaac/prowaac/_specialreport.pdf
- Local Agency ADA Planning and Design Resource
www.wsdot.wa.gov/ta/operations/localplanning/ada.html

Roundabouts

- NCHRP Synthesis 264 – Modern Roundabout Practice in the United States, Transportation Research Board
- FHWA – Roundabouts, An Informational Guide
- WSDOT *Design Manual* M 22-01

Traffic Calming

- *A Guidebook for Residential Traffic Management*, Final Report, December 1994, WSDOT Highways and Local Programs Division, Washington State Technology Transfer Center.

.91 Websites and Addresses to Acquire Reference Materials

AASHTO

AASHTO Bookstore

https://bookstore.transportation.org/item_details.aspx?id=104

TRB

Transportation Research Board National Research Council

500 5th Street NW

Washington, DC 20418

www.trb.org/highways1/public/highways.aspx

43.1 General Discussion

On all Federal Highway Administration (FHWA) funded transportation projects, local agencies must document design approval prior to preparation of plans, specifications, and estimates (PS&E).

A project design shall not be approved until the project's environmental documentation (NEPA) has been approved and its public hearing requirements have been met.

Value Engineering Studies (VEs) are required for all projects on the NHS receiving \$50 million or more and for all bridges \$40 million or more. Any project that approaches this cost limit on the preliminary estimate should also have a VE study performed in anticipation of cost increases from preliminary design to the final Plans, Specification and Estimate stage of a project. Refer to Section 43.4 for more information on Value Engineering. A VE study is not required for a Design-Build project.

When there is a subsequent change to the project design or scope, an amended location-design approval is required.

43.2 Requirements for Design Approval

All items on the appropriate design matrix are required to be addressed (see Chapter 42, Table 1.1, 1.2, and 1.3 and Appendix 42.101. In addition, items listed below are also required to be addressed (some of these are included in the Project Prospectus).

.21 Traffic Data – Design-year ADT, the average daily traffic forecast during the design year should be included. The design year for new and reconstruction projects is 20 years from the projected start of construction. All other projects may be any point within 8 to 20 years from the projected start of construction.

.22 Pavement Design Criteria – Rationale for selection of the pavement type and depth of surfacing.

.23 Cost Estimate – An updated cost estimate should be prepared. Include VE study when applicable.

.24 Environmental Document (NEPA) – Documentation, including approval.

The project design must be approved by the approving authority as outlined on the agency's Certification Acceptance Agreement or the acting designated authority for a Non-Certification Acceptance agency. For an example, see Appendix 43.62.

.25 Right of Way – Local agencies must ensure that the R/W plans were reviewed and approved.

43.3 Bridge Design Approval

.31 Policy

- a. The bridge site data should be prepared in conjunction with the Design. Extensive structural studies and the preparation of the bridge preliminary plans during the Design Report phase are not recommended. Expected changes to the roadway geometrics, project staging, construction costs, and other conceptual data will affect the structure and, therefore, impact the structural design effort.
- b. For bridge projects that do not fall under categories described in c. or d. below, the local agency is the approving authority for the design.
- c. Bridge projects that are required to perform a Type, Size, and Location (TS&L) as the first order of work after being selected, must receive approval from H&LP prior to completion of the design stage. (The FHWA regulatory requirements for large or unusual bridges contained in the Federal Aid Policy Guide (FAPG) also apply to large or unusual structures, tunnels, or hydraulic facilities. The definitions and requirements for major or unusual bridges will be addressed below; for other cases, refer to the FAPG.)
- d. For bridge projects on, over, or under state routes WSDOT concurrence with the design of the bridge is required.

.32 Definitions – A “major bridge” is a bridge estimated to cost more than \$40 million. This criterion applies to individual units of separated dual bridges. An “unusual bridge” is a bridge involving difficult or unusual foundation problems, new or complex designs with unusual structures or operational features, or a bridge for which the design standards or criteria might be questionable.

.33 Submittal of Data – Refer to Section 34.5.

H&LP approval of TS&L is required for major or unusual bridges before the local agency may approve the design and before the local agency may begin preparing the final PS&E.

43.4 Value Engineering

Value Engineering Studies (VEs) are required for all projects \$50 million or more and for all bridges \$40 million or more. Any project that approaches this cost limit on the preliminary estimate should also have a VE study performed in anticipation of cost increases from preliminary design to the final Plans, Specifications and Estimate stage of a project.

.41 Definition – Value Engineering (VE) is the systematic application of recognized techniques by multidiscipline team(s). These techniques are:

- Identify a product’s function or service.
- Establish a function’s monetary value or worth.
- Provide alternate ways, using creative techniques, to reliably accomplish necessary functions in the most effective and efficient manner.

Design Approval Documentation

[Agency Name]

[Project Title]

All items on the appropriate design matrix have been followed. Items that have been reviewed and addressed include:

- Traffic Data
- Pavement Design Criteria
- NEPA
- Right of Way (Plans must be consistent with the PS&E)

A Cost Estimate has also been prepared.

The [title of the approving authority as outlined on the agency's Certification Acceptance Agreement] has reviewed and approved the Design Documentation.

Name
Title
Agency

Date

44.1 General Discussion

After a project's location and design have been approved, work begins on the final version of the plans, specifications, and cost estimates (PS&E). These documents are used to award and administer a construction contract. The PS&E must be approved as defined in Chapter 13, *Becoming Certified to Administer FHWA Projects*, before the project can be advertised for construction.

PS&E approval is done by the local agency as identified in the Washington State Department of Transportation (WSDOT)/Local Agency Certification Acceptance (CA) Agreement. The approving authority identified on the CA Agreement must approve the plans and specifications, and a professional engineer licensed in the state of Washington must seal and date the plans and specifications.

The local agency should use the Project Development Checklist (Appendix 14.52) to check for completeness of the contract plans prior to approving them.

The local agency should have a commitment file, when applicable, containing a summary of commitments made during project development. The file should be reviewed to ensure that the commitments are incorporated in the PS&E. These commitments typically involve right of way or environmental considerations.

A copy of the bid documents shall be furnished to the Region Local Programs Engineer prior to advertisement.

Any local agency project with work on, over or below state routes requires design and traffic documentation approval and PS&E concurrence from WSDOT prior to advertisement.

On WSDOT ad-and-award projects, WSDOT will review and concur with the PS&E prior to printing contract plans and specifications. An estimate of the cost of this service can be obtained from the Region Local Programs Engineer. Refer to forms for a checklist.

44.2 PS&E Requirements

.21 Wage Rates – For information on state law requirements, contact the Municipal Research and Services Center for a listing of current laws. State and federal wage rates must be included for all Federal Highway Administration (FHWA) projects advertised by a local agency. The wage rates used will reflect the latest rates approved by the Washington State Department of Labor and Industries (L&I) and the U.S. Department of Labor. Refer to CFR 29 part 30 and RCW 39.12 and RCW 49.28.

The Federal Davis-Bacon Act predetermined minimum wage must be paid to all covered workers on federal aid projects exceeding \$2,000 that are located on a route which is classified as a federal aid highway (Principal Arterial, Minor Arterial

or Collector). The Davis-Bacon requirements do not apply to force account work performed by agency forces.

The applicability of Davis-Bacon to an Enhancement, Scenic Byways, or Safe Routes to School project is dependent on the relationship or linkage of the project to a federal aid highway. If the project is “linked” to a federal aid highway based on proximity or impact (i.e., without the federal aid highway the project would not exist), then Davis-Bacon requirements apply. Examples of such projects include the removal of outdoor advertising, a wetland to filter highway drainage, etc. Please contact your Region Local Programs Engineer to determine if Davis Bacon prevailing wage rates apply.

If the project is on a route classified as a rural minor collector or local access then the Davis-Bacon requirements do not apply.

Another Davis-Bacon issue is the acceptability of using volunteer labor on transportation projects. The US Department of Labor states in its Field Operations Handbook (Section 15): “There are no exceptions to Davis-Bacon coverage for volunteer labor unless an exception is specifically provided for in the particular Davis-Bacon Related Act under which the project funds are derived.” The Davis-Bacon Related Act for the Federal Aid Highway Program

(23 U.S.C. Section 113) is silent on this subject. Therefore, on projects subject to Davis-Bacon coverage, a contractor or subcontractor may not use volunteer labor. On the other hand, a state highway or local government agency may use volunteer labor under its direct control as a force account effort.

Local agencies may access the Wage Rate data file at www.wsdot.wa.gov/eesc/design/projectdev/adready/combinedwage.htm. If a local agency is not “on line,” wage rates can be requested through the Region Local Programs Engineer.

The effective date for state and federal rates is determined as follows:

- a. **State Wage Rates** – L&I will use the date that bids are due as the effective date for determining prevailing wages provided that the contract is awarded within 60 days after bids are due (RCW 39.12). If the contract is not awarded within 60 days after bids are due, L&I will determine the prevailing wage on the date the contract is awarded.
- b. **Federal Wage Rates** – This data is received from the USDOL in a document entitled “General Wage Determinations Issued Under the Davis-Bacon and Related Acts.” Modifications are issued weekly by the USDOL. The effective date for federal wage rates is the date of notice in the Federal Register or the date on which written notice is received by WSDOT, whichever occurs first. All modifications on projects to which the determination applies are effective if published before contract award.

The following are exceptions:

- The effective date for determining state prevailing wage rates shall be the date of bid opening. For contracts awarded more than six months after the bid opening date, the effective date for determining the wage rates shall be the award date.

Approved Public Interest Finding

- The agency is requiring a specific material or product and a written Public Interest Finding (PIF) document has been prepared and approved by H&LP.

Approved Experimental Feature

- The material or product has been approved through FHWA as an experimental feature.

Specify Brand Names and Allow for Approved Equals

- Specify a brand name. The agency will provide the bidder with options by naming at least two additional products or manufacturers that are acceptable and allowing for “approved equals” followed by a performance specification. When this is done, no approval is required for usage; it is not considered a proprietary item.

A good specification for brand name specifying will read as follows:

The (type of product) furnished shall be (brand name, model), (brand name, model), or an approved equal having the following features (functions):

- (feature)
- (functions)
- (feature)

In order to find the two acceptable items, the agency has to be looking for certain features or functions. These features or functions need to be clearly identified in the Special Provision.

Public Interest Finding

An agency may require a specific material or product when there are other acceptable materials and products when such specific choice is approved as being in the public interest, such as traffic signal control equipment. The written (PIF) must:

Clearly show that the best interest of the public and the agency will be achieved. This is accomplished by describing any cost effectiveness and efficiency to be realized. A benefit cost analysis should be completed to support the PIF. The supporting documentation and the decision of the agency must be maintained in the project file. See Appendices 44.76 through 44.82 for detailed instructions and example.

