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For updating printed manuals, page numbers indicating portions of the manual that are to be removed and replaced are shown below.

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Please contact Dave Mounts at 360-705-7379 with comments, questions, or suggestions for improvement to the manual.

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Approved By

Signature

Washington State
Department of Transportation

# Local Agency Guidelines

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**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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# Chapter 12 FHWA Funding

## 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 Local Programs, 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 audits. FHWA funds may be expended only after WSDOT notifies the agency of federal authorization. FHWA funds are not eligible for lobbying efforts (2 CFR Part 200.450).

To use donated lands as part of the agencies' match to the project under certain conditions, see Section 25.10.

**.11 FHWA Eligible Roadways** – Under the Federal Transportation Act: Moving Ahead for Progress in the 21st Century (MAP-21), in order for projects to be eligible for FHWA funds, roadways must be functionally classified routes.

In addition, specific programs require that in order to be eligible, roadways must be identified as part of the National Highway System (NHS) or the Interstate System, which is a component of the NHS.

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.

Non-NHS routes 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.

**.12 FHWA Funding Programs** – FHWA reimburses eligible costs for transportation projects from the following programs (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, cooperative and comprehensive statewide and metropolitan multimodal transportation planning process. This process involves:

- Metropolitan Planning Organization (MPO) long-range transportation plans.
- MPO transportation improvement programs (MTIPs).
- A statewide long-range transportation plan.
- A Statewide Transportation Improvement Program (STIP).

The statewide planning process establishes a cooperative, continuous and comprehensive (referred to as 3C) 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 tribal nations, 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 Local Agency Transportation Programs** – The local agency transportation program is a listing of prioritized projects that a local agency expects to begin during the next six years. Projects in the local agency transportation program are all FHWA, Federal Transit Administration (FTA), and regionally significant projects regardless of funding source. All cities, towns, counties, tribal nations, and transit agencies are required to prepare and adopt their individual transportation programs annually.

- Cities and towns are required to prepare and adopt a six-year Transportation Program 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 transportation program 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).
- Tribal Nations are required to prepare a Tribal Transportation Improvement Program (TTIP) and forward it to the Bureau of Indian Affairs (BIA). (25 CFR 170.400).
- Transit agencies are required to prepare a six-year transit development plan by September 1st 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).
- WSDOT prepares a 6-year project delivery plan based on identified system deficiencies and priorities by July 1 annually and makes the plan available for use in consulting with communities, metropolitan and non-metropolitan local officials.

Once the agency's transportation programs are adopted, federally funded and regionally significant projects are submitted to MPOs for inclusion in the Regional TIP. County Lead agencies and rural cities can submit directly to WSDOT or the RTPO for inclusion in the STIP based on an agreed upon process.

WSDOT developed a web-based system for agencies to prepare their six-year transportation 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 the policy board of an organization designated to carry out the metropolitan transportation planning process for an urbanized area with 50,000 or more population. (23 USC 134 (2) and 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 MTIP.
- Develop a congestion management process.
- 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 MTIP, 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.
  - Follows a documented public participation plan that provides reasonable opportunities for involvement in the metropolitan transportation planning process by interested parties.
  - 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 MTIP 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 state legislature authorized the creation of RTPOs (RCW 47.80). RTPOs are voluntary organizations composed of local governments within a county, or within geographically contiguous counties, whose purpose is to coordinate transportation planning on a regional basis and to develop a regional transportation plan as applicable. Some RTPO responsibilities may include:

- 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 RTIP 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 transportation programs 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. Only the first four years of the RTPO TIP, County Lead agency and rural city transportation programs are included 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 boundaries. 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 tribal nations 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 transportation program. Upon adoption of the agency's transportation program, it is submitted for inclusion in the STIP. Each county lead agency works with their jurisdictions to ensure process 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 rural transportation programs, RTIPs and MTIPs that have been found consistent with Regional and Metropolitan Transportation 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.
- The first four years of all RTPO transportation improvement programs.
- The first four years of rural transportation programs for agencies not in an RTPO.
- Involvement of:
  - Local Agencies
  - Regional Transportation Planning Organizations
  - Transportation Management Areas
  - Metropolitan Planning Organizations
  - WSDOT
  - Transit Agencies
  - Tribal Nations
  - 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.
- An estimate of the total project cost (all phases, all funding sources).
- The 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 transportation programs.

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

Agencies within a RTPO and/or County Lead agency verify with the applicable agency the process regarding project submittals 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** |
| June 30 | Cities and towns six-year transportation programs adopted. |
| July | Agencies & WSDOT submit projects for inclusion in the STIP to MPO's & RTPO's, as applicable |
| July 31 | Adopted transportation programs due to WSDOT. |
| August/September | MPOs assemble regional TIPs and prepare analysis for conformity finding (as applicable). |
| August | WSDOT reviews draft MPO TIPs.<br>As requested WSDOT reviews draft RTPO TIPs, County Lead and city transportation programs. |
| September 1 | Transit agencies six year plans due. |
| 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.<br>FHWA and FTA issue Regional Air Quality Conformity finding.<br>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/stiphp.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.

1. **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.

2. **Safety Program** – Safety projects selected after January 2007 will be consistent with the strategic highway safety plan.

   WSDOT has two programs to address safety:

   a. **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.

   b. **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 designated as a maintenance area for PM-2.5.

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)

In the event an agency would like funds administered by another federal agency (FTA, BIA, WFL, etc.), the project must be in the STIP, and the local agency must submit to WSDOT a copy of the federal agency concurrence to accept FHWA funds and administer the project.

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:

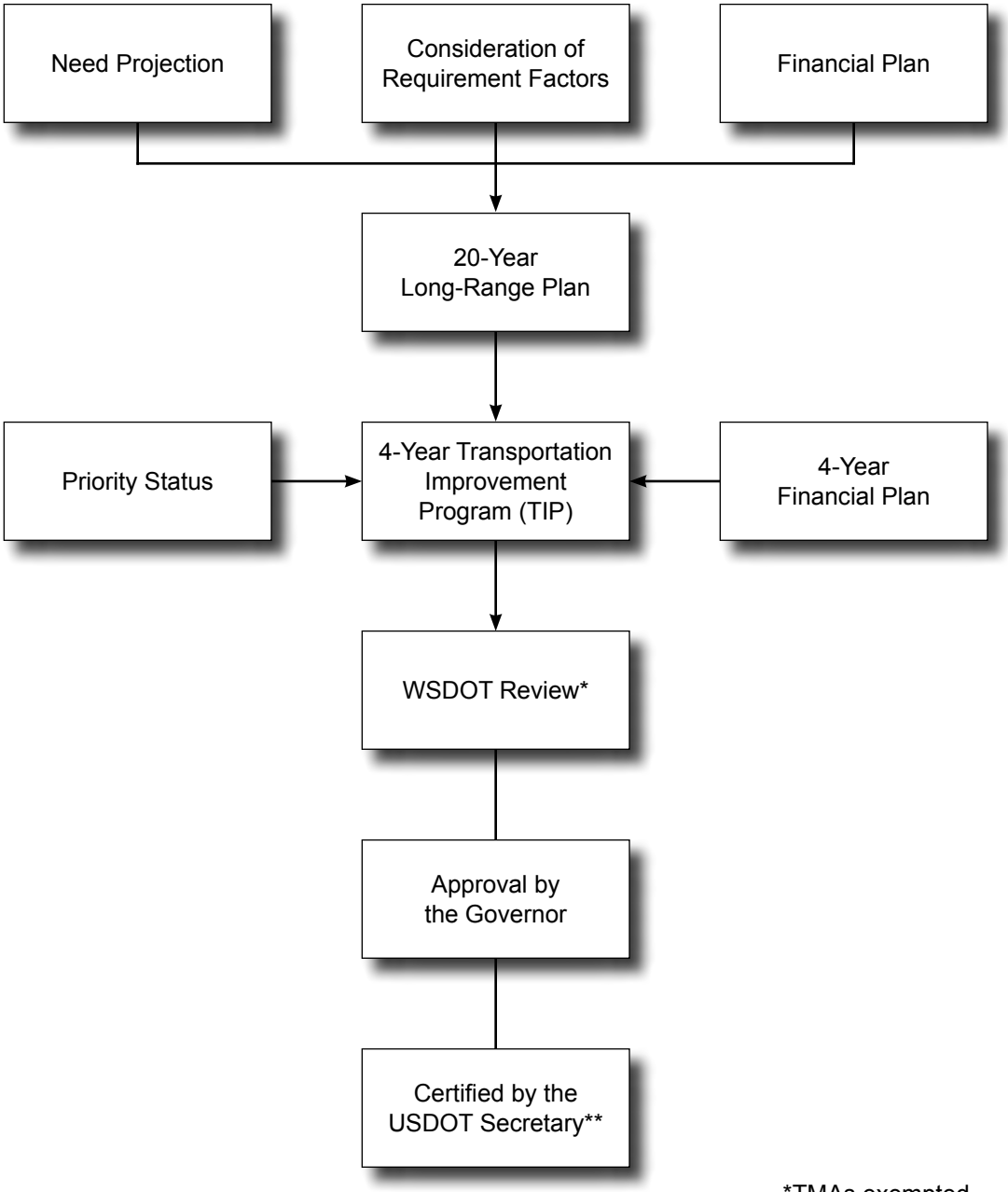
| | FTA | FHWA |
|---|---|---|
| Transit Rolling Stock | X | |
| Park and Ride Lots | X | X |
| Pedestrian Ways | X | X |
| Refueling Bus | X | |
| Carpool and Vanpool | X | X |
| Regional Rideshare | X | X |
| Commute Trip Reduction | X | X |
| Bikeways | | X |
| Intermodal Station | X | |
| Bus and 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 though 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 Local Programs. Local Programs 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.

## 12.8 Appendices

12.81 MPO Planning Flowchart
12.82 STP Lead Agencies




*TMAs exempted.
**TMAs only.

**Regional Planning and Programming Process**
**(Simplified Chart for MPOs)**

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

# Chapter 13 Certification Acceptance Program

## 13.1 General Discussion

The Federal Highway Administration (FHWA) through a Stewardship Agreement, delegates authority to the Washington State Department of Transportation (WSDOT) for approving project development and construction administration. WSDOT has the option of delegating some or all of this authority to qualified local agencies, state or federal agencies, or Tribal governments. This procedure permits an agency to retain more of the approval authority at the local level when developing FHWA assisted transportation projects. WSDOT delegates this authority through a Certification Acceptance (CA) program. The CA program does not eliminate any project development procedures. Benefits of CA to a local agency include savings in time and money since the agency has the authority to develop, advertise, award, and manage its own projects.

CA requires local agencies to commit sufficient staff and other resources to project administration to ensure that all applicable state and federal requirements are met, and that the work can be accomplished efficiently. Once an agency has been certified, the certification agreement remains in effect indefinitely unless rescinded due to lack of performance or modified by one of the parties.

A CA agency has the option of requesting that WSDOT or another CA agency administer any given project.

By agreeing to accept federal aid funds, the local agency understands its roles and responsibilities with respect to carrying out the federal aid program. WSDOT is permitted to delegate certain activities, under its supervision, to local agencies (cities, counties, private organizations, or other state agencies) under federal regulation 23 CFR 1.11 and 635.105; however, WSDOT accepts responsibility for delegated activities.

FHWA is required by federal legislation to conduct verification activities to assure that WSDOT and the local agencies' implementation of the federal highway programs conform with laws, regulations and policies. Similarly per FHWA's delegation, WSDOT is also required to conduct verification activities to assure that local agency federal aid projects are implemented in conformance with federal aid requirements.

Certification Acceptance requirements for the right of way program are addressed in Chapter 25. ***Note:*** Local agencies are not delegated the authority to certify right of way.

## 13.2 CA Features

A certified agency is the approving authority for administering FHWA funded projects in the following project items:

1. Design.
2. Utility agreements.
3. Railroad agreements.

4. Standard consulting engineering agreements.
5. Public hearings, findings, and orders.
6. Plans, specifications, and estimates.
7. Advertisement, award, and execution of construction contracts.
8. Construction administration.
9. Construction material testing and testing personnel.
10. Concurrence in Award of delegated projects.

All of the above functions should be administered per the responsibilities outlined in the Agency's approved CA Agreement.

WSDOT and FHWA retain approval authority for the following:

**WSDOT**

1. Design Deviations
2. Plans, Specification, and Estimate approval.
3. *Standard Specifications* Division 1 changes.
4. Public Interest Findings (local force work, agency supplied materials, proprietary items, etc.).
5. NEPA Categorical Exclusions per MOU, Section 106 Consultation.
6. Implementation of the Civil Rights Program Requirements (DBE, Title VI, ADA, and EEO/OJT).
7. Tied Bids approval (see Appendix 44.82).
8. Agency Certification Acceptance (CA) approval.
9. Project Final Acceptance.
10. Revisions to Agreements, when applicable.
11. Documentation/Project Management Reviews.
12. Concurrence in Award of DBE non-FHWA oversight projects.

**FHWA**

1. Authorization of FHWA funds.
2. Approval of National Environmental Protection Act (NEPA) and Endangered Species Act (ESA) environmental documents.
3. Right of way certification approval.
4. Approval of WSDOT's Civil Rights Programs (DBE, Title VI, EEO, ADA).
5. Buy America waiver approval.
6. Approval for Advertisement Period less than three weeks.
7. Approval of the *Local Agency Guidelines*.
8. Full oversight project approvals per Stewardship and Oversight Agreement. (Concurrence in Award, PS&E, Change Orders over $200,000, etc.)

## 13.3 CA Requirements

1. Projects must be administered in accordance with the *Local Agency Guidelines*.
2. Projects must be administered utilizing a Professional Civil Engineer registered in the state of Washington who is either on staff as a public employee or is a contract employee designated as the agency's Engineer.
3. The agency shall have sufficient expertise and capability to perform and supervise the design, environmental, PS&E, and construction-administration phases of the project.
4. The agency must have designated an official approving authority for all WSDOT-delegated project approvals. This authority (e.g., agency executive or policy body) must officially approve each project step for which it is the approving authority, as identified in the agreement.

## 13.4 Application for CA

An agency applying to administer contracts under Certification Acceptance procedures must submit two copies of the Certification Acceptance Qualification Agreement and their Table of Organization to the Region Local Programs Engineer. A "Certification Acceptance Qualification Agreement" form is located at the end of this chapter and is also available through the WSDOT Region Local Programs Engineer.

After receiving the CA Qualification Agreement, the WSDOT Local Program's Project Development Engineer will conduct an interview with the local agency administrators to determine whether the agency is capable of administering an FHWA-funded project. Areas of consideration will be a determination of past performance, current staffing, overall capability, and knowledge of FHWA and state requirements.

Based on the interview, the Director, Local Programs will allow the agency to administer a project under a trial/mentoring status. Immediately following the completion of the project, a Project Management Review (PMR) will be performed to evaluate how the agency performs. A favorable PMR will result in the agency achieving CA status.

## 13.5 CA Compliance

The WSDOT Region Local Programs Engineer will consult and advise the CA agency concerning the project-management procedures to be followed. The level of this assistance will depend on the nature of each project and the demonstrated capabilities of the agency. 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 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.
- A determination from any FHWA oversight activity.

If a vacancy occurs in the positions described in the CA Agreement as "Approving Authority," the Region Local Programs Engineer shall be notified and may schedule an interview of the replacement person.

The loss of CA status and reinstatement conditions will be outlined in a letter from Local Programs.

## 13.6 Non-CA Status

**Responsible Charge**

When Local Agencies elect to use consultants for engineering services, the local agency, as provided under 23 CFR 635.105(b), shall provide a full-time employee of the agency to be in responsible charge of the project.

If an agency does not have CA status, the following two options are available for administration of a FHWA funded project

**Option 1**

- CA Agency Administering a Project for a Non-CA Agency

A non-CA agency enters into an Agreement with a CA agency to administer all aspects of the project. This requires approval by the Region Local Programs Engineer.

**Option 2**

The Region Local Programs Engineer acts as the CA for the agency and approves an agency to perform specific aspects of a project. An approved plan for the administration of the project is executed between the Region Local Program Engineer and the agency. This category allows projects of smaller sizes to be performed in part by the agency. The project plan shall address such issues as:

- Financing approvals – accounting/billing capabilities.
- Consultant involvement and monitoring. The agency must obtain the approval of the Region Local Programs Engineer prior to selection of a consultant.
- Development of design and design documentation.
- Development of plans, specifications, and estimates.
- Approval of contract documents.
- Advertising, award, execution of a contract.
- Contract oversight and documentation.
- Change order approval.
- Material approval.

## 13.7 Appendices

13.71 Certification Acceptance Qualification Agreement
13.72 Certification Acceptance Interview Form

Agency: Click here to enter text. Agency Number: Click here to enter text.

The agency agrees to comply with the following requirements when developing all Federal Highway Administration (FHWA) projects under Click here to enter text. CA status.

1. Adherence to the *Local Agency Guidelines* and all policies and procedures promulgated by the Washington State Department of Transportation (WSDOT) which accomplish the policies and objectives set forth in Title 23, U.S. Code, Highways, and the regulations issued pursuant thereto.
2. The overall approval authorities and conditions will be as follows:
   a. The project prospectus will be reviewed and approved by the following official.
      Click here to enter text. (Position Title Only)
   b. The local agency agreement will be reviewed and approved by the following official or officials.
      Click here to enter text. (Position Title Only)
   c. The designs and environmental documents will be reviewed and approved by the following state of Washington registered Professional Civil Engineer.
      Click here to enter text. (Position Title Only)
   d. The hearing's findings (if required) will be reviewed and approved by the following official or officials.
      Click here to enter text. (Position Title or Titles Only)
   e. The contract plans, specifications and estimate of cost will be reviewed and approved by the following state of Washington registered Professional Engineer.
      Click here to enter text. (Position Title or Titles Only)
   f. Agreements will be signed by the following responsible local official:
      i. Railroad Click here to enter text. (Position Title Only)
      ii. Utility Click here to enter text. (Position Title Only)
      iii. Consultant Click here to enter text. (Position Title Only)
      iv. Technical Services Click here to enter text. (Position Title Only)
   g. The award of contract will be signed by the following responsible local official.
      Click here to enter text. (Position Title Only)
   h. All projects will be constructed in conformance with the Washington State Department of Transportation/American Public Works Association (WSDOT/APWA) current *Standard Specifications for Road, Bridge, and Municipal Construction* M 41-10 and such specifications that modify these specifications as appropriate. Multimodal enhancement projects shall be constructed in conformance with applicable state and local codes.
   i. The contract administration will be supervised by the following state of Washington registered Professional Civil Engineer. Click here to enter text. (Position Title Only)
   j. Construction administration and material sampling and testing will be accomplished in accordance with *Construction Manual* M 41-01 and the Local Agency Guidelines.

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3. The agency agrees that they have the means to provide adequate expertise and will have support staff available to perform the functions being subdelegated. The support staff may include consultant or state services.
4. The agency agrees that the signature on each project prospectus and local agency agreement will be consistent with section 2 above.
5. All projects under Certification Acceptance 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 and construction stages and for a three year period following acceptance of the project by WSDOT.
6. Approval of the local agency certification by the Director, Local Programs may be rescinded at any time upon local agency request or if, in the opinion of the Director, Local Programs, it is necessary to do so. The rescission may be applied to all or part of the programs or projects approved in the local agency certification.

Mayor or Chairman  Date

Washington State Department of Transportation

Approved By:

Director, Local Programs  Date

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## Certification Acceptance Interview Form

**Agency:** Click here to enter text. **Date:** Click here to enter text.

**Interview Conducted By:** Click here to enter text.

**Agency Representatives:** Click here to enter text.

### Table of Organization

Get copy from agency and review duties, requirements, and personnel currently filling.

### Position Responsible for the Following Functions

| Functions | Position Responsible |
|---|---|
| Six-Year Transportation Improvement Program | Click here to enter text. |
| Location/Design Approval | Click here to enter text. |
| PS&E Approval | Click here to enter text. |
| Approval of Materials Sources | Click here to enter text. |
| Construction Inspection | Click here to enter text. |
| Independent Assurance Sampling/Test | Click here to enter text. |
| Project Files | Click here to enter text. |
| Training Goal Attainment | Click here to enter text. |
| ADA Compliance/Monitoring | Click here to enter text. |
| Title VI | Click here to enter text. |
| Selection of Annual Program | Click here to enter text. |
| Environmental Documents | Click here to enter text. |
| Tied Bids | Click here to enter text. |
| Construction Administration | Click here to enter text. |
| Acceptance Sampling/Test | Click here to enter text. |
| Change Orders | Click here to enter text. |
| EEO Interviews/Monitoring | Click here to enter text. |
| DBE Compliance/Monitoring | Click here to enter text. |
| Consultant Services | Click here to enter text. |

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**Consultants**

For what areas does the agency expect to use consultants?

☐ Design
☐ PS&E Preparation
☐ Right of Way Appraisal
☐ Environmental
☐ Right of Way Negotiation
☐ Right of Way Relocation
☐ Construction Administration
☐ Construction Inspection
☐ Surveying
☐ Sampling and Testing

Does the local agency utilize WSDOT's *Consultant Services Manual* in its consultant selection processes associated with federal aid projects? ☐ Yes ☐ No

Does the local agency have written procedures for the selection of consultants? ☐ Yes ☐ No
Comments: Click here to enter text.

If consultants are used, how will the agency monitor and control the consultant's work?
Click here to enter text.

Remind the agency that they will be in control of the consultant's work and that EEO, DBE, and training should be done by the agency.

**Title VI**

Does the local agency have a Title VI Plan and/or Nondiscrimination Agreement and is it up to date?
☐ Yes ☐ No
Comments: Click here to enter text.

**Right of Way**

Does the agency have procedures approved by WSDOT for:
Right of Way Acquisitions: ☐ Yes ☐ No
Relocation: ☐ Yes ☐ No

**Procedures for Ad, Award, and Execution of Contract**

Position responsible for:

Approval to Advertise: Click here to enter text.

Prequalification of Bidders: Click here to enter text.

Award of Contract: Click here to enter text.

Execution of Contract: Click here to enter text.

Name of Legal Publication: Click here to enter text.

**General Questions About Administration**

Who decides on and approves deviations from design prior to submittal to the state for formal approval?:
Click here to enter text.

Describe ledger system: Click here to enter text.

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Who will check payrolls, etc.?: Click here to enter text.

Describe the process for approving project special provisions: Click here to enter text.

Describe change order approval process (including those that affect the work of DBEs):
Click here to enter text.

Describe materials testing and approval process: Click here to enter text.

Describe agency requirements for project diary and inspectors daily report keeping:
Click here to enter text.

Describe agency process for approval of subcontractors: Click here to enter text.

How will the agency handle administration of more than one contract at the same time?:
Click here to enter text.

How will the agency handle inspection of several phases of project at same time (e.g., dirt work, electrical, paving, structure)?: Click here to enter text.

How will the agency respond if project engineer and/or inspector are unable to be on job site due to illness, etc.? Who will handle control of project if needed person cannot be there?:
Click here to enter text.

How does the agency manage traffic control?: Click here to enter text.

Are there written procedures for preconstruction conferences?: Click here to enter text.

**Does the Agency Have These Necessary Manuals**

| | | |
|---|---|---|
| WSDOT *Local Agency Guidelines* (LAG) M 36-63 | ☐ Yes | ☐ No |
| *AASHTO Policy on Geometric Design of Highways and Streets* | ☐ Yes | ☐ No |
| WSDOT *Construction Manual* | ☐ Yes | ☐ No |
| WSDOT/*APWA Standard Specifications* | ☐ Yes | ☐ No |
| *APWA Amendments* | ☐ Yes | ☐ No |
| WSDOT *Amendments and Standard Specifications* | ☐ Yes | ☐ No |
| *Standard Item Table* | ☐ Yes | ☐ No |
| MUTCD | ☐ Yes | ☐ No |
| WSDOT *Design Manual* M 22-01 | ☐ Yes | ☐ No |
| WSDOT *Standard Plans for Road and Bridge Construction* M 21-01 | ☐ Yes | ☐ No |
| WSDOT *Utility Manual* M 22-87 | ☐ Yes | ☐ No |
| WSDOT *Right of Way Manual* M 26-01 | ☐ Yes | ☐ No |
| *SWIBS Manual* | ☐ Yes | ☐ No |
| WSDOT *Hydraulics Manual* M 23-03 | ☐ Yes | ☐ No |
| WSDOT *DBE Program Plan* | ☐ Yes | ☐ No |
| WSDOT *Consultant Services Manual* M 27-50 | ☐ Yes | ☐ No |

**Upcoming Federal Aid Projects**

| Project Title | Scheduled to Begin |
|---|---|
| Click here to enter text. | Click here to enter text. |
| Click here to enter text. | Click here to enter text. |
| Click here to enter text. | Click here to enter text. |
| Click here to enter text. | Click here to enter text. |

**Summary**

Action to be taken by agency in following areas: Click here to enter text.

**Comments From Reviewers**

Click here to enter text.

**Recommendation of Review**

- ☐ Full administration by agency of all projects
- ☐ Administration by agency on a project-by-project basis
- ☐ Administration by agency for projects up to $ Click here to enter text.
- ☐ Deny approval for certification acceptance
- ☐ Remove from certification acceptance status

**Concurrence by Director, Local Programs**

Director, Local Programs  Date

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# Chapter 14 Developing Projects Using the Local Agency Guidelines

## 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.

**For projects selected by HQ Local Programs** – Once a project has been awarded funds, the local agency is to complete the project as selected. In the event unforeseen conditions (e.g., environmental, right of way) are encountered requests for scope, schedule and budget adjustments may be considered.

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:

1. Preliminary engineering or separate planning study.
2. Right of way acquisition.
3. 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.

**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. Effective October 1, 2012 Section 1518 of MAP-21 amended the Buy America Statute. If any phase of a project (PE, RW, CN) within the scope of a NEPA document is awarded using Federal–aid funding then the Buy America provisions will apply to all construction phases within the scope of the NEPA document, regardless of the source of funding. 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, planning studies must be completed and a copy provided to WSDOT to close the project.

***Note:*** Right of way acquisition or actual construction of the project must start prior to the close of the tenth federal fiscal year following the federal fiscal year in which preliminary engineering was authorized.

**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 and 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 and must comply with the Uniform Act and 49 CFR Part 24 or the local agency is at risk of repayment of all federal funds used in the project. All environmental commitments must be incorporated into the R/W and construction phases. (See also "Determining Whether or Not Land or Property Rights or interest are Needed" flowchart in Appendix 25.174.)

***Note:*** Construction of the project must start prior to the close of the tenth federal fiscal year following the federal fiscal year in which right of way was authorized.

**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 | x |
| Construction per LAG Manual | | | x |
| Intelligent Transportation Systems Information Form (Appendix 41.53) | | | x |

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

[2]Local 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.

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

[4]Any environmental commitments must be incorporated into the R/W and /or CN phases. NEPA is not required if it is a planning study only.

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

### .22 Documentation Required for Authorization of Funds

1. **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:

   a. Project prospectus planning scope of work (Chapter 21).
   b. Local Agency Agreement (Chapter 22).
   c. Evidence of STIP inclusion.
   d. Documented cost estimate.
   e. Updated Quarterly Project Report, if required.

2. **Preliminary Engineering Funds** – When applying for preliminary engineering funds only, the following documents are required:

   a. Project Prospectus (Chapter 21).
   b. Local Agency Agreement (Chapter 22).
   c. Typical sections, vicinity map, and evidence of STIP inclusion.
   d. Documented cost estimate
   e. Updated Quarterly Project Report, if required.

3. **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:

   a. Supplement to original Local Agency Agreement (Chapter 22).
   b. FHWA approval of environmental documents (Chapter 24).
   c. Relocation plan, if relocation is required (Chapter 25).
   d. Approved Right of way plan (Chapter 25).
   e. Right of way Project Funding Estimate or True-Cost estimate (Chapter 25).

f. Evidence of STIP inclusion.

g. Updated Quarterly Project Report, if required.

4. **Construction Funds** – The following documents must be submitted to request construction funds:

   a. 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.

   b. Right of way certification (if required).

   c. Final FHWA approval of environmental documents (Chapter 24).

   d. Evidence of STIP inclusion.

   e. Updated project prospectus. To ensure utility and railroad work is adequately addressed (23 CFR 635.309(b)) local agencies are required to provide an updated, signed project prospectus at time of construction phase authorization.

   f. Engineer's Estimate.

   g. Evidence of assignment of DBE/training goals.

   h. Updated Quarterly Project Report, if required.

**.23 Construction Contract Administration** – The local agency has the option of:

1. Administering the contract if it has approved certification acceptance procedures and operates in compliance with Chapter 13.
2. Requesting that WSDOT administer the contract.
3. Using its own forces to perform the work if operating under Certification Acceptance (CA) (Chapter 61).
4. Requesting that another public agency (one operating under CA) perform the work (Chapter 13).
5. Performing contract administration by a consultant (Chapter 31 under CA).

## 14.3 Projects Within Interstate Rights of Way

Since all projects within the Interstate Rights of Way (R/W) have the potential to impact safety and operations on the Interstate route, they must incorporate Interstate design criteria and construction quality. It is the Federal Highway Administration's (FHWA) policy that all projects within the Interstate R/W should be administered by WSDOT. However, given the scope and extent of non-Interstate projects within the Interstate R/W, it is recognized that local agency administration of some projects may be acceptable, and all requests will be considered on a case-by-case basis.

Whenever a local agency proposes a project within the Interstate R/W, they must develop an agreement with WSDOT that clearly outlines their duties and responsibilities to maintain the integrity of the Interstate facility, from both the safety and quality perspectives. The agreement should be executed prior to design approval and must be executed prior to advertising for bids. The following requirements must be incorporated into the agreement:

**Responsibilities** – WSDOT and the local agency must each assign a project engineer.

**Design** – WSDOT must review and approve all highway plans, profiles, deviations, structural plans, false-work plans, shoring plans, and traffic control plans for any work within the Interstate R/W.

**Plans, Specifications, and Estimates** – WSDOT must review and approve the plans and specifications for any work within Interstate R/W.

**Advertising and Award** – The local agency must confer with the WSDOT project engineer on any pre-award issues affecting the quality and timing of the contract.

**Construction** – All construction, materials, and quality control requirements contained in the current editions of the *Standard Specifications* M 41-10 and *Construction Manual* M 41-01 must be incorporated into the agreement.

**Contract Changes** – All contract changes affecting work within the Interstate R/W must have the prior concurrence of the WSDOT project engineer.

**Final Inspection** – The final inspection of the project must be performed by WSDOT or the Region Construction (Operations) Engineer and must provide proof of their approval.

The agreement must be submitted to FHWA. FHWA reserves the right to assume full oversight of the project.

## 14.4 Project Development Process Flowchart and Checklist

The flowchart (see Appendix 14.51) and checklist (see Appendix 14.52) depict the sequence of major activities necessary to develop transportation projects using FHWA funds. The forms required for a project are shown on the list of forms. Since the type of work varies on projects, see *Construction Manual* Chapter 11, for additional required forms.

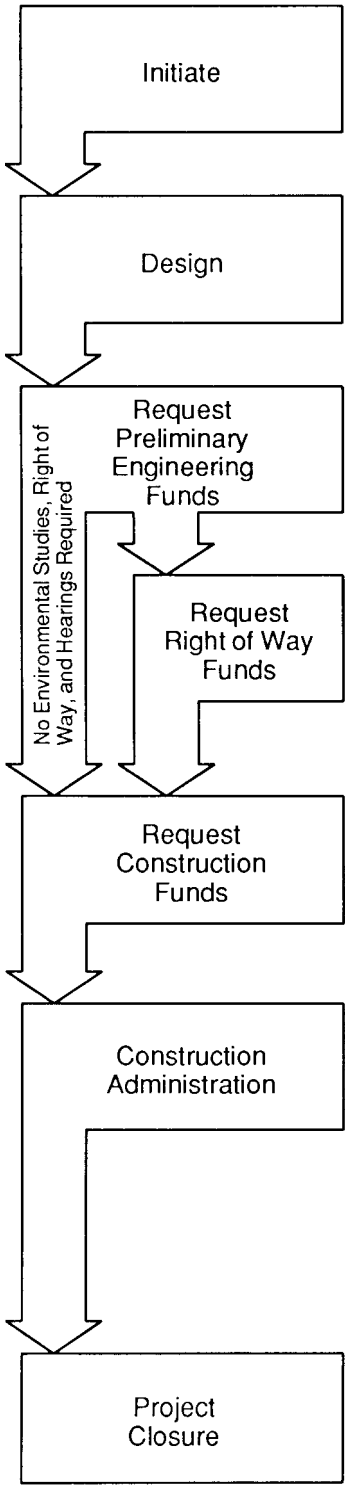
It is recommended that a copy of the checklist be inserted in the project file and used to initiate and document the activities necessary to complete a project.

## 14.5 Appendices

14.51 Project Development Process Flowchart

14.52 Project Development Checklist

# Project Development Process Flowchart




| | Process Activities | Chapter Reference |
|---|---|---|
| 00 | Project Development Checklist | 12 and 14 |
| 00 | Included in STIP | or |
| 00 | Project Development Checklist | |
| 00 | Prepare Project Prospectus-Design Report | 21 and 43 |
| 00 | If Applicable, Engage Consultant | 31 |
| 00 | Make Environmental Determination | 24 |
| 00 | If Applicable, Request Design Deviation | 41 |
| 00 | Project Development Checklist | |
| 00 | Project Prospectus | 21 |
| 00 | Local Agency Agreement | 22 |
| 00 | If Applicable, Request Design Deviation | 41 |
| 00 | Project Development Checklist | |
| 00 | Location/Design, Public Hearing, and Approval | 43 |
| 00 | Complete Environmental Action | 24 |
| 00 | Develop Right of Way Plans and Estimate | 25 |
| 00 | Complete Relocation Plan | 25 |
| 00 | Supplement to Local Agency Agreement | 22 |
| 00 | Project Development Checklist | |
| 00 | Relocation and Right of Way Certification and Project Analysis | 25 |
| 00 | DBE Goals Set | 26 |
| 00 | PS&E Approval | 44 |
| 00 | Supplement to Local Agency Agreement | 22 |
| 00 | For State Ad and Award, Financial Responsibility Letter | 44 |
| 00 | Project Development Checklist | |
| 00 | Contract Number From the Region Local Programs Engineer | 46 |
| 00 | Notice to Minority Contractors Association (see Region Local Programs for Distribution Centers) | 26 |
| 00 | Advertise for Bids | 46 |
| 00 | For Certified Agency (CA), Approve Award and Notify Region Local Programs Engineer | 46 |
| 00 | For WSDOT Administered Contracts, Award by WSDOT | 45 |
| 00 | Award Data to Region Local Programs Engineer | 46 |
| 00 | Preconstruction Conference | 52 |
| 00 | Construction Administration (*Construction Manual* M 41-01) | 52 |
| 00 | Project Development Checklist | |
| 00 | Construction Completion Notice to Region Local Programs Engineer | 53 |
| 00 | Final Acceptance by FHWA | 53 |
| 00 | Final Billing and Cost Report to Region Local Programs Engineer | 23 and 53 |
| 00 | Complete DBE Form | 26 |
| 00 | Final Records | 53 |
| 00 | Audit | 53 |

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# Project Development Checklist

Project Title: _____

Project Location: _____

Road or Street Number: _____ FA Program: _____

| Initials | Date or N/A | Project Initiation (Chapter 12) |
|---|---|---|
| | | Project in STIP |
| | | Federal aid program form (Sheet 1 of Prospectus) to:<br>☐ Metropolitan planning organization<br>☐ Or WSDOT (Region Local Programs)<br>☐ Nondiscrimination Agreement |
| | | Program of project approved by appropriate agency |

| Initials | Date or N/A | Project Prospectus (Chapters 21, 24, 42, and ECS Guidebook) |
|---|---|---|
| | | Sheet 1<br>☐ Project information, local agency project number<br>☐ Description of proposed work and existing facility<br>☐ Cost estimate of all phases<br>☐ Proposed obligation date<br>☐ Environmental determination (CE, EIS, EA)<br>☐ Request species listing from USFWS, NMFS, DNR, and WDFW<br>☐ Signature block |
| | | Sheet 2<br>☐ Geometric design data<br>☐ Environmental considerations<br>☐ Performance of work |
| | | Sheet 3<br>☐ Right of way relocation<br>☐ Utility relocations<br>☐ FAA Involvement<br>☐ Signature<br>☐ Local Agency Design Matrix Checklist, Appendix 42.101 |
| | | Prospectus Submittal Checklist, Appendix 21.41 |

| Initials | Date or N/A | Local Agency Agreement (Chapters 22 and 23) |
|---|---|---|
| | | Billing address<br>☐ Description of work matches prospectus<br>☐ Check math on agreement<br>☐ Federal aid matching percentage<br>☐ Method of financing<br>☐ Agreement signed by approving authority |

| Initials | Date or N/A | Request Preliminary Engineering Funds (Chapter 14) |
|---|---|---|
| | | Project programmed |
| | | Project application package to Region Local Programs Engineer:<br>☐ Project prospectus with attachments (including Roadway Section if applicable)<br>☐ Local Agency Agreement<br>☐ Prospectus Submittal Checklist completed |
| | | PE funds authorized by Local Programs |
| | | Evaluate if WSDOT Access Permits are required |

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| Initials | Date or N/A | Consultant Selection Process (Chapter 31) |
|---|---|---|
| | | Independent estimate for consultant services and recommendation (request) to approving authority |
| | | Receive approval to advertise for consultant services |
| | | Advertise for consultant services - see Appendix 31.74 (Must include Title VI language) |
| | | Develop consultant evaluation selection criteria |
| | | Select minimum of three best qualified firms |
| | | Submit request for approval of selected firm to approving authority |
| | | Conduct pre award audit (if necessary) before negotiations |
| | | Approving authority approves selection, negotiation begins |
| | | Negotiation completed – submit final draft of agreement, etc., to the approving authority |
| | | Receive approval from approving authority |
| | | Agreement signed by consultant |
| | | Agreement executed by approving authority (consultant may now begin work) |
| | | Notice to proceed sent to the consultant |
| | | Send copy of agreement to Region Local Programs Engineer |

| Initials | Date or N/A | Consultant Administration (Chapter 31) |
|---|---|---|
| | | Oversee the consultant's work and billings to ensure compliance with the agreement |
| | | Prepare diary to record discussions and visitation with the consultant |
| | | Check consultant billings regarding employee classification, wage rate, actual invoices for direct non salary costs, etc. |
| | | Enter consultant payment on ledger system |
| | | Conduct consultant employee interviews |
| | | Establish and maintain a tracking system to monitor consultant agreement expiration dates |

| Initials | Date or N/A | Environmental Processes (Chapter 24 and ECS Guidebook) Categorical Exclusion |
|---|---|---|
| | | For Categorical exclusion to be approved by FHWA complete the ECS and all necessary discipline reports and approvals (including, but not limited to the ESA and Section 106 processes.<br>☐ Complete the ECS<br>☐ Submit completed drafts of discipline reports to WSDOT Region Local Programs for review by Local Programs<br>☐ Submit completed Discipline reports to WSDOT Region Local Programs<br>☐ Obtain all necessary approvals<br>☐ Submit concurrence letters for all applicable environmental considerations, including but not limited to the ESA and Section 106 requirements, final BA, Final Section 106 documentation, and final ECS to Region Local Programs for transmittal to Local Programs and FHWA |

| Initials | Date or N/A | Environmental Assessment |
|---|---|---|
| | | Submit preliminary environmental assessment to Region Local Programs |
| | | Revise draft environmental assessment, based on Local Programs and FHWA comments |
| | | WSDOT and FHWA approve environmental assessment |
| | | Publish notice of availability for environmental assessment |
| | | Publish opportunity for comment period and hearing, if held |
| | | Submit FONSI package (including summary of comments received and responses, any revisions to the environmental assessment and FONSI) to Region Local Programs for review by Local Programs and FHWA |
| | | FONSI issued by FHWA<br>-or- |
| | | Establish need to develop Environmental Impact Statement |

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| Initials | Date or N/A | Environmental Impact Statement (Chapter 24 and ECS Guidebook) |
|---|---|---|
| | | Submit draft Notice of Intent to Region Local Programs |
| | | FHWA Publishes Notice of Intent<br>Submit interdisciplinary team recommendations to project manager |
| | | Develop public involvement plan |
| | | Develop data inventory and evaluation from interdisciplinary team |
| | | Submit preliminary discipline reports for review to Region Local Programs |
| | | Submit completed discipline reports to Region Local Programs |
| | | Submit preliminary Draft Environmental Impact Statement to Region Local Programs |
| | | Receive WSDOT and FHWA comments on the preliminary draft of EIS |
| | | Submit camera-ready Draft Environmental Impact Statement to Region Local Programs Engineer for WSDOT and FHWA signature |
| | | Receive approval to publish Draft Environmental Impact Statement<br>Distribute draft environmental impact statement to circulation list |
| | | Publish notice of availability in Federal Register (minimum 45 days comment period) |
| | | Advertise opportunity for public hearing |
| | | Respond to all comments received and forward comments/responses to Region Local Programs for review by Local Programs |
| | | Prepare and submit preliminary Final Environmental Impact Statement to Region Local Programs Engineer |
| | | Receive comments from WSDOT and FHWA |
| | | Receive approval to print Final Environmental Impact Statement |
| | | Submit final Environmental Impact Statement to Region Local Programs Engineer for WSDOT and FHWA signature |
| | | Circulate final Environmental Impact Statement |
| | | Submit draft record of decision package to FHWA |
| | | Final ROD issued by FHWA |

| Initials | Date or N/A | Design Approval (Chapter 43) |
|---|---|---|
| | | Submit project prospectus |
| | | Submit design report |
| | | Submit “Work Zone Safety and Mobility” report where applicable (see Section 41.2) |
| | | Submit pavement design criteria |
| | | Meet public hearing requirements |
| | | Meet environmental requirements |
| | | Concurrence with BA effect determinations |
| | | ECS approval by FHWA |
| | | For projects over $50 million in the construction phase and bridge projects over $40 million in the construction phase conduct a Value Engineering Study. |
| | | For traffic signal projects, submit warrants for signalization to Region Local Programs Engineer |
| | | Obtain location and design approval |
| | | Publish design approval notice |