Proprietary items must be approved by H&LP.

A PIF is not required when:

1. The funding source is from a municipality or other entity, and is not reimbursable with federal monies, including when the contract has tied bids, and the item is only part of the locally funded project.
2. A utility agreement is being established and there are minor quantities of materials and supplies and proprietary products that are routinely used in a utility’s operation, which are essential for the maintenance of the system.

44.6 Estimates

The engineer's estimate of a proposed project's cost shall include the estimated quantity and estimated unit price for each proposed work item. Bridge items shall be segregated from roadway items. A tabulation for each bridge showing its applicable items shall be submitted.

If materials salvaged from the project are to be used for roadway purposes, the value of such materials should not be included in the project cost.

The estimate shall separately list the costs of nonparticipating items, local agency force work, and local agency furnished materials.

The separate cost groups shall be summarized and totaled on the first sheet of the estimate.

The Region Local Programs Engineer may be contacted for assistance in preparing the estimate. An estimate example is shown in Appendix 44.74.

44.7 Appendices

- 44.71 Local Agency Bid Proposal Package
- 44.72 City Letter of Financial Responsibility – Example
- 44.73 County Letter of Financial Responsibility – Example
- 44.74 Estimate and Grouping – Example
- 44.75 Local Agency Plans Preparation Checklist
- 44.76 Patented/Proprietary Items – PIF Instructions
- 44.77 Two-Week Advertisement – PIF Instructions
- 44.78 Mandatory Use of Borrow or Disposal Site – PIF Instructions
- 44.79 Agency Supplied Equipment – PIF Instructions
- 44.80 Agency Supplied Material – PIF Instructions
- 44.81 Local Agency Force Work – PIF Instructions
- 44.82 Public Interest Finding – Example

44.8 Forms

FHWA-1273 Required Contract Provisions Federal-Aid Construction Contracts

Project Information

State/Local Project Number – For WSDOT projects, this is the work order number or WIN. For local projects, this field is for local agency use/tracking.

Project Name – Provide the name of the project as it is listed in the State Transportation Improvement Plan (STIP).

Federal Aid Project Number – This number will be assigned by WSDOT. Contact the Region Local Programs staff to obtain this number.

NEPA Category – Check the appropriate box:

- Environmental Impact Statement (EIS). Refer to Subsection 24.21 of the *Local Agency Guidelines*.
- Categorical Exclusion (CE), Documented Categorical Exclusion (DCE), and Programmatic Categorical Exclusion (Programmatic CE). Refer to Subsection 24.22 of the *Local Agency Guidelines*.
- Environmental Assessment (EA). Refer to Subsection 24.23 of the *Local Agency Guidelines*.

Region or Agency – Fill in with the WSDOT Region or Local Agency requesting the finding.

Amount – Fill in the total amount of the request.

Full Oversight – Is this an FHWA full oversight project? If not certain, contact your Local Programs Engineer.

Public Interest Finding (PIF) Information

Select Type of PIF – Use the pull down menu to select the PIF that fits the project.

Regulatory Reference – This field is automatically filled in when you select the PIF.

Justification or Supporting Information

Goal Statement – What is being accomplished/what is the outcome for using a Patented/Proprietary item.

Description of Work – Provide a detailed description of why Patented/Proprietary items are needed.

Justification or Supporting Information

The use of trade names in specifications and on plans should be avoided. Instead, specifications should be formulated to assure full opportunity for competition among equivalent materials, equipment, and methods. Specifying patented or proprietary material, products or processes is allowed for federal aid projects only under one of the following conditions:

- At least three names of acceptable materials or products, if available, are listed together with a list of the required features and specifications that will be considered equal to the listed items.
- The agency is requiring a specific material or product and a written Public Interest Finding (PIF) document has been prepared and approved by H&LP.
- The material or product has been approved through FHWA as an experimental feature.

Cost Effectiveness Determination

- Attach a detailed estimate for the Patented/Proprietary items (see Appendix 44.81).
- Provide an explanation of cost effectiveness (see [Appendix 44.82](#)).

Schedule Issues – N/A

Buy America Compliance

- Steel and iron that is permanently incorporated into the project shall consist of American-made materials, as outlined in the required GSP.
- The local agency must include a provision containing the “Buy-America” requirements in each contract. General Special Provisions similar to those now used by WSDOT can be used by the local agency. These general special provisions are included in the WSDOT Amendments and General Special Provisions publication.
- Purchase of foreign steel and iron products by local agencies for installation on a federally funded project is not allowed except to the limit allowed by the “Buy America” General Special Provision.
- The agency must document the sources of steel and iron by having a “Certification of Materials Origin” on file. [See Appendix 52.108 for further clarification.](#)

Conclusion

- A brief summary of the overall benefits and cost effectiveness.
- Approval by WSDOT Highways and Local Programs is required.
- Approval is dependent on demonstration of overall cost effectiveness and public benefit. The determination is not solely dependent on cost savings.
- At least one signature from the local agency is required.

Project Information

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- Environmental Assessment (EA). Refer to Subsection 24.23 of the *Local Agency Guidelines*.

Region or Agency – Fill in with the WSDOT Region or Local Agency requesting the finding.

Amount – Fill in the total amount of the request.

Full Oversight – Is this an FHWA full oversight project? If not certain, contact your Local Programs Engineer.

Public Interest Finding (PIF) Information

Select Type of PIF – Use the pull down menu to select the PIF that fits the project.

Regulatory Reference – This field is automatically filled in when you select the PIF.

Justification or Supporting Information

Goal Statement – Why is there a need for a two-week advertisement.

Description of Work – Provide a summary description of project.

Justification or Supporting Information

Cost Effectiveness Determination

- Attach a summary level estimate.
- Provide an explanation of cost effectiveness (see [Appendix 44.82](#)).

Schedule Issues – Explain how the agency will deliver the project and describe if there is a benefit to the public for early completion.

Buy America Compliance

- Steel and iron that is permanently incorporated into the project shall consist of American-made materials, as outlined in the required GSP.
- The local agency must include a provision containing the “Buy-America” requirements in each contract. General Special Provisions similar to those now used by WSDOT can be used by the local agency. These general special provisions are included in the WSDOT Amendments and General Special Provisions publication.
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NEPA Category – Check the appropriate box:

- Environmental Impact Statement (EIS). Refer to Subsection 24.21 of the *Local Agency Guidelines*.
- Categorical Exclusion (CE), Documented Categorical Exclusion (DCE), and Programmatic Categorical Exclusion (Programmatic CE). Refer to Subsection 24.22 of the *Local Agency Guidelines*.
- Environmental Assessment (EA). Refer to Subsection 24.23 of the *Local Agency Guidelines*.

Region or Agency – Fill in with the WSDOT Region or Local Agency requesting the finding.

Amount – Fill in the total amount of the request.

Full Oversight – Is this an FHWA full oversight project? If not certain, contact your Local Programs Engineer.

Public Interest Finding (PIF) Information

Select Type of PIF – Use the pull down menu to select the PIF that fits the project.

Regulatory Reference – This field is automatically filled in when you select the PIF.

Justification or Supporting Information

Goal Statement – What is being accomplished/what is the outcome for using Mandatory Borrow or Disposal Site.

Description of Work – Provide a detailed description of work to be done.

Justification or Supporting Information

Cost Effectiveness Determination – Provide an explanation of cost effectiveness (see [Appendix 44.82](#)).

Schedule Issues – Explain how the agency will deliver the project and describe if there is a benefit to the public for early completion.

Buy America Compliance

- Steel and iron that is permanently incorporated into the project shall consist of American-made materials, as outlined in the required GSP.
- The local agency must include a provision containing the “Buy-America” requirements in each contract. General Special Provisions similar to those now used by WSDOT can be used by the local agency. These general special provisions are included in the WSDOT Amendments and General Special Provisions publication.
- Purchase of foreign steel and iron products by local agencies for installation on a federally funded project is not allowed except to the limit allowed by the “Buy America” General Special Provision.
- The agency must document the sources of steel and iron by having a “Certification of Materials Origin” on file. [See Appendix 52.108 for further clarification.](#)

Conclusion

- A brief summary of the overall benefits and cost effectiveness.
- Approval by WSDOT Highways and Local Programs is required.
- Approval is dependent on demonstration of overall cost effectiveness and public benefit. The determination is not solely dependent on cost savings.
- At least one signature from the local agency is required.

Project Information

State/Local Project Number – For WSDOT projects, this is the work order number or WIN. For local projects, this field is for local agency use/tracking.

Project Name – Provide the name of the project as it is listed in the State Transportation Improvement Plan (STIP).

Federal Aid Project Number – This number will be assigned by WSDOT. Contact the Region Local Programs staff to obtain this number.

NEPA Category – Check the appropriate box:

- Environmental Impact Statement (EIS). Refer to Subsection 24.21 of the *Local Agency Guidelines*.
- Categorical Exclusion (CE), Documented Categorical Exclusion (DCE), and Programmatic Categorical Exclusion (Programmatic CE). Refer to Subsection 24.22 of the *Local Agency Guidelines*.
- Environmental Assessment (EA). Refer to Subsection 24.23 of the *Local Agency Guidelines*.

Region or Agency – Fill in with the WSDOT Region or Local Agency requesting the finding.

Amount – N/A

Full Oversight – Is this an FHWA full oversight project? If not certain, contact your Local Programs Engineer.

Public Interest Finding (PIF) Information

Select Type of PIF – Use the pull down menu to select the PIF that fits the project.

Regulatory Reference – This field is automatically filled in when you select the PIF.

Justification or Supporting Information

Goal Statement – What is being accomplished/what is the outcome for using agency supplied equipment.

Description of Work – Provide a detailed description of equipment being used.

Justification or Supporting Information

Cost Effectiveness Determination – Provide an explanation of cost effectiveness (see [Appendix 44.82](#)).

Schedule Issues – Explain how the agency will deliver the project and describe if there is a benefit to the public for early completion.

Buy America Compliance

- Steel and iron that is permanently incorporated into the project shall consist of American-made materials, as outlined in the required GSP.
- The local agency must include a provision containing the “Buy-America” requirements in each contract. General Special Provisions similar to those now used by WSDOT can be used by the local agency. These general special provisions are included in the WSDOT Amendments and General Special Provisions publication.
- Purchase of foreign steel and iron products by local agencies for installation on a federally funded project is not allowed except to the limit allowed by the “Buy America” General Special Provision.
- The agency must document the sources of steel and iron by having a “Certification of Materials Origin” on file. [See Appendix 52.108 for further clarification.](#)

Conclusion

- A brief summary of the overall benefits and cost effectiveness.
- Approval by WSDOT Highways and Local Programs is required.
- Approval is dependent on demonstration of overall cost effectiveness and public benefit. The determination is not solely dependent on cost savings.
- At least one signature from the local agency is required.

Project Information

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Project Name – Provide the name of the project as it is listed in the State Transportation Improvement Plan (STIP).

Federal Aid Project Number – This number will be assigned by WSDOT. Contact the Region Local Programs staff to obtain this number.

NEPA Category – Check the appropriate box:

- Environmental Impact Statement (EIS). Refer to Subsection 24.21 of the *Local Agency Guidelines*.
- Categorical Exclusion (CE), Documented Categorical Exclusion (DCE), and Programmatic Categorical Exclusion (Programmatic CE). Refer to Subsection 24.22 of the *Local Agency Guidelines*.
- Environmental Assessment (EA). Refer to Subsection 24.23 of the *Local Agency Guidelines*.

Region or Agency – Fill in with the WSDOT Region or Local Agency requesting the finding.

Amount – Fill in the total amount of the request.

Full Oversight – Is this an FHWA full oversight project? If not certain, contact your Local Programs Engineer.

Public Interest Finding (PIF) Information

Select Type of PIF – Use the pull down menu to select the PIF that fits the project.

Regulatory Reference – This field is automatically filled in when you select the PIF.

Justification or Supporting Information

Goal Statement – What is being accomplished/what is the outcome for using agency supplied materials.

Description of Work – Provide a detailed description of why agency supplied materials are needed.

Justification or Supporting Information

Cost Effectiveness Determination

- Attach a detailed estimate for the material supplied (see Appendix 44.81).
- Provide an explanation of cost effectiveness (see Appendix 44.82).

Schedule Issues – Explain how the agency will deliver the project and describe if there is a benefit to the public for early completion.

Buy America Compliance

- Steel and iron that is permanently incorporated into the project shall consist of American-made materials, as outlined in the required GSP.
- The local agency must include a provision containing the “Buy-America” requirements in each contract. General Special Provisions similar to those now used by WSDOT can be used by the local agency. These general special provisions are included in the WSDOT Amendments and General Special Provisions publication.
- Purchase of foreign steel and iron products by local agencies for installation on a federally funded project is not allowed except to the limit allowed by the “Buy America” General Special Provision.
- The agency must document the sources of steel and iron by having a “Certification of Materials Origin” on file. See Appendix 52.108 for further clarification.

Conclusion

- A brief summary of the overall benefits and cost effectiveness.
- Approval by WSDOT Highways and Local Programs is required.
- Approval is dependent on demonstration of overall cost effectiveness and public benefit. The determination is not solely dependent on cost savings.
- At least one signature from the local agency is required.

Project Information

State/Local Project Number – For WSDOT projects, this is the work order number or WIN. For local projects, this field is for local agency use/tracking.

Project Name – Provide the name of the project as it is listed in the State Transportation Improvement Plan (STIP).

Federal Aid Project Number – This number will be assigned by WSDOT. Contact the Region Local Programs staff to obtain this number.

NEPA Category – Check the appropriate box:

- Environmental Impact Statement (EIS). Refer to Subsection 24.21 of the *Local Agency Guidelines*.
- Categorical Exclusion (CE), Documented Categorical Exclusion (DCE), and Programmatic Categorical Exclusion (Programmatic CE). Refer to Subsection 24.22 of the *Local Agency Guidelines*.
- Environmental Assessment (EA). Refer to Subsection 24.23 of the *Local Agency Guidelines*.

Region or Agency – Fill in with the WSDOT Region or Local Agency requesting the finding.

Amount – Fill in the total amount of the request.

Full Oversight – Is this an FHWA full oversight project? If not certain, contact your Local Programs Engineer.

Public Interest Finding (PIF) Information

Select Type of PIF – Use the pull down menu to select the PIF that fits the project.

Regulatory Reference – This field is automatically filled in when you select the PIF.

Justification or Supporting Information

Goal Statement – What is being accomplished/what is the outcome for the work being completed by local forces.

Description of Work – Provide a detailed description of work to be done by agency forces.

Justification or Supporting Information

Cost Effectiveness Determination

- Attach a detailed estimate. Costs for construction prices should be based on unit price history. Agency force cost estimates need to detail labor, equipment, materials, and agency overhead costs (see example).
- Provide an explanation of cost effectiveness (see [Appendix 44.82](#)).

Schedule Issues – Explain how the agency will deliver the project and describe if there is a benefit to the public for early completion.

Buy America Compliance

- Steel and iron that is permanently incorporated into the project shall consist of American-made materials, as outlined in the required GSP.
- The local agency must include a provision containing the “Buy-America” requirements in each contract. General Special Provisions similar to those now used by WSDOT can be used by the local agency. These general special provisions are included in the WSDOT Amendments and General Special Provisions publication.
- Purchase of foreign steel and iron products by local agencies for installation on a federally funded project is not allowed except to the limit allowed by the “Buy America” General Special Provision.
- The agency must document the sources of steel and iron by having a “Certification of Materials Origin” on file. [See Appendix 52.108 for further clarification.](#)

Conclusion

- A brief summary of the overall benefits and cost effectiveness.
- Approval by WSDOT Highways and Local Programs is required.
- Approval is dependent on demonstration of overall cost effectiveness and public benefit. The determination is not solely dependent on cost savings.
- At least one signature from the local agency is required.

.27 Award of Contract – After bids have been tabulated and evaluated in accordance with the procedures described above, the construction contract may be awarded to the responsible bidder with the lowest responsive bid. Projects with DBE goals must have concurrence of the Region Local Programs Engineer prior to award. Failure to obtain LPE approval will jeopardize the project’s federal funding. Prior to award, agencies must verify contractor status with the System for Award Management at www.sam.gov/portal/public/sam/ to determine if a contractor has been excluded from bidding on a federal aid contract. The results of that search will be documented to the project file. EPLS is the electronic version of the Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs (Lists), which identifies those parties that have been suspended, debarred, or otherwise excluded from bidding on federal procurement and nonprocurement contracts. Construction contracts awarded to firms listed on the Excluded Parties Listing will not be eligible for federal aid reimbursement.

After award by the local agency, the contractor must be advised of the award in writing. For an example of an award letter with a Zero DBE goal, see Appendix 46.43. For an example of an award letter for a contract that has an identified DBE goal, see Appendix 46.44. The information contained in the body of these examples must be included in the local agency letter.

.28 Execution of Contract – Local agencies shall not execute a contract with any contractor who is not registered or licensed in accordance with state laws.

The local agency prepares the necessary documents and forwards them for execution by the successful bidder and the proper officials of the local agency.

An example of a standard contract agreement is in Appendix 44.73. The Region Local Programs Engineers can furnish these standard forms upon request.

46.3 Submittal of Award Data

Before construction begins, the local agency must submit the following information to the Region Local Programs Engineer:

- Tabulation of bids.
- Engineer’s estimate.
- Award letter to the contractor.
- Names and addresses of all firms that submit a quote to the successful low bidder.
- DBE Utilization Certification, DOT Form 272-056A (if applicable).
- DBE Written Confirmation Document, DOT Form 422-031 (if applicable).

Failure to submit the above listed information, before construction begins, will result in a delay of reimbursement for the billed cost, until the information is received.

46.4 Appendices

- 46.41 Advertisement – Example
- 46.42 Local Agency Funds – Award Letter Example
- 46.43 Zero Goal – Award Letter Example
- 46.44 Mandatory Goal – Award Letter Example
- 46.45 Contract Bond – Example

**INVITATION TO BID
LOCAL AGENCY'S LETTERHEAD
DEPARTMENT OF ENGINEERING
WASHINGTON**

Sealed bids will be received by the (Local Agency), at the reception desk located in Room _____ of the _____, Washington until _____ a.m. on _____ and will then and there be opened and publicly read for the construction of the improvement(s).

All bid proposals shall be accompanied by a bid proposal deposit in cash, certified check, cashier's check, or surety bond in an amount equal to five percent (5%) of the amount of such bid proposal. Should the successful bidder fail to enter into such contract and furnish satisfactory performance bond within the time stated in the specifications, the bid proposal deposit shall be forfeited to the (Local Agency).

The right is reserved to reject any and all bids and to waive informalities in the bidding.

Maps, plans, and specifications may be obtained from this office upon payment of the amount of \$ _____.

Informational copies of maps, plans and specifications are on file for inspection in the Office of the Local Agency Engineer, (Local Agency), Washington.

The following is applicable to federal aid projects.

The (Local Agency) in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, subtitle A, Office of the Secretary, Part 21, nondiscrimination in federally assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises as defined at 49 CFR Part 26 will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, or sex in consideration for an award.

The improvement for which bids will be received is described below:

*This bolded paragraph cannot be reworded for FHWA funded projects.

Date

Principle, Title
Company Name
Address
City, State, Zip

Contract No.
Project Title

Dear _____:

This will advise that the contract for the above referenced project has been awarded to your firm at the bid price of \$_____.

The contract will be forwarded at an early date. This contract must be signed and returned in accordance with the mailing instructions furnished with the contract documents. Please return within 20 calendar days after the date of award.

Sincerely,

Local Agency

cc: Region Local Programs Engineer

Date

Principle, Title
Company Name
Address
City, State, Zip

Project Title
Federal Aid No.
Contract No.

Dear _____:

This letter is to advise you that the contract for the above referenced project has been awarded to your firm at your bid price of \$_____.

As a part of entering this contract, the contractor agrees to take all necessary and responsible steps in accordance with 49 CFR Part 26 to ensure that Disadvantaged Business Enterprises (DBE) have an opportunity to participate in the performance of this contract.

The award of this contract was made with the understanding that (*Company Name*), will provide the following items prior to submitting the signed contract for execution:

1. Breakout information for all successful DBEs proposed to perform on this contract:
 - Correct business name, federal employer identification number (if available), and mailing address.
 - List of all bid items assigned to each DBE firm, including unit prices and extensions, indicating any anticipated sharing of resources (e.g., equipment, employees).
 - Indicate partial items – specify the distinct elements of work to be performed by the DBE firms and provide a complete description of these partial items.
2. A list of all firms who submitted a bid or quote in an attempt to participate in this contract whether they were successful or not. Include the following information:
 - Correct business name and mailing address.

Send these two items to (*Local Agency name and address*). Failure to provide this information prior to execution will result in forfeiture of the bidder’s proposal security.