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| Initials | Date or N/A | Right of Way Funding and Acquisition Funding (Chapters 14 and 25) |
|---|---|---|
| | | Project in STIP |
| | | Complete design hearing requirements |
| | | Approve right of way plan |
| | | Submit right of way relocation plan (if required) to Region Local Programs Engineer |
| | | Submit right of way project funding estimate or true cost estimate, supplement to Local Agency Agreement and FHWA approval of environmental documents, to Region Local Programs Engineer with request for right of way funds |
| | | Receive authorization to acquire R/W from the Director, Local Programs |

| Initials | Date or N/A | Acquisition (Chapter 25) |
|---|---|---|
| | | Acquisition procedures approved by the Director, Local Programs |
| | | Acquisition procedures current |
| | | Set up documentation file for each parcel |
| | | Set up commitment file |
| **Appraisal** | | |
| | | Appraisal reviewer approved by WSDOT |
| | | Give landowner opportunity to accompany appraiser |
| | | Signed appraiser certification in file |
| **Appraisal Review** | | |
| | | Appraisal reviewer approved by WSDOT |
| | | Date of value determination precedes commencement of negotiations |
| | | Just compensation set by agency |
| | | Signed review appraiser certification in file |
| **Negotiations** | | |
| | | Prepare diary of all owner contacts |
| | | Give owner written statement of just compensation (Offer Letter) |
| | | Ensure that settlement contains construction clauses |
| | | Obtain evidence of clear title |
| | | Negotiator disclaimer statement in file |
| **Relocation Plan** | | |
| | | Approved by WSDOT |
| | | Work with WSDOT relocation staff on all relocations |
| **Project Completion** | | |
| | | Complete relocation |
| | | Complete acquisition |
| | | Complete administrative settlement documentation |
| | | Place a copy of deeds in file, include proof of payment in file |
| **Send** | | |
| | | Letter of certification sent from local agency to Region Local Programs Eng. |
| | | LPA coordinator conducts certification review |
| | | WSDOT's certification by Real Estate Services, Assistant Director Local Agency Projects |

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| Initials | Date or N/A | Plans, Specifications, and Estimates (Chapters 24, 26, 27, 44, and ESC Guidebook) |
|---|---|---|
| | | Review commitment and correspondence file<br>When applicable, secure the following permits or interagency coordination:<br>☐ Airport roadway clearance from FAA<br>☐ Coastal zone management compliance from DOE<br>☐ For cultural, archeological, or historic sites SHPO contacted<br>☐ Obtain concurrence letters for environmental determination<br>☐ Request updated ESA species lists every six months<br>☐ When waters modified or controlled, USFWS and State Department of Fisheries and Wildlife consulted<br>☐ When stream is affected, permit from DOE<br>☐ For timber supporting land, permit from DNR<br>☐ When construction might reduce water quality, contact DOE<br>☐ For quarries of 2 acres (0.81 ha) and 10,000 tons (9 091 metric tons) or more DNR contacted<br>☐ Waters/wetlands – Army Corps of Engineers contacted<br>☐ For navigable waterways, permit from Coast Guard obtained<br>☐ If wetlands are affected, U.S. Fish and Wildlife Service or National Marine Fisheries Services contacted<br>☐ Utility agreement obtained<br>☐ Railway agreement(s) obtained<br>☐ On all federal aid projects, any revision to Division 1 of the Standard Specifications or APWA Division 1 General Special Provisions requires prior written approval from Local Programs |
| | | PS&E completed:<br>☐ Vicinity map<br>☐ Summary of quantities<br>☐ Pit, quarry, stockpile, and waste sites<br>☐ Reclamation plans<br>☐ Roadway sections<br>☐ Plans/profiles<br>☐ Utility<br>☐ Structure notes<br>☐ Signing<br>☐ Illumination<br>☐ Bridge plans<br>☐ Traffic control plans<br>☐ Detour plans<br>☐ Standard plans<br>☐ Sheets numbered and dated<br>☐ Each sheet signed and stamped by Professional Engineer<br>☐ Bridge plans, design calculations, and soil report to Region Local Programs Engineer (State Ad and Award only)<br>☐ Form FHWA-1273 and latest amendment included<br>☐ Log of test borings<br>☐ Training requirements<br>☐ EEO requirement clauses<br>☐ For steel, included Buy America requirement<br>☐ Traffic control special provisions<br>☐ Specialty items<br>☐ General special provisions and amendments arranged in order and indexed<br>☐ Project proposal<br>☐ Noncollusion Declaration<br>☐ Contract<br>☐ DBE Utilization Certification<br>☐ Engineer's estimate complete |

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| Initials | Date or N/A | Plans, Specifications, and Estimates (Chapters 24, 26, 27, 44, and ESC Guidebook) |
|---|---|---|
| | | PS&E completed: (continued)<br>☐ DBE Utilization Certification<br>☐ Engineer's estimate complete<br>☐ Documentation for each item in engineer's estimate<br>☐ Justification for nonparticipating items<br>☐ Detailed documentation for lump sum items available in project files<br>☐ Estimate to Region Local Programs Engineer<br>☐ Training goal set by Local Programs<br>☐ DBE goal set by Local Programs<br>☐ Approval of local agency supplied materials<br>☐ Sources approved by approving authority<br>☐ Approval of stockpiling by the Director, Local Programs (when payment is requested for material when stockpiling aggregates, etc., for use on a future federal aid project)<br>☐ Distribution of preliminary plans as determined by local agency |
| | | Field review of PS&E (State Ad and Award only) |
| | | Tied bids – Approval from WSDOT |
| | | For State Ad and Award, financial responsibility letter with PS&E documents sent to Region Local Programs Engineer |
| | | PS&E approved by approving authority |
| | | Plans, contract specifications and estimate stamped, signed, and dated, and on file in the local agency office |
| | | State and federal wage rates added to ad plans |
| | | PS&E sent to Region Local Programs Engineer |

| Initials | Date or N/A | Request Construction Funds (Chapter 14) |
|---|---|---|
| | | Project in STIP |
| | | Send letter with the following attachments to Region Local Programs Engineer requesting construction funds:<br>☐ Supplement to Local Agency Agreement, if project includes other phases<br>☐ Letter of right of way certification<br>☐ Final FHWA approval of environmental documents |

| Initials | Date or N/A | Local Ad and Award Advertise for Bids (Chapter 46) |
|---|---|---|
| | | Get Local Programs Contract Number _____ from Region Local Programs Engineer |
| | | Approve ad period of less than three weeks |
| | | Publish notice of bid opening |
| | | Date of publication for sealed bids |

| Initials | Date or N/A | 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 Local Programs 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 |

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| Initials | Date or N/A | Bid Opening (Chapter 46) |
|---|---|---|
| | | 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 Local Programs |

| Initials | Date or N/A | Award of Contract (Chapter 46) |
|---|---|---|
| | | Establish contract award date _____ |
| | | Sent "Award Letter" to successful low bidder<br>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:<br>☐ Tabulation of bids<br>☐ Engineer's estimate<br>☐ Actual versus estimated costs shown in Local Agency Agreement<br>☐ Award letter<br>☐ DBE Utilization Certification, DOT Form 272-056A (if applicable)<br>☐ DBE Written Confirmation Document, DOT Form 422-031 (if applicable)<br>☐ Estimated date of contract completion or number of working days for the contract<br>☐ 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**

| Initials | Date or N/A | 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 Local Programs Engineer |
| | | Returned bid bonds to second and third bidders |

| Initials | Date or N/A | Preconstruction Conference (Chapter 51) |
|---|---|---|
| | | Notice of preconstruction conference to:<br>☐ Contractor<br>☐ Region Local Programs Engineer<br>☐ Affected utility companies<br>☐ Police department<br>☐ Fire department<br>☐ Hospital<br>☐ Ambulance service<br>☐ Post Office<br>☐ Others_____<br>☐ _____<br>☐ _____ |
| | | Preconstruction conference agenda prepared |
| | | Preconstruction conference held |

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| Initials | Date or N/A | Preconstruction Conference (Chapter 51) |
|---|---|---|
| | | Minutes of meeting to:<br>☐ Contractor<br>☐ Subcontractors<br>☐ Region Local Programs Engineer<br>☐ Other attending persons<br>☐ Invited but not represented agencies<br>☐ Project file |
| | | "Training Program":<br>☐ Received from contractor<br>☐ Approved by agency |
| | | "Apprentice/Trainee":<br>☐ Approval request from contractor<br>☐ Approved by agency |

| Initials | Date or N/A | 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:<br>☐ Washington State Department of Wildlife/Fisheries-Hydraulic Permit<br>☐ Washington State Department of Ecology<br>☐ Irrigation Regionals<br>☐ Burlington Northern Railroad<br>☐ Union Pacific Railroad<br>☐ Air Pollution Control Authority<br>☐ _____<br>☐ _____<br>☐ _____ |
| | | 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 |
| | | Plans for falsework and forms:<br>☐ Received from contractor<br>☐ Approved by agency |
| | | Required job site posters placed by contractor:<br>☐ 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)<br>☐ FHWA-1022 – Notice Federal Aid Project (project engineer to fill in contact information on the form prior to supplying to the contractor)<br>☐ EEOC-P/E-1 – Equal Employment Opportunity IS THE Law<br>☐ Whistleblower (ARRA projects only)<br>☐ WHD Publication 1088 – Employee Rights Under the Fair Labor Standards Act<br>☐ WHD Publication 1420 – Employee Rights and Responsibilities Under the Family and Medical Leave Act<br>☐ WHD 1462 – Employee Polygraph Protection Act<br>☐ WISHA F416-081-909 – Job Safety and Health Law<br>☐ F242-191-909 – Notice to Employees (L&I)<br>☐ F700-074-909 – Your Rights as a Worker in Washington State<br>☐ EMS 9874 – Unemployment Benefits<br>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) |

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| Initials | Date or N/A | Construction Documentation (Chapter 52) |
|---|---|---|
| | | 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 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 |
| | | Checked employee interview wage rate against certified payroll and Labor and Industries approved prevailing rate |
| | | Assigned Change Order Numbers _____<br>(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.)<br>☐ Prepare change order that details basis and need for the change<br>☐ Extension of time approved _____ days<br>☐ Change order signed by contractor<br>☐ Change order signed by surety (if required)<br>☐ Verbal approval obtained from approving authority<br>☐ Signed by approving authority<br>☐ Original sent to contractor<br>☐ Copy of approved change order sent to Region Local Programs Engineer<br>☐ Supplement to Local Agency Agreement approved by the Director, Local Programs |
| | | Obtained copy of monthly estimate<br>☐ Verified and documented that DBE is performing a commercially useful function prior to making a monthly payment<br>☐ Prepared estimate<br>☐ Checked estimate<br>☐ Estimate sent to contractor<br>☐ Estimate received from contractor<br>☐ 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):<br>☐ Verify work being done per Condition of Award Letter<br>☐ Conduct on-site review(s) of each DBE to determine if the DBE is performing a commercially useful function (CUF)<br>☐ Review change orders that affected DBE work<br>☐ DBE goal change approved by the Director, Local Programs |
| | | Overview of EEO (Chapter 27):<br>☐ Agency designates an EEO officer<br>☐ Conduct on-site compliance review<br>☐ Monitor DOT Form 820-010 each month for each trade<br>☐ Notify contractor of compliance or noncompliance with the contract provisions<br>☐ Ensure EEO signs are posted |

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| Initials | Date or N/A | Project Completion (Chapter 52) |
|---|---|---|
| | | 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,<br>_____ days<br>_____ 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 |

| Initials | Date or N/A | Project Closure (Chapters 32 and 53) |
|---|---|---|
| | | Completion letter sent to Region Local Programs Engineer (within 15 days after project is completed) |
| | | Final billing sent to Region Local Programs Engineer (within 90 days after completion) |
| | | Completed final field inspection by the Region Local Programs Engineer. Deficiencies (if any) will be noted on DOT Form 140-500. |
| | | Resolve deficiencies found during the above field inspection |
| | | Informed by Region Local Programs Engineer of WSDOT final billing approval |

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# Chapter 21 The Project Prospectus

## 21.1 General Discussion

The Project Prospectus is the description of the proposed improvement which serves as the support document for Federal Highway Administration (FHWA) authorization of federal funds. The prospectus also provides a schedule which tells when the local agency anticipates obligating federal funds.

The Project Prospectus is one of the main items contained in the project authorization package discussed in this chapter. Other items in this package include the Local Agency Agreement (see Chapter 22) and the items of supporting data listed in the Prospectus Submittal Checklist (Appendix 21.41).

## 21.2 Procedure for Submitting the Planning Authorization Package

Local agencies must submit the following to the Region Local Programs Engineer for authorization:

- One copy of the completed Federal Aid Project Prospectus Planning Scope of Work.
- Original and one copy of the Local Agency Agreement signed by the approving authority (Chapter 22).
- Documented cost estimate (Chapter 22).
- STIP documentation.
- Vicinity map, if applicable.

## 21.3 Procedure for Compiling the Project Authorization Package

Local agencies must submit the following to the Region Local Programs Engineer for authorization:

- Prospectus Submittal Checklist.
- Original of the completed Project Prospectus.
- Original and one copy of the Local Agency Agreement signed by the approving authority (Chapter 22).
- Documented cost estimate (Chapter 22).
- Supporting data listed in the Prospectus Submittal Checklist (Appendix 21.41).
- Original of the Environmental Classification Summary Form (Chapter 24).

A given project may not require all of the items in the checklist; however, the local agency must include all items that are relevant. Identify those items included with an "x" in the right column of the checklist. Many of the items listed in the checklist take place during the course of project development and are not complete at the time the prospectus is submitted. An agency may note such items on the checklist and submit them when they are completed. The latest point at which each item may be submitted is noted in Appendix 21.42 describing the item in detail.

**Incomplete, incorrect, or missing items will delay project authorization.**

The first item in the project authorization package is the checklist.

The next item is the three-page Federal Aid Project Prospectus itself, which must be filled out with the current project information. The Federal Aid Project Prospectus is used for FHWA federal aid programming purposes along with providing the state and FHWA needed information about the proposed project, such as design and accident data. Appendix 21.43 contains instructions for completing the prospectus. Agency codes and numbers are provided in Appendices 21.44 through 21.46.

## 21.4 Appendices

21.41 Prospectus Submittal Checklist
21.42 Project Authorization Transmittal Items – Instructions
21.43 Project Prospectus – Instructions
21.44 County Code and WSDOT Region Numbers
21.45 City Code Numbers
21.46 Urban Area Numbers
21.47 Local Agency Federal Aid Project Prospectus
21.48 Puget Sound Legislative Districts
21.49 Statewide Legislative Districts
21.50 Washington State Congressional Districts

## 21.5 Forms

Federal-Aid Project Prospectus Planning Scope of Work

Washington State Department of Transportation

## Prospectus Submittal Checklist

Agency: _____

Project Title: _____

Use this sheet as a cover sheet to the project prospectus package. Place an "X" in the right column to denote items included.

If not applicable, state N/A. Include in the cover letter a comment explaining the action taken on each item as appropriate.

Note later with an "L" if the information will be supplied at a future date.

| | |
|---|---|
| **Application** | |
| 1. Project Prospectus (Chapter 21) | |
| 2. Vicinity Map | |
| 3. Typical Roadway or Pathway Section | |
| 4. Typical Bridge Section | |
| 5. Local Agency Agreement (Chapter 22) | |
| 6. Documented Cost Estimate (Chapter 22) | |
| 7. TIP/STIP Inclusion (MPO/County/Agency, selected/limited to $) | |
| **Supporting Data** | |
| 8. Local Agency Design Matrix Checklist (Appendix 42.101) | |
| 9. Photos (Railroad Crossing, ER event sites, as required) | |
| 10. Deviation Analysis Format (Appendix 41.51) | |
| 11. Environmental Considerations (Chapter 24) | |
| a. Class II Categorically Excluded (CE) - Environmental Classification Summary (ECS) | |
| b. Class III Environmental Assessment (EA) | |
| c. Class I Environmental Impact Statement (EIS) | |
| d. SEPA Checklist | |
| e. NEPA/SEPA/Section 404 Interagency Working Agreement | |
| f. Evolutionarily Significant Unit (ESU) Determination of Effect Concurrence | |
| g. Value Engineering Study (where applicable) | |
| 12. Right of Way Requirements (Chapter 25) | |
| a. Relocation Plan | |
| b. Approved Right of Way Plans | |
| c. Right of Way Project Funding Estimate or True Cost Estimate | |
| d. Request Right of Way Fund Authorization | |
| 13. Right of Way Certification (Appendix 25.179) | |
| 14. Agreements/Easements with Railroads, Utilities, and Other Agencies (Chapter 32 and 25) | |
| 15. Design Approval (Chapter 43) | |
| 16. Tied Bids (Chapter 44) | |
| 17. Nondiscrimination Agreement (Submit new agreement if outdated) | |

**Remarks:**

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The authorization package shall include:

1. **Project Prospectus** – (Attach completed prospectus submittal checklist.) To be included with original submittal, at time of construction phase authorization, and whenever there is a change in the scope of work, termini, right of way, or environmental classification. For planning projects, use the Project Prospectus Planning Scope of Work.

   To ensure utility and railroad work is adequately addressed (23 CFR 635.309(b)) local agencies are required to provide an updated, signed project prospectus at the time construction phase authorization is requested.

2. **Vicinity Map** – A vicinity map of the project with the termini clearly marked must be submitted with the Project Prospectus. The map should be 8.5 inches (212.5 mm) by 11 inches (275 mm), and of a scale such that a reviewer can identify the project area in the field. Show the agency name, project title, project termini, north arrow, map scale, and nearest city or distance to the nearest city/town, or major road intersection.

3. **Typical Roadway or Pathway Section** – Attach a sketch of the proposed roadway or pathway section showing all data pertaining to the section, including side slopes and limits of right of way. Also indicate stationing and note any variations of the section throughout the stationing. If the design does not conform to the design standards (see Section 41.6), a request for deviation from these standards with complete justification is required.

4. **Typical Bridge Section (if necessary)** – Attach a sketch of the proposed bridge section showing all dimensions and type of construction and Structure ID #.

   On bridge projects where approaches are to be included in the contract, include roadway section and length of the approaches. In cases where the structure consists of a main span and approach spans, the length of the approach spans should be indicated, if known.

5. **Local Agency Agreement** – This agreement is necessary on all projects. It must be submitted with the Project Prospectus. See Chapter 22 for instructions on completing the agreement.

6. **Documented Cost Estimate** – All funds shown on the Local Agency Agreement must be supported by a documented cost estimate that is based on an agency's best estimate of cost. See Chapter 22 for further explanation.

7. **STIP Documentation** – Attach copy of the page of the current STIP that shows your project.

8. **Design Matrix Checklist** – See Appendix 42.101.

9. **Photos** – As required for ER sites and Railroad Crossings.

10. **Deviation Request** – See Appendix 41.51.

11. **Environmental Considerations** – See Chapter 24.

12. **Right of Way Requirements**

    a. No right of way needed. Mark appropriate box on prospectus. This serves as the agency's right of way certification.

    b. Right of way needed. Mark appropriate box on prospectus and refer to Chapter 25 for further instructions.

    ***Note:*** Right of Way is required if the project cannot be constructed within the pre-project right-of -way limits. This includes property rights whether temporary or permanent are needed to construct, operate and maintain the proposed project including any early/advanced acquisition. For assistance in determining whether or not ROW is needed refer to Appendix 25.174.

13. **Right of Way Certification** – Required on all projects where right of way was acquired. Refer to Chapter 25 for further explanation.

14. **Agreements/Easements With Railroads** – Refer to Chapter 32 for instructions.

15. **Location and Design Approval** – For most projects, the Project Prospectus along with the data satisfying items 1 to 14 of this transmittal pavement design criteria and geometric de-sign will be considered sufficient for the location and design report. For complicated projects requiring a more detailed location and design report, refer to Chapter 43.

16. **Tied Bids** – If the project has tied bids (see Chapter 44), indicate the approval date. If the project is tied to another federally funded project, include the federal aid project number of the project, along with other information outlined in Section 44.

**Federal Aid Project Number** **Code the PREFIX and ROUTE number as outlined below: (Do not fill in ( ) to be used by WSDOT)**

| Prefix Code | Description |
|---|---|
| STPUL | STP Urban Funds, population greater than 200,000 (Seattle/Tacoma, Spokane, Vancouver, Kennewick/Pasco) |
| STPUS | STP Urban Funds, population 5,000 to 200,000 |
| STPR | STP Rural Funds, population less than 5,000 |
| STPE | Enhancement Program |
| STPF | Flex Program |
| CM | Congestion Mitigation/Air Quality Program Nonattainment Areas, population greater than 200,000 |
| STPX | Safety program, elimination of rail-highway hazards on federal aid system |
| STPXP | Safety program, installation of rail-highway protective devices |
| HSIP | Safety program, hazard elimination program |
| BRS | Bridge replacement project on rural system, financed with Bridge Replacement Funds |
| BHS | Bridge rehabilitation project on rural system, financed with Bridge Replacement Funds |
| BRM | Bridge replacement project on urban system financed with Bridge Replacement Funds |
| BHM | Bridge rehabilitation project on urban system financed with Bridge Replacement Funds |
| BROS | Bridge replacement project not on the federal aid system but financed with Bridge Replacement Funds |
| BHOS | Bridge rehabilitation project not on the federal aid system but financed with Bridge Replacement Funds |
| ER | Project financed with Emergency Relief Funds |
| TAP | Transportation Alternatives Program |

| Route Code | Federal Aid Project Route Number | |
|---|---|---|
| **Description** | **Single Route** | **Multiple Routes** |
| Seattle, Everett Metropolitan Area | 4-digit federal route number | Number is 9999 |
| STPUS/STPUL | 4-digit federal route number | Number is 99 followed by county number |
| STPR | 4-digit federal route number | Number is Z9 followed by county number |
| HSIP | 4-digit federal route number | Number is 000S |
| STPE | 4-digit federal route number | Number is 99 followed by county number |
| TAP | 4-digit federal route number | Number is 99 followed by county number |
| STPF | WSDOT to assign | WSDOT to assign |
| STPX/STPXP On-System Urban | 4-digit federal route number | N/A |
| STPX/STPXP On-System Rural | 4-digit federal route number | N/A |
| STPX/STPXP Off-System Urban | Number is city number | N/A |
| STPX/STPXP Off-System Rural | Number is 20 followed by county number | N/A |
| ER | Feds to assign | Feds to assign |
| BRS/BHS | 4-digit federal route number | Number is Z9 followed by county number |
| BRM/BHM | 4-digit federal route number | Number is 99 followed by county number |
| BROS/BHOS | Use off-system rules | Same as single routes |
| Off-System County | Number is 20 followed by county number | Same as single routes |
| Off-System City | Number is city number | Same as single routes |
| Seattle, Everett Metropolitan Area | 4-digit federal route number | Number is 9999 |
| STPUS/STPUL | 4-digit federal route number | Number is 99 followed by county number |
| STPR | 4-digit federal route number | Number is Z9 followed by county number |
| HSIP | 4-digit federal route number | Number is 000S |
| STPE | 4-digit federal route number | Number is 99 followed by county number |
| TAP | 4-digit federal route number | Number is 99 followed by county number |
| STPF | WSDOT to assign | WSDOT to assign |
| STPX/STPXP On-System Urban | 4-digit federal route number | N/A |
| STPX/STPXP On-System Rural | 4-digit federal route number | N/A |
| STPX/STPXP Off-System Urban | Number is city number | N/A |
| STPX/STPXP Off-System Rural | Number is 20 followed by county number | N/A |
| ER | Feds to assign | Feds to assign |
| BRS/BHS | 4-digit federal route number | Number is Z9 followed by county number |
| BRM/BHM | 4-digit federal route number | Number is 99 followed by county number |
| BROS/BHOS | Use off-system rules | Same as single routes |
| Off-System County | Number is 20 followed by county number | Same as single routes |
| Off-System City | Number is city number | Same as single routes |

| | |
|---|---|
| **Date** | Form is filled out. |
| **Federal Aid Project Number** | Number assigned by Local Programs to each federal aid project. |
| **DUNS#** | Required. Enter your agency's Dun & Bradstreet provided DUNS number. |
| **Local Agency Project Number** | Alpha/numeric characters that your agency identifies. |
| **Federal Employer Tax ID Number** | Required. Indicate the agency's tax identification number. |
| **Agency** | Required. This is your agency's name. |
| **CA agency** | Check Yes or No as applicable. |
| **Federal Program Title** | Check<br>20.205 Highway Planning and Construction or Other<br>Most local agency projects are 20.205. |
| **Project Title** | Write the project's title, as shown in TIP/STIP. |
| **Project Latitude and Longitude** | Enter the project start and end latitude and longitude in the format below:<br>Latitude N XX-XX-XX.XX Longitude W XXX-XX-XX.XX |
| **Project Termini** | Indicate the beginning and ending limits of the section to be improved. For railway/highway grade crossing projects, show the name of the railroad involved. For intersection projects write the name of the crossroad. |
| **City Name** | Name of the nearest city to where the work is to be performed. For projects that span more than one jurisdiction, list the city where most of the work will be done. |
| **ZIP Code** | 5 plus 4 digit Zip Code of the location where the majority of the work will be done. (Not necessarily the same city named above.) |
| **Begin Mile Post** | Indicate your projects beginning MP. |
| **End Mile Post** | Indicate your projects ending MP. |
| **Length of Project** | Project's length in miles. |
| **Award Type** | Mark the appropriate type. |
| **Project Route ID** | Enter your projects Linear Reference System - Route ID number. (For future use). |
| **Begin Mile Point** | Enter your projects Linear Reference System Route Beginning Mile Point. (For future use). |
| **End Mile Point** | Enter your projects Linear Reference System Route Ending Mile Point. (For future use). |
| **City Number** | For a city project, write the city number from Appendix 21.45. |
| **County Number** | Write your county number from Appendix 21.44. |
| **County Name** | Write the county the project is in. |

| | |
|---|---|
| **WSDOT Region** | Locate your WSDOT region number from Appendix 21.44 or 21.45. |
| **Legislative District** | Indicate the number of the legislative district or districts in which this project is located. |
| **Congressional District** | Indicate the number of the congressional district or districts in which this project is located. |
| **Urban Area Number** | For projects inside urban areas, locate the appropriate urban area number from Appendix 21.46. |
| **Total Estimated Cost** | Required for each phase of the project; estimate to the nearest hundred dollars. |
| **Local Agency Funding** | Required for each phase of the project; estimate to the nearest hundred dollars. |
| **Federal Funds** | Required for each phase of the project; estimate to the nearest hundred dollars. |
| **Phase Start Date** | Enter the month and year which authorization for the phase will happen. |
| **Description of Existing Facility** | In one or two paragraphs, give a detailed description of the existing facility including but not limited to: (1) type, pavement, lane and shoulder width, horizontal and vertical alignment; and (2) condition of existing surfacing and roadway within project limits, and on adjacent sections at each end of the project. Note any substandard existing alignment and grade or other project deficiencies. |
| **Description of Proposed Work** | Explain the nature of the improvement proposed such as widening of existing roadway for additional lanes or left-turn channelization; or to provide signalization to an intersection. Give the purpose of the improvement, such as upgrade facility to current standards, or to remedy a hazardous situation, or reduce congestion. Indicate the major work involved, such as grading, surfacing, bridge construction, drainage, etc. Give a contact person for the project in case there are questions. |
| **Project Prospectus Approval** | The project prospectus will be reviewed and approved by the agency. If the agency has CA status the designated authority per the agreement on file will sign the form. If the agency does not have CA status the Region Local Program Engineer will review and approve the prospectus and the agency will sign the form.<br><br>The agency shall submit a revised project prospectus at construction phase authorization and any time the project termini, scope, right of way, or environmental classification is revised or modified. |

**Type of Proposed Work**

Check whether the project is new construction, 3-R, 2-R, etc., as described in Chapter 42. Enter the Roadway Width and Number of Lanes.

**Geometric Design Data**

Refer to design report data and/or Chapter 42.

**Performance of Work**

PE: Indicate who will be performing the work and the percentage of the work they will do.

CN: Indicate if work is to be done by contract and/or local forces and the percentage to be done by each.

**Environmental Classification**

Mark the appropriate NEPA class of the project as defined in Chapter 24.

Class I, if the nature of the proposed improvement is likely to have a significant impact on the environment and an "Environmental Impact Statement" (EIS) is required. Check the box pertaining to the NEPA/SEPA/Section 404 Interagency Agreement if the project requires an individual permit from the U.S. Corps of Engineers.*

Class II, if the project is not expected to have a significant impact on the environment and a "Categorical Exclusion" (CE) is determined. Completion of the Environmental Classification Summary (ESC) is required.*

Class III, when the significance of the impact on the environment is not clearly established and an "Environmental Assessment" (EA) will be required. Check the box pertaining to the NEPA/SEPA/Section 404 Interagency Agreement if the project requires an individual permit from the U.S. Corps of Engineers.*

***This includes a biological assessment effect determination for each project.**

**Environmental Considerations**

If the box for either a Class I or Class III category action is checked under the Environmental Classification section, make reference to the enclosed Environmental Classification Summary Form marked preliminary. If the project is a Class II "Projects That Require Documentation and FHWA Approval," make reference to the enclosed Environmental Classification Summary Form, if available at this time, or in a brief narrative, describe the environmental impact of the proposed project.

**Right of Way Requirements**

a. No right of way needed. Projects need only check no right of way.

b. Right of way needed. A Right of Way Project Funding Estimate or True Cost Estimate, an approved Right of Way Plan, and a Relocation Plan (if required).

Refer to Appendix 25.174 for assistance in determining whether or not Right of Way is needed. If right of way acquisition becomes necessary on a job previously submitted as having no right of way, a Project Funding Estimate or True Cost Estimate would need to be submitted to the Region Local Programs Engineer.

**Utility Statement**

Check the box next to the statement that best fits your project.

**Railroad Statement**

Check the box next to the statement that best fits your project.

**Description of Utility Relocation or** adjustments.

Indicate the agency responsible for any relocation and/or

**Adjustments and Existing Major Structures Involved**

a. Existing utilities-type of utility, publicly or privately owned, and other pertinent information.

b. Existing major structures – number, year built, overall length and conditions, roadway width, estimated or posted capacity, and proposed treatment of any substandard structures to remain in place.

| County Name | WSDOT Region | County Code Number |
|---|---|---|
| *Adams | EAST | 01 |
| Asotin | SC | 02 |
| Benton | SC | 03 |
| Chelan | NC | 04 |
| Clallam | OLY | 05 |
| Clark | SW | 06 |
| *Columbia | SC | 07 |
| Cowlitz | SW | 08 |
| Douglas | NC | 09 |
| *Ferry | EAST | 10 |
| Franklin | SC | 11 |
| *Garfield | SC | 12 |
| Grant | NC | 13 |
| Grays Harbor | OLY | 14 |
| Island | NW | 15 |
| Jefferson | OLY | 16 |
| King | NW | 17 |
| Kitsap | OLY | 18 |
| Kittitas | SC | 19 |
| *Klickitat | SW | 20 |
| Lewis | SW | 21 |
| *Lincoln | EAST | 22 |
| Mason | OLY | 23 |
| *Okanogan | NC | 24 |
| *Pacific | SW | 25 |
| *Pend Oreille | EAST | 26 |
| Pierce | OLY | 27 |
| *San Juan | NW | 28 |
| Skagit | NW | 29 |
| *Skamania | SW | 30 |
| Snohomish | NW | 31 |
| Spokane | EAST | 32 |
| *Stevens | EAST | 33 |
| Thurston | OLY | 34 |
| *Wahkiakum | SW | 35 |
| Walla Walla | SC | 36 |
| Whatcom | NW | 37 |
| Whitman | EAST | 38 |
| Yakima | SC | 39 |

**Counties without urban areas since 1980.*

| City | County Code Number | WSDOT Region | City Code Number |
|---|---|---|---|
| Aberdeen | 14 | OLY | 0005 |
| Airway Heights | 32 | EAST | 0010 |
| Albion | 38 | EAST | 0015 |
| Algona | 17 | NW | 0020 |
| Almira | 22 | EAST | 0025 |
| Anacortes | 29 | NW | 0030 |
| Arlington | 31 | NW | 0045 |
| Asotin | 02 | SC | 0050 |
| Auburn | 17 | NW | 0055 |
| | | | |
| Bainbridge Island | 18 | OLY | 0058 |
| Battleground | 06 | SW | 0060 |
| Beaux Arts | 17 | NW | 0070 |
| Bellevue | 17 | NW | 0075 |
| Bellingham | 37 | NW | 0080 |
| Benton City | 03 | SC | 0085 |
| Bingen | 20 | SW | 0090 |
| Black Diamond | 17 | NW | 0095 |
| Blaine | 37 | NW | 0100 |
| Bonney Lake | 27 | OLY | 0105 |
| Bothell | 17, 31 | NW | 0110 |
| Bremerton | 18 | OLY | 0115 |
| Brewster | 24 | NC | 0120 |
| Bridgeport | 09 | NC | 0125 |
| Brier | 31 | NW | 0127 |
| Buckley | 27 | OLY | 0130 |
| Bucoda | 34 | OLY | 0135 |
| Burien | 17 | NW | 0138 |
| Burlington | 29 | NW | 0140 |
| | | | |
| Camas | 06 | SW | 0145 |
| Carbonado | 27 | OLY | 0150 |
| Carnation | 17 | NW | 0155 |
| Cashmere | 04 | NC | 0165 |
| Castle Rock | 08 | SW | 0170 |
| Cathlamet | 35 | SW | 0175 |
| Centralia | 21 | SW | 0180 |
| Chehalis | 21 | SW | 0190 |
| Chelan | 04 | NC | 0195 |
| Cheney | 32 | EAST | 0200 |
| Chewelah | 33 | EAST | 0205 |
| Clarkston | 02 | SC | 0215 |
| Cle Elum | 19 | SC | 0220 |
| Clyde Hill | 17 | NW | 0225 |
| Colfax | 38 | EAST | 0230 |
| College Place | 36 | SC | 0235 |
| Colton | 38 | EAST | 0240 |

| City | County Code Number | WSDOT Region | City Code Number |
|---|---|---|---|
| Colville | 33 | EAST | 0250 |
| Conconully | 24 | NC | 0255 |
| Concrete | 29 | NW | 0260 |
| Connell | 11 | SC | 0265 |
| Cosmopolis | 14 | OLY | 0270 |
| Coulee City | 13 | NC | 0275 |
| Coulee Dam | 24 | NC | 0280 |
| Coupeville | 15 | NW | 0290 |
| Covington | 17 | NW | 0293 |
| Creston | 22 | EAST | 0295 |
| Cusick | 26 | EAST | 0300 |
| | | | |
| Darrington | 31 | NW | 0305 |
| Davenport | 22 | EAST | 0310 |
| Dayton | 07 | SC | 0315 |
| Deer Park | 32 | EAST | 0320 |
| Des Moines | 17 | NW | 0325 |
| Dupont | 27 | OLY | 0330 |
| Duvall | 17 | NW | 0335 |
| | | | |
| East Wenatchee | 09 | NC | 0350 |
| Eatonville | 27 | OLY | 0360 |
| Edgewood | 27 | OLY | 0362 |
| Edmonds | 31 | NW | 0365 |
| Electric City | 13 | NC | 0375 |
| Ellensburg | 19 | SC | 0380 |
| Elma | 14 | OLY | 0385 |
| Elmer City | 24 | NC | 0390 |
| Endicott | 38 | EAST | 0395 |
| Entiat | 04 | NC | 0405 |
| Enumclaw | 17 | NW | 0410 |
| Ephrata | 13 | NC | 0415 |
| Everett | 31 | NW | 0420 |
| Everson | 37 | NW | 0425 |
| | | | |
| Fairfield | 32 | EAST | 0430 |
| Farmington | 38 | EAST | 0440 |
| Federal Way | 17 | NW | 0443 |
| Ferndale | 37 | NW | 0445 |
| Fife | 27 | OLY | 0450 |
| Fircrest | 27 | OLY | 0455 |
| Forks | 05 | OLY | 0465 |
| Friday Harbor | 28 | NW | 0470 |
| | | | |
| Garfield | 38 | EAST | 0480 |
| George | 13 | NC | 0488 |
| Gig Harbor | 27 | OLY | 0490 |
| Gold Bar | 31 | NW | 0495 |

| City | County Code Number | WSDOT Region | City Code Number |
|---|---|---|---|
| Goldendale | 20 | SW | 0500 |
| Grand Coulee | 13 | NC | 0510 |
| Grandview | 39 | SC | 0515 |
| Granger | 39 | SC | 0520 |
| Granite Falls | 31 | NW | 0525 |
| | | | |
| Hamilton | 29 | NW | 0535 |
| Harrah | 39 | SC | 0540 |
| Harrington | 22 | EAST | 0545 |
| Hartline | 13 | NC | 0550 |
| Hatton | 01 | EAST | 0555 |
| Hoquiam | 14 | OLY | 0560 |
| Hunts Point | 17 | NW | 0570 |
| | | | |
| Ilwaco | 25 | SW | 0575 |
| Index | 31 | NW | 0580 |
| Ione | 26 | EAST | 0585 |
| Issaquah | 17 | NW | 0590 |
| | | | |
| Kahlotus | 11 | SC | 0595 |
| Kalama | 08 | SW | 0600 |
| Kelso | 08 | SW | 0605 |
| Kenmore | 17 | NW | 0609 |
| Kennewick | 03 | SC | 0610 |
| Kent | 17 | NW | 0615 |
| Kettle Falls | 33 | EAST | 0620 |
| Kirkland | 17 | NW | 0625 |
| Kittitas | 19 | SC | 0630 |
| Krupp | 13 | NC | 0635 |
| | | | |
| La Center | 06 | SW | 0640 |
| La Conner | 29 | NW | 0650 |
| La Crosse | 38 | EAST | 0655 |
| Lacey | 34 | OLY | 0643 |
| Lake Forest Park | 17 | NW | 0658 |
| Lake Stevens | 31 | NW | 0660 |
| Lakewood | 27 | OLY | 0665 |
| Lamont | 38 | EAST | 0668 |
| Langley | 15 | NW | 0670 |
| Latah | 32 | EAST | 0675 |
| Leavenworth | 04 | NC | 0680 |
| Lind | 01 | EAST | 0685 |
| Long Beach | 25 | SW | 0690 |
| Longview | 08 | SW | 0695 |
| Lyman | 29 | NW | 0705 |
| Lynden | 37 | NW | 0710 |
| Lynnwood | 31 | NW | 0715 |
| | | | |
| Mabton | 39 | SC | 0725 |
| Malden | 38 | EAST | 0730 |
| Mansfield | 09 | NC | 0735 |
| Maple Valley | 17 | NW | 0739 |
| Marcus | 33 | EAST | 0740 |

| City | County Code Number | WSDOT Region | City Code Number |
|---|---|---|---|
| Marysville | 31 | NW | 0745 |
| Mattawa | 13 | NC | 0750 |
| McCleary | 34 | OLY | 0720 |
| Medical Lake | 32 | EAST | 0755 |
| Medina | 17 | NW | 0760 |
| Mercer Island | 17 | NW | 0757 |
| Mesa | 11 | SC | 0765 |
| Metaline | 26 | EAST | 0770 |
| Metaline Falls | 26 | EAST | 0775 |
| Mill Creek | 31 | NW | 0778 |
| Millwood | 32 | EAST | 0780 |
| Milton | 17, 27 | OLY | 0785 |
| Monroe | 31 | NW | 0790 |
| Montesano | 14 | OLY | 0795 |
| Morton | 21 | SW | 0800 |
| Moses Lake | 13 | NC | 0805 |
| Mossyrock | 21 | SW | 0810 |
| Mount Vernon | 29 | NW | 0820 |
| Mountlake Terrace | 31 | NW | 0815 |
| Moxee City | 39 | SC | 0825 |
| Mukilteo | 31 | NW | 0830 |
| | | | |
| Naches | 39 | SC | 0835 |
| Napavine | 21 | SW | 0840 |
| Nespelem | 24 | NC | 0855 |
| New Castle | 17 | NW | 0858 |
| Newport | 26 | EAST | 0860 |
| Newport Hills | 17 | NW | 0863 |
| Nooksack | 37 | NW | 0865 |
| Normandy Park | 17 | NW | 0870 |
| North Bend | 17 | NW | 0875 |
| North Bonneville | 30 | SW | 0880 |
| Northport | 33 | EAST | 0885 |
| | | | |
| Oak Harbor | 15 | NW | 0895 |
| Oakesdale | 38 | EAST | 0890 |
| Oakville | 14 | OLY | 0900 |
| Ocean Shores | 14 | OLY | 0907 |
| Odessa | 22 | EAST | 0910 |
| Okanogan | 24 | NC | 0915 |
| Olympia | 34 | OLY | 0920 |
| Omak | 24 | NC | 0925 |
| Oroville | 24 | NC | 0935 |
| Orting | 27 | OLY | 0940 |
| Othello | 01 | NC | 0945 |
| | | | |
| Pacific | 17 | NW | 0950 |
| Palouse | 38 | EAST | 0955 |
| Pasco | 11 | SC | 0960 |
| Pateros | 24 | NC | 0970 |
| PeEll | 21 | SW | 0975 |
| Pomeroy | 12 | SC | 0985 |
| Port Angeles | 05 | OLY | 0990 |

| City | County Code Number | WSDOT Region | City Code Number |
|---|---|---|---|
| Port Orchard | 18 | OLY | 1000 |
| Port Townsend | 16 | OLY | 1005 |
| Poulsbo | 18 | OLY | 1010 |
| Prescott | 36 | SC | 1015 |
| Prosser | 03 | SC | 1020 |
| Pullman | 38 | EAST | 1025 |
| Puyallup | 27 | OLY | 1030 |
| | | | |
| Quincy | 13 | NC | 1040 |
| | | | |
| Rainier | 34 | OLY | 1050 |
| Raymond | 25 | SW | 1055 |
| Reardan | 22 | EAST | 1060 |
| Redmond | 17 | NW | 1065 |
| Renton | 17 | NW | 1070 |
| Republic | 10 | EAST | 1075 |
| Richland | 03 | SC | 1080 |
| Ridgefield | 06 | SW | 1085 |
| Ritzville | 01 | EAST | 1090 |
| Riverside | 24 | NC | 1095 |
| Rock Island | 09 | NC | 1105 |
| Rockford | 32 | EAST | 1100 |
| Rosalia | 38 | EAST | 1115 |
| Roslyn | 19 | SC | 1120 |
| Roy | 27 | OLY | 1125 |
| Royal City | 13 | NC | 1127 |
| Ruston | 27 | OLY | 1130 |
| | | | |
| St. John | 38 | EAST | 1135 |
| Sammammish | 17 | NW | 1136 |
| SeaTac | 17 | NW | 1139 |
| Seattle | 17 | NW | 1140 |
| Sedro Woolley | 29 | NW | 1150 |
| Selah | 39 | SC | 1155 |
| Sequim | 05 | OLY | 1160 |
| Shelton | 23 | OLY | 1165 |
| Shoreline | 17 | NW | 1169 |
| Skykomish | 17 | NW | 1175 |
| Snohomish | 31 | NW | 1180 |
| Snoqualmie | 17 | NW | 1185 |
| Soap Lake | 13 | NC | 1190 |
| South Bend | 25 | SW | 1195 |
| South Cle Elum | 19 | SC | 1205 |
| South Prairie | 27 | OLY | 1210 |
| Spangle | 32 | EAST | 1215 |
| Spokane | 32 | EAST | 1220 |
| Spokane Valley | 32 | EAST | 1223 |
| Sprague | 22 | EAST | 1225 |
| Springdale | 33 | EAST | 1230 |
| Stanwood | 31 | NW | 1235 |
| Starbuck | 07 | SC | 1240 |
| Steilacoom | 27 | OLY | 1245 |

| City | County Code Number | WSDOT Region | City Code Number |
|---|---|---|---|
| Stevenson | 30 | SW | 1250 |
| Sultan | 31 | NW | 1255 |
| Sumas | 37 | NW | 1265 |
| Sumner | 27 | OLY | 1270 |
| Sunnyside | 39 | SC | 1275 |
| | | | |
| Tacoma | 27 | OLY | 1280 |
| Tekoa | 38 | EAST | 1285 |
| Tenino | 34 | OLY | 1290 |
| Tieton | 39 | SC | 1295 |
| Toledo | 21 | SW | 1300 |
| Tonasket | 24 | NC | 1305 |
| Toppenish | 39 | SC | 1310 |
| Tukwila | 17 | NW | 1320 |
| Tumwater | 34 | OLY | 1325 |
| Twisp | 24 | NC | 1330 |
| Union Gap | 39 | SC | 1335 |
| | | | |
| Uniontown | 38 | EAST | 1340 |
| University Place | 27 | OLY | 1343 |
| | | | |
| Vader | 21 | SW | 1345 |
| Vancouver | 06 | SW | 1350 |
| | | | |
| Waitsburg | 36 | SC | 1360 |
| Walla Walla | 36 | SC | 1365 |
| Wapato | 39 | SC | 1375 |
| Warden | 13 | NC | 1380 |
| Washougal | 06 | SW | 1385 |
| Washtucna | 01 | EAST | 1390 |
| Waterville | 09 | NC | 1395 |
| Waverly | 32 | EAST | 1400 |
| Wenatchee | 04 | NC | 1405 |
| West Richland | 03 | SC | 1425 |
| Westport | 14 | OLY | 1420 |
| White Salmon | 20 | SW | 1435 |
| Wilbur | 22 | EAST | 1440 |
| Wilkeson | 27 | OLY | 1445 |
| Wilson Creek | 13 | NC | 1450 |
| Winlock | 21 | SW | 1455 |
| Winslow | 18 | OLY | 1460 |
| Winthrop | 24 | NC | 1465 |
| Woodinville | 17 | NW | 1468 |
| Woodland | 08 | SW | 1470 |
| Woodway | 31 | NW | 1475 |
| | | | |
| Yacolt | 06 | SW | 1480 |
| Yakima | 39 | SC | 1485 |
| Yarrow Point | 17 | NW | 1490 |
| Yelm | 34 | OLY | 1495 |
| | | | |
| Zillah | 39 | SC | 1500 |