The contract will be forwarded to you under separate cover. The contract must be signed and returned in accordance with the mailing instructions furnished with the contract documents. Please return these documents within 20 calendar days after the date of award.

Sincerely,

Local Agency

cc: Region Programs Engineer

Appendix 46.44 Mandatory Goal – Award Letter Example

Principle, Title
Company Name
Address
City, State, Zip

Date

Contract No.
Project Title
Federal Aid No.

Dear _____:

This letter is to advise you that the contract for the above referenced project has been awarded to your firm at your bid price of \$_____.

As a part of entering this contract, the contractor agrees to take all necessary and responsible steps in accordance with 49 CFR Part 26 to ensure that Disadvantaged Business Enterprises (DBE) have an opportunity to participate in the performance of this contract. The award of this contract was made with the understanding that the firms listed on the DBE Utilization Certification will be performing the dollar value of work as indicated.

Prior to submitting the signed contract for execution, (*Company Name*) will provide the following items:

1. Breakout information for all successful DBEs as shown on the DBE Utilization Certification:

- Correct business name, federal employer identification number (if available), and mailing address.
- List of all bid items assigned to each DBE firm, including unit prices and extensions, indicating any anticipated sharing of resources (e.g., equipment, employees).
- Indicate partial items – specify the distinct elements of work to be performed by the DBE firms and provide a complete description of these partial items.

Note: Total amounts shown for each DBE shall not be less than the amount shown on the Utilization Certification.

2. A list of all firms who submitted a bid or quote in an attempt to participate in this contract whether they were successful or not. Include the following information:

- Correct business name and mailing address.

Send these two items to (*Local Agency name and address*). Failure to provide this information prior to execution will result in forfeiture of the bidder's proposal security.

The contract will be forwarded to you under separate cover. The contract must be signed and returned in accordance with the mailing instructions furnished with the contract documents. Please return these documents within 20 calendar days after the date of award.

Sincerely,

Local Agency

cc: Region Programs Engineer

CONTRACT BOND

KNOW ALL MEN BY THESE PRESENTS, That

of _____, as Principal, and _____

as Surety, are jointly and severally held and bound unto the _____
city/county

in the penal sum of Dollars (\$ _____), for the payment of which we jointly and severely bind ourselves, our heirs, executors, administrators, and assigns, and successors and assigns, firmly by these presents.

THE CONDITION of this bond is such that whereas, on the _____

day of _____ A.D., 19 _____, the said _____

Principal, herein, executed a certain contract with the _____
city/county

by the items, conditions and provisions of which contract the said _____,

Principal, herein, agree to furnish all material and do certain work, to wit: That _____

_____ will undertake and complete the construction of

according to the maps, plans and specifications made a part of said contract, which contract as so executed, is hereunto attached, is now referred to and by reference is incorporated herein and made a part hereof as fully for all purposes as if here set forth at length. The bond shall cover all approved change orders as if they were in the original contract.

NOW, THEREFORE, if the Principal herein shall faithfully and truly observe and comply with the terms, conditions and provisions of said contract in all respects and shall well and truly and fully do and perform all matters and things by undertaken to be performed under said contract, upon the terms proposed therein, and within the time prescribed therein, and until the same is accepted, and shall pay all laborers, mechanic, subcontractors and material men, and all persons who shall supply such contractor or subcontractor with provisions and supplies for the carrying on of such work, and shall in all respects faithfully perform said contract according to law, then this obligation to be void, otherwise to remain in full force and effect.

WITNESS our hands this _____ day of _____, 19 _____

PRINCIPAL

ATTORNEY-IN-FACT, SURETY

NAME AND ADDRESS LOCAL OFFICE OF AGENT

APPROVED:

CITY/COUNTY

By: _____

APPROVING AUTHORITY

Date: _____, 19 _____

SURETY BOND NUMBER

CONTRACT NUMBER

This chapter is used for NHS and non-NHS routes by Local Agencies operating under Certification Acceptance (CA) and choosing to administer construction contracts themselves. In the sequence of project development, this follows Chapter 46.

Local Agencies whose construction contracts are administered by the Washington State Department of Transportation (WSDOT) should refer to Chapter 51.

Title 23 USC and 23 CFR provisions apply to all NHS Federal aid projects regardless of federal funding source or approval authority. State standards may be used on non-NHS projects, except for federal requirements pertaining to contracts (bid proposal content including Davis Bacon and DBE) and procurement procedures (competitive bidding and Brooks Act).

52.1 General Discussion

WSDOT is responsible for the proper expenditure of FHWA funds on Local Agency projects. Highways and Local Programs (H&LP) will consult and work with Local Agencies as needed and will perform systematic project management reviews to ensure that proper procedures are followed.

Except for this chapter, construction shall be administered and materials inspected, in accordance with the *Construction Manual* M 41-01. For exceptions to the *Construction Manual*, see Appendix 52.107. In case of conflicting guidelines, this chapter governs the *Construction Manual*. Agencies may choose to use their own forms provided the same information is included on the agency forms as is shown on the WSDOT forms used for the same purposes. For an understanding of WSDOT documentation requirements, use Chapter 10 of the *Construction Manual* as a guide.

All FHWA projects are subject to Disadvantaged Business Enterprise (DBE) and Equal Employment Opportunity (EEO) compliance reviews by WSDOT.

The *Standard Specifications for Road, Bridge, and Municipal Construction* M 41-10 and APWA GSP 1-01.3 define the major elements for construction contracts.

52.2 Preconstruction Conference

After a contract is awarded, the Local Agency should arrange a conference with the contractor. The Local Agency Engineer shall notify the Region Local Programs Engineer of the time and place of the conference.

On large, complex projects, a preconstruction conference should be held before each construction phase. It may be desirable to hold separate conferences for some specialized construction items such as paving, roadside planting, or electrical work. The preconstruction conference may include a partnering session, if appropriate. For a conference agenda example, refer to Appendix 52.101.

The meeting should be documented and copies of the minutes transmitted to the Region Local Programs Engineer and each agency, organization, and firm that has involvement or interest in the project (see Appendix 52.102).

52.3 Quality Control

The quality of materials and workmanship on a project must conform to the contract specifications so that the public funds expended will have purchased a safe, economical, and fully functional transportation facility.

.31 General – The source for each type of material must be approved by the Local Agency prior to use. There are two submittal processes allowed by *Standard Specifications* Section 1-06.1 for material approval in Washington State, the Qualified Product List and the Request for Approval of Materials (RAM). Contractors are encouraged to use one of these tools to request material approval or, if an agency has their own process established, to follow that.

The Qualified Product List (QPL) is compiled by the WSDOT Materials Laboratory (Mats Lab) Documentation Section and can be accessed at www.wsdot.wa.gov/biz/mats/QPL/QPL.cfm.

The Request for Approval of Material (DOT Form 350-071 EF) is a form distributed by WSDOT. Contractors may use this form to submit requests for approval for materials not found in the QPL. Some agencies have a similar form that is also acceptable.

Local Agencies requesting a Record of Materials (ROM) from WSDOT's Mats Lab should submit their request at the time of award to avoid delaying the contractor. The average processing time is approximately four weeks.

Reimbursement of FHWA funds may be denied for work done contrary to, or in disregard of, the contract documents.

Local Agencies making improvements to National Highway System (NHS) routes with federal funding must comply with the FHWA approved qualified tester program. If a Local Agency is not certified to perform the tests, they can contact a qualified testing laboratory or their Region Local Programs Engineer to make arrangements for WSDOT to perform the testing on the project.

.32 Qualified Tester Requirements – For local agencies the guidelines below apply:

- a. **Construction Projects on Non-NHS Highway System** – There is no requirement for qualified testers on the non-NHS highway system. Construction projects that have FHWA funds must follow the requirements contained in this manual.
- b. **Construction Projects on the NHS Highway System With No FHWA Funds** – There is no requirement for qualified testers on the NHS highway system that do not have FHWA funds in the construction phase.
- c. **Construction Projects on the NHS Highway System With FHWA Funds** – Qualified Testers are required for construction projects that on the NHS highway system that have FHWA funds in the construction phase.

Agencies have several options for meeting the qualified tester requirements:

- Contract with WSDOT to perform the required tests.
- Local agency may pursue tester qualification through WSDOT for agency personnel.
- Agencies may use any AMRL R-18 laboratories qualified to test as defined by AASHTO test methods appropriate to the material. Employees of AMRL R-18 laboratories are considered qualified via the laboratory certification process. WAQTC testers may also work on NHS projects.
- Agencies may also use laboratories that are accredited by the Laboratory Accreditation Bureau, L-A-B for Construction Materials Testing or accredited by the Construction Materials Engineering Council's (CMEC's) ISO 17025 program. These laboratories are considered to meet the quality assurance requirements in 23 CFR 637.209(a) (2), (3), and (4).

HMA Testing – Qualification is required for the following test methods:

AASHTO T 168 – Sampling Bituminous Paving Mixtures

AASHTO T 308/ASTM D 6307 – Asphalt Content of Hot Mix Asphalt (HMA) by the Ignition Method (may substitute other AASHTO or ASTM extraction methods). Use of Ignition Method must include furnace correction factor for each mix tested.

AASHTO T 209/ASTM D 2041 – Rice Density

AASHTO T 27/T 11 – Sieve Analysis of Fine and Coarse Aggregates

AASHTO T 255 – Total Evaporable Moisture Content of Aggregate by Drying

WAQTC TM 6 – Moisture Content of HMA

HMA Density Testing – Qualification is required in the following test method:

WAQTC TM 8 – In place Density of Bituminous Mixes Using the Nuclear Moisture-Density Gauge

Concrete testing can be performed by testers qualified by AMRL R-18 qualification in the following test methods:

AASHTO T 23 – Making and Curing Concrete Test Specimens in the Field

AASHTO T 119 – Standard Test Method for Slump of Hydraulic-Cement Concrete

AASHTO T 152 – Air Content of Freshly Mixed Concrete by the Pressure Method

AASHTO T 141/ASTM C 172 – Sampling Freshly Mixed Concrete

AASHTO T 309 – Temperature of Freshly Mixed Portland Cement Concrete

Laboratories must meet the AASHTO Standards for Moist Cabinets, Moist Rooms, and Water Storage Tanks and be qualified to Cure, Cap, and perform compression testing of test specimens.

Testers with current ACI grade 1 Concrete Testing Certification can also perform concrete field testing on NHS projects with federal funding.