1. Seattle and Everett
2. Spokane
3. Vancouver
4. Pasco, Kennewick, Richland
5. Yakima, Union Gap, Selah
6. Olympia, Lacey, Tumwater
7. Bremerton, Port Orchard
8. Bellingham
9. Kelso, Longview
10. Aberdeen, Cosmpolis, Hoquiam
11. Walla Walla, College Place
12. Pullman
13. Wenatchee, East Wenatchee
14. Port Angeles
15. Centralia, Chehalis
16. Camas, Washougal
17. Ellensburg
18. Moses Lake, Grant County
19. Oak Harbor
20. Shelton
21. Anacortes
22. Mount Vernon, Burlington
23. Cheney
24. Sunnyside
25. Ephrata
26. Clarkston
27. Toppenish
28. Port Townsend
29. Tacoma
30. Sedro Woolley
31. Grandview
32. Enumclaw
33. Ferndale
34. Lynden
35. Otis Orchards

Washington State Department of Transportation

## Local Agency Federal Aid Project Prospectus

| | Prefix | Route | ( ) |
|---|---|---|---|
| Federal Aid Project Number | | | |
| Local Agency Project Number | | | (WSDOT Use Only) |

| | |
|---|---|
| Date | |
| DUNS Number | |
| Federal Employer Tax ID Number | |

| | | |
|---|---|---|
| Agency | CA Agency ☐ Yes ☐ No | Federal Program Title ☐ 20.205 ☐ Other |
| Project Title | Start Latitude N / End Latitude N | Start Longitude W / End Longitude W |
| Project Termini From - To | Nearest City Name | Project Zip Code (+ 4) |

| | | | |
|---|---|---|---|
| Begin Mile Post | End Mile Post | Length of Project | Award Type ☐ Local ☐ Local Forces ☐ State ☐ Railroad |

| | | | | | |
|---|---|---|---|---|---|
| Route ID | Begin Mile Point | End Mile Point | City Number | County Number | County Name |

| | | | |
|---|---|---|---|
| WSDOT Region | Legislative District(s) | Congressional District(s) | Urban Area Number |

| 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 _____

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Page 1

| Agency | Project Title | Date |
|---|---|---|
| | | |

## Type of Proposed Work

| Project Type (Check all that Apply) | | | Roadway Width | Number of Lanes |
|---|---|---|---|---|
| ☐ New Construction | ☐ Path / Trail | ☐ 3-R | | |
| ☐ Reconstruction | ☐ Pedestrian / Facilities | ☐ 2-R | | |
| ☐ Railroad | ☐ Parking | ☐ Other | | |
| ☐ Bridge | | | | |

## Geometric Design Data

| Description | Through Route | Crossroad |
|---|---|---|
| **Federal Functional Classification** | ☐ Urban<br>☐ Rural<br>☐ NHS<br>☐ Principal Arterial<br>☐ Minor Arterial<br>☐ Collector<br>☐ Major Collector<br>☐ Minor Collector<br>☐ Local Access | ☐ Urban<br>☐ Rural<br>☐ NHS<br>☐ Principal Arterial<br>☐ Minor Arterial<br>☐ Collector<br>☐ Major Collector<br>☐ Minor Collector<br>☐ Local Access |
| Terrain | ☐ Flat ☐ Roll ☐ Mountain | ☐ Flat ☐ Roll ☐ 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

☐ Class I - Environmental Impact Statement (EIS)
- ☐ Project Involves NEPA/SEPA Section 404 Interagency Agreement

☐ Class II - Categorically Excluded (CE)
- ☐ Projects Requiring Documentation (Documented CE)

☐ Class III - Environmental Assessment (EA)
- ☐ Project Involves NEPA/SEPA Section 404 Interagency Agreement

Environmental Considerations

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Page 2

| Agency | Project Title | Date |
|---|---|---|
| | | |

## Right of Way

| | | |
|---|---|---|
| ☐ No Right of Way Needed<br>* All construction required by the contract can be accomplished within the existing right of way. | ☐ Right of Way Needed<br>☐ No Relocation | ☐ Relocation Required |

| Utilities | Railroad |
|---|---|
| ☐ No utility work required | ☐ No railroad work required |
| ☐ All utility work will be completed prior to the start of the construction contract | ☐ All railroad work will be completed prior to the start of the construction contract |
| ☐ All utility work will be completed in coordination with the construction contract | ☐ All railroad work will be completed in coordination with the construction contract |

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

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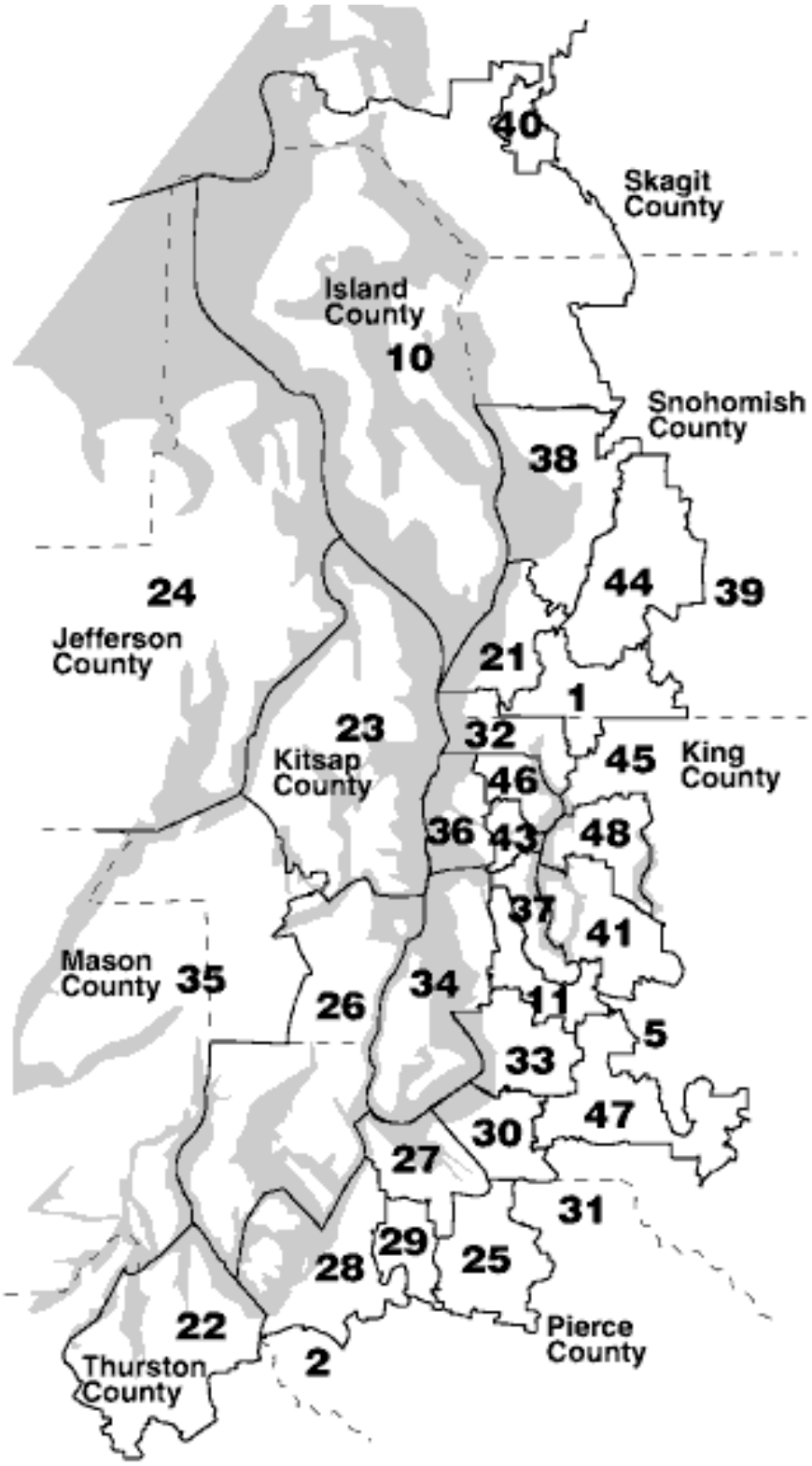
Page 3


40
Skagit County
Island County
10
Snohomish County
38
24
44
39
Jefferson County
21
1
23
32
Kitsap County
45
King County
46
36
43
48
37
41
Mason County
35
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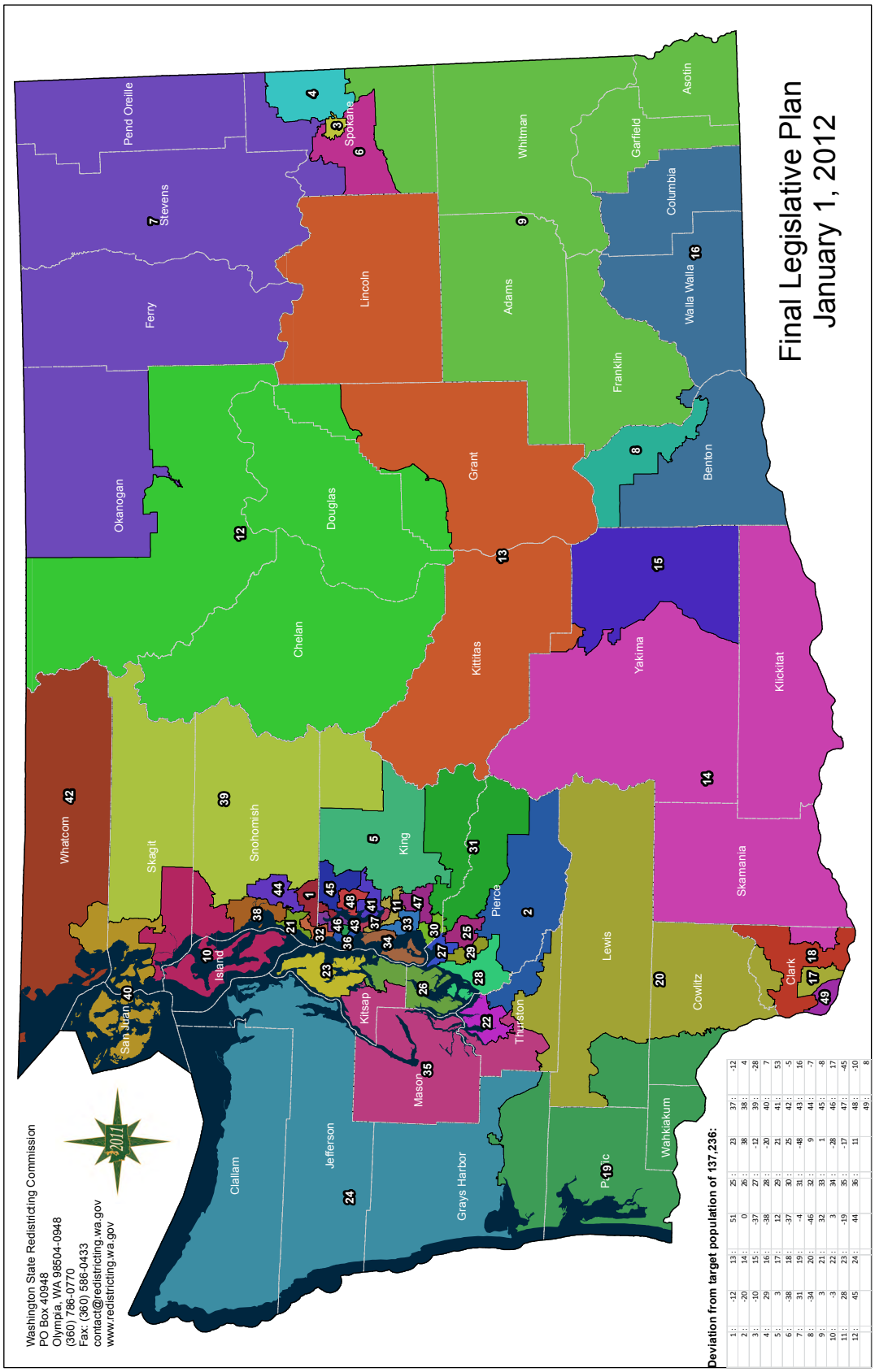
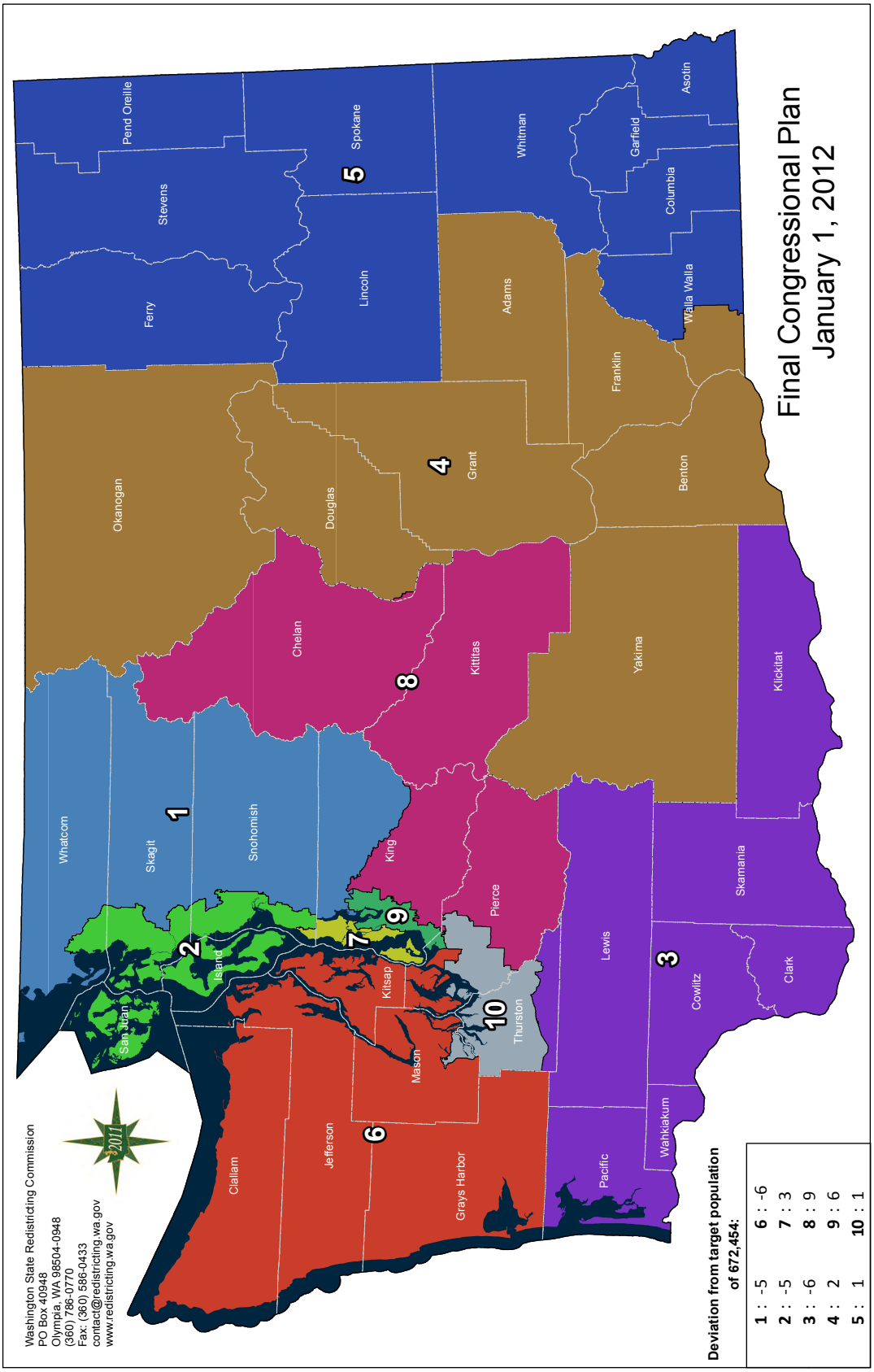
25
22
Pierce County
Thurston County
2


Final Legislative Plan
January 1, 2012
Washington State Redistricting Commission
PO Box 40948
Olympia, WA 98504-0948
(360) 786-0770
Fax: (360) 586-0433
contact@redistricting.wa.gov
www.redistricting.wa.gov
2011
Whatcom 42
Skagit
Snohomish 39
King 5
Pierce 2
Thurston
Kitsap
Mason 35
Jefferson 24
Clallam
San Juan 40
Island 10
Grays Harbor
Pacific 19
Lewis
Wahkiakum
Cowlitz 20
Clark 17 18 49
Skamania
Klickitat
Yakima 14 15
Kittitas 13
Grant
Chelan 12
Douglas
Okanogan
Benton
Franklin 8
Walla Walla 16
Columbia
Garfield
Asotin
Whitman
Adams 9
Lincoln
Spokane 3 6
Stevens 7
Ferry
Pend Oreille
4
Deviation from target population of 137,236:
1: -12 13: 51 25: 23 37: -12
2: -20 14: 0 26: 38 38: 4
3: -10 15: -37 27: -12 39: -28
4: 29 16: -38 28: -20 40: 7
5: 3 17: 12 29: 21 41: 53
6: -38 18: -37 30: 25 42: -5
7: 31 19: -4 31: -48 43: 16
8: -34 20: -46 32: 9 44: -7
9: 3 21: 32 33: 1 45: -8
10: -3 22: 3 34: -28 46: 17
11: 28 23: -19 35: -17 47: -45
12: 45 24: 44 36: 11 48: -10
49: 8


Final Congressional Plan
January 1, 2012
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PO Box 40948
Olympia, WA 98504-0948
(360) 786-0770
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www.redistricting.wa.gov
2011
Pend Oreille
Stevens
Ferry
Spokane
Lincoln
Whitman
Garfield
Asotin
Columbia
Walla Walla
Adams
Franklin
Okanogan
Douglas
Grant
Benton
Chelan
Kittitas
Yakima
Klickitat
Whatcom
Skagit
Snohomish
King
Pierce
Lewis
Skamania
Cowlitz
Clark
San Juan
Island
Kitsap
Thurston
Mason
Clallam
Jefferson
Grays Harbor
Pacific
Wahkiakum
1
2
3
4
5
6
7
8
9
10
Deviation from target population of 672,454:
1 : -5
2 : -5
3 : -6
4 : 2
5 : 1
6 : -6
7 : 3
8 : 9
9 : 6
10 : 1

Washington State Department of Transportation

## Federal-Aid Prospectus
## Planning Scope of Work

| Agency | Federal Aid Project Number |
|---|---|
| Project Title | |
| Federal Funding Program | Amount |
| Matching Funds | Total Amount |

Project Area

Background

Type of Study (check all that apply)

☐ Region ☐ Area ☐ Corridor ☐ Intersection ☐ Design ☐ Feasibility ☐ Modeling ☐ Other _____

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Scope of Work

Public Involvement Plan

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Revised 04/2015

Environmental Considerations

TDM/TSM and Transit alternatives to be considered

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Revised 04/2015

Land Use Implications

Project Schedule

Project Agreement End Date _____

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Cost Breakdown By Task

Deliverable Final Products

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Revised 04/2015

# Chapter 23 Progress Billing (Reimbursement Costs)

## 23.1 General Discussion

All progress billings shall be submitted monthly to WSDOT Headquarters Local Programs 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.

Once written authorization is provided the Agency agrees to show continuous progress through monthly billings. Failure to show continuous progress may result in your project becoming inactive, as described in 23 CFR 630.106 and subject to deobligation of federal aid funds and/or agreement closure.

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 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. Local Programs sends the local agency the original fund authorization letter.
2. The agency submits a progress billing (Appendix 23.71) to WSDOT Headquarters Local Programs in accordance with the Local Agency Agreement. The form must be completed in accordance with the instruction outlined in Appendix 23.72.

   All progress billings, including the final progress bill may be submitted electronically via email to hqlpbillings@wsdot.wa.gov or hard copy to

   WSDOT Local Programs
   PO BOX 47390
   Olympia, WA 98504-7390

- All hard copy progress billings must have an original signature in order to be processed.
- All email progress billings must include all of the following in order to be processed:
  - Agency
  - Project title
  - Federal aid project number.
  - Local agency agreement number.
  - "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 first progress billing requires the local agency to submit back-up documentation to support the reimbursement request. (e.g., consultant invoices, contractor pay estimates, staff hours, etc.) Thereafter, the billing period needs to be consecutive and if requested, documentation needs to support dates within that billing period. An explanation needs to be provided for billing periods that overlap. The amount claimed on the progress billing must be billed at the Federal Participation Rate per the Local Agency Agreement or up to the maximum authorized amount. If not, an explanation must be provided with progress bill.

The final progress bill must include a summary of the project expenditures (Appendix 23.75). The purpose of this summary is for the Agency to report total project costs including federal, state, local and other funds.

All progress billings 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.

Construction costs are not eligible for reimbursement until after the contract has been awarded. Exceptions may include contract advertisement, staking, etc. **However, a statement explaining these costs must be included with the progress billing.**

## 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 WSDOT Headquarters Local Programs.

FHWA requires WSDOT to conduct a quarterly review of local agency inactive projects. Local Programs definition of an inactive project is any project for which no expenditures have been charged against the federal project for the past 9 months. Any project that meets this definition will require evaluation and documented justification for remaining open. 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. 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 Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

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 related documentation to support those costs. The ICRP must be prepared in accordance with the instructions and regulations outlined in Appendix VII to 2 CFR Part 200 – States and Local Government and Indian Tribe Indirect Cost Proposals.

- A local government that receives more than $35 million in all direct Federal funding must submit its ICRP to its federal cognizant agency for indirect costs. The cognizant agency for indirect cost negotiations is the Federal agency providing the largest amount of direct Federal awards. A local government that has a current federally negotiated indirect cost rate approved by its cognizant agency may apply for a one-time extension of the rate for a period of up to four years as defined in 2 CFR Part 200.414, paragraph (g).
- Other local governments must develop and certify (Appendix 23.74) an ICRP in accordance with federal requirements and maintain the proposal and related supporting documentation for audit. These governmental departments or agencies are not required to submit their proposals unless they are specifically requested to do so by the cognizant agency for indirect costs.

If a local government has never received federal reimbursement for indirect costs they may be eligible to use a de minimis rate of 10% of their modified total direct costs. Eligible agencies that elect to use the de minimis rate must meet the requirements as defined in 2 CFR Part 200.414, paragraph (f).

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 Part 200.

**.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 Part 200.

## 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 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 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. 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
23.74 Certificate of Indirect Costs
23.75 Local Programs Final Project Summary - Example

**Agency**
**Address**

**Federal Tax ID No.**
Agency Use:

## Local Programs Progress Billing

Federal Aid Project:
Agreement Number: LA-
Last Supplement :
Project Title:
Project End Date:

Progress Bill No: 1
Final Progress Bill? no
Billing Period from:
through:
CN Award Date

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

Submit to HQ Local Programs

hqlpbillings@wsdot.wa.gov

WSDOT Local Programs
PO BOX 47390
Olympia, WA 98504-7390

Signee

Title

Date

DOT Form 140-576
10-2015

**Progress Billing Form** – After the Fund Authorization letter is received by the agency, a Local Programs Progress Billing form must be completed. (Appendix 23.71). Form is available for download on our website: www.wsdot.wa.gov/LocalPrograms/ProgramMgmt/forms.htm.

**Funding Set Up** – The amount of federal funding set up for a project is based on the local agency agreement. 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 in column (7) up to, but not to exceed the total project Fund Authorization Amount. Consult your Region Local Programs Engineer for specific project information.

**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, RW, 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.

**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 top portion of the form must include the following:

- **Agency Information: Agency Name, Address and Federal Tax ID or Statewide Vendor Number and Agency Use** – This space provided is for the agency's records and is not required to receive payment.
- **Project Information** – Federal Aid Project, Agreement Number, Last Supplement, Project Title, Project End Date.
- **Progress Billing Information** – Progress Bill No., Final Progress bill (yes/no), Billing periods, CN Award Date. The first progress billing must include the first date expenditures were actually incurred on the project. Thereafter, the billing period needs to be consecutive and if requested, documentation needs to support dates within that billing period. 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).

## Details for Completing Local Programs Progress Billing Form

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

*The progress billing form contains formulas that auto calculates the amounts. To ensure correct calculations, enter amounts in column 3 and column 7 from the local agency agreement prior to entering the other columns.

**Column (1)** Total Eligible This Period: Record the total eligible costs incurred for federal participation this period for each item of work. (Agency must claim all eligible costs).

**Column (2)** Total Eligible to Date: Record the total amount previously claimed in column (2) plus new eligible in column (1). (This cell does not auto calculate)

**Column (3)*** Participation Rate: Enter the current participation percentage in the local agency agreement.

**Column (4)** Amount Claimed This Period: The form calculates this amount from Column (1) multiplied by column (3). For manual calculation (Multiply column (1) by column (3) and enter in column (4). This represents the amount of funds claimed on the progress bill. Column (4) can never exceed Column (1) and must be equal to the participation rate up to the authorized agreement amount.

**Column (5)** Amount Claimed Prior Period: Record the total amount previously claimed in column (6) (This cell does not auto calculate)

**Column (6)** Total Claimed to Date: The form calculates this amount from adding column (4) and column (5). For manual calculation add column (4) and column (5) and enter the total in column (6). 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. Enter the amount from the local agency agreement listed as the Estimated Federal Funds.

**Column (8)** Remaining Federal Funds: The form calculates this amount by subtracting column (6) from column (7). For manual calculation subtract column (6) from column (7) and enter the total in column (8). 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. Refer to funding setup section.

### Preliminary Engineering

**Line a** Agency Work for PE: Eligible PE cost incurred by the local agency.

**Line b-c** Other PE: As shown on Local Agency Agreement, usually consultant cost.

**Line d** State Service: As shown on Local Agency Agreement, is not included on the progress billing.

**Line e** Total PE Cost: 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 federal funds set up for the local agency based on the latest version of the Local Agency Agreement.

### Right of Way

| | |
|---|---|
| **Line f** | Agency Work for RW: Eligible RW cost incurred by local agency. |
| **Line g-h** | Other RW: As shown on Local Agency Agreement, usually consultant cost. |
| **Line i** | State Service: As shown on Local Agency Agreement, is not included on the progress billing. |
| **Line j** | Total RW Cost: This is the total amount claimed and authorized for payment to the local agency within the RW 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. |

### Construction

| | |
|---|---|
| **Line k** | Contract: Eligible payments made to contractor. Contract Award date must be submitted before payment will be made. |
| **Lines l-n** | Other CN: 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 for CN: Eligible cost incurred by the local agency. Construction costs are not eligible for reimbursement until after the contract has been awarded. See exceptions in Section 23.2. |
| **Line p** | State Service: As shown on Local Agency Agreement, is not included on the progress billing. |
| **Line q** | Total CN Cost: 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 federal funds set up for the local agency based on the latest version of the Local Agency Agreement. |

### Total Project

| | |
|---|---|
| **Line r** | Total Project Cost: Add the Total PE, Total RW, and Total CN. 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. |

Sign and date the progress billing and distribute according to the instructions located at the bottom of the form and in Section 23.2.

# Appendix 23.73 Inactive Justification Examples

## 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.

## Certificate of Indirect Costs

This is to certify that I have reviewed the indirect cost rate proposal submitted herewith and to the best of my knowledge and belief:

1. All costs included in this proposal (identify date) to establish billing or final indirect costs rates for (identify period covered by rate) are allowable in accordance with the requirements of the Federal award(s) to which they apply and the provisions of Appendix VII to 2 CFR Part 200, Subpart D (3), Required certification. Unallowable costs have been adjusted for in allocating costs as indicated in the indirect cost proposal.
2. All costs included in this proposal are properly allocable to Federal awards on the basis of a beneficial or causal relationship between the expenses incurred and the agreements to which they are allocated in accordance with applicable requirements. Further, the same costs that have been treated as indirect costs have not been claimed as direct costs. Similar types of costs have been accounted for consistently and the Federal Government will be notified of any accounting changes that would affect the predetermined rate.

I declare that the foregoing is true and correct.

Governmental Unit: _____

Signature: _____

Name of Official: _____

Title: _____

Date of Execution: _____

DOT Form 140-554
Revised 10/2015

Washington State Department of Transportation

**Final Project Summary**

| Agency: | Project Title |
|---|---|
| Federal Aid Number: | Agreement: |

**Federal Participation Rate:** 86.50% **Authorized Amount:** 0.00

**Authorization Date:** PE 01/01/15
CN 06/01/15
CN

**Project End Date:** 12/31/15

| Type of Work | Total Project Cost | Total Federal/State Claimed to date | Agency Funds |
|---|---|---|---|
| **PE** | | | |
| a - Consultant | 0.00 | 0.00 | 0.00 |
| b - | 0.00 | 0.00 | 0.00 |
| c - | 0.00 | 0.00 | 0.00 |
| c - | 0.00 | 0.00 | 0.00 |
| d - Agency | 0.00 | 0.00 | 0.00 |
| Total | 0.00 | 0.00 | 0.00 |
| **RW** | | | |
| a - Consultant | 0.00 | 0.00 | 0.00 |
| b - Acquisition | 0.00 | 0.00 | 0.00 |
| c - | 0.00 | 0.00 | 0.00 |
| c - | 0.00 | 0.00 | 0.00 |
| d - Agency | 0.00 | 0.00 | 0.00 |
| Total | 0.00 | 0.00 | 0.00 |
| **CN** | | | |
| a - Contract | 0.00 | 0.00 | 0.00 |
| b - Consultant | 0.00 | 0.00 | 0.00 |
| c - | 0.00 | 0.00 | 0.00 |
| c - | 0.00 | 0.00 | 0.00 |
| d - Agency | 0.00 | 0.00 | 0.00 |
| Total | 0.00 | 0.00 | 0.00 |
| **Project Total** | 0.00 | 0.00 | 0.00 |

Submission of this summary 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 purpose specified.

Submit to HQ Local Programs with final bill

hqlpbillings@wsdot.wa.gov

WSDOT Local Programs
PO BOX 47390
Olympia, WA 98504-7390

Signee

Title

DOT 140-575
10/2015

# Chapter 24 Environmental Processes

## 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 publication entitled *NEPA Categorical Exclusions – A Guidebook for Local Agencies* and in the *Environmental Manual* M 31-11.

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

Approval of NEPA, in particular the final signature on the Categorical Exclusion Documentation Form, 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). 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 B in the *NEPA Categorical Exclusions – A Guidebook for Local Agencies* 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)** – 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 either unusual circumstances or 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 two subcategories, which determine the documentation and approval requirements.

a. **C-list Categorical Exclusions (c-list CE)** – Class II Projects that do not require approval. The following federal actions meeting the CEQ and FHWA criteria for c-list CEs are listed in FHWA regulations (23 CFR 771.117 (c)) and can be approved by Local Programs without signature by FHWA:

   1. Activities which do not involve or lead directly to construction, such as planning and technical studies; grants for training and research programs; research activities as defined in 23 USC 307; approval of a unified work program and any findings required in the planning process pursuant to 23 USC 134; approval of statewide programs under 23 CFR part 630; approval of project concepts under 23 CFR part 476; engineering to define the elements of a proposed action or alternatives so that social, economic, and environmental effects can be assessed; and federal aid system revisions which establish classes of highways on the federal aid highway system.

2. Approval of utility installations along or across a transportation facility.
3. Construction of bicycle and pedestrian lanes, paths, and facilities.
4. Activities included in the state's highway safety plan under 23 USC 402.
5. Transfer of Federal lands pursuant to 23 USC 317 when the subsequent action is not an FHWA action.
6. The installation of noise barriers or alterations to existing publicly owned buildings to provide for noise reduction.
7. Landscaping.
8. Installation of fencing, signs, pavement markings, small passenger shelters, traffic signals, and railroad warning devices where no substantial land acquisition or traffic disruption will occur.
9. Emergency repairs under 23 USC 125.
10. Acquisition of scenic easements.
11. Determination of payback under 23 CFR part 480 for property previously acquired with federal aid participation.
12. Improvements to existing rest areas and truck weigh stations.
13. Ridesharing activities.
14. Bus and rail car rehabilitation.
15. Alterations to facilities or vehicles in order to make them accessible for elderly and handicapped persons.
16. Program administration, technical assistance activities, and operating assistance to transit authorities to continue existing service or increase service to meet routine changes in demand.
17. The purchase of vehicles by the applicant where the use of these vehicles can be accommodated by existing facilities or by new facilities which themselves are within a CE.
18. Track and railbed maintenance and improvements when carried out within the existing right of way.
19. Purchase and installation of operating or maintenance equipment to be located within the transit facility and with no significant impacts off the site.
20. Promulgation of rules, regulations, and directives.
21. Deployment of electronics, photonics, communications, or information processing used singly or in combination, or as components of a fully integrated system, to improve the efficiency or safety of a surface transportation system or to enhance security or passenger convenience. Examples include, but are not limited to, traffic control and detector devices, lane management systems, electronic payment equipment, automatic vehicle locaters, automated passenger counters, computer-aided dispatching systems, radio communications systems, dynamic message signs, and security equipment including surveillance and detection cameras on roadways and in transit facilities and on buses.

22. Projects, as defined in 23 U.S.C. 101, that would take place entirely within the existing operational right-of-way. Existing operational right-of-way refers to right-of-way that has been disturbed for an existing transportation facility or is maintained for a transportation purpose. This area includes the features associated with the physical footprint of the transportation facility (including the roadway, bridges, interchanges, culverts, drainage, fixed guideways, mitigation areas, etc.) and other areas maintained for transportation purposes such as clear zone, traffic control signage, landscaping, any rest areas with direct access to a controlled access highway, areas maintained for safety and security of a transportation facility, parking facilities with direct access to an existing transportation facility, transit power substations, transit venting structures, and transit maintenance facilities. Portions of the right-of-way that have not been disturbed or that are not maintained for transportation purposes are not in the existing operational right-of-way.
23. Federally-funded projects:
    (i) That receive less than $5,000,000 of Federal funds; or
    (ii) With a total estimated cost of not more than $30,000,000 and Federal funds comprising less than 15 percent of the total estimated project cost.
24. Localized geotechnical and other investigation to provide information for preliminary design and for environmental analyses and permitting purposes, such as drilling test bores for soil sampling; archeological investigations for archeology resources assessment or similar survey; and wetland surveys.
25. Environmental restoration and pollution abatement actions to minimize or mitigate the impacts of any existing transportation facility (including retrofitting and construction of stormwater treatment systems to meet Federal and State requirements under sections 401 and 402 of the Federal Water Pollution Control Act (33 U.S.C. 1341; 1342) carried out to address water pollution or environmental degradation.
26. Modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes (including parking, weaving, turning, and climbing lanes), if the action meets the constraints in paragraph (e) of this section.
27. Highway safety or traffic operations improvement projects, including the installation of ramp metering control devices and lighting, if the project meets the constraints in paragraph (e) of this section.
28. Bridge rehabilitation, reconstruction, or replacement or the construction of grade separation to replace existing at-grade railroad crossings, if the actions meet the constraints in paragraph (e) of this section.

29. Purchase, construction, replacement, or rehabilitation of ferry vessels (including improvements to ferry vessel safety, navigation, and security systems) that would not require a change in the function of the ferry terminals and can be accommodated by existing facilities or by new facilities which themselves are within a CE.

30. Rehabilitation or reconstruction of existing ferry facilities that occupy substantially the same geographic footprint, do not result in a change in their functional use, and do not result in a substantial increase in the existing facility's capacity. Example actions include work on pedestrian and vehicle transfer structures and associated utilities, buildings, and terminals.

b. **D-list Categorical Exclusions (d-list CE)** – Class II Projects that typically require additional documentation and may require FHWA approval. The second part of CFR (23 CFR 771.117 (d)) is known as the "d-list". Examples of d-list projects identified in 23 CFR 771.117 (d) include but are not limited to:

1. This section has been deleted.
2. This section has been deleted.
3. This section has been deleted.
4. Transportation corridor fringe parking facilities.
5. Construction of new truck weigh stations or rest areas.
6. Approvals for disposal of excess right of way or for joint or limited use of right of way, where the proposed use does not have significant adverse impacts.
7. Approvals for changes in access control.
8. Construction of new bus storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is not inconsistent with existing zoning and located on or near a street with adequate capacity to handle anticipated bus and support vehicle traffic.
9. Rehabilitation or reconstruction of existing rail and bus buildings and ancillary facilities where only minor amounts of additional land are required and there is not a substantial increase in the number of users.
10. Construction of bus transfer facilities (an open area consisting of passenger shelters, boarding areas, kiosks and related street improvements) when located in a commercial area or other high activity center in which there is adequate street capacity for projected bus traffic.
11. Construction of rail storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is not inconsistent with existing zoning and where there is no significant noise impact on the surrounding community.

12. Acquisition of land for hardship or protective purposes. Hardship and protective buying will be permitted only for a particular parcel or a limited number of parcels. These types of land acquisition qualify for a CE only where the acquisition will not limit the evaluation of alternatives, including shifts in alignment for planned construction projects, which may be required in the NEPA process. No project development on such land may proceed until the NEPA process has been completed.

    (i) Hardship acquisition is early acquisition of property by the applicant at the property owner's request to alleviate particular hardship to the owner, in contrast to others, because of an inability to sell his property. This is justified when the property owner can document on the basis of health, safety or financial reasons that remaining in the property poses an undue hardship compared to others.

    (ii) Protective acquisition is done to prevent imminent development of a parcel which may be needed for a proposed transportation corridor or site. Documentation must clearly demonstrate that development of the land would preclude future transportation use and that such development is imminent. Advance acquisition is not permitted for the sole purpose of reducing the cost of property for a proposed project.

        a. Where a pattern emerges of granting CE status for a particular type of action, the FHWA will initiate rulemaking proposing to add this type of action to the list of categorical exclusions in paragraph (c) or (d) of this section, as appropriate.

13. Actions described in paragraphs (c)(26), (c)(27), and (c)(28) of this section that do not meet the constraints in paragraph (e) of this section.

    a. Actions described in (c)(26), (c)(27), and (c)(28) of this section may not be processed as CEs under paragraph (c) if they involve:

        (1) An acquisition of more than a minor amount of right-of-way or that would result in any residential or nonresidential displacements;

        (2) An action that needs a bridge permit from the U.S. Coast Guard, or an action that does not meet the terms and conditions of a U.S. Army Corps of Engineers nationwide or general permit under section 404 of the Clean Water Act and/or section 10 of the Rivers and Harbors Act of 1899;

        (3) A finding of "adverse effect" to historic properties under the National Historic Preservation Act, the use of a resource protected under 23 U.S.C. 138 or 49 U.S.C. 303 (section 4(f)) except for ac-tions resulting in *de minimis* impacts, or a finding of "may affect, likely to adversely affect" threatened or endangered species or critical habitat under the Endangered Species Act;

        (4) Construction of temporary access, or the closure of existing road, bridge, or ramps, that would result in major traffic disruptions;

        (5) Changes in access control;

(6) A floodplain encroachment other than functionally dependent uses (*e.g.* bridges, wetlands) or actions that facilitate open space use (*e.g.*, recreational trails, bicycle and pedestrian paths); or construction activities in, across or adjacent to a river component designated or proposed for inclusion in the National System of Wild and Scenic Rivers.

**.23 NEPA Class III Projects (EA)** – Actions that have uncertain or poorly understood impacts on the environment. The EA determines the extent and level of environmental impact. An EA may support a NEPA Finding of No Significant Impact (FONSI) or indicate that an EIS is warranted. The content and complexity of an EA will vary depending on the project. See Appendix C of the *NEPA Categorical Exclusions – A Guidebook for Local Agencies* and the EM for details on EA procedures and documentation requirements.

## 24.3 Early Project Coordination & Environmental Mitigation

Many projects require early coordination with a range of federal, state, local agencies and tribal governments to ensure there are a minimum of delays to permitting and construction. Local agencies are encouraged to coordinate and communicate with federal, state and local agencies and tribal governments to discuss technical issues. However, discussions related to environmental mitigation require the advance participation by the FHWA Area Engineer and/or the designated Local Programs Environmental Engineer to assure that all parties understand whether potential environmental mitigation measures will be eligible for federal reimbursement prior to a commitment being made.

Note that all elements of Emergency Repair (ER) project work require advance coordination and approval by FHWA to ensure that Federal participation is allowable.

When there are multiple federal lead agencies, early coordination between those agencies is crucial to ensure that all agencies' NEPA requirements are met.

## 24.4 Project Re-Evaluation

Whenever single or cumulative conditions have occurred that might cause new or more severe environmental impacts, the local agency shall re-evaluate an environmental document.