Aggregate testing can be performed by laboratories qualified by AMRL R-18 in the following test methods:

AASHTO T 2 – Sampling of Aggregates

AASHTO T 27/T 11 – Sieve Analysis of Fine and Coarse Aggregates

AASHTO T 176 – Determination of the Plastic Fines in Graded Aggregate by Use of the Sand Equivalent Test

AASHTO T 248 – Reducing Field Samples of Aggregates to Testing Size

AASHTO T 255 – Total Moisture Content of Aggregate by Drying

AASHTO TP 61 – Determining the Percentage of Fracture in Coarse Aggregate

Laboratories offering Embankment and Base Density field testing must be qualified to perform the following test methods:

AASHTO T 224 – Correction for Coarse Particles in the Soil Compaction Test

AASHTO T 310 – In-Place Density and Moisture Content of Soil and Soil Aggregate by Nuclear Method

AASHTO T 99 or other approved test method of determining – Moisture Density Relations of Soils

The following is a breakdown of materials and how they will be accepted.

List of Materials to Test

1. Structural Concrete
 - Slump
 - Air
 - Temp
 - Compression Testing
2. Asphalt in the roadway
 - Density
 - Hot Mix
3. Surfacing under roadway and bridge approaches
 - Density
 - Gradation and SE
4. Base material under roadway, embankments, bridge approaches
 - Density
 - Gradation and SE
5. Structural Grout
 - Compression Testing

6. High Strength Nuts Bolts and Washers*
 Manufacturer's Certificate of Compliance
 Certificate of Material Origin

*See *Standard Specifications* Section 9-06.5.

List of Materials to Certify

1. Steel
 Manufacturer's Certificate of Compliance
 Certificate of Material Origin*
2. Iron
 Certificate of Material Origin*
3. Liquid Asphalt Products
 Manufacturer's Certificate of Compliance
4. Geotextile Fabrics
 Manufacturer's Certificate of Compliance
5. Guardrail Items
 Certificate of Material Origin for steel components*
6. Bridge Bearing Assemblies that are not welded
 Manufacturer's Certificate of Compliance
 Certificate of Material Origin*

*Agencies must document the sources of steel and iron by having a "Certification of Materials Origin" on file. For further clarification of Manufactured Products Under Buy America, see Appendix 52.108.

List of Material to Accept With Visual Inspection or Catalog Cut

1. Traffic marking – paints and thermoplastics
2. Electrical items and accessories
3. Fencing
4. Landscaping or irrigation items
5. Drainage Items
6. Rebar Tie Wire
7. Backer Rod under RCS Expansion Joints
8. Rebar Chairs and Dobie Blocks
9. Temporary Items
10. Compost
11. Street furniture etc.

12. Monument Case and Cover
Certificate of Material Origin is required

List of Materials That Require Fabrication Inspection

1. Structural Steel Beams or Fabricated, Welded items
2. Structural Precast Concrete Items
3. Bridge Bearing Assemblies that are welded
4. Signs
5. Sign Bridges
6. Cantilever Sign Structures

.33 Use of WSDOT Mix Designs – Local Agencies utilizing a WSDOT mix design for a project may use that mix design beyond the year it was submitted for approval, provided the contractor supplies written certification that all material properties meet the original WSDOT mix design.

52.4 Progress Payments

Progress payments must be based on measurements of work performed so that the contractor can be fairly compensated and so that public funds will not be expended on work that has not yet been done.

.41 General – Progress estimates should be prepared on a pre-selected date each month and payment made to the contractor. Measurement and payment for all acceptably completed bid items of work will be in accordance with *Standard Specifications* Section 1-09. Source documents used to support payments must be complete, stand alone documents that fully support the payment being made. Documentation to support payment shall be in accordance with *Construction Manual* Chapter 10. Agencies that have integrated computer programs for Inspector Daily Reports and payment source documents shall include all the information shown on the WSDOT forms used for those purposes. Progress estimates should be prepared promptly and may be forwarded to the contractor for review and signature.

.42 Statement of Intent to Pay Prevailing Wages – The contractor and subcontractors of every tier shall submit form

LI 700-29 to Washington State Department of Labor & Industries (L&I) for approval of the wage rates they intend to pay. Each statement must be accompanied by the filing fee established by L&I and required by RCW 39.12.030 and 39.12.040.

The approved pink copy of form LI 700-29 shall be on file with the Local Agency before any payment is made to the contractor. Subcontractors of every tier shall have an approved copy of this form on file with the Local Agency before any payment can be made for their work.

52.5 Changes and Extra Work

Prior to beginning work on a contract, a Local Agency should have a written policy for the approval of change orders to ensure that appropriate procedures are followed. Without a written change order policy delegating approval authority, the designated CA Agreement approval authority must approve all change orders. See item #2, i of the Certification Agreement (Chapter 13).

It is important to distinguish between actual changes to the contract work and normal overruns and under-runs that may occur. No change order work shall be done prior to approval being given by the appropriate authority, verbal or written. Verbal approval requires written documentation including a description of work that adequately describes the extent of the change. Verbal approval must be followed by a written change order. No contract payment shall be made prior to having the written change order approved by the appropriate authority.

Changes to a Condition of Award letter shall be handled in accordance with the GSP (Changes in the Quantity of Work). All change orders affecting the work of DBEs shall be submitted to the Region Local Programs Engineer for concurrence prior to executing the change order.

When changes in the work will alter the termini, character, and scope of an approved project, approval of H&LP is required prior to the commencement of the physical work. For further information, refer to Chapter 21. All change orders must be numbered in sequence.

Change order documentation is composed of two parts:

- a. The approved change order signed by the agency and the contractor.
- b. The backup documentation. The backup documentation shall include an explanation in sufficient detail so that everyone involved will understand the need for the change, and how the change will affect the overall contract. The explanation shall include a detailed justification of the cost and/or any adjustment to working days associated with the change. The detailed cost justification shall be documented independent of the contractor's proposal to substantiate the change.

.51 Administrative Settlement Costs – Administrative settlement costs are costs related to the defense and settlement of contract claims. These will include, but are not limited to salaries of contracting officers or their authorized representatives, attorneys, or members of arbitration boards, appeal boards, etc., that are allowable to the findings and determination of contract claims, but not including administrative or overhead costs.

FHWA funds may participate in administrative settlement costs which are:

- Incurred after notice of claim.
- Properly supported.
- Directly allocable to a specific FHWA project.
- For employment of special counsel for review and defense of contract claims when recommended by the agency's legal counsel and approved in advance by WSDOT.

When a claim is submitted, the Region Local Programs Engineer should be contacted for advice on how to proceed.

52.6 Termination of Contract

Standard Specifications Section 1-08.10 contains procedures and criteria for termination of a contract. Prior to termination action against a contractor or reassignment of the performance to the surety, the Local Agency must obtain H&LP concurrence.

52.7 Compliance With Federal Contract Provisions

FHWA requires that all subcontracts at any tier be in writing, per 23 CFR, Section 635.116(b). This includes both contracts between the prime contractor and their subcontractors, and contracts between subcontractors and their agents.

Each of these subcontracts must also physically contain the following documents. None of these documents can be included by reference only.

- The general special provision (GSP) entitled “Required Federal Aid Provisions.”
- Form FHWA 1273 “Required Contract Provisions, Federal Aid Construction Contracts.”
- The minimum wage rates for the contract as required by RCW 39.12 and Title 29 of the Code of Federal Regulations (CFR).

It is the responsibility of the Local Agency to ensure full compliance with the provisions above.

Implementation of the DBE and EEO programs are also federal contract requirements. For information, refer to Chapters 26 and 27.

52.8 Physical Completion of Construction

The Local Agency will carry out the following requirements to terminate the construction contract and ready the project for acceptance by WSDOT and FHWA:

.81 Notice of Physical Completion – Within ten calendar days after physical completion of the work by the contractor, the Local Agency Project Engineer shall notify the contractor by letter that the construction is physically complete, and that the project is subject to inspection, audit, and acceptance by WSDOT. The agency shall diligently pursue closure of the contract.

.82 Final Inspection – The Local Agency Project Engineer shall send a request for WSDOT inspection and acceptance to the Region Local Programs Engineer no later than within 15 days of physical completion of work by the contractor. A copy of the physical completion letter that is sent to the contractor should accompany the request.

.83 Final Reports – A construction project is considered complete when the items listed below have been completed. All certifications and reports shall be retained for at least three years after final acceptance of the project.

- a. **Final Estimate (Approving Authority File)** – When the contractor has a claim pending against the Local Agency and wants to receive a final estimate, a claim must be submitted in writing, detailing the specific items and amounts. When a claim is submitted, immediately contact the Region Local Programs Engineer so that FHWA can be informed of the claim’s details at an early stage. See *Standard Specifications* Section 1-09.12(2).
- b. **Comparison of Preliminary and Final Quantities (Approving Authority File)** – This is a listing of items that show the preliminary and final quantities.
- c. **Certified Final Bill for Utility Agreement, if applicable, to Region Local Programs Engineer.**
- d. **Final Records (Approving Authority File)** – The Local Agency Project Engineer must document the work performed on the contract. Documentation consists of field books, inspector’s record of field tests, Project Engineer’s and inspector’s diaries, all invoices, weigh bills, truck measurements, quantity tickets, receiving reports, field office ledgers, mass diagrams, cross-sections, computer listings, and work profiles. Photographs or video tapes before, during, and after construction could be useful, especially if care is taken to show any unusual conditions, equipment, or procedures.

Final records shall be retained by the Local Agency for at least three years following acceptance of the project by H&LP. The Local Agency will receive the administrative review letter showing the starting and ending date of the three-year retention period from the Director of Highways and Local Programs Division (OMB Circular A-133).

- e. **Record of Material Samples and Tests.**
- f. **Materials Certification** (Appendix 52.104) – The intent of the materials certification is to assure that the quality of all materials incorporated into the project are in conformance with the plans and specifications, and thus ensure a service life equivalent to the design life.
 1. This materials certification shall be completed in accordance with *Construction Manual* Section 9-1.5 or Section 52.3 of this manual and is submitted along with the completion letter to the Region Local Programs Engineer.
- g. **Affidavit of Wages Paid** – Upon completion of a contract, the prime contractor and every subcontractor or agent shall submit Form LI-700-7, Affidavit of Wages Paid, to L&I for certification of the wage rates paid on the project. Each affidavit must be accompanied by the filing fee established by L&I.

An L&I certified copy of Form LI-700-7 from the prime contractor, and every subcontractor or agent, must be on file with the Local Agency before the retained sum will be released.