A written re-evaluation is required when any one of the following conditions exists:

1. There is a change to the project scope. This requires a reevaluation even if the NEPA approval is less than three years old. (Some kinds of scope changes, such as those that include work outside of the previous study areas, are likely to result in a determination that a supplemental NEPA document is needed.)
2. An acceptable FEIS has not been submitted to FHWA within three years from the date of the DEIS circulation.
3. Federal approvals of major steps to advance the project (such as FHWA approval to acquire right of way or approval of PS&E) have not occurred within three years of NEPA approval (that is, FHWA's approval of the NEPA CE Documentation Form, issuance of a FONSI, or ROD).

4. There is a law change that is relevant to the information provided in the original document (i.e., a new species is listed as threatened or endangered under ESA). This is required even if the NEPA approval is less than three years old.
5. New information or circumstances relevant to environmental concerns and bearing on the proposed action or its impacts would result in significant environmental impacts not evaluated in the NEPA document. (This is likely to result in a determination that a supplemental NEPA document is needed.)

The re-evaluation needs to indicate whether any new information is known that alters the previous analysis and findings. If so, the local agency needs to conduct appropriate environmental studies to support the updated conclusions.

The re-evaluation is submitted in written form to the Region LPE. The Region LPE will transmit a copy of the re-evaluation to Local Programs for review and coordination with FHWA. Based on the findings of the re-evaluation, FHWA will determine if additional documentation is appropriate (for example, a supplemental EIS, updated EA or NEPA CE Documentation Form, depending on the original NEPA classification).

## 24.5 Supplemental Document

If a project re-evaluation results in a determination that the NEPA document must be supplemented, the supplement should follow the same procedures as those used for the original document. The scope of the supplement can be limited to the changes to the project. FHWA should be consulted regarding the scope and disciplines that must be analyzed.

## 24.6 Other Federal Requirements

The NEPA document must include information on how the project complies with other federal regulations and requirements. The federal requirements that most frequently pose the greatest risk to project schedules and timelines are those addressing cultural resources (Section 106 of the National Historic Preservation Act), federally listed endangered species (Section 7 of ESA) and parklands and historic properties (Section 4(f) of the Department of Transportation Act). The *NEPA Categorical Exclusions – A Guidebook for Local Agencies* provides guidance on meeting the federal regulations and requirements that must be considered under NEPA.

## 24.7 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. Local Programs process for sharing discipline reports with tribes is described in the *NEPA Categorical Exclusions – A Guidebook for Local Agencies* (Appendix I). Tribal contact information is available online at www.wsdot.wa.gov/tribal/tribalcontacts.htm.

## 24.8 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/.

## 24.9 Appendices

24.81 NEPA Categorical Exclusion Documentation Form

## 24.10 NEPA Categorical Exclusions – A Guidebook for Local Agencies

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

## 24.11 Environmental Manual

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

## 24.12 Plain Talk Toolkit

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

## 24.13 Reader-Friendly Tool Kit

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

Washington State Department of Transportation

## NEPA Categorical Exclusion Documentation Form

| Federal Aid Project Number | Date | Intent of Submittal<br>☐ Preliminary ☐ Final ☐ Re-Evaluate |
|---|---|---|
| Agency | Project Title | |
| County | | |
| Beginning MP:<br>Ending MP:<br>Miles: | Township(s):<br>Range(s):<br>Section(s): | |

**Part 1 - Project Description**

**Part 2 - Categorical Exclusion**

Select one CE from 23 CFR 771.117 (Appendix A) that fits the entire project

**NEPA Approval Signatures**

| | |
|---|---|
| Local Agency Approving Authority | Date |
| Regional Local Programs Engineer | Date |
| Local Programs Environmental Engineer | Date |
| Federal Highway Administration | Date |

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

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## Part 3 - Permits, Approvals & Right of Way (ROW)

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

Other Federal Agencies - Does the project involve any federal properties, approvals or funding from other/ additional federal agencies? ☐ Yes ☐ No If yes, please describe.

## Part 4 - Environmental Considerations

Will the project involve work in or affect any of the following? Identify proposed mitigation. Attach additional pages or supplemental information if necessary.

**1. Air Quality** - Identify any anticipated air quality issues.

- Is the project exempt from Air Quality conformity requirements? ☐ Yes ☐ No
  If Yes, identify exemption - please refer to Appendix G in the CE Guidebook for a list of exemptions.
- Is the project included in the Metropolitan Transportation Plan? ☐ Yes ☐ No
  If Yes, date Metropolitan Transportation Plan was adopted
- Is the project located in an Air Quality Non- Attainment Area or Maintenance Area for carbon monoxide, ozone or PM 10? ☐ Yes ☐ No

**2. Critical and Sensitive Areas**

- Is this project within a sole source aquifer? ☐ Yes ☐ No
  If Yes, please list exemption
- If no, date of EPA approval
- Will this project impact Species/Habitat other than ESA listed species? ☐ Yes ☐ No
- Explain your answer
- Is this project within one mile of a Bald Eagle nesting territory, winter concentration area or communal roost? ☐ Yes ☐ No
- Will blasting, pile driving, concrete saw cutting, rock drilling or rack scaling activities occur within one mile of a Bald Eagle nesting area? ☐ Yes ☐ No
- Are wetlands present within the project area? ☐ Yes ☐ No
  If yes, estimate the impact in acres
  Please attach a copy of the proposed mitigation plan.

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**3. Cultural Resources/Historic Structures** - Identify any historic, archaeological or cultural resources present within the projects' Area of Potential Effects.

Does the project fit into any of the exempt types of projects listed in Appendix J of the CE Guidebook? If Yes, note exemption below. ☐ Yes ☐ No

If No: Date of DAHP concurrence:
Date of Tribal consultation(s) (if applicable):
Adverse effects on cultural/historic resources? ☐ Yes ☐ No
If Yes, date of approved Section106 MOA

**4. Floodplains and Floodways**

Is the project located in a 100-year floodplain? ☐ Yes ☐ No
If Yes, is the project located within a 100-year floodway? ☐ Yes ☐ No
Will the project impact a 100-year floodplain? ☐ Yes ☐ No
If Yes, describe impacts.

**5. Hazardous and Problem Waste** - Identify potential sources and types(s).

a) Does the project require excavation below the existing ground surface? ☐ Yes ☐ No
b) Will groundwater be encountered? ☐ Yes ☐ No
c) Will any properties be acquired as part of the is project? ☐ Yes ☐ No
d) Is this site located in a n undeveloped area (i.e. no buildings, parking, storage areas or agriculture? ☐ Yes ☐ No
e) Is the project located within a one-mile radius of a known Superfund Site? ☐ Yes ☐ No
f) Is this project located within a ½ mile radius of a site or sites listed on any of the following Department of Ecology databases? (If Yes, check the appropriate boxes below. ☐ Yes ☐ No
☐ Voluntary Cleanup Program (VCP), State Cleanup Site (SCS), or Independent Cleanup Programs (ICP)
☐ Underground Storage Tank (UST)
☐ Leaking Underground Storage Tank (LUST)
☐ Confirmed and Suspected Contaminated Sites List (CSCSL)
g) Has site reconnaissance (windshield survey) been performed? ☐ Yes ☐ No
(Please identify any properties not identified in the Ecology or ERS database search as an attachment - name, address and property use)
h) Based on the information above and project specific activities, is there a potential for the project to generate, acquire or encounter contaminated soils, groundwater or surface water? ☐ Yes ☐ No
. Please explain:

If you responded Yes to any of the previous questions (5A-5Cm 5F and 5H), contact your Region LPE for assistance as a "Right-Sized" HazMat Analysis Report/Memorandum most likely will be required.

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**Part 4 - Environmental Considerations (continued)**

**6. Noise**

Does the 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 the project increase the number of through traffic lanes on an existing roadway? ☐ Yes ☐ No
Is there a change in the topography ☐ Yes ☐ No
Are there auxiliary lanes extending 1 ½ miles or longer being constructed as part of the is 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. 4(f)/6(f) Resources: parks, recreation areas, wildlife refuges, historic properties, wild & scenic rivers, scenic byways**

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

b. Please identify any properties within the project limits that used funds from the Land & Water Conservation Fund Act.

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

**8. Agricultural Lands** - Are there agricultural lands within 300 feet of the project limits?. ☐ Yes ☐ No

If Yes, please describe impacts.

If present, is the land considered to be unique and prime farmland? ☐ Yes ☐ No
If Yes, date of project review by Natural Resource Conservation Service (NRCS)

**9. Rivers, Streams (continuous or intermittent) or Tidal Waters**

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

b. Identify stream crossing structures by type.

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## Part 4 - Environmental Considerations (continued)

**10. Tribal Lands** - Identify whether the project will occur within any Tribal lands, including reservation, trust and fee lands. Please do not list usual and accustomed area.

**11. Water Quality/Stormwater**
Will this project's proposed stormwater treatment facility be consistent with the guidelines provided by either WSDOT's HRM, DOE's stormwater management manual for eastern/western Washington 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 prosed project.

Amount of existing impervious surface within the project limits:
Net new impervious surface to be created as a result of this project:

**12. Previous Environmental Commitments**
Describe previous environmental commitments that may affect or be affected by the project - If any.

**13. Environmental Justice**
Does the project meet any of the exemptions noted in Appendix L of the NEPA CE Guidebook? ☐ Yes ☐ No
If Yes, please note the exemption and appropriate justification in the space below.

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. Findings should be confirmed using at least two information sources. Please refer to the NEPA CE Guidebook for more information.

## Part 5 - Biological Assessments 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? Attach species listings. ☐ Yes ☐ No

| Affected ESA Listed Species | 2. Will any construction work occur within 0.5 mile of any of the following? | | 3. Does the project involve blasting, pile-driving, concrete sawing, rock-drilling or rock scaling activity within one mile of any of the following? | |
|---|---|---|---|---|
| Oregon Spotted Frog proposed critical habitat or suitable habitat? | ☐ Yes | ☐ No | ☐ Yes | ☐ No |
| Yellow-billed Cuckoo suitable habitat? | ☐ Yes | ☐ No | ☐ Yes | ☐ No |
| Spotted Owl management areas, designated critical habitat or suitable habitat? | ☐ Yes | ☐ No | ☐ Yes | ☐ No |

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| | | | | |
|---|---|---|---|---|
| Marbled Murrelet nest or occupied stand, designated critical habitat or suitable habitat? | ☐ Yes | ☐ No | ☐ Yes | ☐ No |
| Western Snowy Plover designated critical habitat? | ☐ Yes | ☐ No | ☐ Yes | ☐ No |
| Is the project within 0.5 mile of marine waters? If Yes explain potential effects on Killer Whales and on Marbled Murrelet foraging areas. | ☐ Yes | ☐ No | ☐ Yes | ☐ No |
| Killer Whale designated critical habitat? | ☐ Yes | ☐ No | ☐ Yes | ☐ No |
| Grizzly Bear suitable habitat? | ☐ Yes | ☐ No | ☐ Yes | ☐ No |
| Gray Wolf suitable habitat? | ☐ Yes | ☐ No | ☐ Yes | ☐ No |
| Canada Lynx habitat? | ☐ Yes | ☐ No | ☐ Yes | ☐ No |
| Columbia White-tailed Deer suitable habitat? | ☐ Yes | ☐ No | ☐ Yes | ☐ No |
| Woodland Caribou habitat? | ☐ Yes | ☐ No | ☐ Yes | ☐ No |
| Streaked Horned Lark designated critical habitat or suitable habitat? | ☐ Yes | ☐ No | ☐ Yes | ☐ No |
| Taylor's Checkerspot designated critical habitat or suitable habitat? | ☐ Yes | ☐ No | ☐ Yes | ☐ No |
| Mazama Pocket Gopher designated critical habitat or suitable habitat? | ☐ Yes | ☐ No | ☐ Yes | ☐ No |
| Eulachon designated critical habitat or suitable habitat? | ☐ Yes | ☐ No | ☐ Yes | ☐ No |
| Rockfish proposed critical habitat or suitable habitat? | ☐ Yes | ☐ No | ☐ Yes | ☐ No |
| A mature coniferous or mixed forest stand? | ☐ Yes | ☐ No | ☐ Yes | ☐ No |

4. Will the project involve any in-water work? ☐ Yes ☐ No
5. Will any construction work occur within 300 feet of any perennial or intermittent waterbody that either supports or drains to waterbody supporting listed fish? ☐ Yes ☐ No
6. Will any construction work occur within 300 feet of any wetland, pond or lake that is connected to any permanent or intermittent waterbody? ☐ Yes ☐ No
7. Does the action have the potential to directly or indirectly impact designated critical habitat for salmonids (including adjacent riparian zones)? ☐ Yes ☐ No
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? ☐ Yes ☐ No
9. Will construction occur outside the existing pavement? If Yes go to 9a. ☐ Yes ☐ No

   9a. Will construction activities occurring outside the existing pavement involve clearing, grading, filling or modification of vegetation or tree-cutting? ☐ Yes ☐ No
10. Are there any Federally listed Threatened or Endangered plant species located within the project limits? If Yes, please attach a list of these plant species within the action area. ☐ Yes ☐ No
11. Does a mature coniferous or mixed forest stand occur within 200' of the project site? ☐ Yes ☐ No

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

**Analysis for RRMP ESA 4(d) determination for NMFS - A local agency must be certified by the Regional Road Maintenance Forum to utilize 4(d)**

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

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

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

**Effect Determinations for ESA and EFH**

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 effect” determination is anticipated), a separate biological assessment document is required.

| NMFS | USFWS | EFH Determination |
|---|---|---|
| ☐ No Effect | | ☐ No Adverse Effect |
| ☐ NLTAA - Date of Concurrence | | ☐ Adverse Effect - Date of NMFS concurrence |
| ☐ LTAA - Date BO issued | | |
| ☐ RRMP 4(d) | | |

**Part 6- FHWA Comments**

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**Washington State Department of Transportation**

# NEPA Categorical Exclusion Documentation Form

| Federal Aid Project Number | Date | Intent of Submittal<br>☐ Preliminary ☐ Final ☐ Re-Evaluate |
|---|---|---|
| Agency | Project Title | |
| County | | |
| Beginning MP:<br>Ending MP:<br>Miles: | Township(s):<br>Range(s):<br>Section(s): | |

## Part 1 - Project Description

## Part 2 - Categorical Exclusion

Select one CE from 23 CFR 771.117 (Appendix A) that fits the entire project

**NEPA Approval Signatures**

| | |
|---|---|
| Local Agency Approving Authority | Date |
| Regional Local Programs Engineer | Date |
| Local Programs Environmental Engineer | Date |
| Federal Highway Administration | Date |

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

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## 25.1 General Discussion

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

Neither the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) nor its implementing regulations at 49 CFR Part 24 allow the certification of right of way (R/W) to be sub-delegated to any agency or any agency with Certification Acceptance (CA) status. 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.

**If there is federal funding on ANY phase of the project (P.E., R/W, or construction), R/W must be acquired in accordance with the requirements of this manual, in order for the project to be eligible for federal funding (49 CFR 24.101).** 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). In addition the local agency must comply with Title VI requirements identified in Chapter 28.

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. Early notification to the Region Local Agency Coordinator is required for projects with right of way acquisition when there are federal funds in any phase of the project (23 CFR 710.201 (h)). It is suggested that the ROW Phase Questionnaire (Form LPA-002) be completed during finalization of design, Guidance is provided in the *Right of Way Manual* M 26-01.

**.11 Use of WSDOT Property –** The Region Local Agency Coordinator (LAC) should be contacted immediately when it is determined that the local agency project requires the use of WSDOT's property. 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.

**.12 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 for 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 R/W activities which includes appraisal, appraisal review, acquisition/negotiation, relocation, and property management activities (also collectively referred to as acquisition or acquisition process). These services are reimbursable to WSDOT either through a Local Agency Agreement or "J" Agreement.

WSDOT will consult and advise the local agency concerning real property interests' R/W activities to ensure that R/W is acquired and cleared 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 federal-aid projects which have R/W activities. In addition, the local agency should advise the LAC of the need for WSDOT assistance.

**.13 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

When an agency intends to use federal funds in any phase of a project, the agency must assure their approved R/W procedures (Form LPA-001 & LPA-003) are current prior to initiating R/W activities, and must demonstrate at the time of certification that current staff is qualified and that their procedures meet LAG manual requirements. R/W procedures are normally considered current if they are less than three years old, and staff approved to perform R/W activities are still acting in the same position within the agency.

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 responsibilities and expectations for each of the agency R/W positions are defined in the Right of Way Procedures form (LPA-001). The level at which an agency will be approved will depend on the agency's staff qualifications. Qualifications should be specific to the right of way function for which the staff is listed. An agency with minimal staff may be approved to acquire a single project with direct supervision by the Region LAC. Local Program's notifies the local agency of the approval with a copy

to the Region LAC. Periodic reviews of procedures will be conducted by the LAC for 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, or the local agency no longer has staff qualified to perform a particular function, then WSDOT will require may request or require a change to the approved procedures.

Approved procedures will designate the title of the position. When staff changes or additions occur, the agency will submit the person's right of way 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 agency's 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 agency's position(s) specified to perform each function, and a brief statement of their qualifications pertaining to the function they are performing. (See minimum qualifications for appraisal, appraisal review, and acquisition in this chapter.)
4. Appraisal waiver procedure (see Subsection 25.52, and Form LPA-003).
5. A procedure for handling administrative settlements including the approving authority(s) and process (see Subsection 25.11).

   Local Agencies must have a relocation appeal procedure in place, prior to starting relocation activities for any projects involving relocation assistance, as required by 49 CFR 24.10.

***Note:*** Local Agencies need to 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 Determining Whether or Not Right of Way (Acquisition) is Needed (See Chapter 21)** – See Appendix 25,174 and 25.175

1. **R/W (acquisition) Needed** is defined as land or property rights necessary for construction, operation and/or maintenance of the proposed project, or any prior (advanced/early) acquisition that was acquired specifically for the current project. This includes temporary rights required to complete the construction as shown on the PS&E (such as placing personnel, materials, equipment and machinery outside of existing R/W). If the agency, either through early acquisition (Section 25.43) or through transfer of property acquired for another use or purpose not associated with the current project, incorporates this land or property rights into the project, the agency will provide adequate documentation in the NEPA Categorical Exclusion

Documentation Form showing when and why the property was purchased. If the property was purchased for use on the project (e.g. advanced/early acquisition), then the R/W must have been acquired in accordance with the requirements of this manual.

**Advanced/early acquisition** is defined as prior land acquisition that was completed specifically for the current project. This does not include properties within the existing R/W that were purchased as part of a previous project. Regardless of the funding source, advanced/early R/W acquisition parcels must be included in the R/W Certificate. Contact the LAC if you have questions.

- If it is later determined that R/W is required, either a R/W Project Funding Estimate (PFE) or a True Cost Estimate, as applicable, a Right of Way Plan, and a Relocation Plan (if required) must be prepared and submitted to the Region Local Programs Engineer who will notify the Region LAC (who is responsible for review and approval). There are significant differences between the two forms of estimates and care must be used when selecting either the PFE or True Cost Estimate process. The Region LAC should be consulted when this decision is to be made. See Subsection 25.41 for explanations and requirements of the PFE and the True Cost Estimate.

2. No R/W (acquisition) Needed means that the proposed project can be built entirely within the existing roadway facility (the facility may be something other than roadway for projects under the Transportation Alternative Program). Existing R/W is defined as land already incorporated into the roadway facility or land previously certified under a previous federal aid project. Leases, permits and easements for construction activities, slopes, drainage, etc., whether temporary or permanent, are generally considered R/W acquisition.

   If it can be documented that the land or property rights were purchased for a purpose other than the transportation related project being certified, 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. This would be considered existing right of way.

**.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 temporary and permanent easements. However, there are circumstances when other real property interests can be considered. The details of these circumstances should be discussed with the LAC prior to submitting the Right of Way Plan for approval.

If the local agency is considering acquiring something other than fee or permanent easement real property interests, then they must provide documentation establishing how the real property interests they are purchasing satisfy the requirement for sufficient property rights. FHWA must be 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 the absolute minimum term that should be considered. Longer terms may be required, and the higher the federal investment, the longer the term expected by FHWA. 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 consider 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?
- What is the likelihood for renewal of the term of the real property interest, or invocation of any provision for its termination?
- Can a rational explanation of why the project is a good investment for FHWA under such circumstances be provided?
- If the rights acquired are from a governmental agency, is there anything in their regulations that prevent them from granting the rights requested?

***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 location with their own funds (and the right of way for the new location must have been acquired in accordance with the Uniform Act).

The following two situations are considered to be sufficient, and do not require the agency to complete a justification to be submitted for FHWA approval:

- DNR aquatic lands-DNR typically only grants term easements for uses of state-owned aquatic lands. The term of an easement will normally not exceed 30 years and is not renewable by policy. A new easement may be applied for one year in advance of the current easement agreement term expiration.
- BPA-typically only grants revocable permits (Land Use Agreement Fee) for uses under their power lines.

### .24 Determining Acquisition of Property and/or (Sufficient) Property Rights- See Appendix 25.175

**Fee** – Fee title should be acquired when the agency needs the exclusive use and occupancy of the property for itself. Fee simple is the unqualified ownership and power of disposition of property; all rights to control, use and transfer the property at will are acquired.

**Easements** – An easement is a transfer of an interest in land from one party to another providing a right or privilege to enjoy the property or a part of it for a particular, specific purpose that is not inconsistent with the owner's use and enjoyment. Easements can be temporary, permanent, or for a specified term.

**Permanent Easements** – A permanent (perpetual) easement may be acquired when the agency needs a non-exclusive right to enter upon the property of another. A permanent easement for road, street, or highway purposes should include, but not be limited to, the right to occupy, construct, control, operate, maintain, and reconstruct the facility.

**Non-Permanent Easements** – An easement that has a defined term and expiration date. Some property owners, including state/federal agencies, are unwilling to grant permanent easements. Term easements may be acceptable provided the term equals the design life (see .23 above).

**Temporary Easements** – A temporary easement is used when the agency requires a property right which is temporary in nature, but are not part of the permanent right-of-way. Temporary rights expire by the terms in each individual temporary easement.

**Permits** – A permit or right of entry is not an interest in land. It only provides basic permission to enter upon property to a named entity for a specific purpose, usually for a specific period of time. It cannot be transferred and can be terminated or revoked by the owner at will. In most situations, permits are used when no other property rights are to be acquired from the same ownership as part of the same project, and are normally obtained without the payment of compensation (mutual benefit). Permits can be used with other agencies to perform work on their property, such as tying into another roadway. Permits are generally not considered sufficient to construct, operate or maintain proposed projects. When considering the use of permits or other property rights such as leases, rights of entry, land use licenses, etc. consult with the LAC.

All rights acquired for the project, including advanced/early acquisitions (see Appendices 25.174 and 25.175), must be shown on the right of way plan (see Section 25.4-.41). See also *Right of Way Manual* M 26-01 Section 6-5.

## 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 normally apply is to mitigation sites, and **only** if it can be shown that there are other viable mitigation sites being considered for acquisition. Trail projects typically do not meet the voluntary acquisition requirements. If local agency would like to treat any acquisitions for trails as voluntary, please contact your LAC for guidance.

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. Also, the statutory evaluation allowance (RCW 8.25.020) will not be reimbursable, as it is only required for acquisitions made under threat of eminent domain (see Subsection 25.96).

## 25.4 Right of Way Acquisition

When there is federal participation in **any** phase of a project (PE, RW and/or CN), federal regulations **must** be followed. A checklist of Federal Aid Requirements is included in Appendix 25.178, with useful reminders and should be used as guidance to ensure compliance.

**.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.
    1. A Project Funding Estimate (PFE) is prepared for every project where right of way will be acquired, unless all properties to be acquired are to be appraised or donated.

2. As a minimum, the PFE contains the following information.
   a. A parcel-by-parcel list of right of way costs with project summary totals reported on the Right of Way Project Estimate and Cost Breakdown.
   b. 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 included in the data package.

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

1. Inspect the project and becomes familiar with the engineering features of the plan.
2. View individual parcels to determine the effects of acquisition.
3. 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.
4. 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 Sheets (Form LPA-210). (If the sales are to be used exclusively on parcels where the Agency has determined to waive the appraisal, the sales must 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 including the parties' names and phone numbers where attempts to make contact were unsuccessful.)
5. Prepares project and sales vicinity map.
6. Prepares PFE Parcel Worksheet for each parcel on the project.
7. Includes any applicable damage studies.
8. Includes cost-to-cure documentation for estimates and/or bids.
9. Includes applicable Assumptions and Limiting Conditions if data Package will be referred to in the preparation of Abbreviated Appraisals.

See Appendix 25.172 for a sample estimate summary and a sample neighborhood analysis and Form LPA-215 PFE Parcel Worksheet. 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 procedure (see Subsection 25.52). A True Cost Estimate is a parcel-by-parcel estimate of total expected right of way acquisition costs drawn from the County Assessor's records, from replacement cost schedules for minor site improvements or estimates from local vendors, 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 three parts: a worksheet for each parcel to be acquired, a table summarizing all estimated acquisition costs, and a neighborhood/project description. They should generally conform to the examples provided in Appendix 25.173.

- Approved R/W plan (part of Approved Design Documentation-Appendix 43.62).
- WSDOT approved relocation plan (if relocation is required, contact the LAC for assistance).

A R/W Plan indicating the property required to build and maintain the transportation project is required. A right of way plan is a valuable visual-aid tool for negotiators, appraisers, and attorneys involved in acquisition transactions. It also helps property owners understand why and how their properties are being acquired.

The Agency's approved* R/W plan shall contain essential data needed for appraisal, negotiation, and right of way certification activities, and illustrate the following information:

- Survey line or centerline for the alignment. Please contact the Local Agency Coordinator if other acceptable survey practices are proposed to establish the alignment.
- Sufficient information for preparation of legal descriptions of the affected properties and types of property interests to be acquired.
- Design features, width of the new highway (alignment), grade changes, and other detail of the construction.
- The property lines in their entirety and owner's names for each affected property, along with all contiguous parcels to the property being acquired and owned by the same owner, the parcel identification number; the calculated area(s) of the parcel(s) to be acquired, including any easement areas; the calculated area(s) of the remainder parcel(s).
- The seal and signature of a registered Professional Engineer or Professional Land Surveyor in accordance with RCW 18.43.070 and RCW 58.09. (*considered as Agency approval.)

It is advised that a draft of the R/W plan be submitted to the LAC for review and comment prior to its approval by the Agency.

As a "best practice" it is recommended R/W plans illustrate the following additional information:

- For affected parcels, improvements within 100' feet of the existing R/W, including those improvements that may be damaged by the project (i.e. residences, commercial structures, signs, septic systems including reserve area, wells, driveways, fencing, irrigation systems).
- Vicinity Map showing the project limits.

Once FHWA approval has been obtained for the obligation of funds for the R/W Phase, Local Programs will notify the local agency of authorization to proceed with R/W acquisition. No acquisition costs are eligible prior to this authorization.

**.42 R/W Phase With Local Agency Funds Only** – If federal funds are to be used in any part of the project, or the property is later incorporated into a federally funded project, federal guidelines for acquisition of the R/W must be followed. The local agency must also follow the local agency's approved procedures, which typically requires the LAC to review all offers and supporting data before they are presented to the property owner. The R/W Map requirements in Section 25.41 also apply if federal funds are in PE or Construction phases.

***NOTE:*** A PFE is not required unless the local agency intends to use the appraisal waiver process for the preparation of Administrative Offer Summaries (AOSs). The AOSs must be based on the PFE. A True Cost Estimate cannot substitute for a PFE when preparing appraisal waivers.

In order to minimize potential problems which may surface during the certification process, the local agency submits a copy of the R/W plan and Relocation Plan (if applicable) for review/approval 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. The Agency should place copies of any documentation pertaining to early acquisition approval in the parcel acquisition file if it is required as described below. In addition, note the date and actions pertaining to such approval in the parcel acquisition diary.

1. **Agency Funded Early Acquisition** – An agency may use its own funds to purchase R/W prior to NEPA clearance. Refer to the NEPA Categorical Exclusions – A Guidebook for Local Agencies Appendix F for documentation requirements.

   a An agency may use eminent domain, but the agency must be able to prove public use and necessity, which may be difficult when the environmental alternatives have not been evaluated or selected. The use of eminent domain on a locally-funded acquisition in advance of a project NEPA approval is a decision that the local agency should make after undertaking a risk analysis to determine if they want to proceed with the acquisition using eminent domain. The risk analysis should consider if the proposed project has multiple alignments that could be considered to address the transportation issue. If there is only one obvious alignment, the local agency's ability to prove public use and necessity is good, which makes the risk low. If there are multiple alignments to address the transportation issue, then the local agency should determine the property needs for the multiple alignments. If each alignment requires different parcels to address the transportation issue, then the agency's ability to prove public use and necessity may be low due to uncertainty of the need for the parcel, and the risk is higher.

   For all early acquisitions, the local agency must complete Appendix F in order to show that the early acquisition did not influence the project through the decision on need to construct the project, the consideration of alternatives, or the selection of the design or location of the proposed improvement. Appendix F is submitted with the NEPA Categorical Exclusion Documentation Form (formally known as an ECS). The timing of the Appendix F submission

can create risk for the local agency, since the local agency's decision to perform early acquisition takes place in advance of Appendix F submission and approval. If Appendix F cannot be approved, then the agency cannot incorporate the parcel into the project. If the project cannot be built with the parcel, then the entire project may be ineligible for federal funding.

b. 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).

**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.

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, FONSI, ROD). The local agency will provide documentation to meet the requirements (1) through (7) above. <u>When early acquisition was done, Appendix F must be attached to the NEPA Categorical Exclusion Documentation Form. Approval of the NEPA Categorical Exclusion Documentation Form also approves Appendix F, which then allows</u> the market value of the property <u>to</u> 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.

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.

**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.

The documentation required as detailed in the NEPA Categorical Exclusion Documentation Form (see Chapter 24) shall be completed as part of the NEPA clearance. 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.

2. **Protective Buying/Hardship Acquisition** – An agency may purchase R/W prior to project NEPA clearance under the federally funded protective buying and hardship acquisition provisions, as per 23 CFR 710.503. 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. Furthermore, 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. **Federally Funded Early Acquisition** – 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.

**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.
- The acquisition cannot be done under the threat of eminent domain.
- The acquisition will not result in the reduction of relocation benefits or assistance to displaced persons.
- The Agency cannot demolish any improvements on the acquired property.

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

Local Programs will obtain FHWA concurrence in the advance acquisition through approval of the federal aid project.

The early acquisition documentation required as detailed in the NEPA Categorical Exclusion Documentation Form (see Chapter 24) Appendix F shall be completed as part of the Project NEPA, 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* M 26-01 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 and on WSDOT's approved appraiser list 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.
4. An adequate description of the physical characteristics of the property being appraised, including items identified as personal property (49CFR 24.103(a)(2)(i) and Appendix 24.103(a)(1)). Forms LPA-217 and LPA-218 are available for use but are not required if the agency has a similar form.

A complete explanation of requirements for an acceptable appraisal report can be found in *Right of Way Manual* M 26-01 Chapter 4.

**Appraiser/Owner Contact** – The appraiser shall document in the appraisal report his or her attempts to contact the property owner, which shall include an attempt to contact the property owner either by phone or in person.

**.52 Appraisal Waiver (commonly referred to as Administrative Offer Summary (AOS))** – In accordance with 49 CFR 24.102(c)(2)(ii), an appraisal and appraisal review can be waived in certain cases. To qualify, the just compensation, based on the R/W Project Funding Estimate, 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 combined estimate of the just compensation plus the cost to cure(s) cannot exceed the agency's approved waiver limits. 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 estimate 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 procedure **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 an estimate of just compensation must be included in the project file. When the waiver procedure is used, it is important that the local agency determines that the offer being made is fair and equitable.

In March 2013, WSDOT updated its AOS policy. The local agency must update their Appraisal Waiver Procedure (Form LPA-003), to reflect the new policy. Otherwise, the agency must continue to offer an appraisal for all AOS's regardless of the amount, as specified in their procedures under the prior policy. Any project where acquisitions were initiated under a prior AOS policy must continue with that prior policy until completion of the project's right of way phase.

If the LPA has updated their Appraisal Waiver Procedure to reflect the new policy the following applies:

- 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 | |
|---|---|
| **Condition A: $10,000 or Less** | **Condition B: $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. |

Under Condition B, 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 also Form LPA-003 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* M 26-01 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 appraisal review training class approved by WSDOT.

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* 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 non-compensable under state law.

The reviewing appraiser shall place in the parcel file a signed and dated statement (Form LPA-214b Local Agency Certification of Value) 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 on Form LPA-214b Local Agency Certificate of Value, to the bottom of the Administrative Offer Summary (AOS), 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. When a right of way plan revision occurs, a new AOS, appraisal and/or Certificate of Value may be required.

Before initiating negotiations for the acquisition of real property interests, 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 in accordance with the agency's approved Appraisal Waiver Procedure. (The threshold for offering an appraisal depends on the Agency's approved Appraisal Waiver Procedure in place at the time of the offer). The local agency is responsible for providing and paying for this appraisal.

## 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.

Special care should be taken to insure that the parties shown as the vested owners by the title evidence are named correctly in the conveyance instruments, and that the parties signing are the same or have authority to sign. The notary acknowledgement form (jurat) should be appropriate for the status of the granting party. See Chapter 8 of the ROW Manual for guidance.

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. If the local agency determines that it wants to accept title subject to a monetary lien, the local agency should look to Chapter 8 of the ROW Manual for guidance as to informing the owner of their potential risks.
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.

**.91 Qualifications –** 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 performed according to the provisions of the Uniform Act. 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.

**.92 Separation of Functions** – 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. It is recognized

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 (or prepare an AOS) 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.

**.93 Offer/Summary Statement –** Upon initiation of negotiations, the agency shall provide the owner of real property and/or property rights to be acquired with a summary of the appraisal (they can provide the appraisal to fulfill this requirement), or if an Administrative Offer Summary (AOS) a copy of the comparable sales data, a written offer letter, including a summary of the basis for the amount it has established as just compensation for the proposed acquisition. At a minimum the offer letter shall include the following:

1. The amount established as just compensation.
2. A statement explaining that the offer is based either on an appraisal made by a qualified appraiser and reviewed by a qualified Review Appraiser, or an Administrative Offer Summary (AOS) under the Appraisal Waiver Procedure). The LPA's current approved Appraisal Waiver Procedure will determine the agency's obligations for offering an appraisal if one was not performed.
3. Identification of the real property to be acquired, including the estate or interest being acquired.
4. Identification of improvements and fixtures considered to be part of the real property to be acquired.
5. The amount of just compensation for the real property to be acquired and any amount included for damages to remaining real property shall be separately stated.

When a right of way plan revision occurs, a new AOS, appraisal and/or Certificate of Value may be required, especially if the acquisition area or the property interests to be acquired changes.

For an AOS offer letter template, see LPA-350. The local agency should review their current approved Appraisal Waiver Procedure to confirm that the correct language is being used in the offer letter.

**.94 Donation (see Also Section 25.10 Donated Property)** – A donation may be accepted only after the owner has waived, in writing, their right to just compensation and has released the local agency from its obligation to have the property appraised (see sample donation letter in 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 NEPA Categorical Exclusion Documentation Form.

**.95 Dedication** – 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, provided such dedication does not constitute an unconstitutional taking. Dedicated land incorporated into the roadway facility is

considered part of the existing ROW (as defined in Subsection 25.22 item 2.). As such, dedicated land is not required to be included in a right of way certification.

**.96 Statutory Evaluation Allowance (SEA)** – 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). This statutory requirement only applies to offers made under the threat of eminent domain. Therefore, when an agency's offer is NOT under threat of eminent domain, either by choice or regulation (such as early/advance or voluntary acquisitions), the agency does NOT have to notify the owner of the $750 SEA. An agency is not prohibited from offering the $750 SEA on non-eminent domain offers; however, FHWA will not participate in the cost. Agencies must be consistent in their policy to offer (or not offer) the $750 SEA to property owners, and apply it uniformly.

**.97 Documentation** – 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.

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.

**.98 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 sample, see LPA-350.
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.

**.99 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.

**.100 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.

**.101 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 fully informed by the local agency of their rights to receive just compensation and has released the local agency from its obligation to have the property appraised (49CFR 24B, Sec. 24.108). A copy of the notice issued to the property owner informing them of their rights available and the donation statement signed by the owner must be included in each parcel file (Appendix 25.177). The donation statement from the owner might also be accomplished by having language similar to that found in Appendix 25.177 included in the conveyance instrument or agreement, or in an email to the property owner to which the property owner has replied affirming their understanding of their right and releasing the local agency of its obligation. 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 NEPA Categorical Exclusion Documentation Form 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 just compensation. 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 25.100).

1. **Any administrative settlement which exceeds the fair market value must be documented, thoroughly justified, and the rationale set forth in writing in order to be eligible for federal aid funds.** 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, the local agency must submit a relocation plan to WSDOT for approval **prior** to starting R/W activities. If there are federal funds in the R/W Phase, the relocation plan must be approved before R/W funding can be authorized.

To maintain a project's federal aid eligibility, a relocation plan needs to be submitted and approved prior to starting R/W 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, and are consistent with the PS&E (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. FHWA does not formally approve Certificates 1 and 2. For Certificates 1 and 2, the actual certification date for federal aid projects is the date on the WSDOT Certification Concurrence Letter sent to FHWA. WSDOT Concurrence is required prior to advertisement. For Certificate 3s, the actual certification date is the FHWA approval letter date. ROW certification is a requirement for construction authorization. Since local agencies are expected to go to ad within six weeks of construction authorization (See Chapter 22, Section 22.1), ROW certification should not occur too far in advance of the anticipated ad date.

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 ROW Certification vs URA Compliance Letter

Based on changes to federal requirements, specifically the implementation of 2 CFR 200, in order for local agencies to maintain federal eligibility of federal funds utilized in a project prior to construction, certain federal requirements must be met even though the project is being constructed using local funds. Compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) is mandatory. See Appendix 25.171 for case studies.

| RW Documentation Requirements Based on Funding Source When a Project has RW Acquisition | ROW Certificate | URA Compliance Letter |
|---|---|---|
| FHWA Funds in PE Phase | | X |
| FHWA Funds in RW Phase | X | |
| FWHA Funds in CN Phase | X | |
| 100% Local Funds Only – Federalized by NEPA | | X |
| 100% Local Funds Only – Project involves Interstate | | X |

**ROW Certificate – Construction Authorization (prior to advertising for construction bids)**

Per 23CFR 635.309(b) and (c) the ROW certification procedure for federally-assisted highway projects identifies the acquisition status of necessary ROW for the purpose of advancing a project to construc-tion. This regulation is specific to construction authorization only and is the only time that a ROW certi-fication is issued by WSDOT/FHWA.

Title 23 requires that acquiring agencies comply with 49CFR Part 24. The requirements of 49CFR 24.101 apply to any acquisition of real property for programs or projects where there is Federal financial assis-tance in any part of project costs. The phase program or project means any activity or series of activities undertaken by a Federal Agency or with Federal financial assistance received or anticipated in any phase of an undertaking in accordance with the Federal funding Agency guidelines. The certification process outlined in Chapter 17 of the ROW Manual must be used if federal funds are in the Construction phase and the project has ROW acquisition.

**URA Compliance – Non-Construction Authorization**

If federal funds are used in the Preliminary Engineering (PE) phase the project is required to follow the URA. This is true even if there is only $1 of federal funding. This also applies to projects which have been federalized by NEPA or involve Interstate when local funds are used. For example, a project that has been split into two or more separate projects, but is covered by one NEPA document is required to follow the URA when any portion of the overall project involves federal funding.

Title 23 requires that acquiring agencies comply with 49CFR Part 24. The requirements of 49CFR 24.101 apply to any acquisition of real property for programs or projects where there is Federal financial assistance in any part of project costs. The phase program or project means any activity or series of activities undertaken by a Federal Agency or with Federal financial assistance received or anticipated in any phase of an undertaking in accordance with the Federal funding Agency guidelines.

In addition to the URA, the local agency must adhere to additional R/W requirements listed in 23 CFR 710, environmental requirements, Buy America, and Title VI requirements.

**WSDOT Oversight – Criteria and Process:**

Criteria to be eligible for a URA Compliance Letter:

- Federal funds in the PE Phase only
- Locally funded but federalized by NEPA
- Locally funded but involves interstate

Process:

- Region Local Programs confirms:
  - The agency will not seek federal funds in ROW or CN phases of the proposed project and federal funds will be in PE phase only
  - The agency does not have any federal funds in the project and it has been federalized due to NEPA
  - There are no federal funds in the project but the project involves interstate
- Local Programs Program Management authorize/obligate funds
- Local Programs send a URA Compliance Letter to the local agency
  - Cc of letter should go to the local agency's ROW section
- A copy of the URA Compliance Letter will be filed in the agency file
- Local Programs ROW enters the letter into a tracking sheet

- Local Programs ROW will perform annual ROW URA Compliance Reviews similar to the PMRs for the purpose of reviewing projects that have been issued a URA Compliance Letter

Oversight Requirements:

- Tracking of URA Compliance Letters
- URA ROW Compliance Reviews. A compliance review will be done for all projects involving interstate with 100% local funds. For all other projects eligible for a URA letter, a random sample of projects will be selected for compliance reviews.

***Note:*** If a local agency later seeks federal funding in the ROW or CN phase a ROW certification will be required.

## 25.15 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. To request approval, the agency must complete and submit form LPA-407. Once approved, the

agency will receive a written notification from the Local Programs Right of Way Manager that they can move forward with their disposal process.

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.

Upon disposal of R/W by deed, license, lease, permit, easement or similar instrument, the local agency shall include the required Title VI lease/deed provisions, as outlined in Chapter 28 (Exhibit 2C).

## 25.16 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 gFiven 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 well written 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.

Diaries are further discussed in *Right of Way Manual* Chapters 3, 6, 8, 9, 12 and 15.

## 25.17 Oversight of Consultants Hired to Perform ROW Activities

The Local Agency (typically the person approved to perform the "Program Administration" function on the Approved R/W Procedures is responsible for overseeing the delivery of the ROW Program on federal aid roadway projects for their agency. The agency must ensure R/W actvities are carried out in compliance with federal and state laws, regulations, policies and procedures. Oversight of ROW consultants includes, but may not be limited to:

- use of consultant contract approved by WSDOT (not yet required);
- management of R/W contracts;
- management of deliverables ( ROW plans, PFEs, relocation plans, administrative settlement justifications, recommendations/requests for payment, files, etc.);
- reviews and approves actions and decisions recommended by consultants; and
- overall responsibility for decisions that are outside the purview of consultant functions.

## 25.18 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).

## 25.19 Appendices

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

25.171 ROW Certification vs URA Compliance Letter Case Studies
25.172 Sample Right of Way Project Funding Estimate Summary and Description
25.173 Sample True Cost Estimate
25.174 Determining Whether or Not Land or Property Rights or Interest are Needed
25.175 Determining the Type of Property Rights Necessary
25.176 Vacant
25.177 Donation Statements – Sample
25.178 Federal Aid Requirement Checklist
25.179 Acquisition Process Flowchart
25.180 Local Agency Forms & Brochures

Under construction.

# Appendix 25.172 Sample Right of Way Project Funding Estimate Summary and Description

## Right of Way Project Funding Estimate Summary

**Project:** Click here to enter text. **Date:** Click here to enter text. **FA #:** Click here to enter text.

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

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# SAMPLE
# 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 minmum 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 ponts 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.

Washington State Department of Transportation

## True Cost Parcel Worksheet

Project: Click here to enter text.

Parcel # Click here to enter text.

Notes: Click here to enter text.

Assessor's Tax Parcel Number(s): Click here to enter text.

Zone Size Min. = Click here to enter text.

Assessed Value Land = Click here to enter text.

A.V. Bldg.#1 = Click here to enter text.

Bldg.#2 = Click here to enter text.

Bldg.#3 = Click here to enter text.

Bldg.#4 = Click here to enter text.

Total Property Assessed Value = Click here to enter text.

### R/W Map Info

Before Area = Click here to enter text.

Fee Take = Click here to enter text.

After Area = Click here to enter text.

Permanent Esmt Take = Click here to enter text.

Temporary Esmt Take = Click here to enter text.

### Property Costs:

| | |
|---|---|
| Total Take = Click here to enter text. (total property A.V. x 1.20) | = $ Click here to enter text. |
| **Or** | **Or** |
| Partial Take: | |
| Fee Land = Click here to enter text. @ $Click here to enter text. (A.V. land per unit) x 1.20 | = $ Click here to enter text. |
| Yard/Site Improvements in Take @ Administrative Lump Sum | = $ Click here to enter text. |
| Major Building in Take @ (A.V. of Bldg. # Click here to enter text.) x 1.20 | = $ Click here to enter text. |
| Perm. Esmt. = Click here to enter text. @ $ Click here to enter text. (A.V. land per unit) | = $ Click here to enter text. |
| Temp. Esmt. = Click here to enter text. @ $ Click here to enter text.(A.V. land per unit) x 10% | = $ Click here to enter text. |
| **TOTAL PROPERTY COSTS** (put in column 2 of True Cost) | = $ Click here to enter text. |

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

1. Appraisal Fee = Click here to enter text.
2. Appraisal Review Fee = Click here to enter text.
3. Negotiation Fee = Click here to enter text.
4. Title and Escrow Fee = Click here to enter text.
5. Prop. Mgmt. Services = Click here to enter text.
6. Relocation Services = Click here to enter text.
7. Relocation Payments = Click here to enter text.
8. Condemn & Incidentals = Click here to enter text.

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## True Cost Estimate

**Project:** Click here to enter text. **Date:** Click here to enter text. **FA #:** Click here to enter text.

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

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

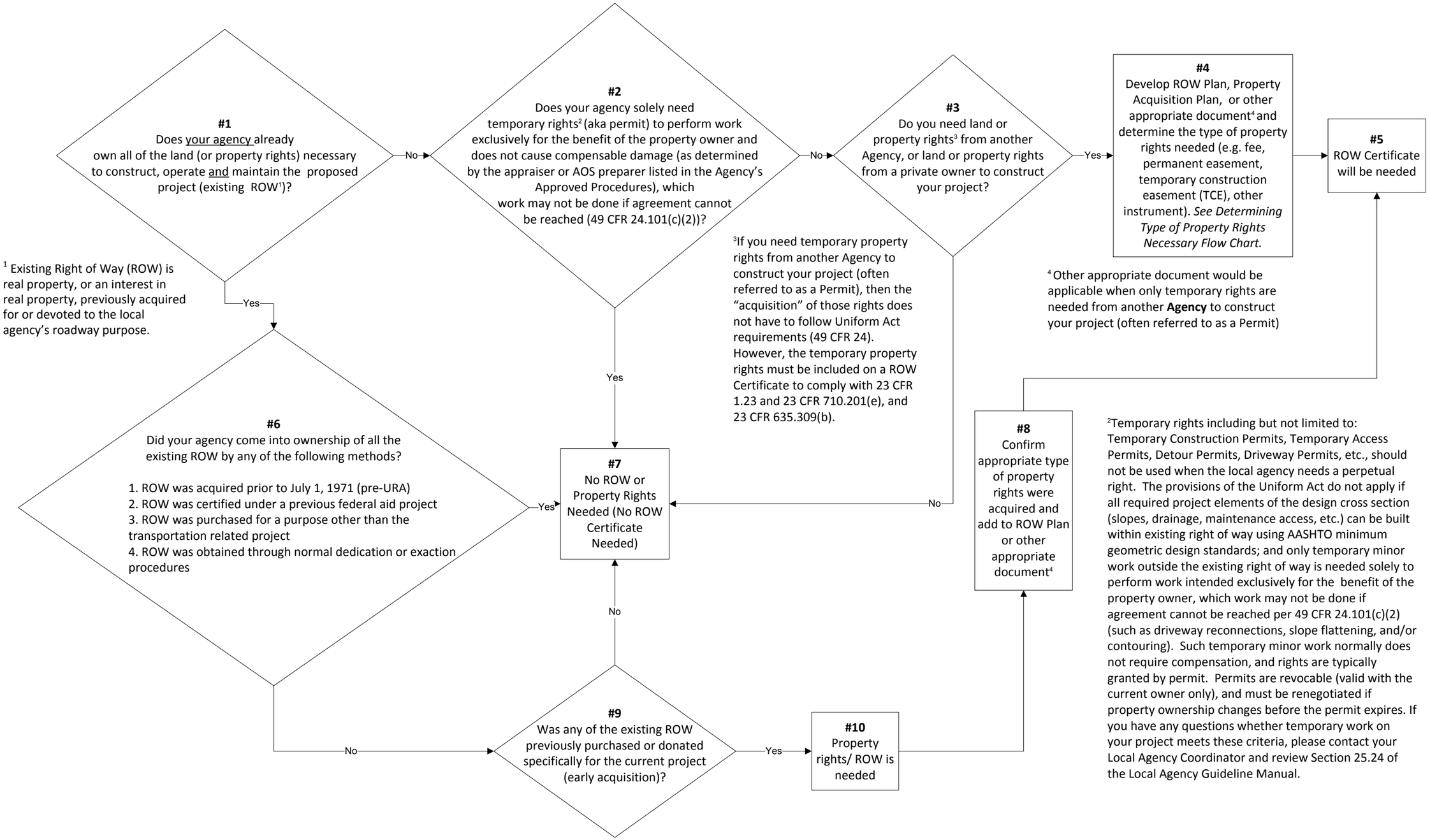
Date: October 21, 1986

The project vicinity is rural Yakima County lying about 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.

3/23/15




[1] Existing Right of Way (ROW) is real property, or an interest in real property, previously acquired for or devoted to the local agency's roadway purpose.

[3] If you need temporary property rights from another Agency to construct your project (often referred to as a Permit), then the "acquisition" of those rights does not have to follow Uniform Act requirements (49 CFR 24). However, the temporary property rights must be included on a ROW Certificate to comply with 23 CFR 1.23 and 23 CFR 710.201(e), and 23 CFR 635.309(b).

[4] Other appropriate document would be applicable when only temporary rights are needed from another **Agency** to construct your project (often referred to as a Permit)

[2] Temporary rights including but not limited to: Temporary Construction Permits, Temporary Access Permits, Detour Permits, Driveway Permits, etc., should not be used when the local agency needs a perpetual right. The provisions of the Uniform Act do not apply if all required project elements of the design cross section (slopes, drainage, maintenance access, etc.) can be built within existing right of way using AASHTO minimum geometric design standards; and only temporary minor work outside the existing right of way is needed solely to perform work intended exclusively for the benefit of the property owner, which work may not be done if agreement cannot be reached per 49 CFR 24.101(c)(2) (such as driveway reconnections, slope flattening, and/or contouring). Such temporary minor work normally does not require compensation, and rights are typically granted by permit. Permits are revocable (valid with the current owner only), and must be renegotiated if property ownership changes before the permit expires. If you have any questions whether temporary work on your project meets these criteria, please contact your Local Agency Coordinator and review Section 25.24 of the Local Agency Guideline Manual.

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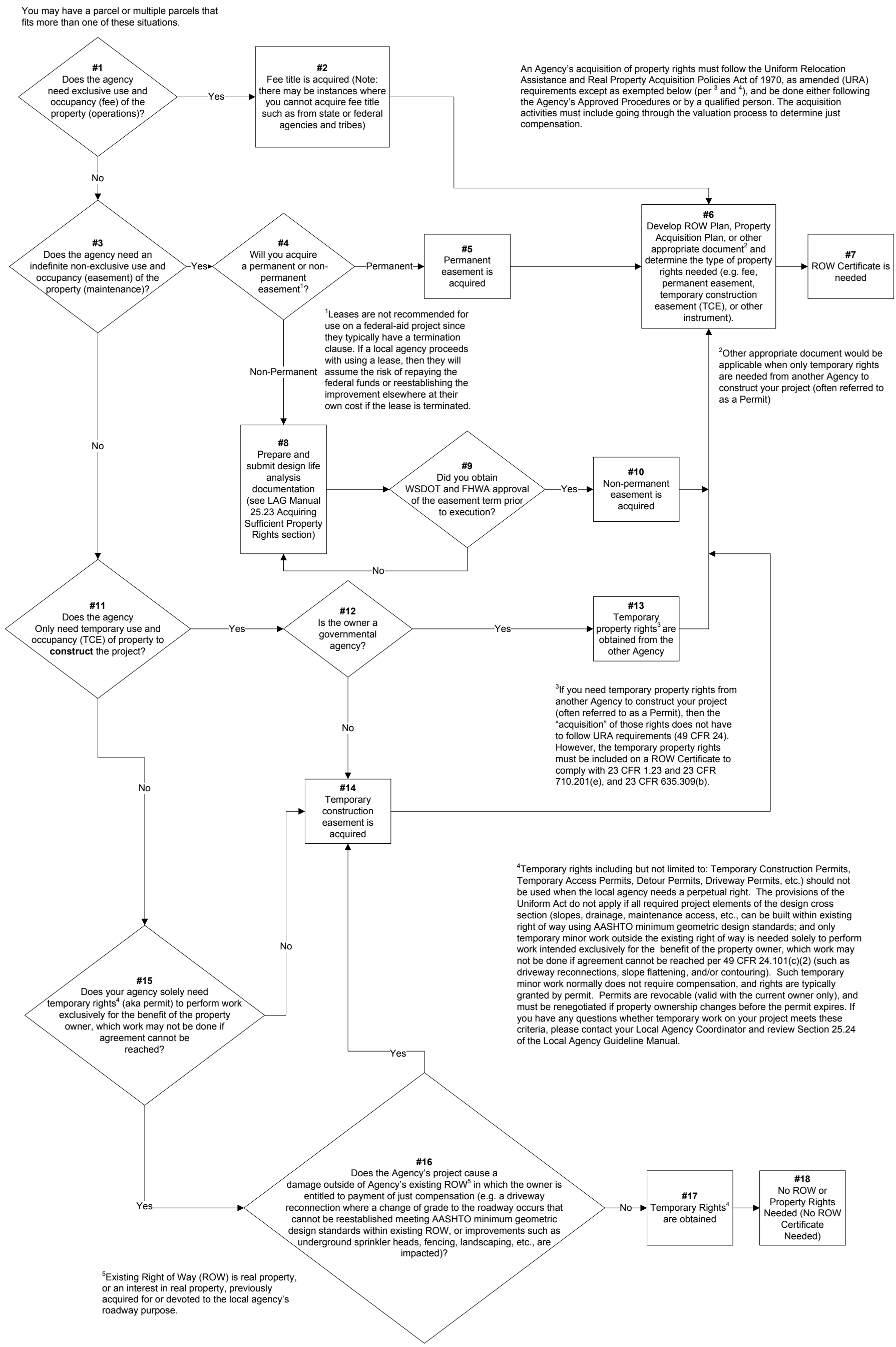
You may have a parcel or multiple parcels that fits more than one of these situations.
#1 Does the agency need exclusive use and occupancy (fee) of the property (operations)?
Yes
#2 Fee title is acquired (Note: there may be instances where you cannot acquire fee title such as from state or federal agencies and tribes)
An Agency's acquisition of property rights must follow the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) requirements except as exempted below (per 3 and 4), and be done either following the Agency's Approved Procedures or by a qualified person. The acquisition activities must include going through the valuation process to determine just compensation.
No
#3 Does the agency need an indefinite non-exclusive use and occupancy (easement) of the property (maintenance)?
Yes
#4 Will you acquire a permanent or non-permanent easement1?
Permanent
#5 Permanent easement is acquired
#6 Develop ROW Plan, Property Acquisition Plan, or other appropriate document2 and determine the type of property rights needed (e.g. fee, permanent easement, temporary construction easement (TCE), or other instrument).
#7 ROW Certificate is needed
1Leases are not recommended for use on a federal-aid project since they typically have a termination clause. If a local agency proceeds with using a lease, then they will assume the risk of repaying the federal funds or reestablishing the improvement elsewhere at their own cost if the lease is terminated.
Non-Permanent
2Other appropriate document would be applicable when only temporary rights are needed from another Agency to construct your project (often referred to as a Permit)
No
#8 Prepare and submit design life analysis documentation (see LAG Manual 25.23 Acquiring Sufficient Property Rights section)
#9 Did you obtain WSDOT and FHWA approval of the easement term prior to execution?
Yes
#10 Non-permanent easement is acquired
No
#11 Does the agency Only need temporary use and occupancy (TCE) of property to construct the project?
Yes
#12 Is the owner a governmental agency?
Yes
#13 Temporary property rights3 are obtained from the other Agency
3If you need temporary property rights from another Agency to construct your project (often referred to as a Permit), then the "acquisition" of those rights does not have to follow URA requirements (49 CFR 24). However, the temporary property rights must be included on a ROW Certificate to comply with 23 CFR 1.23 and 23 CFR 710.201(e), and 23 CFR 635.309(b).
No
No
#14 Temporary construction easement is acquired
4Temporary rights including but not limited to: Temporary Construction Permits, Temporary Access Permits, Detour Permits, Driveway Permits, etc.) should not be used when the local agency needs a perpetual right. The provisions of the Uniform Act do not apply if all required project elements of the design cross section (slopes, drainage, maintenance access, etc., can be built within existing right of way using AASHTO minimum geometric design standards; and only temporary minor work outside the existing right of way is needed solely to perform work intended exclusively for the benefit of the property owner, which work may not be done if agreement cannot be reached per 49 CFR 24.101(c)(2) (such as driveway reconnections, slope flattening, and/or contouring). Such temporary minor work normally does not require compensation, and rights are typically granted by permit. Permits are revocable (valid with the current owner only), and must be renegotiated if property ownership changes before the permit expires. If you have any questions whether temporary work on your project meets these criteria, please contact your Local Agency Coordinator and review Section 25.24 of the Local Agency Guideline Manual.
No
#15 Does your agency solely need temporary rights4 (aka permit) to perform work exclusively for the benefit of the property owner, which work may not be done if agreement cannot be reached?
Yes
Yes
#16 Does the Agency's project cause a damage outside of Agency's existing ROW5 in which the owner is entitled to payment of just compensation (e.g. a driveway reconnection where a change of grade to the roadway occurs that cannot be reestablished meeting AASHTO minimum geometric design standards within existing ROW, or improvements such as underground sprinkler heads, fencing, landscaping, etc., are impacted)?
No
#17 Temporary Rights4 are obtained
#18 No ROW or Property Rights Needed (No ROW Certificate Needed)
5Existing Right of Way (ROW) is real property, or an interest in real property, previously acquired for or devoted to the local agency's roadway purpose.

# Appendix 25.176 Vacant

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 |
| _____ | _____ |
| Title | State of Washington<br>Department of Transportation |

(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.)

Washington State Department of Transportation

## Federal Aid Requirement Checklist

### Informational Only

Agency: Click here to enter text. Region: Click here to enter text. Date: Click here to enter text.

Project Federal Aid Number: Click here to enter text.

Project Name: Click here to enter text.

Federal Funds Will Be Used For:

PE: Click here to enter text. R/W: Click here to enter text. CONST.: Click here to enter text.

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. | Click here to enter text. |
| 2. Owners must be given an opportunity to accompany each appraiser during his inspection of the property, per 49 CFR 24.102(c). | Click here to enter text. |
| 3. The acquiring agency must establish just compensation before initiation of negotiations with the owners, per 49 CFR 24.102(d). | Click here to enter text. |
| 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). | Click here to enter text. |
| 5. Appraisals are not to give consideration nor include any allowance for relocation assistance benefits. | Click here to enter text. |
| 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). | Click here to enter text. |
| 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). | Click here to enter text. |

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| | |
|---|---|
| 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). | Click here to enter text. |
| 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). | Click here to enter text. |
| 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). | Click here to enter text. |
| 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). | Click here to enter text. |
| 12. The acquiring agency must acquire an equal interest in all buildings, etc., located upon the real property acquired, per 49 CFR 24.105. | Click here to enter text. |
| 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. | Click here to enter text. |
| 14. No property owner can voluntarily donate his property prior to being informed of his right to receive just compensation. | Click here to enter text. |
| 15. Provisions have been made for rodent control should it be necessary. | Click here to enter text. |
| 16. No owner was intentionally required to institute legal proceedings to prove the fact of the taking of his real property. | Click here to enter text. |

Prepared by: Click here to enter text.

Title: Click here to enter text.

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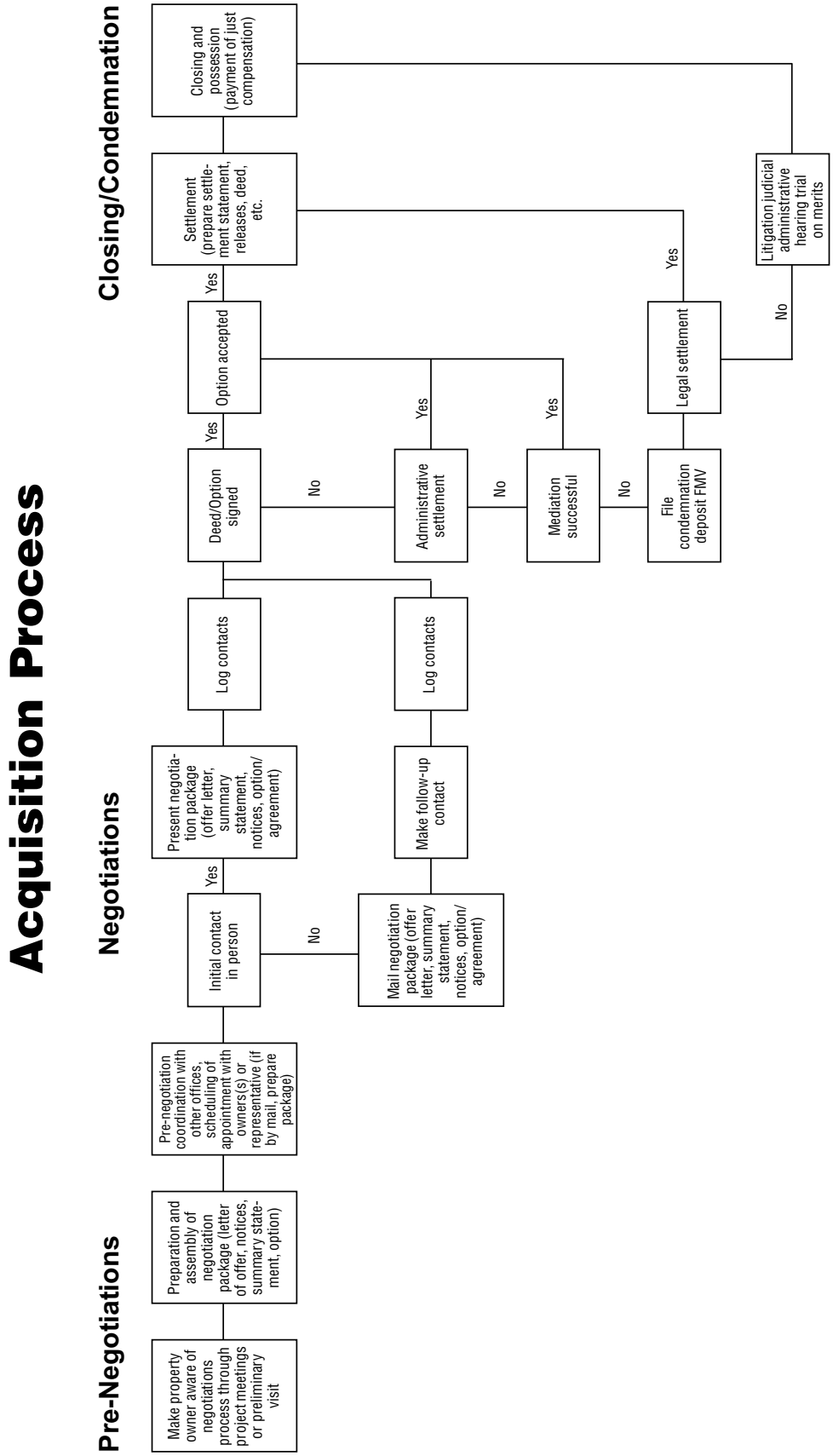
Acquisition Process
Pre-Negotiations
Negotiations
Closing/Condemnation
Make property owner aware of negotiations process through project meetings or preliminary visit
Preparation and assembly of negotiation package (letter of offer, notices, summary statement, option)
Pre-negotiation coordination with other offices, scheduling of appointment with owners(s) or representative (if by mail, prepare package)
Initial contact in person
Yes
No
Present negotiation package (offer letter, summary statement, notices, option/ agreement)
Mail negotiation package (offer letter, summary statement, notices, option/ agreement)
Make follow-up contact
Log contacts
Log contacts
Deed/Option signed
Yes
No
Administrative settlement
Yes
No
Mediation successful
Yes
No
File condemnation deposit FMV
Option accepted
Yes
Legal settlement
Yes
No
Settlement (prepare settlement statement, releases, deed, etc.
Litigation judicial administrative hearing trial on merits
Closing and possession (payment of just compensation)

***LPA Brochures***

Transportation Property Needs LPA Generic
Non-Residential Relocation LPA Generic
Personal Property Only Relocation LPA Generic
Residential Relocation LPA Generic

***LPA General Forms***

LPA-001 Right of Way Procedures
LPA-002 Initial ROW Questionnaire
LPA-003 Waiver of Appraisal Procedure

***LPA Appraisal Forms***

LPA-205 Certificate of Appraisal
LPA-210 Market Data Sheet
LPA-214b Certificate of Value
LPA-215 PFE Parcel Worksheet
LPA-215b True Cost Estimate Parcel Worksheet
LPA-216 Administrative Offer Summary (AOS)

***LPA Acquisition Forms***

LPA-300 Recording Cover Sheet
LPA-301 Diary
LPA-302 Warranty Deed
LPA-303 Special Warranty Deed
LPA-305 Warranty Deed (Access Rights Only)
LPA-306 Quitclaim Deed
LPA-307 Quitclaim Deed (Access Rights Only)
LPA-308 Partial Release of Mortgage
LPA-309 Partial Release of Mortgage (Access Rights Only)
LPA-310 Request for Partial Reconveyance
LPA-311 Partial Reconveyance
LPA-312 Partial Release of Lease
LPA-313 Release of Lease
LPA-316 Partial Release of Judgment
LPA-317 Possession and Use Agreement
LPA-321 Real Property Voucher (Excel)
LPA-323 Consent to Change of Grade
LPA-324 Easement
LPA-325 Temporary Easement
LPA-326 Permit
LPA-330 Bill of Sale
LPA-333 Request to Accept Mortgage (deed of trust) Encumbrance
LPA-333a Letter to Owner-Agree to Pay Mortgage (deed of trust) Encumbrance
LPA-350 Offer Letter
LPA-351 Revised Offer Letter
LPA-355 Quitclaim Deed (Release Easement)

LPA-356 Quitclaim Deed (Access Use for Easement)
LPA-362 Agency Payment Letter
LPA-365 Individual Notary
LPA-366 Corporate Notary
LPA-367 Attorney in Fact Notary
LPA-368 Self and Attorney in Fact Notary
LPA-369 Guardian, Executor, Administrator Notary
LPA-370 Mayor City Commissioners Notary
LPA-371 County Commissioners Notary
LPA-372 School District Notary
LPA-373 Signature by Mark Notary
LPA-374 Partnership Notary
LPA-375 Trustee Notary
LPA 376 Limited Liability Company Notary
LPA-377 Director RES Notary
LPA-382 Relocation Eligibility Report

***LPA Certification Forms***

LPA-383 No Right of Way Certificate
LPA-384 Certificate 1, No Relocation
LPA-385 Certificate 1, Residential Relocation
LPA-386 Certificate 1, Non-Residential Relocation
LPA-387 Certificate 1, Combination of Relocation Types
LPA-388 Certificate 2, No Relocation
LPA-389 Certificate 2, Residential Relocation
LPA-390 Certificate 2, Non-Residential Relocation
LPA-391 Certificate 2, Combination of Relocation Types
LPA-392 Certificate 3, No Relocation
LPA-393 Certificate 3, Residential Relocation
LPA-394 Certificate 3, Non-Residential Relocation
LPA-395 Certificate 3, Combination of Relocation Types
LPA-396 Certificate 3, Design Build Phased – Under Construction
LPA-397 Certification Worksheet
LPA-398 Certification Worksheet – Design Build
LPA-399 WSDOT Local Agency Certification Concurrence Letter (WSDOT Use Only)

***LPA Property Management Forms***

LPA-407 Disposal Approval Request

***LPA Relocation Forms***

LPA-501 General Notice of Relocation Rights (Non-Residential)
LPA-502 General Notice of Relocation Rights (Landlord)
LPA-503 General Notice of Relocation Rights (Personal Property)
LPA-504 General Notice of Relocation Rights (Residential)
LPA-505 Notice of Eligibility, Entitlements, and 90-Day Assurance (Non-Residential)
LPA-505a Notice of Eligibility, Entitlements, and 90-Day Assurance (Non-Residential Fixed Payment)
LPA-507 Notice of Eligibility, Entitlements, and 90-Day Assurance (Residential Owner)
LPA-507a Notice of Revised Price Differential (Residential Owner)
LPA-507b Notice of Eligibility – Non DSS (Residential Owner)
LPA-507c Notice of Eligibility w/Carve Out Language (Residential Owner)
LPA-508 Notice of Eligibility, Entitlements, and 90-Day Assurance (Residential Tenant)
LPA-508a Notice of Eligibility – Non DSS (Residential Tenant)
LPA-509 Notice of Eligibility, Entitlements, and 90-Day Assurance (Landlord)
LPA-510 Notice of Eligibility, Entitlements, and 90-Day Assurance (Personal Property)
LPA-511a Notice of Eligibility, Entitlements, and 90-/Day Assurance (Mobile Homes – Own Mobile Home, Rent Site)
LPA-511b Notice of Eligibility, Entitlements, and 90-/Day Assurance (Mobile Homes – Own Mobile Home, Own Site)
LPA-511c Notice of Eligibility, Entitlements, and 90-/Day Assurance (Mobile Homes – Rent Mobile Home, Rent Site)
LPA-512 Notice of Intent to Acquire
LPA-513 Mortgage Interest Differential Payment (MIDP)
LPA-514 Incidental Purchase Expense Work Sheet
LPA-515 Documentation of Living Expenses
LPA-516 Price Differential Entitlement Instructions
LPA-516a Down Payment Assistance Entitlement Instructions
LPA-517 Vacate Inspection
LPA-518 Agreement for Provisional Replacement Housing Payment
LPA-519 Fixed Payment (In-Lieu) Work Sheet – Non-Residential
LPA-520 Request for Moving Bid Cover Letter
LPA-521 Request for Proposal and Moving Specification Format
LPA-522 Replacement Site Search Log
LPA-523 Application for Reestablishment Expenses – Non-Residential
LPA-524 Eligibility Report
LPA-525 (DSS) Replacement Dwelling Inspection Report
LPA-526 Loss of Tangibles/Substitute Personal Property Bid Form
LPA-527 Loss of Tangibles Computation
LPA-528 Substitute Personal Property Computation
LPA-529 Residential Checklist
LPA-530 Non-Residential Checklist
LPA-531 Personal Property Checklist
LPA-532 Residential Occupancy Survey

LPA-533 Non-Residential Occupancy Survey
LPA-533a Non-Residential (Landlord) Occupancy Survey
LPA-534 Personal Property Only Occupancy Survey
LPA-535 Pre Move Inventory – Non-Residential
LPA-536 Final Claim Letter – Non-Residential
LPA-536a Final Claim Letter – Residential
LPA-537 Relocation Assistance Voucher
LPA-538 Application for Fixed Payment – Non-Residential
LPA-539 Monthly Income Verification
LPA-540 Move Expense Agreement – Residential
LPA-540a Move Expense Agreement – Non-Residential
LPA-541 Housing Comparison Work Sheet
LPA-542 Price Differential Report
LPA-543 Rent Supplement Report
LPA-544 Notice of Relocation Non-eligibility
LPA-545 Non-Residential Obsolete Printed Items
LPA-546 Mobile Home Move Cost – Personal Property
LPA-547 Lawfully Present in the United States Certification
LPA-548 Transfer of Ownership – Non-Residential
LPA-549 Claim Determination Letter

# Chapter 26 Disadvantaged Business Enterprises

## 26.1 General Discussion

Under Public Law 105-178 (TEA-21), a 10 percent aspirational goal was established for the participation of Disadvantaged Business Enterprises (DBEs) in transportation contracting, in an effort to valuate equal opportunity in the award and administration of U.S. DOT-assisted contracting and address the effects of past and current discrimination. Requirements of the DBE Program, as prescribed in 49 CFR Part 26 and USDOT's official interpretations (i.e. Questions and Answers), apply to all recipients (and subrecipients) of highway, transit, and airport funds.

A local agency, when participating in programs funded in whole or in part with federal funds made available by the Washington State Department of Transportation (WSDOT), must either adopt WSDOT's DBE Participation Plan, or develop an equivalent plan. The local agency equivalent plan must have the approval of WSDOT's Office of Equal Opportunity (OEO) and the Federal Highway Administration (FHWA).

While WSDOT's OEO has the overall responsibility for administration and implementation of WSDOT's DBE Program, local agencies (as subrecipients) also have an important role to ensure that their federally-assisted contracts are administered in accordance with 49 CFR Part 26 and the state's approved DBE Program Participation Plan, which is available on WSDOT's website.

WSDOT's OEO, in coordination with Local Programs, will conduct compliance reviews of the local agency's administration of the DBE Plan. A local agency that is found to be in noncompliance may be subject to formal enforcement action (suspense or loss of federal funds and/or CA status). A finding of noncompliance will result for failure to comply with the requirements of WSDOT's DBE Plan.

Each federally-assisted contract/subcontract must include the following assurance:

- *The contractor, subrecipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to: (1) Withholding monthly progress payments; (2) Assessing sanctions; (3) Liquidated damages, or (4) Disqualifying the contractor from future bidding as non-responsible.*

## 26.2 Procedures

1. **Local Agency DBE Liaison Officer** – The local agency is responsible for ensuring program compliance and monitoring its contractor's DBE activities. To accomplish this, a DBE liaison officer must be appointed by the local agency. This liaison officer must be an administrator responsible to the chief executive of the agency. This administrator should have the authority to delegate the responsibility to the people who perform the contractor compliance function. The liaison officer's duties are to ensure compliance with the DBE Plan by the local agency and by their contractors.

2. **DBE Firm(s) Certification** – The Washington State Office of Minority and Women's Business Enterprise (OMWBE) is the sole authority in the State of Washington to perform certification of all minority business enterprises, women business enterprises, and socially and economically disadvantaged business enterprises for programs administered by any State, local, or Federal agency. This statutory authorization extends to and binds all USDOT DBE Program recipients in the State of Washington. In order to count DBE participation, only DBE firms that are currently certified by OMWBE may be used by prospective bidders on federally funded projects. A directory of certified DBE firms is maintained and published by OMWBE. The directory is available via OMWBE's website at www.omwbe.wa.gov/directory-of-certified-firms or by calling 360-664-9770 or toll free (866) 208-1064.

3. **Establishment of Project DBE Goals** – The Local Programs Project Development Engineer will review each project to determine if it involves work elements that are conducive to DBE participation. To initiate this review, the local agency must submit an engineer's estimate with their suggested DBE goal to the Region Local Programs Engineer when the contract work is determined. The estimate must show the item quantities and costs of the project. No construction funding will be obligated prior to the project review for DBE goals.

   If a local agency has any other projects tied to a federally funded project which utilizes one set of bid documents, the total project is considered a federal aid project for DBE goal setting purposes.

   The goals for federal aid projects will be set under one of the following categories based on the projected participation level during the year to achieve the overall goal:

   - Mandatory Goal
   - Zero Goal

   The Local Programs Project Development Engineer will then establish a DBE goal for the project. The methodology employed by WSDOT determining state and local agency project contract goals is as follows:

   A. **Elements**

      a. Geographical location of the project.

      b. Type(s) of work included in the project, i.e., structure, roadway, new construction.

c. Availability of DBEs to perform the type(s) of work.

d. Potential subcontractable items of the work.

e. Total dollar value of the contract.

The attainment accomplished through this analysis will be reviewed annually to determine the appropriateness of the method of setting goals.

B. **Goal Setting Process**

a. Review the department's overall DBE goal and the means to meet the goal.

b. If the contract includes federal funds, a DBE goal is considered.

c. If the contract amount is under $100,000.00 then no goal is set. (However, if the work is such that the prime contractor has a distinctly separate class of work available, and meets the requirement for the prime to do 30 percent of the work, a goal may be considered).

d. The bid items are sorted by pre-qualification work classes and the total estimated dollar amounts to help identify opportunities for subcontracting.

e. Prime contractor work is assumed to be one class (the largest) unless two classes are needed to total a minimum of 30 percent of the total contract.

f. Mobilization and specialty work are not considered for subcontracting.

g. The remaining work is totaled, both as a percentage and a dollar amount. It is then evaluated to maximize the participation and to ensure that there are two distinct combinations of work classes to achieve the established goal.

h. Ensure that DBE firms are ready, willing, and able to perform the work at the geographic location and time of the project.

If a local agency feels the project goal set by the Local Programs Project Development Engineer is inappropriate, they may submit a request to have it changed. This request must be accompanied by justification based on the above criteria for establishing the contract goal.

4. **DBE Provisions in the Plans, Specifications, and Estimates (PS&E)** – After the goal has been determined, the applicable WSDOT General Special Provision (GSP), for the type of goal set as outlined above shall be included in the PS&E. These GSPs are available on the WSDOT website or from the Region Local Programs Engineer. Only the WSDOT GSPs are approved for use on a FHWA funded project.

To complete the DBE requirements in the PS&E, when a mandatory goal is established, DOT Form 272-056A EF, Disadvantaged Business Enterprise Utilization Certification (Appendix 26.32), and DOT Form 422-031A EF, DBE Written Confirmation Document will be included. This form shall be in the proposal given to each bidder. This form is available from the Region Local Programs Engineer. When a zero goal is established the DBE Utilization Certification and the DBE Written Confirmation Document forms are not required.

5. **Bid Opening** – Each bid proposal must be reviewed to determine if the bid is responsive. For a contract with goals, each proposal shall contain the Disadvantaged Business Enterprise Utilization Certification and Written Confirmation form completed by the contractor.

   Failure to accurately complete these forms will be considered as evidence that the proposal is unresponsive and, therefore, is not eligible for award.

6. **Is the DBE Firm Certified by OMWBE** – The DBE firm named by the contractor in the bid proposal shall be certified as a DBE firm by OMWBE to be eligible for work on a FHWA funded project. To verify whether a firm is certified as a DBE and eligible to perform work on a FHWA funded project, you must refer to OMWBE's Directory of Certified Firms which is available at www.omwbe.wa.gov/directory-of-certified-firms and document your effort in the project file. It is important to also check OMWBE's List of Suspended DBE Firms. Firms on the Suspended List cannot be used to meet a contract goal on a new contract. In addition, any work performed on a contract during the suspension cannot be counted toward WSDOT's overall DBE goal. Questions related to the content of the directory can be directed to OMWBE at 360-664-9770 or toll free 866-208-1064. To meet the goals for the project, DBE firms not certified at the time fixed for the bid opening will not be accepted by the local agency for participation, as a Condition of Award (COA) Contractor, in the project

7. **Selection of the Successful Bidder**

   A. **Selection of Successful Bidder** (when a mandatory goal is established)

      a. The successful bidder shall be selected on the basis of having submitted the lowest responsive bid and, in order to be responsive, making good faith efforts to meet the DBE goal. The bidder can meet this requirement in either of two ways:

         1. The bidder can meet the established DBE goal, documenting they have obtained enough commitments for participation by DBE firms to meet the goal; or.

         2. If the bidder does not meet the established DBE goal, the bidder can document its adequate good faith effort and submit it with their proposal.

         This means that the bidder must show that it took all necessary and reasonable steps to achieve the DBE goal, and by their scope, intensity, and appropriateness to the objective, the bidder could reasonably be expected to obtain sufficient DBE participation, even if the bidder were not fully successful in meeting the established DBE goal. Efforts done as a matter of form or for the sake of appearance are not considered "good faith efforts" to meet the contract requirements for DBE utilization.

b. Should the low and otherwise responsive bidder fail to attain the goal and not provide adequate good faith effort documentation in the bid submittal, its bid will be determined to be nonresponsive, and the next low responsive bid reviewed for acceptance.

All agencies that have projects with mandatory DBE goals must submit the bid tabs, the DBE Utilization Certification, and the DBE Written Confirmation Document of the apparent low bidder to the Region Local Programs Engineer (LPE) to obtain concurrence to award **before** the contract is officially awarded to the apparent low bidder. Failure to gain LPE concurrence **prior to award** on every project with DBE goals and subsequent award of a contract to a nonresponsive bidder will jeopardize the project's federal funding.

c. If the apparent low bidder submits Good Faith Effort documentation with the bid, the Local Agency will submit the Good Faith Effort to Local Programs for approval action prior to awarding the project.

B. **After Award** – The Local Agency will request that the apparent low bidder submit a description of the specific items of the work each DBE subcontractor named in the DBE Utilization Certification will perform. This description, dollar amount, and name of the DBE firm is identified in the award letter and made Condition of the Award (COA) of the contract.

C. **Administrative Reconsideration** – If Local Programs determines that the apparent successful bidder, failed to meet the DBE goal, the bidder will have the right to reconsideration but only for the purpose of reassessing the GFE documentation that was originally submitted with their bid, and determined to be inadequate. The Local Agency will, before awarding the contract to the next successful bidder, notify the bidder that they have five (5) working days (from the date of notification) to request reconsideration or forfeit the right for reconsideration.

a. WSDOT's decision on reconsideration shall be made by an official who did not take part in the original determination that the bidder failed to meet the goal (as described above).

b. The bidder shall have the opportunity to meet in person with said official to discuss their good faith effort package. The bidder's position must be based on its bid submittal. The bidder may provide further explanation/clarification of the information and materials in the bid submittal, but no new material or information will be considered by the official in reaching a decision on reconsideration.

c. WSDOT shall send the bidder a written decision on reconsideration, explaining the basis for their findings.

d. The result of the reconsideration process is not administratively appealable to the USDOT.

8. **Condition of Award Letter** – The condition of award letter carries the same contractual obligation as the contract specifications and is only required when a mandatory goal is established for a project. An example of a zero goal award letter appears in Appendix 44.43 and an example of a mandatory goal award letter appears as Appendix 46.44. The information contained in the body of these examples must be included in the local agency award letter. If a portion of an item is sublet to a DBE and the remainder is done by the contractor or another subcontractor, the DBE's work must be shown in detail. Also, any DBE suppliers and manufacturers shall be shown.

   Send a copy of this letter, a copy of the "Disadvantaged Business Enterprise Utilization Certification and a copy of the "DBE Written Confirmation Document" to the Region Local Programs Engineer as a part of the award documentation submittal explained in Chapter 46.

   Attach a copy of the letter to the contract papers that you send to your contractor for signature. The Region Local Programs Engineer shall be provided information on subletting by DBE contractors.

9. **Between Award and Execution** – The contractor shall supply a contractor's bidders list as described in the GSP's for all categories (zero and mandatory goals). The list shall include all firms (names and addresses) that bid on prime contracts or bid or quote subcontracts (successful and unsuccessful) on USDOT-assisted projects, including both DBEs and non-DBEs. The local agency shall immediately notify the Region Local Programs Engineer by email with the name and address of the successful contractor for forwarding to the OEO's contract compliance officer.

10. **Monitoring DBEs During Construction** – The local agency must place special emphasis on the DBE requirements at the preconstruction conference. 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.

    Project diary documentation of the DBE's activities on the project must be performed in the same manner as is done on the prime contractor and any other subcontractor's activities.

    In addition to the project diary, the form "DBE On-Site Review" shall be completed by the local agency for every DBE contractor or consultant performing work on the project. See Appendix 26.34 for the form and instructions for Construction Subcontractors/Regular Dealers/Manufacturers and Appendix 26.35 for Architect & Engineering/Professional Services Firms.

    - at the start of work, and/or
    - at the peak period of work, and/or
    - whenever changes in the performance of the work warrants its completion.

    The review should be completed per on-site observations, documentation review, and interviews of contractor's personnel. This completed form becomes a part of the local agency's project records. Additional forms are available from your Region Local Programs Engineer.

The WSDOT GSP, Disadvantaged Business Enterprise Participation Plan, and Chapter 1 of the *Construction Manual* M 41-01 shall be followed to ensure compliance with the DBE Plan.

In order to receive credit for DBE participation (count towards the contract goal) a DBE firm must be performing a commercially useful function (CUF) on that contract. A DBE performs a CUF when it is responsible for executing one or more distinct elements of the contract work and is carrying out those responsibilities by actually performing, managing, and supervising the work involved, with its own forces. The documentation in the project diary and on the DBE On-Site Review form is the information that the local agency will use to evaluate whether a DBE is performing a commercially useful function. WSDOT's Office of Equal Opportunity (OEO) may also perform in-depth CUFs on DBE firms performing work on Federal-aid local agency projects (as OEO determines necessary/appropriate). If there is evidence that a DBE firm may not be performing a commercially useful function, immediately contact your Region Local Programs Engineer.

11. **Prompt Payment** – Local agencies are expected to comply with and enforce the prompt payment requirements under State Law as well as 49 CFR Part 26, as regards their contracts with prime contractors. Refer to Amendment Section 1-08, Prosecution and Progress (March 6, 2000) along with RCW 39.04.250, RCW 39.76.011, RCW 39.76.020, and RCW 39.76.040 for more detailed "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 (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 monthly and a final at the completion of the project must be submitted to the 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 Written Confirmation Document |
| 26.34 | DBE On-Site Review for Construction Subcontractors/Regular Dealers/ Manufactures |
| 26.35 | Project Office DBE On-Site Review for Architect & Engineers/ Professional Service Firms |

Washington State Department of Transportation

## Local Agency Monthly Report of Amounts Credited as DBE Participation

| Check appropriate reporting period and enter reporting year.<br>☐ Final<br>Reporting Year _____ | Federal Aid Number<br><br>Federal Employer I.D. Number |
|---|---|

| Contractor | Agency |
|---|---|

| DBE Participant Name and Federal Employer I.D. Number | Contract Type | Date of Payment | *Dollar Credit Amount |
|---|---|---|---|
| | | | |

Contract Type: S = Subcontractor A = Agent
M = Manufacturer R = Regular Dealer
J = Joint Venture V = Service Provider

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.