- h. Release for the Protection of Property Owner and General Contractor. Form LI-263-83, is no longer furnished by L&I. The new process requires the agency to use the Labor and Industries website at <https://fortress.wa.gov/lni/crpsi/> to verify that the prime contractor and all subs on the project have paid the required industrial insurance and medical-aid premiums. The UBI number for each contractor and sub is required to access the verification. The printed verification statements must be on file with the Local Agency before the retained percentage can be released.
- i. DOT Form 422-103 EF, Local Agency Quarterly Report of Amounts Credited as DBE Participation, shall be submitted by the contractor to the Local Agency on all projects that contain DBE goals. This form should also be submitted when a qualified DBE contractor or subcontractor is employed on a project, regardless of whether that DBE is a condition of award or not. This form is submitted on a quarterly basis in January, April, July, and October. See Chapter 26.

.84 Project Acceptance – The approving authority’s approval of the final estimate will be considered as the Local Agency’s acceptance of the project.

52.9 Projects Within Interstate Rights of Way

All construction, materials, and quality control requirements contained in the current editions of the *Standard Specifications* and *Construction Manual* must be incorporated into the contract. (See Chapter 14.4 for complete guidance on work within the Interstate Rights of Way.)

52.10 Appendices

- 52.101 Preconstruction Conference Agenda – Example
- 52.102 Preconstruction Conference Minutes – Example
- 52.103 Letter Requesting WSDOT Project, Inspection, and Acceptance – Example
- 52.104 Materials Certification – Example
- 52.105 Weekly Statement of Working Days
- 52.106 Change Order
- 52.107 Exceptions to the WSDOT *Construction Manual*
- 52.108 Clarification of Manufactured Products Under Buy America

52.11 Forms

See *Construction Manual* Chapter 11

FHWA Form WH-347

- I. ORDER OF WORK (Progress Schedule)
- II. UTILITIES AND RAILROADS
 - A. Project Engineer prepare list of affected services and representative to be contacted.
 - B. Underground services should be located.
 - C. Notification time required by organizations.
 - D. Insurance required, if any.
- III. SUBCONTRACTORS AND AGENTS
 - A. Request for approval must be submitted along with a Statement of Intent to Pay Prevailing Wage and Subcontractor or Agent Certification.
 - B. Nature of work to be performed by each.
 - C. Subcontractor's route correspondence via prime contractor.
 - D. Prime contractor must have a representative with authority on the job at all times (designated by letter).
 - E. DBE subcontract work – indepth discussion including conditions of award if any.
- IV. RECORDS AND REPORTS
 - A. Description of required forms and initial supply should be handed out or mailed to prime contractor.
 - B. All reports must be handled through prime contractor's office.
 - C. Record of Materials should be provided and Requests for Approval of Materials Sources (RAM) should be submitted as soon as possible.
 - D. Falsework plans, if required.
 - E. Certified payrolls must be submitted on time and wage rate interviews will be conducted.
 - F. EEO and trainee requirements – indepth discussion.
 - G. DBE requirements when the contract contains DBE goals – indepth discussion.
 - H. Required job site posters (provided to Prime Contractor).
 - I. Davis-Bacon statement regarding the USDOL, WSDOT and local agency's role in investigations for labor compliance.
 - J. ADA requirements.

V. TRAFFIC CONTROL AND SAFETY

- A. *Manual on Uniform Traffic Control Devices* will control signing.
- B. Review and discussion of Traffic Control Plan (TCP) including pedestrian and bicycle accommodations.
- C. Safety control on structures.
- D. Flagman should use standard paddle and vest and must be certified with flagman card.
- E. Speed regulation of construction equipment.
- F. Contractor and project engineer designate by name the individual responsible for construction traffic control.
- G. Safety and health requirements.
- H. Request police to report all construction zone accidents to the contracting authority.
- I. Gross legal load limits shall be adhered to.
- J. The local agency will monitor the requirements of RCW 46.61.655 as amended by Substitute House Bill No. 2455 and cooperate with law enforcement agencies in the enforcement as provided in *Standard Specifications* Section 1-07.1. Substitute House Bill No. 2455 deals with covered loads or 6 inches of freeboard.

VI. ENVIRONMENTAL CONSIDERATIONS

- A. Commitment files.
- B. Standard Specifications/Special Provisions.
- C. Contractor responsibility to obtain permits.
- D. Department of Ecology requires registration of rock crushers in accordance with WAC 173-400.
- E. Temporary Erosion and Sediment Control Plan (TESCP).
- F. Spill Prevention, Control, and Containment Plan (SPCCP).

VII. DISMISS DISINTERESTED PARTIES (list those leaving)

VIII. REOPEN WITH GENERAL CONSTRUCTION DISCUSSION

- A. Contractor explains how he plans to pursue the work.
- B. Review of anticipated construction problems.
- C. Conflict resolution – need for partnering.

On December 21, 2012, the FHWA sent out a memo to clarify their position with regard to application of Buy America requirements to manufactured products.

The FHWA memo reads in part as stated in italics below, clarifying statements are added in bold:

The FHWA deems a product to be manufactured predominantly of steel and iron if the product consists of at least 90% steel or iron content when it is delivered to the job site for installation. To clarify; the 90% is a percentage of the total monetary value of the manufactured product. To determine the 90% value, divide the raw steel or iron cost by the total manufactured product cost (without taxes, shipping, handling or other fees applied), and if the percentage is equal to or greater than 90% of the final manufactured product cost then Buy America applies.

For purposes of applying Buy America and determining whether a product is a steel or iron manufactured product, the job site includes the sites where any precast concrete products are manufactured. To clarify; in the specific case of “precast concrete products” the casting yard is considered part of the “job site” for Buy America purposes, and therefore the iron or steel materials delivered to precast yard are subject to Buy America. (rebar, grates, etcetera)

The memo lists several typical “*miscellaneous steel or iron components,*” that are exempted from Buy America. The list is not intended to be all-encompassing, but rather reinforces a concept that the myriad minor iron and steel subcomponents used to assemble products are not subject to Buy America. This exemption applies to manufactured items as well as on site fabrication.

The miscellaneous steel or iron components, subcomponents and hardware necessary to encase, assemble and construct the above components (or manufactured products that are not predominantly steel or iron) are not subject to Buy America coverage. Examples include, but are not limited to, cabinets, covers, shelves, clamps, fittings, sleeves, washers, bolts (this does not mean high strength bolts), nuts, screws, tie wire, spacers, chairs, lifting hooks, faucets, door hinges, and etcetera.

Typical examples:

- Steel electrical conduit installed at the site
 - 90% rule applies
 - * BA criteria applies
- VMS sign
 - 90% rule applies
 - * BA would typically not apply
- VMS steel supporting structure
 - Specifically called out in the bulleted list (12/21/12 Memorandum #HIPA-30)
 - * BA criteria applies

- Electrical cabinets
 - Exempted as “*miscellaneous steel or iron components*,”
 - * BA typically would not apply
- Off the shelf or special order catch basins,
 - This qualifies as “*precast concrete products*,”
 - “*the job site includes the sites where any precast concrete products are manufactured*,”
 - * Materials are subject to BA criteria
- Standard nuts, bolts, fasteners for mounting signs
 - Exempted as “*miscellaneous steel or iron components*,”
 - * BA typically would not apply
- High strength bolts/anchor bolts,
 - * BA criteria applies
- Bridge Expansion Joint,
 - Nuts, bolts fasteners
 - * Exempted as “*miscellaneous steel or iron components*,”
 - BA typically would not apply
 - 90% rule applies as it is delivered to the site
 - * BA may or may not apply
- Walls, regardless of type
 - Nuts, bolts fasteners
 - * Exempted as “*miscellaneous steel or iron components*,”
 - BA typically would not apply
 - MSE straps or equivalent
 - * BA criteria applies
 - Precast elements
 - * See “*precast concrete products*” criteria
 - Materials are subject to BA
 - Assembled on site
 - * Materials as they are delivered to the jobsite,
 - BA criteria applies
- Computers for ITS and Signal Installation
 - 90% rule applies as it is delivered to the site
 - * BA typically would not apply
- Street Furniture
 - 90% rule applies
 - * BA criteria would typically apply
- Pumps and Motors
 - BA criteria applies
- Steel Beams in Building Construction
 - BA criteria applies
- Bicycle Purchases (bicycles with aluminum frames)
 - 90% rule applies
 - * BA criteria typically would not apply

The 90 percent rule applies to items that are manufactured offsite and delivered to the jobsite as a unit (except in the case of precast concrete where the point of manufacture is considered the jobsite.) Walls that are assembled on site are not considered a manufactured item and therefore are not subject to the 90 percent rule as a unit. The individual materials must meet buy America when they are delivered to the job site.

This FHWA memo does not require any change to current specification language concerning Buy America. This memo does not impact the requirement for materials permanently incorporated beyond the exemption of the noted minor items.

You may apply this clarification of the Buy America requirements to your current contracts. Consistent determinations of the application of Buy America are critical to our ability to enforce this requirement statewide. Therefore, if you have unusual items that do not lend themselves to the criteria, contact your Local Programs Engineer for a determination.

Refer to the WSDOT *Construction Manual* M 41-01 Chapter 9-4, Specific Requirements for Each Material, which will address the Buy America documentation requirements for material acceptance.

53.1 General Discussion

After substantial completion of the work, the agency shall diligently pursue contract completion. In cases where the contractor is not diligently pursuing completion, the agency shall impose liquidating damages penalties, completion of remaining work with local forces or unilateral closure and claims against the contractor.

After the construction phase of a FHWA transportation project, done either by competitive bidding or by local agency forces, specific procedures are carried out to terminate the project's finances and review project performance. These procedures are necessary in order to settle any outstanding contract obligations, and to ensure that funds were expended properly.

This chapter lists requirements for closing the project accounts at WSDOT and FHWA and discusses project management reviews and project audits.

53.2 Closure

After the construction contract is complete, a 90-day project closure period begins. This closure period is initiated upon receipt of either a completion letter from the local agency or a final inspection of the project from the Region Local Programs Office. During this period, the local agency must complete the requirements described below.

No further payment will be made after the date indicated on the 90-day closure letter without the approval of Highways and Local Programs.

The local agency may request, however, that the 90-day closure period be extended. In this case, the local agency shall submit a written request to Highways and Local Programs justifying an extended closure period.

.21 Completion Letter – Within 15 calendar days of completion as defined in *Standard Specifications* Section 1-08.5 or the APWA Approved GSP by the same number, the local agency shall submit a physical completion letter to the Region Local Programs Engineer.