Signature Title

This form is due on the 20th of the month following the end of the previous Month.

DOT Form 422-103
Revised 09/2015

## 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 ***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 online at: http://omwbe.wa.gov/directory-of-certified-firms/

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

Disadvantaged Business Enterprise Subcontracting Goal: _____ (Box 2) DBE Total $ _____ *** (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

DOT Form 272-056A
10/2015

## Local Agency Disadvantaged Business Enterprise (DBE) Written Confirmation Document

As an authorized representative of the Disadvantaged Business Enterprise (DBE), I confirm that we have been contacted by the referenced bidder with regard to the referenced project and if the bidder is awarded the contract we will enter into an agreement with the bidder to participate in the project consistent with the information provided in the bidder's Disadvantaged Business Enterprise Utilization Certification.

**Contract Title:** _____

**Bidder's Business Name:** _____

**DBE's Business Name:** _____

**DBE's Business Address:**

_____

**DBE Signature:** _____

**DBE's Title:** _____

**Date:** _____

The entries must be consistent with what is shown on the bidder's Disadvantaged Business Enterprise Utilization Certification. Failure to do so will result in bid rejection. See contract provision; *Disadvantaged Business Enterprise Condition of Award Participation.*

Description of Work: _____

Amount to be Applied Towards Goal: _____

SR

DOT Form 422-031A
10/2015

Washington State Department of Transportation

## DBE On-Site Review for Construction Subcontractors/ Regular Dealers/ Manufacturers

This document provides guidelines for reviewing Construction Subcontractors Disadvantaged Business Enterprise (DBE) firms to verify compliance with the Commercially Useful Function (CUF) requirements of 49 CFR 26.55 which states in part:

> "A DBE performs a CUF when it is responsible for execution of the work of the contract and is carrying-out its responsibilities by actually performing, managing, and supervising the work involved…A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, contract, or project thru which funds are passed in order to obtain the appearance of DBE participation…"

WSDOT/Local Agency will perform DBE Onsite Reviews on DBE construction subcontractors. Project owner staff is required to perform a minimum of one review for each DBE firm for each project, for each construction season, and for each primary scope of work. **Note: If the DBE firm is a Regular Dealer/Manufacturer and is not located on the project site or is out of state, then this review needs to be accomplished by telephone.**

| | |
|---|---|
| 1. Prime Contractor: | 2. Federal Aid Number: |
| 3. DBE Subcontractor/ Regular Dealer/ Manufacturer: | 4. Contract Number: |
| 5. Project Engineer | 6. Region/Local Agency |
| 7. Project Title: | |

**SECTION #1 - SUBCONTRACTORS**

| 8. Bid Item Number | 9. Bid Item Approximate % Complete | 10. Actual Work Being Performed (Note partial items) | 11. Force Account Yes or No | 12. DBE Dollar Amount |
|---|---|---|---|---|
| | | | ☐ Yes ☐ No | |
| | | | ☐ Yes ☐ No | |
| | | | ☐ Yes ☐ No | |
| | | | ☐ Yes ☐ No | |
| | | | ☐ Yes ☐ No | |

13. Have you checked the Office of Minority & Women's Business Enterprises Website (www.omwbe.wa.gov) to ensure firm is certified in the above work? If no, please explain: ☐ Yes ☐ No

| 14. DBE Subcontractor's Start Date | 15. Contract Percent Complete | 16. DBE Anticipated Completion Date |
|---|---|---|
| | | |

**DBE INTERVIEWEE QUESTIONS**

| 17(a). First Name | 17(b). Last Name | 17(c). Phone Number |
|---|---|---|
| | | |

18. Who does the DBE's Site Supervisor report to within his/her organization?
Name: Title:

19. Is the DBE Interviewee exclusively employed by the DBE? If no, please explain: ☐ Yes ☐ No

20. Is the DBE Interviewee shown on the DBE Payroll? (Review payroll) ☐ Yes ☐ No

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Revised 05/2015

| 21. List names and crafts of the DBE's crew as observed (Use additional sheets, if needed) | |
|---|---|
| Name | Craft |
| | |
| | |
| | |
| | |
| | |

22. Are any DBE crew members on the prime or any other project subcontractor's payroll(s)? If yes, please explain: ☐ Yes ☐ No

23 . List the DBE's Major Equipment (self-propelled). Use additional sheets if necessary

| Make/Model/Year | Owned/Leased | Condition | Logo Markings Yes/No |
|---|---|---|---|
| | | | ☐ Yes ☐ No |
| | | | ☐ Yes ☐ No |
| | | | ☐ Yes ☐ No |
| | | | ☐ Yes ☐ No |
| | | | ☐ Yes ☐ No |

24. If the equipment is leased, is there a formal agreement identifying the terms and parties? ☐ Yes ☐ No
If no, please explain:

**PERFORMANCE**

25. Does the DBE effectively manage the job site (their work) without interference from the prime contractor or other subcontractors? If no, please explain: ☐ Yes ☐ No

26. Does the DBE have the personnel, equipment, and resources to perform the work on this project? If no, please explain: ☐ Yes ☐ No

27. Do DBE personnel have the knowledge and skills for the work they are performing? If no, please explain: ☐ Yes ☐ No

28. Has another contractor performed, work for the DBE? If yes, please explain? ☐ Yes ☐ No

29. Has the DBE Owner been present on the Job Site? If yes, how often? ☐ Yes ☐ No

30. Are the personnel and equipment under direct supervision of the DBE Site Supervisor? ☐ Yes ☐ No

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**SECTION #2 - REGULAR DEALERS/ MANUFACTURERS** NOTE:31 THROUGH 35 ONLY APPLY TO REGULAR DEALER/MANUFACTURER

31. Per the DBE sub-contract, indicate the project specific materials/equipment being provided.

| Material Name | Material Quantity | Material Costs |
|---|---|---|
| | | |
| | | |
| | | |

32 For Regular Dealers, have you checked with the WSDOT Office of Equal Opportunity Regular Dealer List to ensure the firm is listed as an approved Regular Dealer specifically to this project? ☐ Yes ☐ No

33. If the material being supplied is a bulk item (i.e., aggregates, petroleum, etc.) does the DBE have its own distribution equipment? If no, please explain: ☐ Yes ☐ No

34. Has the project office validated that only 60% of the total material cost is being counted as participation? If no, please explain: ☐ Yes ☐ No

35. Has a copy of the material invoice been provided to the project office? If no, please explain: ☐ Yes ☐ No

**TRUCKING COMPANIES ONLY**

36. How many DBE truck(s) are on the Job Site, including other DBE firms working under subject firm scope?

37. Do all DBE truck(s) have company markings? ☐ Yes ☐ No

38. How many DBE truck(s) are subcontracted, leased, owner operators, or another company? (Trucks not owned by subject firm)

39. Who is supervising the subject firm DBE truck operators?

Name: Firm:

40. Additional comments/observations

**Note: Attach any documents important to the review, i.e., Invoices, Photos, Daily Reports, Correspondence, etc.**

| 41. Review Conducted By (Print Name) | 42. Title (Print) |
|---|---|
| 43. Signature | 44. Date of This Review |

45. Date Project Engineer approved Request to Sublet:

This form must be completed in its entirety and submitted to WSDOT Office of Equal Opportunity within two (2) weeks of its completion. If the form is submitted with missing/incomplete information, it will be returned to the PE Office for completion.

Distribution: Region EEO Officer, WSDOT Office of Equal Opportunity

DOT Form 272-052
Revised 05/2015

Washington State Department of Transportation

# Project Office DBE On-Site Review for Architect & Engineering/Professional Services Firms

This document provides guidelines for reviewing Architect & Engineering (A & E)/Professional Services Disadvantage Business Enterprise (DBE) firms to verify compliance with the Commercially Useful Function (CUF) requirements of 49 CFR 26.55 which states in part:

"A DBE performs a CUF when it is responsible for execution of the work of the contract and is carrying-out its responsibilities by actually performing, managing, and supervising the work involved…A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, contract, or project thru which funds are passed in order to obtain the appearance of DBE participation…."

WSDOT/Local Agency will perform onsite reviews on DBE A & E Consultants, and Professional Services firms. Project owner staff are required to perform a minimum of one review for each DBE for each project, for each construction season (Calendar Year) and for each primary scope of work.

**NOTE: If the DBE firm is not located on the project site or is out of state, then this review needs to be accomplished by telephone.**

| | |
|---|---|
| 1. Prime Contractor/Consultant: | 2. Federal Aid Number: |
| 3. DBE Firm: | 4. Contract Agreement Number: |
| 5. WSDOT Project Engineer: | 6. WSDOT Region/Local Agency: |
| 7. Project Title: | |

**INDICATE THE DBE WORK OBSERVED THIS DATE**

| 8. Scope of Work | 9. Approximate % Complete | 10. Actual work being performed. *If more lines are needed use a continuation sheet* | 11. DBE Dollar Amount |
|---|---|---|---|
| | | | |
| | | | |
| | | | |

12. Have you checked the Office of Minority & Women's Business Enterprises Website (www.omwbe.wa.gov) to ensure firm is certified in the above work? If no, please explain: ☐ Yes ☐ No

| 13. DBE Firm's Start Date: | 14. WSDOT Contract Percent Complete: | 15. DBE Anticipated Completion Date: |
|---|---|---|

**DBE PROJECT MANAGER/SUPERVISOR**

| 16. First Name: | 17. Last Name: | 18. Phone Number: |
|---|---|---|

19. Is the DBE Project Manager/Site Supervisor exclusively employed by the DBE? If no, please explain: ☐ Yes ☐ No

20. Is the DBE Project Manager/Site Supervisor shown on the monthly invoice or Certified Payroll? ☐ Yes ☐ No

21. Is the DBE Project Manager/Site Supervisor shown on any other firms invoice? If yes, please explain: ☐ Yes ☐ No

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| | |
|---|---|
| 22. Who does the DBE's Project Manager/Site Supervisor report to within his/her organization?<br>Name: Title: | |
| 23. Does the work described in block #10 match the type of work listed on the executed contract/agreement? | ☐ Yes ☐ No |
| 24. Who is paying this DBE firm? | |
| 24(a). What are the negotiated rates? | |
| 25. Are any of the DBE firm's employees assigned to this project working for any other firm's on this project? If yes, please explain: | ☐ Yes ☐ No |
| 26. Has another firm performed work in place of the DBE for the scope of work identified exclusively for the DBE? If yes, please explain: | ☐ Yes ☐ No |
| 27. Is the DBE owner personally involved in the day to day operations of the company? | ☐ Yes ☐ No |
| 28. Does the DBE firm appear to have control over their contracted scope of work? | ☐ Yes ☐ No |
| 29. Review Conducted By (Print Name): | 30. Title (Print): |
| 31. Signature | 32. Date of This Review: |
| **This form must be completed in its entirety and submitted to WSDOT Office of Equal Opportunity within two (2) weeks of its completion. If the form is submitted with missing/incomplete information, it will be returned to the PE Office for completion.** | |

Distribution: Region EEO Officer, WSDOT Office of Equal Opportunity

DOT Form 272-051
Revised 05/2015

# Chapter 28 Title VI Program

## 28.1 General Discussion

Local agencies, as recipients of Federal financial assistance, are required to comply with various nondiscrimination laws and regulations, including Title VI of the Civil Rights Act of 1964.

Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race, color, and national origin in the provision of benefits and services. Additional nondiscrimination laws include the Federal-aid Highway Act of 1973, which added sex (gender) as a protected class; and Section 504 of the Rehabilitation Act and the Americans with Disabilities Act, which prohibits discrimination on the basis of disability.

The Civil Rights Restoration Act of 1987 clarified the broad institution-wide application of Title VI and other nondiscrimination statutes. The term "program or activity" means all of the operations of Federal-aid recipients, subrecipients, and contractors, whether such programs and activities are federally funded or not.

Similar to WSDOT, local agencies are expected to comply with the U.S. Department of Transportation's (USDOT) Title VI regulations contained in 49 CFR Part 21, and the Federal Highway Administration's (FHWA) regulations contained in 23 CFR 200. In addition, local agencies are expected to address Environmental Justice and Limited English Proficiency consistent with the guidance provided by WSDOT. If local agencies receive Federal Transit Administration (FTA) funds, they should refer to FTA's Title VI Circular C4202.1B.

These federal regulations require WSDOT to obtain assurances from their subrecipients that they agree to maintain records and submit reports on its programs and activities; that the subrecipient will comply with Title VI, and that the assurances provide a right to enforcement. Each local agency that receives Federal funds through WSDOT is required to establish a Title VI Program to ensure that the provision of benefits and services, and transportation decision-making are conducted in a nondiscriminatory manner. This Title VI Program includes a requirement for local agencies to submit a plan specifying how it will implement their Title VI responsibilities.

Agencies serving a population of 100,000 or more are required to have a Title VI Plan. Agencies serving a population less than 100,000 may use an abbreviated Title VI Plan, a Nondiscrimination Agreement.

## 28.2 Title VI Plan Development

A Title VI Plan is a legal document that imposes individual legal liabilities to the signatory agency that are not transferable. Each local agency must develop a Title VI compliance document that reflects its individual transportation program structure. WSDOT will provide each local agency the technical support it needs to develop a Title VI Plan, or a Title VI Nondiscrimination Agreement, for agencies with populations of less than 100,000.

1. **Plan Scope** – The Title VI Plan describes how recipients of federal financial assistance will develop and implement their Title VI Program.
2. **Plan Format** – A specific format is not prescribed. Sample formats are contained in Appendix 28.71 and 28.72.

   Appendix 28.71 has an example Title VI Plan for large agencies serving a population of 100,000 or more. Large local agencies should use this example to prepare their plan that is to contain the categories listed in item C below (Key Points to Consider in Developing Plan).

   Appendix 28.72 has a boilerplate for small agencies serving a population of less than 100,000 to use in developing their Abbreviated Title VI Plan/ Nondiscrimination Agreement.

   If there are questions on these examples, please contact your Region Local Programs Engineer.

   Larger agencies (populations greater than 100,000) having a Title VI Plan already approved for a different federally funded program, have the option to submit the existing Title VI Plan for approval or create a new one. Agencies can submit their plans through the Region Local Program Engineer for review by WSDOT's OEO. The WSDOT OEO will review the plan in accordance with Federal requirements. If necessary, supplemental information will be requested prior to approval.
3. **Key Points to Consider In Developing a Plan** – These points are incorporated in the Nondiscrimination Agreement shown in Appendix 28.72 for cities under 100,000 population.

   a. **Policy Statement** – The policy statement reflects the agency's commitment to Title VI compliance, including all related Federal laws and regulations, and is signed by the agency's Chief Executive Officer (CEO).

   b. **Authorities** – This section cites all relevant Federal statutes, regulations, executive orders and other legislation.

   c. **Organization and Staffing** – This section identifies the Title VI Coordinator and program area Title VI Specialists within the organization directly responsible for the management and administration of the Title VI Program. The Plan is to include an organization chart that describes the reporting relationship between the designated Title VI Specialists within each program emphasis area and the designated agency Title VI Coordinator.

   d. **Program Emphasis Areas** – This section describes the federal aid transportation program areas (i.e., Planning, Research, Design, Education and Training, Right of Way, Construction, Maintenance), the areas' legal/ operational authorities, and assigns Title VI compliance monitoring responsibilities to each area.

e. **Title VI Standard Assurances and Its Appendices (DOT 1050.2A)** – The USDOT 1050.2A Standard Title VI Assurances (Appendix 28.77) must be completed and signed by the agency's Chief Executive Officer (CEO), and made a part of the agency's Title VI Program Plan/Nondiscrimination Agreement. The Appendices associated with the USDOT Assurances must be inserted into every contract/agreement (regardless of funding source) as described in the Assurances document. For consultant contracts, see Exhibit H of Appendix 31.79. The agency's CEO signs these assurances.

f. **Complaint Procedures** – This section outlines the process for filing complaints and the investigative process. It also identifies the agency staff positions responsible for this process, and the time limits for the submission of complaints and completion of investigations (60 days per 23 CFR 200.9(b)(3)).

g. **Table of Contents** – This section enables the reader to quickly locate particular sections of the Plan.

## 28.3 Reporting Requirements

Local agencies are to provide the following reports and/or data to WSDOT related to their transportation program:

### *Annual Title VI Update and Accomplishment Report*

All agencies with approved Title VI Plans or Nondiscrimination Agreements are to annually prepare a report of their Title VI Program implementation compliance activities. This report is due one year from the date of approval of the Title VI plan and then annually on that same date. This is to describe the transportation activities and any changes that occurred during the year, as well as planned efforts (goals) for the coming year. This Annual Title VI Update and Accomplishment Report is to be completed by each agency and forwarded to the Region Local Programs Engineer, who will forward it to Local Programs for transmittal to WSDOT's OEO for review and approval. If there has been a change in the agency's CEO, an updated Assurances document is required to be submitted with the Update report.

Examples of Annual Reports are outlined in Appendix 28.73 for agencies over 100,000 population and Appendix 28.74 for agencies with population under 100,000.

### *Revisions to the Local Agency's Title VI Plan or Nondiscrimination Agreement*

The Plan is to contain current information on names of staff and any other needed revisions. Agencies must submit substantial revisions to their Title VI Plan or Nondiscrimination Agreement to the Region Local Programs Engineer for transmittal to Local Programs for submittal to WSDOT's OEO as soon as they occur for review and approval. Substantial revisions may be the filing of the agency's new CEO signature, administrative changes in the agency's Title VI Program administrative structure and staffing, or changes to the plan's complaint procedures, etc.

Local agencies only need to submit a revised Title VI document when program changes such as the ones described above take place.

## 28.4 Title VI Complaint Investigations

The local agency is responsible for investigating all Title VI discrimination complaints occurring within the federal aid transportation program or its activities, unless the complaint filed is against the local agency. Complaints naming a local agency as a respondent shall be forwarded to the Region Local Programs Engineer, who will in turn forward it to Local Programs. WSDOT's OEO will investigate these complaints. Each local agency's Title VI Plan will have External Complaint Procedures to assist them in conducting a timely, fair and impartial investigation.

All Title VI investigations are to be completed within 60 days of acceptance of a complaint.

A Log of Complaints must be maintained by each agency, and submitted annually as part of the agency's Title VI Annual Update. The Log of Complaints must contain the following information for each complaint filed:

- The name and address of the person filing the complaint.
- The date of the complaint.
- The basis of the complaint.
- The disposition of the complaint.
- The status of the complaint.

A Log of Complaints is shown in Appendix 28.75.

Only qualified, well-trained investigators should conduct these investigations. No agency is allowed to investigate a complaint against itself.

All findings from state or local investigations are preliminary and subject to the concurrence of FHWA Headquarters Civil Rights (HCR). FHWA HRC will render final decisions in all cases including those investigated by WSDOT. There are no administrative appeal forums in Title VI complaints. Once FHWA HCR issues its final agency decision (FAD), a complainant in disagreement with such determination may file an appeal with the appropriate US District Court.

## 28.5 Title VI Compliance Reviews

WSDOT/FHWA will conduct periodic reviews of compliance with Federal Title VI regulations as follows:

1. **Compliance Review** – The WSDOT Title VI Coordinator will notify Local Programs and work through the Region Local Programs Engineers to make arrangements to conduct periodic compliance reviews of local agencies having approved Title VI Plans/Nondiscrimination Agreements. The compliance review will focus on how effectively the local agency has implemented Title VI. Documentation is gathered and individuals with Title VI responsibilities are interviewed as part of the review process. The local agency will be notified in writing of the scheduled date and the documents that will be required for the on-site review.

2. **Local Agency Found in Compliance** – If no deficiencies are found during the on-site review, the local agency will be informed at the conclusion of the review, followed by a written notice of compliance.
3. **Local Agency Found in Noncompliance** – If deficiencies are identified during the review, the local agency will be apprised of them at the conclusion of the review, followed by written notice, and given 90 days to correct them. After an agency corrects deficiencies, it will be notified in writing that it is in compliance.

   If a local agency does not correct Title VI Program deficiencies identified by WSDOT or FHWA, it may be subject to sanctions including the suspension of FHWA funding.
4. **Local Agency Responsibilities** – Local agencies administering federal aid contracts are required to conduct on-site compliance reviews of prime contractors and subcontractors. Agencies needing assistance in conducting on-site reviews should contact their Region Local Programs Engineer.

## 28.6 Other Nondiscrimination Statutes Related to Title VI

**Limited English Proficiency – LEP (Executive Order 13166)** – As noted above, one of the bases covered under Title VI is national origin. One type of national origin discrimination is discrimination based on a person's inability to speak, read, write, or understand English. The federal government and those receiving federal financial assistance (recipients, subrecipients, contractors) must take reasonable steps to ensure that LEP persons have meaningful access to the programs, services, and information those entities provide. This may require providing written and/or oral communications in a language other than English. More information regarding LEP responsibilities can be found at www.lep.gov/recipbroch.html and at www.usdoj.gov/crt/cor/lep/dotlep.htm.

**Environmental Justice (Executive Order 12898)** – Procedures for addressing environmental justice may be found in Chapter 24 of this manual, as well as Chapter 458 of the *Environmental Procedures Manual* M 31-11.

## 28.7 Appendices

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|---|---|
| 28.71 | Title VI Plan for Agencies Over 100,000 Population |
| 28.72 | Nondiscrimination Agreement Population Under 100,000 |
| 28.73 | Annual Report for Agency With Population Over 100,000 – Example |
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| 28.75 | Title VI Complaint Log |
| 28.76 | Title VI Compliance Review Questionnaire for Local Agencies |
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## Title VI Plan for Agencies Over 100,000 Population

_____ Agency
Federally Funded Transportation Program
TITLE VI PLAN

_____ **Agency Commissioners**

_____

_____

_____

_____
Agency Administrator

_____
Public Works Director

**Prepared by:** _____
Grants & Compliance Manager
(Title VI Coordinator)
Office of Budget and Information Services

**Appendix III** Lease/Deed Provisions 18

## I. Policy Statement, Authorities, and Citations

A. **Policy of Nondiscrimination** – _____ Agency assures that no person shall on the grounds of race, color, national origin, or sex as provided by Title VI of the Civil Rights Act of 1964, and the Civil Rights Restoration Act of 1987 (P.L. 100.259) be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any Agency sponsored program or activity. _____ Agency further assures every effort will be made to ensure non-discrimination in all of its programs and activities, whether those programs and activities are federally funded or not.

In the event _____ Agency distributes federal aid funds to another entity, _____ Agency will include Title VI language in all written agreements and will monitor for compliance.

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

_____ _____
Agency Administrator Date

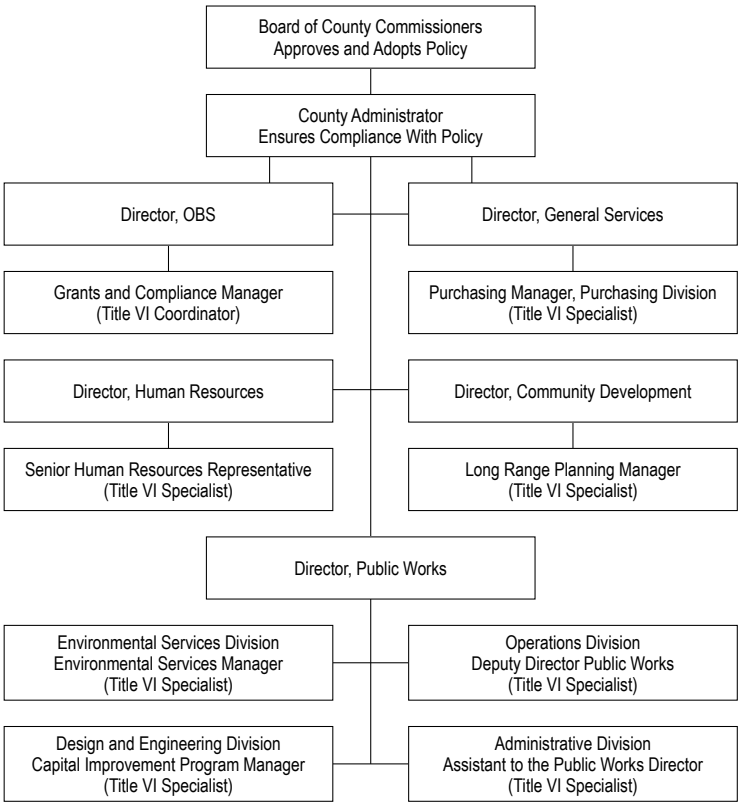
B. **Authorities** – Title VI of the 1964 Civil Rights Act provides that no person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance.

The Civil Rights Restoration Act of 1987 broadened the scope of Title VI coverage by expanding the definition of terms "programs or activities" to include all programs or activities of federal aid recipients, subrecipients, and contractors, whether such programs and activities are federally assisted or not (Public Law 100-259 [S. 557] March 22, 1988).

C. **Additional Citations** – Title VI of the Civil Rights Act of 1964; 42 USC 2000d to 2000d-4; 42 USC 4601 to 4655; 23 USC 109(h); 23 USC 324; DOT Order 1050.2; EO 12250; EO 12898; 28 CFR 50.3

## II. Organization, Staffing, and Structure

### A. Organizational Chart – Reporting Relationships




### B. Staffing and Structure

**Agency Administrator** – The Agency Administrator is authorized to ensure compliance with provisions of the Agency's policy of nondiscrimination and with the law, including the requirements of 23 CFR Part 200 and 49 CFR Part 21. The Agency's grants compliance function and Title VI coordination shall be performed under the authority of the Agency Administrator.

**Title VI Coordinator** – _____ Agency has created a position of Grants and Compliance Manager to perform the duties of the Title VI Coordinator (Coordinator) and ensure implementation of the Agency's Title VI Federally Funded Transportation Program. The Grants and Compliance Manager has other duties and responsibilities in addition to Title VI. Although the Grants and Compliance Manager reports to the Director of the Office of Budget and Information Services (OBIS), their direct supervisor, this position shall have an indirect reporting relationship and access to the Agency Administrator.

**Title VI Specialists** – Additionally, the Agency has designated Title VI Specialists (Specialists) in departmental special emphasis program areas. The Specialists, designated below, shall work in concert with the Title VI Coordinator. These key programs or department areas are subject to receiving federal assistance through grants or other types of transportation related funding, or are responsible for implementing Agency directives and policies to ensure civil rights compliance and equal opportunity. The Specialists will work with the Coordinator to ensure their respective departments and programs comply with Title VI regulations and assurances, meet the objectives of the Title VI Plan, meet federal and state reporting requirements, and provide adequate training opportunities for applicable staff.

Title VI Specialists will work with the Coordinator to ascertain Title VI compliance by contractors, subcontractors, consultants, suppliers and other subrecipients under federally funded projects or programs. Specialists will ensure applicable Title VI provisions and requirements are included in contractual agreements to prime contractors and subrecipients. Specialists will work with the Coordinator to obtain statistical data on race, color, national origin, handicap/disability, age and sex of participants in, and beneficiaries of federally funded _____ Agency transportation programs. Each of the Specialists will maintain data relative to their respective special emphasis program area, designated below. The Coordinator shall use the data to complete annual Title VI reports and for other administrative needs.

**Public Works Design and Engineering** – Capital Improvement Program Manager

**Environmental Services** Environmental Services Manager

**Operations** – Deputy Director Public Works

**Administration** – Assistant to the Public Works Director

**Community Development** – Long Range Planning Manager

**Human Resources** – Senior Human Resources Representatives

**General Services Purchasing** – Purchasing Manager

## III. Title VI Plan Implementation and Program Administration

**Title VI Coordinator's Responsibilities and Program Administration** – As authorized by the Agency Administrator, the Title VI Coordinator is responsible for initiating, monitoring, and ensuring _____ Agency's compliance with Title VI requirements as follows:

A. **Program Administration** – Administer the Title VI program and coordinate implementation of the plan. Ensure compliance with the assurances, policy, and program objectives. Perform Title VI program reviews to assess administrative procedures, staffing, and resources; provide recommendations as required to the Agency Administrator and Director of OBIS.

B. **Complaints** – Review written Title VI complaints that may be received by _____ Agency following the adopted procedural guidelines (see Section V – Complaint Procedures). Ensure every effort is made to resolve complaints informally at the local or regional level.

C. **Data Collection** – Review the statistical data gathering process performed by Title VI Specialists periodically to ensure sufficiency of data for meeting the requirements of Title VI program administration. (See Section VII – Special Emphasis Program Areas.)

D. **Environmental Impact Statements** – Ensure that available census data are included as a part of all Environmental Impact Statements/Assessments (EIS/EIA) conducted by Public Works (PW) for projects receiving Federal Highway Administration or other federal assistance.

E. **Training Programs** – Conduct or facilitate training programs on Title VI issues and regulations for Agency employees; and facilitate Title VI training for appropriate staff, contractors and subrecipients. A summary of training conducted will be reported in the annual update.

F. **Title VI Plan Update** – Review and update the _____ Agency Transportation Program, Title VI Plan as needed or required. Present updated plan to the Agency Administrator for approval; submit amended Plan to WSDOT.

G. **Annual Accomplishment Report** – Prepare an annual report of Title VI accomplishments and changes to the program in the preceding federal fiscal year; identify goals and objectives for the upcoming year as required; and submit by October 15.

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

I. **Elimination of Discrimination** – Work with the Public Works Department, Human Resources, and other Agency offices to establish procedures for promptly resolving deficiencies, as needed. Recommend procedures to identify and eliminate discrimination that may be discovered in any Agency processes.

J. **Maintain Legislative and Procedural Information** – Federal laws, rules, and regulations, WSDOT guidelines, the current _____ Agency Title VI Plan, Annual Accomplishment Reports, and other resource information pertaining to the implementation and administration of the Agency's Title VI program will be maintained and updated by the Coordinator. Information will be made available to other Agency departments or the public as requested or required.

## IV. NHI Education and Title VI Training

In keeping with adopted _____ Agency policy of nondiscrimination, departmental procedures will be established or followed for Public Works employees to have equal access to applicable educational and training opportunities. Public Works staff will maintain program administration documentation and data necessary for preparation of annual Title VI reports, and will routinely supply the necessary data to the Title VI Coordinator.

A. **National Highway Institute (NHI) Education** – The Coordinator will be notified when training for the National Highway Institute courses or workshops become available to Agency Public Works employees. The Director of the Department of Public Works will establish policy for the selection of participants interested in taking part in the National Highway Institute Training workshops to ensure that no one is denied participation or subjected to discrimination on the basis of race, color, national origin or sex. A report will be completed and forwarded to the Coordinator upon completion of each educational seminar or course throughout the course of the year, which shall include the name of each participant, their title, division, sex and ethnicity for use in completing the annual Title VI accomplishment report.

B. **Title VI Training** – The Coordinator is responsible for overall Title VI related training and staff development for Title VI Specialists and other Agency employees. The Coordinator will organize or conduct a minimum of one internal Title VI training session annually. The Coordinator will organize and facilitate the provision of Title VI training sessions for consultants, contractors, and subcontractors periodically. WSDOT's Office of Equal Opportunity Internal and External Civil Rights Branch and the Contract Compliance Office may be asked to provide applicable training.

C. **Selection of Instructors** – The Coordinator will collaborate with the Agency's Purchasing Division to ensure Agency policy is followed in the selection of instructors for _____ Agency Public Works training courses/ workshops, and ensure equal opportunity in the selection process for all training contracts. Per adopted policy, the Agency will provide accessibility to Minority/Women/Disadvantage Business Enterprise consulting and training firms to compete for training contracts.

## V. Complaint Procedures – Allegations of Discrimination in Federally-Assisted Programs or Activities

A. **Overview** – These procedures cover all complaints filed under Title VI of the Civil Rights Act of 1964 as amended, Section 504 of the Rehabilitation Act of 1973, Civil Rights Restoration Act of 1987, and the Americans with Disabilities Act of 1990, relating to any program or activity administered by _____ Agency, as well as to subrecipients, consultants, and contractors. Intimidation or retaliation of any kind is prohibited by law.

The procedures do not deny the right of the complainant to file formal complaints with other state or federal agencies or to seek private counsel for complaints alleging discrimination. Every effort will be made to resolve complaints informally at the Agency and subrecipient level. The option of informal mediation meeting(s) between the affected parties and a designated mediator may be utilized for resolution.

B. **Procedures**

1. Any individual, group of individuals, or entity that believes they have been subjected to discrimination prohibited by nondiscrimination requirements may file a written complaint with _____ Agency Human Resources, Public Works or Board of Agency Commissioners. A formal complaint must be filed within 180 calendar days of the alleged occurrence. The Agency will not officially act or respond to complaints made verbally.
2. Upon receiving the written complaint, _____ Agency will determine its jurisdiction, acceptability, need for additional information, and the investigative merit of the complaint. In some situations, the Agency may request the Washington State Department of Transportation (WSDOT) Office of Equal Opportunity conduct the investigation. In the event WSDOT handles the investigation, they will follow their adopted procedures for investigating discrimination complaints, per their current State Title VI Plan.
3. If the complaint is against a subrecipient, consultant, or contractor, under contract with the Agency the appropriate division and/or agency shall be notified of the complaint, within 15 calendar days.
4. Once the Agency decides its course of action, the complainant and the respondent will be notified in writing of such determination within five calendar days. The complaint will be logged into the records of the Title VI Coordinator, and the basis for the allegation identified including race, color, national origin, handicap/disability, age, or sex.
5. In cases where _____ Agency assumes investigation of the complaint, the Agency will provide the respondent with the opportunity to respond to the allegations in writing. The respondent will have ten calendar days upon receipt, to furnish the Agency with his/her response to the allegations.

6. Within 60 days of receipt of the complaint, the Coordinator or WSDOT investigator will prepare a written investigative report for the Agency Engineer and Agency Administrator. The report shall include a narrative description of the incident, identification of persons interviewed, findings and recommendations for disposition.
7. The recommendation shall be reviewed by the Prosecuting Attorney's office (PA). The PA may discuss the report and recommendations with the Coordinator and other appropriate departmental staff. The report will be modified as needed and made final for its release to the parties.
8. Once the investigative report becomes final, briefings will be scheduled with each party within 15 days. Both the complainant and the respondent shall receive a copy of the investigative report during the briefings and will be notified of their respective appeal rights.
9. A copy of the complaint and _____ Agency's investigative report will be issue to WSDOT's External Civil Rights Branch (or the appropriate oversight agency) within 60 calendar days of the receipt of the complaint.
10. If the complainant or respondent is not satisfied with the results of the investigation of the alleged discriminatory practice(s) he or she shall be advised of their rights to appeal the agency's decision to WSDOT, U.S. Department of Transportation or U.S. Department of Justice. The complainant has 180 calendar days after the appropriate agency's final resolution to appeal to USDOT. Unless new facts not previously considered come to light, reconsideration of the final determination by the investigating agency will not be available.
11. An annual Log of Complaints must be maintained by each agency. The Log of Complaints must contain the following information for each complaint filed:
    - The name and address of the person filing the complaint.
    - The date of the complaint.
    - The basis of the complaint.
    - The disposition of the complaint.
    - The status of the complaint.

    Only qualified, well-trained investigators should conduct these investigations. No agency is allowed to investigate a complaint against itself.

## VI. Subrecipient Review and Remedial Action Procedures

A. **Title VI Review of Subrecipients of Federal Aid Highway Funds** – Public Works Specialists and the Coordinator will assist WSDOT to periodically conduct Title VI compliance reviews. Title VI Specialists and Public Works staff will review select recipients of federal aid highway or other federal funds, to ensure adherence to Title VI requirements (see Section VII). The Coordinator and Specialists will work cooperatively to periodically confirm operational guidelines provided to consultants, contractors, and subrecipients, including Title VI language, provisions, and related requirements, as applicable.

B. **Post-Grant Reviews** – The Coordinator will collaborate with Specialists and Public Works staff to conduct periodic post grant reviews of select recipients of federal highway funds or other federal funds, for roads, sidewalks, bridges, municipal construction, etc. to ensure adherence to Title VI requirements (see Section VII). Appropriate staff will periodically confirm that operational guidelines provided to consultants, contractors and subrecipients include Title VI language and provisions and related requirements, where applicable.

C. **Remedial Action** – When irregularities occur in the administration of federal aid highway programs at either the Agency or subrecipient levels, corrective action will be taken to resolve identified Title VI issues. _____ Agency will seek the cooperation of the consultant, contractor or other subrecipient in correcting deficiencies found during periodic reviews. _____ Agency will provide technical assistance and guidance, upon request, to support voluntarily compliance by the subrecipient. When conducting Title VI compliance reviews, the Agency will reduce to writing any recommended remedial action agreed upon by the Agency and subrecipient, and provide a copy of the letter within a period not to exceed 45 days.

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

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

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

A. **Planning and Location Activities**

1. **Planning Process** – The Agency Engineer has responsibility for providing long-range planning (through a service agreement with Community Development), program development, and capital programming necessary to provide efficient transportation services to Agency citizens. The Agency Engineer annually updates and coordinates _____ Agency's six-year plan for transportation improvement programs and projects. The update also informs other _____ Agency jurisdictions of the current planning direction for transportation needs. Projects included in the update are the result of evaluation and prioritization of needs in various transportation areas. The evaluation process includes input from various divisions in the department, cities, local jurisdictions and organizations, citizen groups, and private individuals. All six-year plans must be consistent with the adopted Comprehensive Plan approved under the State's Growth Management Act.

2. **Authorities** – _____ Agency Code; 23 CFR 450; RCW 35.77; RCW 36; RCW 47.06; RCW 47.80

3. **Public Involvement in Planning Activities and Title VI**

   a. Invite participation of a cross section of the populace from social, economic, and ethnic groups in the planning process by disseminating written program information to minority media and ethnic organizations, and providing public service announcements for all local media, when forming citizen advisory committees or planning board, and requesting involvement.

   b. Public Works staff will obtain demographic statistics at applicable community meetings and public hearings involving transportation planning sessions. Data will be gathered through use of a voluntary self-reporting form which includes race, gender, and national origin. Copies of the completed forms will be provided to Title VI Coordinator after each meeting.

   c. To ensure access to public meetings, evening meetings will be conducted in a variety of community buildings throughout the Agency, including those along transit routes, ensure translation services are available if anticipated, and ensure public meetings are held in predominantly minority communities when transportation projects will specifically impact those communities.

B. **Consultant Contracts Activities**

1. **Consultant Contracts Administration** – The D&E Division is responsible for recommending consultant firms to the Agency Engineer for final selection, negotiation and award. The Division administers awarded consultant contracts.

2. **Authorities** – _____ Agency Ordinance 90-81; WSDOT *Local Agency Guidelines*; 48 CFR 31; 23 CFR 172

3. **Consultant Selection Process** – Public Works staff will request qualifications from consulting engineering firms specializing in various aspects of civil engineering which may relate to public works projects and the development of construction plans and special provisions for roads and bridges, design work associated with structures, performing environmental studies or preparing NEPA or SEPA documents for public works projects.

   Consultant selection from the certified list maintained by the Purchasing Division adheres to Washington State regulations (RCWs) and is consistent with _____ Agency vendor policies.

4. **Title VI Assurances and Provisions**

   a. Include applicable Disadvantaged Business Enterprise (DBE) goals in designated projects, and seek to proactively achieve the goal(s).

   b. Include Title VI assurance and provision language in all federally funded consultant contracts. Periodically review documents and language to ensure compliance with current laws and regulations. Provide a copy of the form of the contract to the Coordinator, and any amendments or updates that may occur over time.

   c. A Public Works Specialist will maintain updated demographic data on the utilization of women-and minority-owned consulting firms. As they occur, a copy of the award letter will be provided to the Coordinator for use in preparing the Annual Update Accomplishment Report.

C. **Design and Engineering/Environmental Activities**

1. The Public Works Design and Engineering Division is responsible for the Capital Improvement Program (CIP) and environmental permitting for projects. Studies are performed to assess various environmental factors as they relate to the implementation of the Agency's Annual Road Program, including evaluating demographic data.

2. **Authorities** – _____ Agency Ordinance; WSDOT *Local Agency Guidelines*; *Standard Plans* WSDOT/APWA - M 21-01; Title 23, USC 109(d), 14(a), 217, 315 and 402(a); 23 CFR 1204.4; 23 CFR 771; EO 12898; 49 CFR 1.48(b)(33) and 1.48(c)(2; National Environmental Policy Act of 1969, 42 USC 4321; 40 CFR Part 1500; 49 CFR Part 622; *Environmental Procedures Manual* M 31-11; EO 12898

3. **Design/Environmental Review Process and Title VI**
   a. Depending on the scope, complexity, and impacts of a project, a National Environmental Policy Act (NEPA), NEPA Categorical Exclusion, NEPA Environmental Assessment, State Environmental Policy Act (SEPA) checklist, SEPA Determination of Non Significance, or NEPA and/or SEPA Environmental Impact Statement will be completed.
   b. Monitor compliance with Title VI requirements in all aspects of conducting Environmental Impact Statements or Assessments. Provide a comprehensive summary of the demographic and environmental data elements to be considered by the EIS/EIA process to the Coordinator; including updated summary lists as applicable. Incorporate into the review process, adequate.
   c. Time for the Coordinator to review and comment, as applicable, on the draft EIS/EIA to ensure there are no violations of the Federal Civil Rights Act, as amended, as a result of the agency's federal aid highway activities.
   d. In order to ensure dissemination of information and foster participation from affected populations, the Public Works staff will place public notices in applicable general and minority media; select accessible locations and times for public hearings or meetings, and arrange for translation services as needed; particularly in projects impacting predominantly minority communities. Ensure the public has information pertaining to their rights to call or write the department to view plans and discuss environmental problems.
   e. Public Works staff will obtain demographic data at community meetings and public hearings pertaining to the transportation design phase. Data will be gathered through use of a voluntary sign-up form which includes race, gender, and national origin. Copies of the voluntary self-reporting forms will be provided to the Coordinator after each meeting.
   f. Public Works staff shall provide a copy of the Annual Construction Report to the Title VI Coordinator in or around April of each year. The Coordinator shall work with the Agency GIS Department to generate a map of the federally funded transportation projects to include demographic data of the neighborhoods affected by the projects.