.22 WSDOT Project Review – The Region Local Programs Engineer will conduct the final field inspection. It is suggested that the Region Local Programs Engineer be invited to the final project inspection with the contractor. If the final inspection reveals items that must be corrected or resolved before the project can be closed, these will be noted in the final inspection report. The Region Local Programs Engineer will work with the local agency to make the necessary corrections or to accomplish resolutions. If there is an unresolvable item indicating that a portion of project work is ineligible for FHWA reimbursement, WSDOT will issue a letter of notification outlining the ineligible work items and related costs.

.23 Final Billing – Within 90 calendar days of the completion date, the local agency shall submit a final bill (Form PPC2) to the Region Local Programs Engineer, clearly marked “Final Billing.”

.24 Project Closure – Once the project has been reviewed and closed by FHWA, Highways and Local Programs provides the agency with an Administrative Review letter. The letter includes a final accounting and settlement of the total project costs which may result in a payment or billing to the agency as appropriate; and provides information on records retainage.

53.3 Project Reviews

In order to be reasonably certain that local agencies are administering FHWA funds in accordance with the Local Agency Guidelines, WSDOT will perform procedural reviews on selected local agency ad-and-award projects.

These reviews will be:

- Project Management Reviews (PMR) performed by Highways and Local Programs (see Appendix 53.51 for review questions for PMR’s and Documentation Reviews).
- Documentation Reviews performed by the Region Local Programs Engineer.

The agency may lose CA status, have its delegation of authority reduced to a project or phase of a project, or be placed on probationary CA. This may be the result of:

- A PMR or Documentation Review.
- An audit by the State Auditor.
- Final project inspection.
- The qualifications and experience of the agency staff are altered.

.31 PMR Preparation – Highways and Local Programs, through the Region Local Programs Engineer, will schedule a PMR with the agency and will request that the local agency managers participate. The local agency should have all pertinent documentation ready for the scheduled review. Typical procedural review questions are listed in Appendix 53.51. Typical documents to be examined during this review are also listed in Appendix 53.51. All deficiencies will be identified for the agency at the time of the PMR. Copies of documentation not available at the time of review shall be submitted through the Region Local Programs Engineer within 30 calendar days. After the 30-day period, the final PMR letter will be sent to the agency.

.32 PMR Deficiencies – If no major deficiencies are found in the local agency’s project management methods, the local agency will be informed in writing of the review team’s findings and recommendations.

If major deficiencies exist, the local agency will be asked to take corrective action within 60 days. If the deficiencies include ineligible work, WSDOT will issue a citation letter.

If deficiencies exist in the agency's procedures, management practices, or systems, or if specific project errors are found, WSDOT's administrative response might be one or more of the following:

- No action against the agency.
- Joint conference with the Local Agency, Region Local Programs Engineer, and the Director of Highways and Local Programs or the director's designee.
- Limit or withhold the agency's future Certification Acceptance authority (Chapter 13) to the extent deemed necessary:
 - a. Allow Certification on a project-by-project basis.
 - b. Direct WSDOT to assign a Project Engineer to each project for supervision, inspection, and administration.
 - c. Contract the supervision, inspection, and administration to a consulting firm.
 - d. Delay project authorization until adequate supervision, inspection, and administration is available from the local agency, WSDOT, or consultants.
- Establish a repayment plan when violations to procedures make certain expenditures ineligible for federal reimbursement. Per Section VII of the Local Agency agreement, withholding of funds from the local agency's gasoline tax distribution may be necessary if a satisfactory repayment plan is not established within 45 days.

53.4 Financial and Compliance Audit

.41 By the State Auditor – The local agency is responsible for ensuring that an audit is performed in accordance with OMB Circular A-133. WSDOT is also responsible for ensuring that FHWA funds are properly expended. The State Auditor will therefore audit each local agency.

.42 By WSDOT – A project audit by WSDOT Auditors is triggered by deficiencies found during:

- a. A routine audit by the State Auditor, either on an FHWA project or on any other project where federal funds are involved.
- b. A documentation review.
- c. A project management review.
- d. PAR.

.43 Project Records – Project records shall be maintained in accordance with the terms of the Local Agency Agreement and shall be made available to the audit personnel upon request. It is helpful if field notes and other documentation are available in sufficient detail to facilitate the audit review.

.44 Audit Report – The state auditor will submit a formal audit report to the Director of Highways and Local Programs and to FHWA. If findings on a particular audit arise, Highways and Local Programs will contact the agency to confirm the findings and coordinate resolution with the agency and Highways and Local Programs. Audit findings must be resolved within six months of the date that the audit report is issued. Audits will normally include the following categories:

- Interagency Agreements
- Land Development or Land Acquisition Projects
- Tier Contracting Procedures
- Fund Management – Transactions
- Accounting Methods – Cash or Accrual
- DBE-EEO Practices
- Use of Grant Acquired Equipment

53.5 Appendices

53.51 Local Agency Project Management Review Checklist
(DOT Form 272-024 EF and DOT Form 272-026)

53.52 Final Inspection of Federal Aid Project

53.53 Local Agency Quarterly Report of Amounts Credited as DBE Participation

53.54 Certified Payroll Example

Appendix 53.51

Local Agency Project Management Review Checklist



Local Agency Project Management Review Checklist

Agency	Date:
Project Title	
Federal aid project No.:	Contract No.:
Reviewers:	
Prime contractor:	
LAG Ref.	
13 Table of Organization and CA Agreement Review	
<u>Approving Authority</u>	
Design approval	_____
PS&E approval	_____
Contract award	_____
Contract administration	_____
Preliminary Engineering	
14.52 Project development checklist	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
24 NEPA approval	Date: _____
42 Design matrix checklist	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
43.1 Design approved by: _____	Date: _____
44.1 PS&E approved by: _____	Date: _____
44.22 Agency supplied materials approved by: _____ Sole source items	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
If yes, P.I.F. approved by: _____	
44.22 Tied bids approved by: _____	Date: _____
Advertising and Award	
46.21 FHWA construction authorization	Date: _____
46.24 Advertising Dates: _____ to _____	
46.24 Three week advertising period	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
46.24 If no, FHWA approval date for two week ad _____	
46.25 Affidavits of publication in file <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Did publication include Title VI language	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
46.25 Bid opening date: _____ Were bid analysis conducted prior to award	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Was there adequate competition (more than one bidder)	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
List the number of bidders: _____	
Is there concurrence in award from WSDOT/FHWA prior to award (projects containing DBE goal and full oversight projects only)	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
46.27 Award:	Date: _____
46.26 Award to lowest bidder	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
If not, explain: _____	
46.28 Contract execution	Date: _____
46.28 Contract award amount	_____
Engineer's estimate amount	_____
Value Engineering Study	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
46.3 Award information transmitted to WSDOT prior to construction	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

52 Contract Administration

52.101 First working day: _____ No. of working days: _____
 Were liquidated damages assessed Yes No N/A
 No. of working days complete: _____

52.2 Preconstruction conference minutes review
 Meeting held Yes No N/A
 Meeting documented Yes No N/A
 Do the minutes reflect discussion regarding DBE & EEO requirements Yes No N/A

21.1 Changes in scope Yes No N/A limit Yes No N/A character Yes No N/A
 Changes in cost Yes No N/A
 If yes, is the NEPA still valid Yes No N/A
 If yes, is the design still in compliance with ADA requirements Yes No N/A

44.1 Commitment File

24.94 Environmental and permit conditions met Yes No N/A

25 Right of Way

Right of way acquired Yes No N/A
 Right of way acquisition procedures Date: _____
 Listing of right of way staff current Yes No N/A
 25.11 Project right of way certification Date: _____

52 Administrative Settlements

52.51 Were any claims settled by administrative settlement Yes No N/A
 Were claims submitted to local programs engineer Yes No N/A
 Comments:

52.1 Project diaries and inspector's daily reports signed and reviewed Yes No N/A

Payrolls

52.4 Wage rates included in contract Yes No N/A
 Certified by contractor Yes No N/A
 Checked and initialed by agency Yes No N/A
 How often were payrolls reviewed _____

Training

Training goal set: Hours _____ Yes No N/A
 Training plan approved by agency Yes No N/A
 Non-union training plan approved by FHWA Yes No N/A
 Training goal met: Hours _____ Yes No N/A
 Comments:

Were trainee interviews conducted Yes No N/A
 Comments

Training start date: _____ Training end date _____
 Were good faith efforts provided when minority/female not submitted Yes No N/A
 If yes, is there documentation in the file Yes No N/A

27	EEO Compliance	27.32 PR-1391 on file and PR 1392 sent to region local programs	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
		Comments: _____ _____	
26	DBE Compliance		
	26.2	DBE goal set: % _____	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
	26.2	DBE condition of award amount: \$ _____	
	26.2	How was DBE certification verified prior to award _____ _____	
	52.5	Change orders affects on DBE's _____	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
		Change order initiated by: Contractor _____ Agency _____	
		Comments _____ _____	
	52.5	Additional work provided to DBE's	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
	52.5	Any changes to DBE goals	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
		If yes, explain the reason for DBE goal changes _____ _____	
	26.2	DBE goal changes approved by WSDOT H&LP	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
	26.2	Quarterly report of amounts credited as DBE participation	
		Sent to region local programs engineer	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
		Complaints regarding DBE's or from DBE	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
		If yes, were the complaints submitted to WSDOT	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
		Were complaints received from subcontractors for prime's failure to pay promptly or return retainage	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
	Contract Completion		
	52.81	Completion Substantial / Physical	Date: _____
	52.81	Completion letter to contractor transmitted to local programs	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
	52.83	End of project materials certification from project engineer to approving authority	Date: _____
		Date final payment was made to the Prime Contractor	Date: _____
44	Traffic Control		
	44.22e	TCP or K plans in contract	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
		Adopted by contractor	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
	44.22e	Detour included in contract	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
	44.22e	If yes, agreements included in contract	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
31	Consultant Agreements		
		Agreement renewed prior to expiration date	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
		Fee type _____	
		Advertisements on file	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
		Did advertisement include Title VI language	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
		Selection process on file	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

**Washington State
 Department of Transportation**



**Local Agency Project
 Prime & Subcontractor Information**

Agency Name _____ Contract _____ Date _____

Prime and Subcontractor Information

	Name	Amount	Date of Request to Sublet 421-012	DBE	Date of Fed. Aid Certification 420-004	Date of Statement of Intent to Pay Wages F700-029-000	Wage Rate for Payroll 424-003	DBE Review 272-051	Date of Affidavit of Wages Paid F700-007-000	Payroll
Prime										
1										
2										
3										
4										
5										
6										
7										
8										
9										
10										
11										
12										
13										
14										
15										
Total Amount Sublet \$ _____		% of Contract Sublet = (Maximum 70%) _____								

Notes: _____

DOT Form 272-026 EF
 Revised 12/2012



Mobilization

Bid Item Documentation Review - Mobilization

Agency: _____ Project Title: _____
 Federal Aid Number: _____ Date: _____
 Reviewed By: _____

Standard Specification 1-09.7

Contract Bid Amount	_____	Mobilization Bid Amount	_____
5% of Contract Bid Amount	_____	50% Mobilization Bid Amount	_____
10% of Contract Bid Amount	_____		

Mobilization Paid on Estimate No. _____

Contract Items Paid That Estimate	_____	Mobilization Paid That Estimate	_____
Contract Items Paid To Date	_____		

Mobilization Paid on Estimate No. _____

Contract Items Paid That Estimate	_____	Mobilization Paid That Estimate	_____
Contract Items Paid To Date	_____		

Mobilization Paid on Estimate No. _____

Contract Items Paid That Estimate	_____	Mobilization Paid That Estimate	_____
Contract Items Paid To Date	_____		

Mobilization Paid After Substantial Completion _____

- Notes:**
1. When 5 percent of the total original contract amount is earned from other contract items, excluding amounts paid for materials on hand, 50 percent of the amount bid for mobilization, or 5 percent of the total original contract amount, whichever is the least, will be paid.
 2. When 10 percent of the total original contract amount is earned from other contract items, excluding amounts paid for materials on hand, 100 percent of the amount bid for mobilization, or 10 percent of the total original contract amount, whichever is the least, will be paid.
 3. When the substantial completion date has been established for the project, payment of any amount bid for mobilization in excess of 10 percent of the total original contract amount.

Acceptable Corrections Needed



PMR Summary

PMR Summary

Project _____ Federal Aid Number _____

Reviewers _____

Regarding the PMR conducted at _____ on _____, the following documents were not located during the review:

Discussion Items:

Per the LAG Manual, section 53.31, your agency has 30 days from the receipt of this e-mail to locate the missing documents. Items not located within the 30 day "grace period" will be considered findings in the Project Management Review and may affect the agency's Certification Acceptance (CA) status, federal funding, or require corrective action.

_____ Agency Representative _____ Date
_____ H&LP Representative _____ Date
_____ Region LPE Representative _____ Date

Local Agency Quarterly Report of Appendix 53.53 Amounts Credited as DBE Participation



**Washington State
Department of Transportation**

**Local Agency Quarterly Report of
Amounts Credited as DBE Participation**

Check appropriate reporting period and enter reporting year. <input type="checkbox"/> 1st Quarter - January (Oct. - Dec.) <input type="checkbox"/> 4th Quarter - October (July - Sept.) <input type="checkbox"/> 2nd Quarter - April (Jan. - Mar.) <input type="checkbox"/> Final <input type="checkbox"/> 3rd Quarter - July (April - June) Reporting Year _____		Federal Aid Number _____ Federal Employer I.D. Number _____	
Contractor _____		Agency _____	
DBE Participant Name and Federal Employer I.D. Number	Contract Type	Date of Payment	*Dollar Credit Amount
<p style="text-align: center;">Contract Type: S = Subcontractor A = Agent M = Manufacturer R = Regular Dealer J = Joint Venture V = Service Provider</p>			
<p>I, the undersigned, do hereby certify that in connection with all work on the project for which this statement is submitted, each DBE participant contracted by me has been paid on the dates shown. *Further, I certify that the amounts shown under "Dollar Credit Amount" are in accordance with the "DBE Eligibility" portion of the DBE Special Provision.</p>			
Signature _____ Title _____			

**This form is due on the 20th of the month following the end of the respective
Quarter (January, April, July, October).**

DOT Form 422-103 EF
Revised 2/2006

Appendix 53.54

Certified Payroll Example



U.S. Department of Labor

PAYROLL

(For Contractor's Optional Use; See Instructions, Form WH-347 Inst.)

Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

NAME OF CONTRACTOR OR SUBCONTRACTOR ADDRESS PROJECT AND LOCATION PROJECT OR CONTRACT NO.

OMB No.: 1215-0149
Expires: 02/31/2003

(1) NAME, ADDRESS, AND SOCIAL SECURITY NUMBER OF EMPLOYEE	(2) NO. WITHHOLDING EXEMPTIONS	(3) WORK CLASSIFICATION	(4) DAY AND DATE			(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS			(9) NET WAGES PAID FOR WEEK
			OT	OR	ST				FICA	WITH-HOLDING TAX	OTHER	
						0.00	/	\$0.00				\$0.00
						0.00	/	\$0.00				\$0.00
						0.00	/	\$0.00				\$0.00
						0.00	/	\$0.00				\$0.00
						0.00	/	\$0.00				\$0.00
						0.00	/	\$0.00				\$0.00
						0.00	/	\$0.00				\$0.00
						0.00	/	\$0.00				\$0.00
						0.00	/	\$0.00				\$0.00
						0.00	/	\$0.00				\$0.00
						0.00	/	\$0.00				\$0.00
						0.00	/	\$0.00				\$0.00
						0.00	/	\$0.00				\$0.00

We estimate that it will take an average of 56 minutes to complete this collection of information, including time for reviewing instructions searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection of information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, ESA, U. S. Department of Labor, Room S3502, 200 Constitution Avenue, N. W., Washington, D. C. 20210.

FORM WH-347, Revised Nov. 1998 - FORMERLY SOL 184 - PURCHASE THIS FORM DIRECTLY FROM THE SUPT. OF DOCUMENTS

List of Forms

	Form Number	
Project Initiation		
Local Agency Federal Aid Project Prospectus	140-101 EF	
Local Agency Damage Inspection Report – FHWA Emergency Relief	140-300	
Special Transportation Planning Study Agreement	224-080	
Request Preliminary Engineering Funds		
Local Agency Agreement	140-039 EF	
Local Agency Agreement Supplement	140-041 EF	
Progress Billing		
Federal Aid Request for Payment	PPC2	
Consultant Selection Process		
Independent Estimate for Consultant Services	140-012	
Local Agency Standard Consultant Agreement	140-089	
Supplemental Agreement	140-063	
Government Agreement for Aid (Right of Way Services)	224-075 EF	
Environmental		
<u>Local Agency</u> Environmental Classification Summary	140-100 EF	
Plans, Specifications, and Estimates		
Local Agency Railway Agreement	140-044	
Required Contract Provisions, Federal Aid Construction Contracts	FHWA-1273	
Local Ad and Award		
Award of Contract		
Contract Bond	FHWA-45	
DBE Utilization Certification	272-056A EF	
Construction Administration		
Change Order – Local Agency	140-005	
Change Order – Minor Change	421-005	
<u>Local Agency</u> Quarterly Report of Amounts Credited as DBE Participation	422-103	
Weekly Statement of Working Days Example Sheet	LAG Appendix 52-106	
Project Completion		
Final Inspection of Federal Aid Project	140-500	
Local Agency Project Management Review Checklist	272-024 and 272-026	

The following forms are provided in Chapter 11 of the *Construction Manual* M 41-01.

Form No.	Rev. Date	Form Name
272-050	1-97	Apprentice/Trainee Approval Request
350-092	6-97	Asphalt Concrete Pavement Compaction Control Report
350-073	7-95	Asphalt Concrete Test Section Report
350-126	8-97	Asphalt Plant Inspection
540-020	12-95	Backflow Prevention Assembly Test Report
140-043	8-00	Certification Acceptance Qualification Agreement
420-004	10-94	Certification for Federal-Aid Projects
350-109	2-98	Certification of Materials Origin
540-509	3-96	Commercial Pesticide Application Record
350-009	5-98	Concrete Cylinder Transmittal
350-115	9-98	Contract Materials Checklist
421-040A & B	10-95	Contractor's Daily Report of Traffic Control – Traffic Control Log
350-112	9-97	Correlation Nuclear Gauge to Core Density
351-015	11-97	Daily Compaction Test Report
422-008	3-98	Daily Report of Force Account Worked
422-644	12-95	Daily Report of BST Operations
300-001	1-97	Detailed Damage Inspection Report FHWA Emergency Relief
424-003	12-96	Employee Interview Report
421-014	1-97	Examination Sheet for Contract Items
750-001	10-97	Fall Protection Plan
272-060	9-97	Federal-Aid Highway Construction Annual Project Training Report
FHWA-1391	9-92	Federal-Aid Highway Construction Contractors' Annual EEO Report
272-061	9-97	Federal-Aid Highway Construction Cumulative Training Report
FHWA-1392	9-92	Federal-Aid Highway Construction Summary of Employment Data
350-130	7-97	Field Acceptance Report for Qualified Products
350-074	10-93	Field Density Test Report (Nuclear Gauge)
422-635	3-98	Field Note Record
422-637	9-97	Field Note Record for Drainage
422-636	9-96	Field Note Record (Sketch Grid)
134-146	1-00	Final Contract Voucher Certificate
422-009	2-96	Final Record Notes
422-009B	2-96	Final Record Notes
230-036B	1-97	Follow-Up Documentation Review
422-010	9-97	Force Account Equipment Rate Request
350-564	1-96	Gradation Chart 0.45 Power

Form No.	Rev. Date	Form Name
230-036A	1-97	Initial Documentation Review (Procedures)
422-100	10-94	Inspection of Federal Aid Project
422-004	4-97	Inspector's Daily Report
422-004A	9-94	Inspector's Daily Report
422-004B	4-96	Inspector's Daily Report
422-020	5-95	Inspector's Record of Field Test
422-103	2-06	<u>Local Agency</u> Quarterly Report of Amounts Credited as DBE Participation
272-051	6-98	M/D/WBE On-Site Review
450-001	1-96	Manufacturer's Certificate of Compliance for Ready Mixed Concrete
820-010	6-99	Monthly Employment Utilization Report
421-007	9-96	Order to Resume Work
421-006	9-96	Order to Suspend Work
450-005	1-97	Post-Tensioning Record
350-026	9-98	Preliminary Sample Transmittal
421-010	1-97	Prime Contractor Performance Report
350-040	11-00	Proposed Mix Design
420-012	1-96	Recommended Changes to Specifications and Construction Manual
421-009	12-96	Release Retained Percentage (Except Landscaping)
350-042	9-97	HMA Mix Design Submittal
422-007	3-98	Report of Protested Work
350-071	11-98	Request for Approval of Material
421-012	6-97	Request to Sublet Work
350-056	6-99	Sample Transmittal
422-027	5-97	Scaleman's Daily Report
FHWA-47	7-98	Statement of Materials and Labor Used by Contractors on Highway Construction Involving Federal Funds
272-049	11-96	Training Program
410-025	8-97	Project Engineer Transmittal Checklist
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