D. **Right of Way Activities**
   1. **Real Property Services** – The Real Estate Services Office manages and coordinates the appraisal and acquisition of real property and relocation assistance services for public works projects. The right of way acquisition process entails appraisal of property, negotiation of terms and conditions for acquisition, and assistance in the relocation of displaced individuals, businesses, farm operations, nonprofit organizations, and property management. The Real Estate Services Office is located in the Development Division.
   2. **Authorities** – *Right of Way Manual* M 26-01; 23 CFR 130; 49 CFR 24; RCW 47; WAC 468-100

3. **Right of Way Activities and Title VI**
   a. Ensure equal opportunity in all aspects of procuring real estate service contracting and appraisal agreements. Follow adopted Agency vendor procurement policies in the acquisition of contracted services.
   b. Utilize current OMWBE directories identifying fee appraiser organizations and the Washington State Department of Transportation's list of certified fee appraisers when seeking services. Maintain data on awards to minority and female appraisers, and provide data to the Title VI Coordinator on a quarterly basis.
   c. Follow the guidelines in the *Right of Way Manual* M 26-01 for property acquisition as well as applicable laws and regulations, including Title VI and Section 504.
   d. Adhere to departmental policy of apprising affected property owners, tenants, and others involved in right of way acquisition of their rights and options regarding negotiation, relocation, condemnation and other aspects of the acquisition process. Provide copies of relocation
   e. Assistance literature produced by WSDOT and a copy of the _____ Agency Title VI Compliance brochure to all affected parties.
   f. Incorporate Title VI language and assurance statements in all surveys of property owners and tenants after the conclusion of all business. Coordinate the preparation of deeds, permits and leases to ensure the inclusion of the appropriate clauses, including Title VI Assurances.
   g. Ensure that appraised values and communications associated with the appraisal and negotiation operations result in equitable treatment.
   h. Ensure comparable replacement dwellings are available and assistance is given to all displaced persons and entities by the property acquisition process.
   i. Maintain statistical data including race, color, national origin, and sex on all relocatees affected by federally funded projects, and provide detailed demographic data quarterly to the Title VI Coordinator.

E. **Construction and Maintenance Activities**
   1. **Construction Management Section** – This section is located in the Design and Engineering Division, and is responsible for administration of all new construction contracts and inspecting bridges. The D&E Division is responsible for oversight and the administration of transportation construction projects, as set forth by policy decisions and supervision of the Agency Engineer.
   2. **Authorities** – *Construction Manual* M 41-01; *Maintenance Manual* M 51-01; *Local Agency Guidelines* M 36-63; *Standard Specifications for Road, Bridge, and Municipal Construction* M 41-10.

3. **Maintenance** – The Operations Division is responsible for the efficient program for maintaining Agency roads, bridges, and parks/grounds by economically utilizing the resources of contractors, equipment, and materials.
4. **Authorities** – *Maintenance Manual* M 51-01; *Construction Manual* M 41-01; *Standard Specifications for Road, Bridge and Municipal Construction* M 41-10; Clark Agency Road Standards
5. **Construction and Maintenance Activities and Title VI**
   a. Review all federally funded projects for application of DBE goals. As appropriate, include DBE provisions in those projects with designated goals. Include Title VI language in bid announcements and applicable construction documents, as stipulated in the Agency's Title VI Policy Statement (p. 2) and Assurances (Addendum 2, p. 14-15) herein.
   b. Award construction contracts on the basis of lowest responsive bidder, as well as meeting DBE requirements. Include Title VI language in prime contract award letters to encourage utilization of DBE subcontracts and vendors.
   c. Ensure that prime contractors with DBE requirements award contracted work to qualified DBEs which perform commercially useful functions.
   d. Monitor all maintenance and construction operations to ensure nondiscrimination throughout all operations.
   e. Coordinate the gathering of maintenance and construction information regarding DBE participation for the Annual Title VI Report; and provide to the Coordinator.

## Exhibit 1 – _____ Agency Title VI Notice to the Public

_____ Agency hereby gives public notice that it is the Agency's policy to assure full compliance with Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, and related statutes and regulations in all programs and activities. Title VI requires that no person shall, on the grounds of race, color, sex, or national origin be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination under any Federal Aid Highway program or other activity for which _____ Agency receives federal financial assistance.

Any person who believes they have been aggrieved by an unlawful discriminatory practice under Title VI has a right to file a formal complaint with _____ Agency. Any such complaint must be in writing and filed with the _____ Agency Title VI Coordinator within one hundred, eighty (180) days following the date of the alleged discriminatory occurrence. Title VI Discrimination Complaint Forms may be obtained from the Human Resources office at no cost to the complainant by calling xxx-xxx-xxxx.

## Exhibit 2 – _____ Agency Title VI Assurances

The Agency of _____ in the State of Washington, (hereinafter referred to as the "Recipient"), HEREBY AGREES THAT as a condition to receiving any federal financial assistance from the U.S. Department of Transportation will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000d--42 USC 2000d--4 (hereinafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation--Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the Regulations), and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, no person in the United States shall, on the grounds of race, color, sex, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives federal financial assistance through the Washington State Department of Transportation, including the U.S. Department of Transportation and Federal Highway Administration, and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement. This Assurance is required by Subsection 21.7(a)(1) of the Regulations.

More specifically and without limiting the above general assurance, the Recipient hereby gives the following specific assurances to its Federal Aid Highway Program:

1. That the Recipient agrees that each "program" and each "facility" as defined in Subsections 21.23(e) and 21.23(b) of the Regulations, will be (with regard to a "program") conducted, or will be (with regard to a "facility") operated in compliance with all requirements imposed by, or pursuant to, the Regulations.
2. That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Regulations made in connection with the Federal Aid Highway Program, and in adapted form in all proposals for negotiated agreements:

   _____ Agency in accordance with Title VI of the Civil Rights Act of 1964 and 78 Stat. 252, 42 USC 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 ensure that 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.
3. That the Recipient shall insert the clauses of Appendix 1 of this Assurance in every contract subject to the Act and the Regulations.

4. That the Recipient shall insert the clauses of Appendix 2 of this Assurance, as a covenant running with the land, in any deed from the United States effecting a transfer of real property, structures, or improvements thereon, or interest therein.
5. That where the Recipient receives federal financial assistance to construct a facility, or part of a facility, the Assurance shall extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives federal financial assistance in the form, or for the acquisition of real property, or an interest in real property, the Assurance shall extend rights to space on, over or under such property.
7. That the Recipient shall include the appropriate clauses set forth in Appendix 3 of this Assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Recipient with other parties: (a) for the subsequent transfer of real property acquired or improved under the Federal Aid Highway Program; and (b) for the construction or use of or access to space on, over or under real property acquired, or improved under the Federal Aid Highway Program.
8. That this Assurance obligates the Recipient for the period during which federal financial assistance is extended to the program, or is in the form of, personal property, or real property or interest therein or structures or improvements thereon, in which case the Assurance obligates the Recipient or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which the federal financial assistance is extended, of for another purpose involving the provision of similar services or benefits; or (b) the period during which the Recipient retains ownership or possession of the property.
9. The Recipient shall provide for such methods of administration for the program as are found by the Secretary of Transportation, or the official to whom s/he delegates specific authority to give reasonable guarantee that it, other recipients, subgrantees, contractors, subcontractors, transferees, successors in interest, and other participants of federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations, and this Assurance.
10. The Recipient agrees that the United States has a right to seek judicial endorsement with regard to any matter arising under the Act, the Regulations, and this Assurance.

    THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all federal grants, loans, contracts, property, discounts or other federal financial assistance extended after the date hereof to the Recipient by the U.S. Department of Transportation under the Federal Aid Highway Program and is binding on it, other recipients, subgrantees, contractors, subcontractors, transferees, successors in interest and other participants in the Federal Aid Highway Program. The person whose signature appears below is authorized to sign this Assurance on behalf of the Recipient.

## Exhibit 2A – _____, _____
## Agency Administrator Date

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

*_____ Agency will insert or add the following clauses into every contract subject to the Act and Regulations associated with the receipt of federal financial assistance:*

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

1. **Compliance With Regulations** – The contractor shall comply with the Regulations Relative to Nondiscrimination in Federally-Assisted Programs of the Department of Transportation (hereinafter DOT), Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination** – The contractor, with regard to the work performed during the contract, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
3. **Solicitations for Subcontracts, including Procurement of Materials and Equipment** – In all solicitations either by competitive bidding or negotiations made by the contractor for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the ground of race, color, sex, or national origin.
4. **Information and Reports** – The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by _____ Agency or the Washington State Department of Transportation to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to _____ Agency, or the Washington State Department of Transportation as appropriate, and shall set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance** – In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, _____ Agency and the Washington State Department of Transportation shall impose such contract sanctions as it, or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

   a. Withholding of payments to the contractor under the contract until the contractor complies, and/or;

   b. Cancellation, termination, or suspension of the contract, in whole or in part.

6. **Incorporation of Provisions** – The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontractor or procurement as _____ Agency or the U.S. Department of Transportation, Federal Highway Administration, may direct as a means of enforcing such provisions including sanctions for noncompliance.

   Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request _____ Agency enter into such litigation to protect the interests of the Agency and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

## Exhibit 2B – Granting and Habendum Clauses

*When _____ Agency is the recipient of real property, structures or improvements thereon, or interest therein from the United States, the following clauses shall be included in any and all deeds affecting or recording the transfer of property:*

**GRANTING CLAUSE**

NOW, THEREFORE, _____ Agency, as authorized by law, will accept title to the lands and maintain the project constructed thereon, in accordance with Title 23, United States Code, the Regulations for the Administration of Federal Aid for Highways and the policies and procedures prescribed by the Federal Highway Administration of the Department of Transportation and, also in accordance with and in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-Discrimination in Federally-Assisted Programs of the Department of Transportation (hereinafter referred to as the Regulations) pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252:42 USC 2000d to 2000d--4) does hereby remise, release, quitclaim, and convey unto _____ Agency all the right, title, and interest of the Department of Transportation in and to said land described in Exhibit A attached hereto and made a part thereof.

**HABENDUM CLAUSE**

TO HAVE AND TO HOLD said lands and interests therein unto _____ Agency, and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and shall be binding on _____ Agency, its successors, and assigns.

_____ Agency, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person shall on the grounds of race, color, sex, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed (,) (and)[1]1 (2) that _____ Agency, shall use the lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-Discrimination of Federally-Assisted Programs of the Department of Transportation--Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended (,) and (3) that in the event of breach of any of the above mentioned nondiscrimination conditions, the Agency shall have a right to reenter said lands and facilities on said land, and the above described land and facilities shall thereon revert to and vest in and become the absolute property of the Department of Transportation and its assigns as such interest existed prior to this instruction.

[1] Reverter Clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of Civil Rights Act of 1964.

## Exhibit 2C – Lease/Deed Provisions

Upon receipt of federal financial assistance to construct a facility or part of a facility, the Recipient agrees to include these clauses in all future deeds, licenses, leases, permits, or similar instruments entered into by _____ Agency pursuant to the provisions of Title VI Assurances, item 7:

The LESSEE, for himself or herself, his or her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this lease, for a purpose for which a US Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the LESSEE shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-Discrimination in Federally-Assisted Programs of the U.S. Department of Transportation--Effectuation of Title VI of the Civil Rights Act of 1964, as said Regulations may be amended.

That in the event of breach of any of the above nondiscrimination covenants, the Agency shall have the right to terminate the lease, and to reenter and repossess said land and the facilities thereon, and hold the same as if said lease had never been made or issued.

*The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by _____ Agency pursuant to the provisions of Title VI Assurances, Item 7.*

The LESSEE, for himself or herself, his or her personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (1) no person, on the grounds of race, color, sex, or national origin shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and furnishing of services thereon, no person on the grounds of race, color, sex, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the LESSEE shall use the premises in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-Discrimination in Federally-Assisted Programs of the U.S. Department of Transportation--Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

That in the event of breach of any of the above nondiscrimination covenants, the Agency shall have the right to terminate the lease, and to re-enter and repossess said land and the facilities thereon, and hold the same as if said lease had never been made or issued.

# Nondiscrimination Agreement Population Under 100,000

## Washington State Department of Transportation and Name of Recipient Policy Statement

The (Name of Recipient), hereinafter referred to as the "Recipient" assures that no person shall on the grounds of race, color, national origin, or sex, as provided by Title VI of the Civil Rights Act of 1964, and the Civil Rights Restoration Act of 1987 (P.L. 100.259) be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity. The Recipient further assures every effort will be made to ensure nondiscrimination in all of its programs and activities, whether those programs and activities are federally funded or not.

The Civil Rights Restoration Act of 1987, broadened the scope of Title VI coverage by expanding the definition of terms "programs or activities" to include all programs or activities of federal aid recipients, sub-recipients, and contractors/consultants, whether such programs and activities are federally assisted or not (Public Law 100259 [S.557] March 22, 1988).

In the event the Recipient distributes federal aid funds to a sub-recipient, the Recipient will include Title VI language in all written agreements and will monitor for compliance.

The Recipient's (Name of person/division), is responsible for initiating and monitoring Title VI activities, preparing reports and other responsibilities as required by 23 Code of Federal Regulation(CFR) 200 and 49 Code of Federal Regulation 21.

_____
Signature

_____
Title

_____
Date

## Title VI Program

### *Organization and Staffing*

Pursuant to 23 CFR 200, (Name of Recipient) has designated a Title VI Coordinator who is responsible for Attachment 1, which describes the hierarchy for (Name of Recipient)'s Title VI Program, including an organization's chart illustrating the level and placement of Title VI responsibilities.

## Assurances

***49 CFR Part 21.7***

The (Name of the Recipient), hereby gives assurances:

1. That no person shall on the grounds of race, color, national origin, and sex, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity conducted by the recipient regardless of whether those programs and activities are federally funded or not. Activities and programs which the recipient hereby agrees to carry out in compliance with Title VI and related statutes include but are not limited to:
   - List all major Transportation programs and activities of the recipient and Title VI responsibilities for each one of them. Include information as Attachment 2 to this Nondiscrimination Agreement.
2. That it will promptly take any measures necessary to effectuate this agreement.
3. That each Transportation program, activity, and facility (i.e., lands change to roadways, park and ride lots, etc.) as defined at 49 CFR 21.23(b) and (e), and the Civil Rights Restoration Act of 1987 will be (with regard to a program or activity) conducted, or will be (with regard to a facility) operated in compliance with the nondiscriminatory requirements imposed by, or pursuant to, this agreement.
4. That these assurances are given in consideration of and for the purpose of obtaining any and all federal grants, loans, contracts, property, discounts or other federal financial assistance extended after the date hereof to the recipient by the Washington State Department of Transportation (WSDOT) under the federally-funded program and is binding on it, other recipients, subgrantees, contractors, sub-contractors, transferees, successors in interest and other participants. The person or persons whose signatures appear below are authorized to sign these assurances on behalf of the Recipient.
5. That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Regulations and made in connection with all federally-funded programs and, in all proposals for negotiated agreements.

   The Recipient, 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 ensure 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.

6. That the Recipient shall insert the clauses of Appendix 1 of this Agreement in every contract subject to the Act and the Regulations.
7. That the Recipient shall insert the clauses of Appendix 2 of this Agreement, as a covenant running with the land, in any deed from the United States effecting a transfer of real property, structures, or improvements thereon, or interest therein.
8. That the Recipient shall include the appropriate clauses set forth in Appendix 3 of this Agreement, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Recipient with other parties: (a) for the subsequent transfer of real property acquired or improved under a federal aid program; and (b) for the construction or use of or access to space on, over or under real property acquired, or improved under a federal aid program.
9. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and this agreement.

### *Implementation Procedures*

This agreement shall serve as the recipient's Title VI plan pursuant to 23 CFR 200 and 49 CFR 21.

For the purpose of this agreement, "Federal Assistance" shall include:

1. Grants and loans of federal funds.
2. The grant or donation of federal property and interest in property.
3. The detail of federal personnel.
4. The sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient.
5. Any federal agreement, arrangement, or other contract which has as one of its purposes, the provision of assistance.

### *The recipient shall:*

1. Issue a policy statement, signed by the head of the recipient, which expresses its commitment to the nondiscrimination provisions of Title VI. The policy statement shall be circulated throughout the recipient's organization and to the general public. Such information shall be published where appropriate in languages other than English.
2. Take affirmative action to correct any deficiencies found by WSDOT or the United States Department of Transportation (USDOT) within a reasonable time period, not to exceed 90 days, in order to implement Title VI compliance in accordance with this agreement. The head of the recipient shall be held responsible for implementing Title VI requirements.

3. Designate a civil rights coordinator who has a responsible position in the organization and easy access to the head of the recipient. The civil rights coordinator shall be responsible for initiating and monitoring Title VI activities and preparing required reports.
4. The civil rights coordinator shall adequately implement the civil rights requirements.
5. Process complaints of discrimination consistent with the provisions contained in this agreement. Investigations shall be conducted by civil rights personnel trained in discrimination complaint investigation. Identify each complainant by race, color, national origin or sex, the nature of the complaint, the date the complaint was filed, the date the investigation was completed, the disposition, the date of the disposition, and other pertinent information. A copy of the complaint, together with a copy of the recipient's report of investigation, will be forwarded to WSDOT's Office of Equal Opportunity (OEO) within 10 days of the date the complaint was received by the recipient.
6. Collect statistical data (race, color, national origin, sex) of participants in, and beneficiaries of the Transportation programs and activities conducted by the recipient.
7. Conduct Title VI reviews of the recipient and sub-recipient contractor/consultant program areas and activities. Revise where applicable, policies, procedures and directives to include Title VI requirements.
8. Attend training programs on Title VI and related statutes conducted by WSDOT OEO.
9. Prepare a yearly report of Title VI accomplishments for the last year and goals for the next year. This report is due one year from the date of approval of the Nondiscrimination Agreement and then annually on the same date.
    a. Annual Work Plan – Outline Title VI monitoring and review activities planned for the coming year; state by which each activity will be accomplished and target date for completion.
    b. Accomplishment Report – List major accomplishments made regarding Title VI activities. Include instances where Title VI issues were identified and discrimination was prevented. Indicate activities and efforts the Title VI Coordinator and program area personnel have undertaken in monitoring Title VI. Include a description of the scope and conclusions of any special reviews (internal or external) conducted by the Title VI Coordinator. List any major problem(s) identified and corrective action taken. Include a summary and status report on any Title VI complaints filed with the recipient.

### *Discrimination Complaint Procedure*

1. Any person who believes that he or she, individually, as a member of any specific class, or in connection with any disadvantaged business enterprise, has been subjected to discrimination prohibited by Title VI of the Civil Rights Act of 1964, the American with Disabilities Act of 1990, Section 504 of the Vocational Rehabilitation Act of 1973 and the Civil Rights Restoration Act of 1987, as amended, may file a complaint with the recipient. A complaint may also be filed by a representative on behalf of such a person. All complaints will be referred to the recipient's Title VI Coordinator for review and action.
2. In order to have the complaint consideration under this procedure, the complainant must file the complaint no later than 180 days after:
   a. The date of alleged act of discrimination; or
   b. Where there has been a continuing course of conduct, the date on which that conduct was discontinued.

   In either case, the recipient or his/her designee may extend the time for filing or waive the time limit in the interest of justice, specifying in writing the reason for so doing.
3. Complaints shall be in writing and shall be signed by the complainant and/or the complainant's representative. Complaints shall set forth as fully as possible the facts and circumstances surrounding the claimed discrimination. In the event that a person makes a verbal complaint of discrimination to an officer or employee of the recipient, the person shall be interviewed by the Title VI Coordinator. If necessary, the Title VI Coordinator will assist the person in reducing the complaint to writing and submit the written version of the complaint to the person for signature. The complaint shall then be handled according to the recipient's investigative procedures.
4. Within 10 days, the Title VI Coordinator will acknowledge receipt of the allegation, inform the complainant of action taken or proposed action to process the allegation, and advise the complainant of other avenues of redress available, such as WSDOT and USDOT.
5. The recipient will advise WSDOT within 10 days of receipt of the allegations. Generally, the following information will be included in every notification to WSDOT:
   a. Name, address, and phone number of the complainant.
   b. Name(s) and address(es) of alleged discriminating official(s).
   c. Basis of complaint (i.e., race, color, national origin, or sex)
   d. Date of alleged discriminatory act(s).
   e. Date of complaint received by the recipient.
   f. A statement of the complaint.
   g. Other agencies (state, local, or federal) where the complaint has been filed.
   h. An explanation of the actions the recipient has taken or proposed to resolve the issue raised in the complaint.

6. Within 60 days, the Title VI Coordinator will conduct an investigation of the allegation and based on the information obtained, will render a recommendation for action in a report of findings to the head of the recipient. The complaint should be resolved by informal means whenever possible. Such informal attempts and their results will be summarized in the report of findings.
7. Within 90 days of receipt of the complaint, the head of the recipient will notify the complainant in writing of the final decision reached, including the proposed disposition of the matter. The notification will advise the complainant of his/her appeal rights with WSDOT, or USDOT, if they are dissatisfied with the final decision rendered by the Recipient. The Title VI Coordinator will also provide WSDOT with a copy of this decision and summary of findings upon completion of the investigation.
8. Contacts for the different Title VI administrative jurisdictions are as follows:

   Washington State Department of Transportation
   Office of Equal Opportunity, Title VI Program
   PO Box 47314
   Olympia, WA 98466
   360-705-7098

   Federal Highway Administration
   Washington Division Office
   711 Capitol Way South, Suite 501
   Olympia, WA 98501
   360-534-9325

## Sanctions

In the event the recipient fails or refuses to comply with the terms of this agreement, WSDOT may take any or all of the following actions:

1. Cancel, terminate, or suspend this agreement in whole or in part;
2. Refrain from extending any further assistance to the recipient under the program from which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the recipient.
3. Take such other action that may be deemed appropriate under the circumstances, until compliance or remedial action has been accomplished by the recipient.
4. Refer the case to the Department of Justice for appropriate legal proceedings.

**WASHINGTON STATE**
**DEPARTMENT OF TRANSPORTATION:**

_____
Signature

**Director of the Office of Equal Opportunity**
Title

_____
Date

**NAME OF RECIPIENT:**

_____
Signature

_____
Title

_____
Date

## Appendix 1

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

1. C**ompliance With Regulations** – The contractor shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of United States Department of Transportation (USDOT), Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination** – The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-contractors, including procurement of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
3. **Solicitations for Subcontracts, Including Procurement of Materials and Equipment** – In all solicitations either by competitive bidding or negotiations made by the contractor for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-contractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, sex, or national origin.
4. **Information and Reports** – The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the contracting agency or the appropriate federal agency to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to WSDOT or the USDOT as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance** – In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the contracting agency shall impose such contract sanctions as it or the USDOT may determine to be appropriate, including, but not limited to:
   - Withholding of payments to the contractor under the contract until the contractor complies, and/or;
   - Cancellation, termination, or suspension of the contract, in whole or in part

6. **Incorporation of Provisions** – The contractor shall include the provisions of paragraphs (1) through (5) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any sub-contractor or procurement as the contracting agency or USDOT may direct as a means of enforcing such provisions including sanctions for noncompliance.

   Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a sub-contractor or supplier as a result of such direction, the contractor may request WSDOT enter into such litigation to protect the interests of the state and, in addition, the contractor may request the USDOT enter into such litigation to protect the interests of the United States.

## Appendix 2

The following clauses shall be included in any and all deeds affecting or recording the transfer of real property, structures or improvements thereon, or interest therein from the United States.

**GRANTING CLAUSE**

NOW THEREFORE, Department of Transportation, as authorized by law, and upon the condition that the state of Washington will accept title to the lands and maintain the project constructed thereon, in accordance with Title 23, United States Code, the Regulations for the Administration of Federal Aid for Highways and the policies and procedures prescribed by the United States Department of Transportation and, also in accordance with and in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, the Department of Transportation WSDOT (hereinafter referred to as the Regulations) pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252: 42 USC 2000d to 2000d - 4) does hereby remise, release, quitclaim, and convey unto the state of Washington all the right, title, and interest of the Department of Transportation in and to said land described in Exhibit A attached hereto and made a part thereof.

**HABENDUM CLAUSE**

TO HAVE AND TO HOLD said lands and interests therein unto the state of Washington, and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which the federal financial assistance is extended or for another purpose involving the provisions of similar services or benefits and shall be binding on the state of Washington, its successors, and assigns.

The state of Washington, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person shall on the grounds of race, color, sex or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed (,)(and)* (2) that the state of Washington, shall use the lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-Discrimination of Federally-Assisted Programs of the Department of Transportation -- Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended (,) and (3) that in the event of breach of any of the above mentioned nondiscrimination conditions, the department shall have a right to reenter said lands and facilities on said land, and the above described land and facilities shall thereon revert to and vest in and become the absolute property of the Department of Transportation and its assigns as such interest existed prior to this instruction.

## Appendix 3

The following clauses shall be included in all transportation related deeds, licenses, leases, permits, or similar instruments entered into by (Recipient) pursuant to the provisions of Assurance 8.

The LESSEE, for himself or herself, his or her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this lease, for a purpose of which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the LESSEE shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21,

Nondiscrimination in Federally-Assisted Programs of the Department of Transportation--Effectuation of Title VI of the Civil Rights Act of 1964, as said Regulations may be amended.

That in the event of breach of any of the above nondiscrimination covenants, the STATE shall have the right to terminate the lease, and to reenter and repossess said land and the facilities thereon, and hold the same as if said lease has never been made or issued.

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by the Washington State Department of Transportation pursuant to the provisions of Assurance 8.

The LESSEE, or himself or herself, his or her personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (1) no person, on the grounds of race, color, sex, or national origin, shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and furnishing of services thereon, no person on the grounds of race, color, sex, and national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the LESSEE shall use the premises in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation--Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

That in the event of breach of any of the above nondiscrimination covenants, the STATE shall have the right to terminate the lease, and to reenter and repossess said land and the facilities thereon, and hold the same as if said lease had never been made or issued.

[1] Reverter Clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purpose of Title VI of the Civil Rights Act of 1964.

# Annual Report for Agency With Population Over 100,000 – Example

## Section I Policy Statement

A copy of Title VI Policy Statement is attached in Appendix of this report.

## Section II Organization, Staffing, and Structure

### *A. Organization*

Outline your organization and how it works with your Title VI Policy.

### *B. Staffing*

Describe your agency staff and how they interact in the program.

### *C. Structure*

Describe the Structure of your program, the following is an example only. Your agency may have a different approach.

Table II.C.1 shows Title VI Special Emphasis Program Area Liaisons within XYZ Agency. For this update, program area elements include planning, location, design, environmental services, real estate services (right of way), construction, and education and training. The program area liaisons work directly with the Title VI Specialist in the Office of the Title VI Coordinator. All liaison positions have been filled at this time.

**Table II.C.1 – Title VI Special Emphasis Program Area Liaisons**

| Name | Gender/ Ethnicity | Title | Program |
|---|---|---|---|
| John Smith | Male/Caucasian (example only) | Managing Engineer | Engineering/Planning/Design and Construction |
| Mary Ramirez | Female/Hispanic (example) | Project/Program Manager III | Education/Training for Construction |
| | | Program Analyst IV | Education/Training for Administration |
| | | Program Analyst IV | Education/Training for Maintenance |
| | | Project/Program Manager III | Education/Training for Construction |
| | | Program Analyst IV | Education/Training for Administration |

## Section III Title VI Monitoring and Review Process

### *A. Actions to Promote Internal and External Compliance With Title VI*

List actions, meetings, scheduled events, etc., that help your agency promote both internal and external compliance with Title VI program.

**Internal** – In detail explain your agency's activities and interaction within your organization in this area.

**External** – Detailed explanation of your agency's activities outside the agency that promote your Title VI program.

### *B. Title VI Compliance Reviews During This Report Period*

- List and bullet reviews conducted during the past year, name the reviewers and dates of the reviews.

## Section IV Title VI Complaints During This Report Period

**Either:** "Received no complaints against the (Agency Name and Division) in the fiscal year 2003-2004."

**OR something like:** "The two complaints alleged one incident of denial of bus services by the (Agency Name and Division). The complaints alleged discrimination based on race. (Agency Name) resolved these cases.

## Section V Accomplishment Report for Each Program Area

The following information describes the location of the major program functions within (Your Agency Name) and identifies accomplishments, applicable operational guidelines, process, and responsibilities of the various sections.

Appendix lists staff summarized by gender and race for the following Special Emphasis areas: Planning, Design, Construction, Maintenance Services, and Environmental.

### *A. Planning*

**Example** – The Road Services Division is responsible for developing short and long-range plans that provide efficient transportation services to the citizens of (Agency Name).

Division staff coordinates with other government agencies, private groups, and the public to develop comprehensive plans that meet the transportation needs of (Agency Name). The Division provides staff and technical assistance to regional transportation groups and serves as liaison for planning with the Puget Sound Regional Council.

**A.1 Number of Consultant Projects for Planning Awarded During This Reporting Period and Dollar Value** – No consultant contracts for planning were awarded during FY 2004.

**A.2 Efforts Made to Utilize Minority and Female Consultants and Subconsultants in Federally-Assisted Contracts** – It is the policy of (Agency Name) to comply with 49 Code of Federal Regulations, Part 26, to ensure that Disadvantaged Businesses, including minorities and women, have an equal opportunity to receive and participate in federally-assisted contracts. (Agency) does not exclude any person from participation in, deny any person the benefits of, or otherwise discriminate in connection with the award or performance of any contract covered by 49 CFR Part 26 on the basis of race, color, sex, or national origin. Efforts made to use minority and female consultants during FY 2004 include the following outreach activities:

- **Disadvantaged Business Enterprise (DBE) Goals** – As part of (Agency Name) outreach efforts to use minority and female consultants, when appropriate, proposals include a Disadvantaged Business Enterprise (DBE) goal. Certified DBE firms can encompass small, minority and women-owned firms. As a condition of award, the successful bidder must make good faith efforts to meet this DBE goal. The proposer establishes good faith efforts when it documents that it has obtained enough DBE participation to meet the DBE goal; or documents that it has made adequate efforts to do so although unsuccessful.
- **Consultants Selection Procedures** – Consultants are selected according to the procedures outlined in the RCW, and *Local Agency Guidelines* procedures for federally-assisted projects. (Agency Name) encourages all consultant firms that are registered in Washington State to conduct business and who possess the requisite professional license(s) to present their qualifications for highway design projects.

  The (Agency Name) solicits firms for inclusion on the Architecture and Engineering, Professional Services, and the Construction Small Works Rosters in accordance with RCW 39.80 and (Agency Name) practices. (Agency Name) places an advertisement in various news media to include the (Names of Publications) and various minority newspapers that have existing contracts with the Agency. Advertisement is conducted a least twice during a year to encourage consultant firms to apply for placement on the rosters.
- **Public Pre-Proposal Meetings** – Other outreach efforts to support the use of minority and female consultants include conducting public pre-proposal meetings to provide information concerning the scope of work and available subcontracting opportunities associated with projects. These meetings are open to all interested parties.

**A.3 Studies Conducted Which Provide Data Relative to Minority Persons, Neighborhoods, Income Levels, Physical Environments, and Travel Habits** – The agency will continue to review all proposed projects for their potential to have a disproportionate impact on low-income and minority populations that are subject to additional consideration in accordance with applicable Title VI and Environmental Justice provisions. (Agency Name) unincorporated areas do not typically require substantial analysis to determine that the potentially affected areas do not meet thresholds for consideration as low-income or minority communities. However, (Specific Project name if applicable), does require such analysis.

**A.4 Hearings Held During the Report Period and Efforts Utilized to Ensure Citizen Participation, Particularly Minorities, and Women – The Number of These Individuals and the Capacity of Their Participation** – No hearings were conducted in FFY 2004. There were seven community advisory group meetings and one other public meeting conducted.

(Agency Name) continues to use the Washington State Department of Transportation (WSDOT) form for collecting data on public hearing and public meeting attendees for Title VI reporting requirements, per Title 23, Code of Federal Regulations, Part 200.9(b)(4). See Appendix for a copy of the form used by (Agency Name) at its public meetings. Appendix summarizes the forms collected during FFY 2004.

## B. Location

(Agency Name) emphasis over the past several years has been the improvement of existing Rights of Way and corridors. There has been no activity in the (Agency Name)'s Location Program. When future corridors are considered, the Location Program will be one of the tools used by the (Agency Name) to help determine their feasibility.

**B.1 Number of Complaints Filed** – None during this report period.

**B.2 Identification of Titles, Ethnicity, and Gender of Employees in the Location Program** – Not applicable this reporting period. Agency Name currently has no staff assigned to location duties since there has been no activity in that area.

**B.3 Number of Environmental Impact Statements Reviewed During the Report Period, Including a Summary of Comments on EIS Where Minority, Handicapped, Elderly, Etc., Communities Were Adversely Impacted** – None during this report period.

**B.4 Number of Consultants Contracts Involving Project Development Activities** – None during this report period.

**B.5 Number of Public Hearings Held During the Report Period Concerning Location of a Project, Including How the Hearings Were Advertised and Notification to Minorities** – None during this report period.

**B.6 Encouragement of Minority Leaders to Provide Suggestions and Ask Questions on Location of Highways** – Not applicable during this report period. No new highways were located during this report period.

**B.7 Need to Use Bilingual Advertisements, Announcements, Notices, Etc., During the Report Period** – None during this report period.

### *C. Design*

Design activities are performed by (fill in appropriate information about your design process.

**C.1 Number of Consulting Firms With Design Contracts, Including the Number of These Contracts Held by Minority Firms and Women-Owned Firms/Dollar Value** – For FFY 2004, 23 consulting firms were engaged in design contracts. For reporting purposes, work order and task order contracts that have multiple awards are considered contracts awarded. The accompanying tables summarize the number of contracts awarded, including work order and task order contracts, and the sum of those contract awards by prime and subconsultant.

Table V.C.1 provides the number of contracts and total dollar value awarded to minority firms and women-owned firms as prime consultants with design contracts.

| Table V.C.1 – Design Contracts-Prime | | | | |
|---|---|---|---|---|
| Name of Firm | Certification Status | Ethnicity | # Contracts Awarded (includes work and task orders) | Sum of Contract Awards (rounded to nearest thousand) |
| | | | | |
| | | | | |

Table V.C.2 contains information on the number of minority firms and women-owned firms who currently have subcontracts, their certification status, ethnicity, and sum of contract awarded dollar value.

| Table V.C.2 – Minority, Women-Owned Firms With Consultant Subcontracts | | | | |
|---|---|---|---|---|
| Name of Firm | Certification Status | Ethnicity | # Contracts Awarded (includes work and task orders) | Sum of Contract Awards (rounded to nearest thousand) |
| | | | | |

| | | | | |
|---|---|---|---|---|
| | | | | |

**C.2 Efforts to Increase Minority and Female Participation in Obtaining Consultant Contracts**

- **Procurement Information System** – (Agency Name) requests Letters of Interest, Statement of Qualifications and Proposals from all firms qualified and interested in providing professional services for contracts awarded by the (Agency Name). (Agency Name) posts information on current Requests for Proposals on its Internet Website. Proposals identify the types of sub consulting opportunities that may be available on the project for informational purposes.
- **Advertisement in Local Papers and Agency Procurement Website** – (Agency Name) advertises Requests for Proposals for consulting services in local papers and on its Procurement Website. The scope, size and duration of these contracts vary in size to promote diversity in the number and size of firms competing for these awards. Some contracts are for complete design services on a single project. Others may be for environmental reviews, traffic analysis, mediators or a wide range of professional services. (Agency Name) solicits some small A&E contracts (under $150K) from Consultants using its A&E Roster.
- **Advance Information on Upcoming Contract Opportunities** – During Federal Fiscal Year 2004, (Agency Name) efforts to use minority and female consultants included providing advance information on upcoming contract opportunities to DBE's to include small, minority and women-owned businesses.

  Describe Agency involvement in this area.
- **Newsletter Distribution** – Describe activities that may pertain to this type of information.
- **Grassroots Level Outreach Efforts** – Describe any activities that your agency has conducted in this arena.
- **Office of Business Relations and Economic Development** – Describe any activity this type of division may undertake in your community.
- **Collaboration With Other Local Governments** – Description of activity.

**C.3 Public Hearings Held During the Design Phase of Any Highway** – Description of any activity in this area.

**C.4 Employees in the Design Program Area, including Ethnicity and Sex, Including Efforts to Increase Minority and Female Representation Where** (low, high?) – See Appendix for information on employees.

During this report period, recruitment staff in the Design area actively participated in the following job fairs and forums: List participation if relevant.

**C.5 Complaints Filed in the Design Program Area** – None during this report period.

**C.6 Significant Problem Areas, Accomplishments, and Actions to Take During the Ensuing Year** – No significant problem areas were identified during this report period.

### *D. Environmental Unit*

The Environmental Unit of the (Agency Name) works to ensure the promotion of environmental integrity in the design, construction, and maintenance of transportation systems that serve the needs of the Agency's various communities. This section responds to the requirements of the

National Environmental Policy Act (NEPA) and the State Environmental Policy Act (SEPA) to ensure that projects undertaken by (Agency Name) meet these provisions, as required by Washington State and the Federal Government.

During FFY 2004, the (Agency Name, Division, Section) conducted ( ) NEPA and ( ) SEPA environmental reviews. The completed environmental reviews did not identify impacts to minority or economically disadvantaged communities. During FYE 2003 staff from (Agency Name) and WSDOT completed the technical studies pertaining to socio-economic impacts and Title VI/Environmental Justice considerations. The results from those studies have been incorporated into the draft review versions of the Draft EIS. Those initial drafts have been revised to clarify Title VI/Environmental Justice information and address specific comments from WSDOT. Following its approval by WSDOT and FHWA, (Agency Name) anticipates issuing the Draft EIS in 2005.

See Appendix for the list of names for each project that was subject to an environmental review during FY 2004. A copy of the SEPA exemption determination and determination of nonsignificance is included for each project.

### *E. Real Estate Services (Right of Way)*

Describe your Agency Real Estate Services Responsibility in the Title VI Plan.

The property acquisition process follows the *Right of Way Manual* M 26-01 and all applicable laws and regulations, including Title VI and Section 504. The acquisition process includes appraisal of property, negotiation of terms and conditions for acquisition, and relocation assistance, as well as property management.

**E.1 Civil Rights Complaints in the following Real Estate Services (Right of Way) Areas**

E.1.a. **Appraisals** – None during this report period.
E.1.b. **Negotiations** – None during this report period.
E.1.c. **Relocation Assistance and Payments** – None during this report period.
E.1.d. **Property Management** – None during this report period.

**E.2 Number of Appraisers Utilized During the Reporting Period** – During FFY 2004, four appraisers were utilized, two females, two males and no minorities. The appraisers are (Firm Name or Agency Name) employees. Decisions to obtain new appraisers are based on need and vacancies. There are no vacancies at this time. There were no contracts for appraisers during this reporting period.

**E.3 Number of Negotiations During the Report Period and Disparity in Contract Negotiations Between Minorities and Non-Minorities** – There were negotiations during this report period. No disparity in contract negotiations was noted.

**E.4 Concerns Raised by Minorities or Women Regarding Their Options in the Negotiation Phase** – None during this report period.

**E.5 Number of Relocations During the Report Period** – There were no relocations during FFY 2004.

**E.6 Concerns Raised by Minorities or Women on Replacement Housing, Referral Housing, and Advisory Services** – None.

**E.7 Opportunities for Minorities and Women to Obtain Contracts Awarded for Providing Relocation Assistance** – In-house relocation assistance services are conducted according to the rules guidelines of the federal Uniform Relocation Act (CFR24), RCW 8.26, and the WSDOT

relocation manual and LAG agreement. Staff attend project open houses to present relocation services and benefits, and later meet individually with affected relocatees to negotiate and finalize benefit awards.

### *F. Construction and Maintenance Services*

The Construction Services Group provides guidance and oversight for the administration of transportation construction projects. The (Agency Name) Road Maintenance Operations Section is responsible for the preservation and upkeep of roads and bridges.

**F.1 Civil Right Complaints Involving Competitive Bidding Procedures** – There were no complaints involving competitive bidding procedures during the reporting period.

**F.2 Summary of Efforts Made by the Title VI Coordinator to Encourage the Use of Minority Individuals, Firms, or Agencies to Obtain Maintenance Agreements or Contracts** – Summarize your Agency's effort in this area.

**F.3 Procedures Reviewed to Assure Subcontract Agreements, First and Second Tier, Material Supply and Equipment Lease Agreements During the Report Period** – Description of your Agency procedures.

**F.4 Significant Accomplishments and/or Action Items for the Ensuing Year** – Continue monitoring disadvantaged, minority, women, and small business participation in (Agency Name) Road construction contracting.

## G. Education and Training

**G.1 During the Reporting Period, Efforts Made to Encourage Participation by Minorities and Women in the NHI's Educational Program** – Description of this activity, if applicable

**G.2 Types of NHI Sponsored Programs and Number of (Agency Name) Participants, Including Minorities and Women** – Description of activity in this area by your Agency.

**G.3 Identify Staff Responsible for Training by Job Title, Ethnicity, and Gender** – Staff within (Agency Name) Office of Civil Rights (Agency Name) provides guidance to departments on their responsibilities and reporting requirements for Title VI.

Table V.G.1 shows staff responsible for Title VI training to departments by job title, ethnicity, and gender.

**Table V.G.1 – Title VI Training Staff Within the Office of the Title VI Coordinator**

| Name | Job Title | Ethnicity | Gender |
|---|---|---|---|
| | Title VI Coordinator | Caucasian | Female |
| | Civil Rights Specialist | African-American | Male |

**G.4 Civil Rights Complaints Filed Concerning Training and Educational Opportunities and any Corrective Actions Taken** – No complaints were filed during this reporting period.

### *H. Administration*

**H.1 List of Employees by Ethnicity and Gender in Each of the Title VI Program Areas** – Please refer Appendix for a summarization of the ethnicity and gender of employees in the respective program areas.

**H.2 Summarize All Activities Undertaken During the Reporting Period Which Provide for**

**Assurances of Title VI Compliance With Contractors, and by Contractors** (i.e., are Title VI compliance included in all contracts and consultant agreements; were reviews made to ensure contractors and consultants are adhering to Title VI requirements; are contractors and/or consultants appraised of Title VI implications and issues) – The following is a summary of activities undertaken during the reporting period that provide for assurances of Title VI compliance with contractors, and by contractors.

- **Title VI Training**
- **Dissemination of (Agency Name) Title VI Policy Statement** – (Agency Name) Title VI Policy Statement is included in a post award packet of informational materials that the Agency Name sends to prime contractors. The post award packet includes information on the (Agency Name) reporting requirements and is sent to all prime contractors for each contract that has been publicly bid and advertised.
- **Title VI Provisions in All (Agency Name) Federally Funded Contracts** – All federally funded contracts administered by (Agency Name) contain Title VI provisions (FHWA form 1273).
- **Analysis Worksheet Reviews for All Advertised Construction Bids and Proposals** – SAMPLE: "Contract Compliance Specialists located in the Business Development and Contract Compliance Office receive and review Subcontracting/Apprenticeship Availability Analysis Worksheets for projects advertised for construction bids. The worksheet identifies the specific scopes of work, if any, which may be available for performance by subcontractors. Specifications (FHWA form 1273) defining Title VI requirements are included in the contract documents with a requirement that these provisions be included in all amendments, supplements and lower tier contracts entered into by the contractor. (Contract documents also include GSP 01-07.11 language relating to the Requirements for Nondiscrimination.) Goals are established for the participation of Disadvantaged Business Enterprises, where applicable."
- **Public Pre-Proposal Meetings** – No public pre-proposal meetings were held during this reporting period.
- **Inclusion of Goals on Federally-Assisted Contracts** – Staff in the (Section of your Agency) review federally-assisted contracts for DBE goals.
- **Nondiscrimination Provisions in Contracts** – All (Agency Name) contracts, including federally-assisted contracts, contain nondiscrimination provisions to ensure and heighten awareness that (Agency Name) will not tolerate discriminatory practices.

**H.3 Title VI Training During the Period** – Table V.H.3 lists the FFY 2004 Title VI training/meetings and attendees.

| Table V. H.3 – Title VI Trainings/Meetings | | |
|---|---|---|
| **Date** | **Type of Training** | **Audience** |
| | | |
| | | |

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## Appendix A

### Form – Title VI Compliance Statement for use in public meetings/hearings Voluntary Title VI Public Involvement

Title VI of the Civil Rights Act of 1964 requires (Agency Name) to gather statistical data on participants and beneficiaries of the agency's federal aid highway programs and activities. (Agency Name) collects information on race, color, national origin and gender of the attendees to this public meeting to ensure the inclusion of all segments of the population affected by a proposed project.

(Agency Name) wishes to clarify that this information gathering process is completely voluntary and that you are not required to disclose the statistical data requested in order to participate in this meeting. This form is a public document.

The completed forms will be held on file in (Agency Name) Department of Transportation. For further information regarding this process, please contact the Title VI Coordinator by phone at or email at .

Please respond to the following questions:

| Project Name | Date |
|---|---|
| Meeting Location | |

| Name (please print) | Gender<br>☐ Male ☐ Female |
|---|---|
| General ethnic identification categories (check one):<br>☐ Caucasian<br>☐ Hispanic American<br>☐ American Indian/Alaskan Native<br>☐ African American<br>☐ Asian/Pacific Islander<br>☐ Other _____ | |
| Color | National Origin |

After you complete this form, please fold it and place it inside the designated box on the registration table.

Thank you for your cooperation!

## Appendix B

The following table summarizes staff gender and race by the respective program areas.

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| Special Emphasis Area | Race | Gender | |
|---|---|---|---|
| | | Female | Male |
| Design | Asian | 15 | 17 |
| | Black | 3 | 1 |
| | Caucasian | 13 | 42 |
| | Filipino | 1 | 2 |
| | Hispanic | 2 | 2 |
| | Other | 1 | |
| **Design Total** | | **35** | **64** |
| Environmental Services Unit | Black | 2 | |
| | Caucasian | 9 | 5 |
| | Hispanic | | 1 |
| **Environmental Services Unit Total** | | **11** | **6** |
| Planning | Asian | 2 | 5 |
| | Black | | 1 |
| | Caucasian | 6 | 10 |
| **Planning Total** | | **8** | **16** |
| Construction and Maintenance Services | Asian | 2 | 6 |
| | Black | | 2 |
| | Caucasian | 6 | 12 |
| **Construction and Maintenance Services Total** | | **8** | **20** |
| **Grand Total** | | **62** | **106** |

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## Appendix C

### State Environmental Project Assessments (Sepa) Exemption Determinations and Determinations of Nonsignificance

| Project Number | Project Name | NEPA/SEPA Type* |
|---|---|---|
| | | SCE |
| | | SCE |
| | | SCE/NCE |
| | | SCE/NCE |
| | | SCE |
| | | SCE |
| | | SCE |
| | | SCE |
| | | SCE |
| | | SCE |
| | | SCE |
| | | SCE |
| | | SCE/NCE |
| | | ECL/NCE |
| | | SCE |
| | | SCE/NCE |
| | | SCE |
| | | SCE |

*Type: NCE=NEPA Categorical Exclusion; EA=Environmental Assessment; NEIS=NEPA Environmental Impact Statement; SCE=SEPA Categorical Exemption; ECL=Environmental Checklist; SEIS=SEPA Environmental Impact Statement

## Appendix D

### (Agency Name) Title VI Implementation Plan
### Revised September 2004

1. **Internal Dissemination Goal** – To complete internal dissemination of (Agency Name)'s revised Title VI Plan and FFY 2004 Title VI Update Report before December 1, 2004.

   (Agency Name)'s Title VI Coordinator has distributed copies of its original Title VI Plan and assurances to Agency departments, (Agency Name) Council, (Agency Name) Civil Rights Commission, Department of Transportation Division Managers and the Office of the Prosecuting Attorney. Such distribution occurred on or before December 2000. The updated Plan dated September 2002 was disseminated in December 2002. The Plan as revised in 2004, along with the FFY 2004 Title VI Update Report will be circulated by December 1, 2004.

   The Title VI Specialist and Special Emphasis Area Liaisons (as defined in the plan) received copies of the original plan and will receive copies of the updates promptly for incorporation into operational manuals, guidelines, and procedures.

2. **External Dissemination Goal** – Public notification of (Agency Name)'s Title VI Plan will be on going.

   A. (Agency Name) will publicize (Agency Name)'s policy statement, as included in the Title VI Plan, in local minority and community-based newspapers. The (Agency Name)'s Title VI Plan will be made available to the public upon request. Additionally, the (Agency Name) Title VI Policy Statement and Complaint procedure may be found on the internet at .

   B. The (Agency Name) will continue to distribute copies of the Title VI Plan to contractor organizations upon request. Additionally, the (Agency Name) will make copies of the plan available to all prime contractors, subcontractors, consultants and suppliers currently participating on (Agency Name) public works projects receiving federal financial aid upon request. The (Agency Name) will also make copies available to other firms providing goods and services to (Agency Name) upon their request.

   C. The (Agency Name) will include the appropriate Title VI nondiscrimination language and any implementing requirements FHWA may issue in all solicitations for competitive bidding or negotiated procurements with federal aid for construction, professional services and purchase of materials or equipment.

3. **Training Goal** – To ensure that (Agency Name) employees involved in the project management and the contracting practice are knowledgeable on potential Title VI issues (ongoing).

   A. Title VI Specialists and Liaisons are strongly encouraged to participate in training programs and workshops offered through Washington State Department of Transportation and others. Additionally, the Title VI Coordinator, in communicating with the Title VI Liaisons and Specialists, informs (Agency Name) employees of any new training opportunities upon notification from other external agencies.

   B. Additionally, Staff in conjunction with staff in the (Agency Name) Department of Transportation, Road Division, will continue to develop new training for (Agency Name) staff.

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C. The (Agency Name)'s Title VI Coordinator shall oversee training to include staff involved in (Agency Name)'s contracting processes. The Title VI Specialist will conduct the training. Training will occur throughout the year and will be specific to the Road Services and Contracting Divisions of (Agency Name) initially. This training will include information on:

- The role of as the Title VI Coordinating agency.
- Technical Assistance on Title VI matters.
- Title VI reviews of program areas.
- Procedures for the prompt processing of complaints of discrimination.
- The necessity of updating the Title VI Plan to reflect organizational policy or implementation changes.

The (Agency Name)'s Title VI Coordinator will request Department Directors and Managers to inform employees of new training opportunities upon notification from the Coordinator's office. Such opportunities may include courses offered by WSDOT, as well as from other outside agencies.

D. The (Agency Name) will provide a training schedule to the Washington State Department of Transportation's Office of Equal Opportunity Title VI Coordinator.

E. The (Agency Name)'s Title VI Coordinator shall maintain information gathered from training records for inclusion in annual report updates.

4. **Information Collection for Annual Updates Goal** – To establish and implement processes and procedures for collection of information required for inclusion in annual update report.

A. The Title VI Specialist and Liaisons will assist the Title VI Coordinator in gathering and maintaining information on specific program areas and affected (Agency Name) departments.

B. (Agency Name) will work with Liaisons and a designated Data Coordinator to collect and report on the information required by WSDOT for the Title VI Annual Update.

C. Information for reports will be obtained from sources such as on-site compliance reviews (internal and external), checklists, review guides, questionnaires, public meeting sign in sheets, personnel inventory and employment utilization forms and inquires from the public. The Office of the Title VI Coordinator will compile this information for inclusion in the annual update reports as required.

5. **Complaint Resolution Goal** – To ensure that complaints are resolved in a professional and timely manner.

The (Agency Name)'s Title VI Coordinator will investigate all complaints of Title VI violations as appropriate. The (Agency Name) will use procedures outlined in the Title VI Plan to investigate such complaints. The objective of the investigation will be to determine whether prohibited discrimination has occurred or could occur, and to take steps to remedy the situation. To accomplish this, the Title VI Coordinator shall coordinate the following:

A. Identification of the basis for the complaint.

B. Identification of sources of information.

C. Fact finding interviews with aggrieved persons, witnesses and the alleged violator.

D. Development of a statement of finding-of-facts and information relevant to the issue/basis for the complaint.

E. Informal dispute resolution.

F. Report of findings in a manner that includes a conclusion and determination of future actions to take.

G. Provision for possible appeal of the decision to the FHWA. The (Agency Name)'s Title VI Coordinator will consult with WSDOT before commencing investigations to determine which agency should properly investigate.

6. **Annual Title VI Update Report Goal** – To provide detailed information on activities performed in implementing (Agency Name)'s Title VI Plan and to document accomplishments.

   The Annual Title VI Update Report will include detailed information regarding the implementation activities related to (Agency Name)'s Title VI Plan and the (Agency Name)'s accomplishments. Specific areas that will be covered in the Annual Report include, but may not be limited to the following:

   A. Organization and Staff Profile

   B. Title VI Monitoring and Review Process

   C. Complaints and Investigations

   D. Special Emphasis Program Area Activities and Accomplishments

   E. Title VI Administration

   F. Training

   H. Accomplishments Report for Current Year

## Appendix E

### (Agency Name) Title VI Policy Statement

(Agency Name) assures that no person shall on the grounds of race, color, national origin, or sex, as provided by Title VI of the Civil Rights Act of 1964 and as amended, and the Civil Rights Restoration Act of 1987 (P.I. 100.259) be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the Washington State Department of Transportation.

(Agency Name) further assures every effort will be made to ensure nondiscrimination in all of its programs and activities, whether those programs or activities are federally funded or not.

In the event (Agency Name) distributes federal aid funds to another governmental entity or other sub-recipient, (Agency Name) will include Title VI language in all written agreements and will monitor for compliance.

(Agency Name)'s Office of the Title VI Coordinator is responsible for initiating and monitoring Title VI activities, preparing required reports and other (Agency Name) responsibilities as required by 23 CFR 200 and 49 CFR 21.

(Agency Name) Executive  Date

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## Appendix F

### Title VI Forms

(Agency Name) provides Title VI forms to participants at public meetings (see Appendix A). In 2004 two forms were completed and turned in by participants.

Title VI Public Involvement forms were made available at the (fill in appropriate information).

Title VI Public Involvement forms were made available at the Sth Park Bridge EIS Community Advisory Group meetings on April 6, April 20, and May 4, 2004 at the Concord Elementary School Library, 723 S. Concord Street in Seattle, but no forms were submitted.

Title VI Public Involvement forms were made available at the (Fill in the Name) on (Fill in the Date) at (Fill in location), but no forms were submitted. (OR: Two forms were submitted according to actual circumstance.)

Title VI Public Involvement forms were made available at the (Fill in the Name) on (Fill in the Date) at (Fill in location), but no forms were submitted. (OR: Two forms were submitted according to actual circumstance.)

Title VI Public Involvement forms were made available at the (Fill in the Name) on (Fill in the Date) at (Fill in location), but no forms were submitted. (OR: Two forms were submitted according to actual circumstance.)

These forms are kept on file in the (Section of your Agency) and in the Office of the Title VI Coordinator.

## Appendix G

### Sample Organizational Chart

1. Report any changes in the organizational structure since the last reporting period.

   Example: New Title VI Coordinator, new planning or public works directors, etc.
   - Report should identify the changes in the racial/gender composition of those persons involved in the transportation decision making, including planning and advisory staff.
   - If no changes have been made, please indicate that accordingly.
2. Using the most current data available (through Census or Washington State Office of Financial Management), describe the demographics within your jurisdiction.
   a. Describe any required Title VI activities and/or studies conducted that provided data relative to minority persons, neighborhoods, income levels, physical environment, and travel habits.
   b. How was the information utilized or Title VI provisions and needs applied in each study or activity?
3. List any Public outreach activities during the reporting period such as:

   Public announcements and/or communications for meetings, hearings, project notices. Include the following:
   a. How were special language needs assessed? List the special language needs assessments conducted.
   b. What outreach efforts did you utilize to ensure that minority, women, low-income, and LEP population groups were provided equal opportunity to participate in those outreach activities. (Examples: Provided materials in other languages, met with local social services agencies, advertised in a minority publications.)
   c. List the special language services provided. Note the professional language service provided including the name of the service, date provided, number of persons served, and any other relevant information.
   d. List any costs incurred for translations and interpreters for each activity.
4. List all the transportation related contracts (federal and others) that were executed during the reporting period. (Please include construction, consultant agreements for planning, design, engineering, environmental, research, maintenance, etc.)
   - Include dollar value of each.
   - Other than advertising in your local legal publication, what outreach was made to the DMWBE firms that a contracting opportunity existed within your agency?
   - Identify the DMWBE contracts that were awarded and their dollar amount.
   - Is there a Title VI Nondiscrimination statement included in all contracts and public notices?
   - How did your organization ensure that minority, women and disadvantaged firms were provided equal opportunity to participate in the contracting arena?

5. Summarize any transportation projects that identify potential impacts to minority and/or low-income Environmental Justice (EJ) populations, i.e., impacts such as displacements, increased noise, bisecting neighborhoods. Note the following:
   - How impacts were minimized/mitigated.
   - Also include a statement, if applicable, on projects that specifically benefit community cohesion such as: adding sidewalks, improving access to properties that improve access for EJ populations.
6. If ROW has been acquired for a transportation project, please describe:
   - Identify the number of minority, low-income, elderly and disabled persons affected.
   - The efforts that were made to address Limited English Proficiency issues (including use and cost of translators, outreach efforts for each reported activity).
   - Describe any concerns raised by minorities and women regarding appraisals, negotiations, relocation assistance and payments. What actions were taken to resolve those issues?
7. List and describe any Title VI related complaints, as a result of transportation activities and projects. Include:

   What was the allegation or concern?
   - Procedures used.
   - Action taken.
   - Resolution.

Washington State Department of Transportation

## Title VI Complaint Log

| Case Number | Complainant/ Address | Filing Date | Basis | Status | Disposition |
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10/2015

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## Compliance Review Questionnaire for Local Agencies

**Local Agency:** Click here to enter text. **Date:** Click here to enter text.

**Name/Title:** Click here to enter text.

1. **Administration**
   a. Staff Composition and Program Administration
      i. Provide breakdown of your administrative staff by race, color, national origin, sex, and their positions.
      Click here to enter text.
      ii. How many federally funded projects have you managed during the last two years? Dollar amount?
      Click here to enter text.
      iii. Have you designated an EEO Officer or Title VI Coordinator? Provide name and time in the position.
      Click here to enter text.
      iv. Do you have a Title VI Policy, Assurances and Plan in place? Provide proof of public dissemination of your Title VI policy.
      Click here to enter text.
   **b. Complaint Procedure**
      i. Do you have a Title VI complaint procedure for external discrimination complaints?
      If so, please provide a copy. To what extent is the community aware of it?
      Click here to enter text.
      ii. Have you received any Title VI related complaints during the past two years? If so, how many? What were the outcomes? Where there any Title VI complaint lodged by beneficiaries or participants? If so, explain the issues involved.
      Click here to enter text.
      iii. Do you have a Title VI Notice to Public? If so, please provide copy.
      Click here to enter text.
   **c. Training**
      i. Has your staff received any training (formal or informal) regarding Title VI?
      Click here to enter text.
      ii. Are you considering scheduling Title VI training sometime soon? If so, when and who will present it?
      Click here to enter text.
2. **Planning Activities**
   **a. Public Involvement**
      i. Are minority members of the community invited to participate in public hearings?
      Click here to enter text.
      ii. How do you go about doing that?
      Click here to enter text.

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iii. Were accessible location, adequate time, and translation services considered or provided during the coordination of hearings?
Click here to enter text.

iv. Is the Hearing Coordinator keeping records in attendance? Is the information broken down by race, color, national origin, and sex (by visual identification)?
Click here to enter text.

v. Have planning manuals, directives, guidelines, and policies been reviewed for Title VI compliance purposes?
Click here to enter text.

3. **Consultant Contracts Activities**

a. Are Title VI assurances and provisions included on consultant contracts?
Click here to enter text.

b. Are DBE goals being included and met for consultant contracts? If not, what provisions have been taken to meet them?
Click here to enter text.

c. Have directives, operational procedures, guidelines, and policies been reviewed for Title VI compliance purposes?
Click here to enter text.

4. **Design/Environmental Activities**

a. Are minority members of the community invited to participate in public hearings?
Click here to enter text.

b. How do you go about doing that?
Click here to enter text.

c. Are accessibility of locations, adequate time, and translation services considered during the coordination of hearings? Was any other effort made to promote maximum attendance by those affected by the project, including member of minority communities?
Click here to enter text.

d. Is the Hearing Coordinator keeping records in attendance? Is the information broken down by race, color, national origin, sex, (by visual identification)?
Click here to enter text.

e. Have location and design manuals, directives, operational procedures, -guidelines, and policies been reviewed for Title VI compliance purposes?
Click here to enter text.

f. Is statistical data being collected on race, color, national origin, and sex on communities affected by a construction project?
Click here to enter text.

5. **Right of Way Activities**

a. Are DBE goals for real estate appraisers being met? If not, what provisions have been taken to help reach these goals?
Click here to enter text.

b. Is Title VI language being incorporated in all acquisition, negotiation, property management communications, and contracts?
Click here to enter text.

c. Are Title VI language and assurance statements being included in all surveys for property owners and tenants after the conclusion of all business?
Click here to enter text.

d. Are all values and communications associated with appraisals conducted in an equitable fashion?
Click here to enter text.

e. Do deeds, permits, and leases contain Title VI compliance clauses?
Click here to enter text.

f. Is statistical data being gathered on race, color, national origin, and sex for all relocates?
Click here to enter text.

**g. Construction and Maintenance Activities**

a. Have contractor selection procedures been reviewed to determine uniformity in their application to minority and nonminority contractors?
Click here to enter text.

b. Are minority contractors and subcontractors being informed about contracting opportunities with your organization?
Click here to enter text.

c. Are construction rules and regulations being applied in an equitable fashion?
Click here to enter text.

d. Have you received any complaints within the last two years?
Click here to enter text.

e. Are Title VI assurances being included in all contracts, subcontracts, and material supply agreements?
Click here to enter text.

**U.S. Department of Transportation**
Office of the Secretary of Transportation

**DOT 1050.2A**

**SUBJECT: DOT STANDARD TITLE VI ASSURANCES AND NON-DISCRIMINATION PROVISIONS**

1. **PURPOSE.** This order updates DOT 1050.2, Standard DOT Title VI Assurances.

2. **SCOPE.** This order applies to the Office of the Secretary and the operating administrations with regard to any program for which Federal financial assistance is authorized under a law administered by the U.S. Department of Transportation.

3. **BACKGROUND.** Section 21.7(a) of Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964, requires that all applications for Federal financial assistance from the Department of Transportation must contain Title VI Assurances. This order requires the Office of the Secretary and each operating administration to secure from applicants and recipients receiving Federal financial assistance the attached Standard DOT Title VI Assurances. The reverter clause in Appendices B and C of the assurances should be used only when it is determined that such a clause is necessary in order to make clear the purposes of Title VI. The assurances may be supplemented by additional paragraphs by the Office of the Secretary and operating administrations desiring to expand the assurances in order to make them more applicable to a particular program. All such changes or expansions shall be coordinated with the Departmental Office of Civil Rights.

4. **RESPONSIBILITIES.**

   a. **The Departmental Director of Civil Rights** will monitor compliance with this order, including review of any expansion or addenda to the Standard DOT Title VI Assurances and Non-Discrimination Provisions by the Assistant Secretary for Administration or an operating administration.

   b. **The Assistant Secretary for Administration,** with respect to programs for which Federal financial assistance is requested from the Office of the Secretary, shall assure that all applications include the attached Standard DOT Title VI Assurances and Non-Discrimination Provisions.

   c. **The Head of Each Operating Administration,** with respect to programs for which Federal financial assistance is requested from the operating administrations, shall assure that all applications include the attached Standard DOT Order 1050.2, Standard Title VI Assurances and Non-Discrimination Provisions.

Ray LaHood
Secretary of Transportation

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**The United States Department of Transportation (USDOT)**

**Standard Title VI/Non-Discrimination Assurances**

**DOT Order No. 1050.2A**

The (***Title of Recipient***) (herein referred to as the "Recipient"), **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through (***Title of Modal Operating Administration***), is subject to and will comply with the following:

**Statutory/Regulatory Authorities**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled *Non-discrimination In Federally-Assisted Programs Of The Department Of Transportation—Effectuation Of Title VI Of The Civil Rights Act Of 1964*);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

***Modal Operating Administration may include additional Statutory/Regulatory Authorities here.***

The preceding statutory and regulatory cites hereinafter are referred to as the "Acts" and "Regulations," respectively.

**General Assurances**

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

> *"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity," for which the Recipient receives Federal financial assistance from DOT, including the (**Title of Modal Operating Administration**).*

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these non-discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

***Modal Operating Administration may include additional General Assurances in this section, or reference an addendum here.***

**Specific Assurances**

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted (***Name of Appropriate Program***):

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23 (b) and 21.23 (e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated, or will be (with regard to a

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"facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.

2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all (***Name of Appropriate Program***) and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

   "*The **(Title of Recipient)**, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.*"

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.

4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.

5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.

6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.

7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:

   a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
   b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.

8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:

   a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
   b. the period during which the Recipient retains ownership or possession of the property.

9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance

under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.

10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

***Modal Operating Administration may include additional Specific Assurances in this section.***

By signing this ASSURANCE, ***[Name of the recipient]*** also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the ***[insert Agency name]*** access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the ***[insert Agency name]***. You must keep records, reports, and submit the material for review upon request to ***[insert Agency here]***, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

***[Name of Recipient]*** gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the ***(Name of Appropriate Program)***. This ASSURANCE is binding on ***[insert State]***, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the ***(Name of Appropriate Program)***. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

_____
*(Name of Recipient)*

by_____
*(Signature of Authorized Official)*

DATED_____

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## APPENDIX A

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

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, ***(Title of Modal Operating Administration)***, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21. ***[Include Modal Operating Administration specific program requirements.]***

3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin. ***[Include Modal Operating Administration specific program requirements.]***

4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the (***Title of Modal Operating Administration***) to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the (***Title of Modal Operating Administration***), as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the (***Title of Modal Operating Administration***) may determine to be appropriate, including, but not limited to:

    a. withholding payments to the contractor under the contract until the contractor complies; and/or
    b. cancelling, terminating, or suspending a contract, in whole or in part.

6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the (***Title of Modal Operating Administration***) may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

A

## APPENDIX B

## CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

**NOW, THEREFORE,** the U.S. Department of Transportation as authorized by law and upon the condition that the (***Title of Recipient***) will accept title to the lands and maintain the project constructed thereon in accordance with (***Name of Appropriate Legislative Authority***), the Regulations for the Administration of (***Name of Appropriate Program***), and the policies and procedures prescribed by the (***Title of Modal Operating Administration***) of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the (***Title of Recipient***) all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

**(HABENDUM CLAUSE)**

**TO HAVE AND TO HOLD** said lands and interests therein unto (***Title of Recipient***) and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the (***Title of Recipient***), its successors and assigns.

The (***Title of Recipient***), in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the (***Title of Recipient***) will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended[, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

B

## APPENDIX C

## CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the (***Title of Recipient***) pursuant to the provisions of Assurance 7(a):

A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:

   1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, (***Title of Recipient***) will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*

C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the (***Title of Recipient***) will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the (***Title of Recipient***) and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

C

## APPENDIX D

## CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by (***Title of Recipient***) pursuant to the provisions of Assurance 7(b):

A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.

B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, (***Title of Recipient***) will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*

C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, (***Title of Recipient***) will there upon revert to and vest in and become the absolute property of (***Title of Recipient***) and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

D

## APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

**Pertinent Non-Discrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

E

# Chapter 29 Section 504 and the Americans with Disabilities Act

## 29.1 General Discussion

This chapter summarizes the regulations and implementing requirements local agencies must follow regarding services, programs, and activities in or that affect the public right of way.

*Section 504* of the *Rehabilitation Act of 1973 (Section 504)* states that no person with a disability shall be excluded from participation in, denied the benefits of, or be subjected to discrimination under any program or activity that receives Federal funding. This includes both transportation and non-transportation funding. Transportation funding includes funding from the United States Department of Transportation (USDOT) or its operating administrations (Federal Highway Administration, Federal Transit Administration, Federal Railroad Administration, Federal Aviation Administration, Research and Special Programs Administration, National Highway Traffic Safety Administration, or the U.S. Coast Guard).

Section 504 extends to the entire operations of a recipient or subrecipient, regardless of the specific funding source of a particular operation. Section 504 Regulations (49 CFR Part 27.5) pertain to the USDOT and define a recipient as any public entity that receives federal financial assistance from a federal agency either directly or through another recipient.

All public entities are required to follow *the Americans with Disabilities Act of 1990* (ADA), regardless of funding sources. The ADA is mirrored after Section 504 but extends the reach of Federal accessibility laws to include those agencies that are not recipients or subrecipients of Federal funding. Title II (28 CFR Part 35) of the ADA specifically pertains to state and local governments.

FHWA and WSDOT must ensure that local agencies that receive funds from FHWA meet Section 504 and the ADA. For more information about Section 504 and the ADA, please see WSDOT Local Program's ADA/Section 504 website: www.wsdot.wa.gov/LocalPrograms/Traffic/ada.htm

## 29.2 Assurances

Each local agency that receives federal funding from the USDOT or its operating administrations is required to submit a written assurance that all of its services, programs, and activities will be conducted in compliance with Section 504 and the ADA. The assurance shall be signed by the Agency Executive, and submitted to each agency (such as WSDOT) administering funds for the USDOT or an operating administration.

Federal aid projects administered through WSDOT require a Local Agency Agreement between the local agency and WSDOT. That agreement may serve as the local agency's assurance of compliance with Section 504 and the ADA as long as it is a version that states the following:

> In accordance with Section 504 and the ADA, the Agency shall not discriminate on the basis of disability in any of its programs, services, or activities.

## 29.3 Administrative Requirements

The following list and Appendix 29.11 summarize some of the key requirements of Section 504 and the ADA. Note that when a requirement cites a number of employees as a trigger, that number is based on the total of paid permanent, temporary, and contract employees regardless of whether the number of employees are full or part time.

- Each agency, regardless of the number of employees, is required to ensure that its services, programs, and activities are accessible to persons with disabilities. Some things this includes are:
  - Transportation and community evacuation elements of emergency management programs/plans.
  - Communications. Communications with persons with disabilities must be as effective as communications with others. This is applicable to all forms of communications, including information posted on an agency's website (ref. Section 508 of the Rehabilitation Act and the ADA), emergency services communications, and pedestrian signal systems.
  - Maintenance of programs and facilities. This includes maintaining accessibility of pedestrian facilities (inclusive of pedestrian signals/pushbuttons) that may be impacted by overgrown vegetation, snow/ice, severe heaving/cracking of surfaces, construction work zones, etc.
- Each agency with 15 or more employees that is a recipient or subrecipient of Federal financial assistance is required to designate at least one person as its ADA/504 Coordinator. The threshold is 50 or more employees if the agency is not a recipient/subrecipient of Federal financial assistance. The individual designated as the ADA Coordinator is responsible for coordinating Section 504/ADA compliance throughout the agency. The name, office address, and telephone number of the ADA/504 Coordinator must be provided both internally and externally.
- Each agency with 15 or more employees that is a recipient or subrecipient of Federal financial assistance is required to adopt and publish grievance/ complaint procedures. The threshold is 50 or more employees if the agency is not a recipient/ subrecipient of Federal financial assistance. These procedures must be posted internally and externally, and be made available in alternative formats.
- Each agency, regardless of the number of employees, is required to provide public notice of its ADA provisions. This notice must contain a brief description about how the agency will address ADA accessibility in its employment, communications, policies, and resolution of complaints. This notice must be placed in locations and/or facilities that are accessible internally and externally and be available in alternative formats that address the needs of persons with mobility, visual, and hearing disabilities.
- Each agency, regardless of the number of employees, is required to conduct a self-evaluation of its policies, programs, services, and activities to determine whether Section 504/ADA accessibility requirements are being met. This includes all public right-of-way facilities.

- Agencies with 50 or more employees are required to develop a Transition Plan (See Section 29.4) when structural modifications, identified through a self-evaluation process, are necessary to achieve program accessibility under the ADA. While Section 504 regulations contain similar requirements, there is no employee threshold and the regulation is not as descriptive as the ADA. Therefore, agencies with fewer than 50 employees and a recipient of federal funds shall develop a compliance planning document that based on the agency's self evaluation, identifies the physical obstacles in the public entity's facilities that limit the accessibility of its programs or activities to individuals with disabilities (including those within the public right of way) and describes the actions needed to make the facilities accessible.

  As agencies conduct self-evaluations and develop transition plans, they must provide an opportunity for interested parties (i.e., persons with disabilities/ advocacy groups) to participate in the process.

  For examples of a public notice, grievance/complaint procedure, and other documents, see the Local Programs ADA Policies and Best Practices website www.wsdot.wa.gov/LocalPrograms/Traffic/ada_policy.htm.

## 29.4 Transition Plan Elements

As mentioned under Section 29.3 of this chapter, agencies with 50 or more employees (ADA) are required to develop a transition plan when structural modifications are necessary to achieve ADA compliance. Using the results of the agency's self-evaluation, at a minimum the plan shall:

- Identify the physical obstacles in the public entity's facilities that limit the accessibility of its programs or activities to individuals with disabilities (including those within the public right of way).
- Describe in detail the methods that will be used to make the facilities accessible.
- Specify the schedule for each facility and/or obstacle to be retrofitted.
- Identify the official responsible for implementation of the plan (typically the agency's ADA/504 Coordinator).

FHWA recommends that an estimated cost of each modification be included as part of the schedule described above, to assist in the budget and/or Transportation Improvement Program (TIP) preparation. FHWA considers the transition plan to be a living document. The transition plan should be used in conjunction with planning and prioritizing of projects, and for monitoring progress on completing modifications. If the time period of the transition plan is longer than one year, the plan must identify steps that will be taken during each year of the transition period. FHWA also recommends that the transition plan be updated annually until all planned modifications have been completed.

Instead of a transition plan, agencies with fewer than 50 employees and a recipient of federal funds are required to develop a compliance planning document. Based on the agency's self evaluation, this document identifies the physical obstacles in the public entity's facilities that limit the accessibility of its programs or activities to individuals with disabilities (including those within the public right of way) and describes the actions needed to make the facilities accessible.

For examples of transition plans, see the Local Programs ADA Policies and Best Practices website www.wsdot.wa.gov/LocalPrograms/Traffic/ada_policy.htm.

Based on input from the U.S. Department of Justice (DOJ), it is FHWA's policy that public agencies establish a "reasonable and consistent" policy for installing accessible pedestrian signals and pushbuttons (APS) on all alteration and new construction projects, consistent with the requirements of Title II of the ADA (28 CFR Part 35.151) and Section 504 regulations (49 CFR Part 27.7(c)). This policy should be part of a transition plan, or a stand-alone document if a transition plan has not yet been completed. FHWA and WSDOT will work with local agencies to ensure that all new and altered pedestrian signal and pushbutton installations are usable by persons with visual disabilities.

## 29.5 Requirements for New Construction and Alterations

Title II of the ADA requires that new facilities be designed and constructed to be readily accessible to and usable by persons with disabilities.

### New Construction

New construction projects address the construction of a new roadway, interchange, or other transportation facility where none existed before. New construction is expected to meet the highest level of ADA accessibility unless it is structurally impracticable to achieve full compliance. Full compliance will be considered structurally impracticable only when, in rare circumstances, the unique characteristics of terrain prevent full compliance.

### Alterations

The vast majority of construction projects undertaken by local agency public works/ transportation departments are classified as alterations. An alteration is defined as a change that affects or could affect the usability of a facility or part of a facility. Alterations include reconstruction, major rehabilitation, widening, resurfacing (e.g., asphalt overlays and mill and fill), signal installation and upgrades, and projects of similar scale and effect. Alterations to existing facilities are required to meet new construction standards unless it is technically infeasible to do so. If full ADA compliance cannot be achieved in an alteration, the agency must alter the facility to provide the maximum degree of accessibility possible. The feasibility meant by this standard is physical possibility only. Neither cost nor schedule are factors in determining whether the ADA standards can be met, nor are they factors in determining the feasibility of complying with the standard.

An alteration project must be planned, designed, and constructed so that the required accessibility improvements occur at the same time as the alteration. If a project involves resurfacing the street, connections between the sidewalk and street crossings (i.e., curb ramps) are considered to be within the scope of the alteration project. Any accessibility issues must be addressed in conjunction with the resurfacing project, either prior to or at the same time as the resurfacing project. See USDOJ-USDOT Joint Technical Assistance dated June 28, 2013 for additional guidance on resurfacing projects and ADA accessibility.

The 2010 Standards for Accessible Design (2010 Standards) contain a "safe harbor" provision that may be applied to curb ramps associated with resurfacing projects. Under the safe harbor provision, if curb ramps have not been altered in existing facilities on or before March 15, 2012, and they comply with 1991 technical and scoping standards, they do not need to be modified as part of a resurfacing project unless they are in a state of disrepair. Whenever the curb ramps or abutting sidewalks are altered, they will then need to be reconstructed to meet the 2010 Standards. Note that curb ramp requirements in the 2010 Standards are identical to the 1991 Standards except for curb ramp width.

While ADA/Section 504 regulations do not require documentation of the application of structural impracticability nor maximum extent feasible, both FHWA and the U.S. Access Board recommend that these instances be documented so the agency can support its decisions if challenged at a later date. The documentation of these instances should reveal the standard of care that guided engineering judgments. While careful documentation will not protect an agency against complaint, evidence of the considerations that led to the specific project solution may be persuasive in court or in discussions with stakeholders.

As described in the *Design Manual* M 22-01, WSDOT has an established a documentation procedure for applications of maximum extent feasible in alteration projects on state routes. If a local agency applies maximum extent feasible to a pedestrian facility located on a state route, it is WSDOT's expectation that the agency follow the WSDOT documentation procedure described in the *Design Manual* M 22-01. The completed documentation should be contained in local agency project files to document the agencies design efforts in complying with the ADA requirements.

If a local agency finds the need to apply maximum extent feasible to a pedestrian facility that is not located on a state route, the WSDOT documentation procedure does not need to be followed. However, it is highly recommended that the agency develop its own documentation protocol for such situations that is consistent with the FHWA and U.S. Access Board recommendations.

## 29.6 Monitoring and Enforcement

Responsibility for monitoring and enforcement of Section 504 rests with the Federal funding agency. The Section 504 regulations require WSDOT, as a recipient, to monitor and enforce the compliance with both Section 504 and the ADA of any entity receiving disbursement of either state or Federal funding through WSDOT. While USDOJ has the ultimate enforcement authority for ADA compliance, USDOJ has delegated monitoring and enforcement responsibility to several Federal executive agencies including the USDOT and its operating administrations. FHWA monitors WSDOT and local agency compliance through various means such as process and program reviews, construction inspections, PS&E reviews, and complaint investigations. If noncompliance is found, and the noncompliance is not corrected to FHWA's satisfaction, FHWA may terminate or refuse to grant federal funding.

## 29.7 Laws

- 29 USC 794 - Section 504 of the Rehabilitation Act of 1973 (as amended by the Civil Rights Restoration Act of 1987)
- 42 USC 12111 - Americans with Disabilities Act (Title II)

## 29.8 Regulations

- 28 CFR Part 35 (Title II) "Nondiscrimination on the Basis of Disability in State and Local Government Services"
- 49 CFR Part 27 (Section 504) "Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance"
- 49 CFR Part 37 "Transportation Services for Individuals with Disabilities (ADA)
- 49 CFR Part 38 "Americans with Disabilities Act (ADA) Accessibility Specifications for Transportation Vehicles"

## 29.9 Resources

- Chapters 1510 and 1515 of the *Design Manual* M 22-01
- Chapter 42 of this manual

## 29.10 Appendices

29.11 ADA Title II and Rehabilitation Act Section 504 Regulatory References

| ADA Title II and Rehabilitation Act Section 504 Regulatory References | | | | | | | |
|---|---|---|---|---|---|---|---|
| | **Programs, services, and activities** | **ADA/504 Coordinator** | **Complaint/ grievance procedures** | **Self-evaluation[2]** | | **Transition Plan[2]/ compliance planning document** | **Accessible Pedestrian Signal and Pushbutton (APS) policy[2]** |
| **Number of employees[1]** | Ensure that programs, services, and activities are accessible to persons with disabilities. (28 CFR Part 35.150(a) and (c)) | Designate at least one responsible employee (ADA/504 Coordinator) and make the name and contact information available internally and externally. (28 CFR Part 35.107(a) and 49 CFR Part 27.13(a)) | Adopt and publish complaint/ grievance procedures (28 CFR Part 35.107(b) and 49 CFR Part 27.13(b)) | Evaluate all services, policies, and practices for barriers which restrict / limit persons with disabilities from access to services, programs, and activities. (28 CFR Part 35.105(a) and 49 CFR Part 27.11(c)(2)(i) and (v)) | Maintain the completed self-evaluation on file and make it available for public inspection for at least three years following its completion. (28 CFR Part 35.105(c) and 49 CFR Part 27.11(c)(3)(ii)) | Develop and publish an transition plan/ compliance planning document that outlines the structural modifications that must be made to those services, programs, and activities that are not accessible (28 CFR Part 35.150(d) and 49 CFR Part 27.11(c)(2)(ii)) | Develop a "reasonable and consistent" policy for installing accessible pedestrian signals and pushbuttons when a transition plan has not yet been completed. (28 CFR Part 35.130 and 35.160a(1), and 49 CFR Part 27.7(c)) |
| 50 or more | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ (transition plan) | ✓ |
| 15 to less than 50 if recipients or subrecipients of federal funds | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ (compliance planning document) | ✓ |
| Less than 15 | ✓ | | | ✓ | ✓ | ✓ (compliance planning document) | ✓ |

**Notes:**

[1]Employees include paid permanent, temporary, and contract employees regardless of whether the employees are full or part time.

[2]Complete self-evaluations, and develop transition plans, compliance planning document, and APS policies by engaging persons with disabilities and/or their advocates (28 CFR Parts 35.105 and 35.150, and 49 CFR Part 27.11(c)(2)).

# Chapter 31 Using Consultants

To be eligible for reimbursement of Federal Highway Administration (FHWA) funds for payments to a consultant, the procedures in this chapter must 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. These include:

- Professional services of an architectural or engineering nature that are required to be performed or approved by a person licensed, registered, or certified to provide the service needed.
- Professional services of an architectural or engineering nature performed by contract that are associated with research, planning, development, design, construction, alteration, or repair of real property.
- Professional services of an architectural or engineering nature, or incidental services, which members of the architectural and engineering profession perform services, including but not limited to studies, investigations, surveying and mapping, value engineering, construction phase services, soils engineering, and other related services.

This chapter also covers Professional Service agreements.

Examples of professional services typically include, but are not limited to:

- Material testing (as long as the consultant is delivering test results only, not performing an analysis or producing a discipline report).
- Financial and economic analyses.
- Environmental planning—as opposed to environmental engineering.
- Legal services.
- Management consulting not related to A&E projects.
- Media and public involvement; marketing services.
- Research.
- Scientific studies.
- Appraisal services not related to A&E projects.
- Acquisition, property management, and relocation services.
- Expert witness services for litigation.

Throughout this chapter the term “project” means the work to be undertaken by the consultant.

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 (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, Agencies 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 (deliverables).

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.

Selection of the most qualified consultant firm is based on evaluations, therefore Agencies 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 three agreement types are lump sum, cost plus fixed fee, and negotiated hourly rates (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 agreements are available at www.wsdot.wa.gov/localprograms.

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.

A&E consultants may be solicited for:

1. A specific project.
2. A specific stage of a project (i.e., Design Report).
3. Engineering services (i.e., supporting services of an Agency's staff in studies, design).
4. For more than one project (i.e., several small bridge design projects) or multiple phases of a single project.
5. Or a combination of the above.

**.11a Multi-Phase Projects** – In the case of projects covering two or more distinct phases, when the cost for the second phase depends on decisions reached during the first phase, the agreement should cover only the first phase. The agreement for preliminary engineering should state that the consultant may be considered for subsequent phases provided this option was identified in the advertised solicitation. The consultant's engagement to complete subsequent phases depends upon the consultant's satisfactory performance on prior work and upon negotiation of an agreement for the subsequent phase(s). The Agency is not obligated to use the same consultant firm for all phases. Separate consultant agreements may be considered for each phase (e.g., one for preliminary engineering and another for construction engineering).

**.11b Environmental Assessment/Environmental Impact Statement/ Environmental Classification Summary** – The first agreement would include preliminary engineering through final approval of the environmental documents. Preparation of the PS&E could be under a separate agreement with continuation of the original consultant at the option of the Agency, provided this was stated in the original advertisement.

**.11c Engineering Management Consultants** – While an engineering management consultant may assist an Agency in fulfilling its responsibilities, the Agency cannot delegate these responsibilities to a consultant or to another Agency. A consultant serving in a management role for an Agency, and then managing consultant agreements with its own firm, is a conflict of interest.

**.12 Advertise the Need for A&E Consultant Services** – State law, RCW 39.80, requires that each Agency must advertise that Agency's requirement(s) for architectural services, land surveying services, or engineering services. An Agency can comply with these requirements by either:

1. Publishing an announcement on each occasion when A&E consultants are required by the Agency.
2. Publishing an annual notice to establish an "On Call Roster" (or rosters by specialty) to receive qualifications from consultants (See Section 31.14).

   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.

   Agencies may also publish an announcement for emergent need contracts. There are four disciplines in which an agency may advertise for and award contracts to multiple firms to assist agencies if unexpected needs arise during construction. These disciplines include:

   - Geotechnical – Investigations include the assessment of the risk to humans, property and the environment from natural hazards such as earthquakes, landslides, sinkholes, soil liquefaction, debris flows and rockfalls.
   - Hydraulics – These activities include roadways threatened by a river and /or the occurrence of scour.
   - Archeological – Investigations include surveying the construction site and analyzing any findings if construction activities caused disturbance to potential cultural resources or human skeletal remains.
   - Environmental – These activities involve contacting resource agencies, documenting all construction activities that may require mitigation and monitoring in-water work activities

   Agencies would award contracts to several firms that meet the required criteria. Agencies will then rotate work through all of the firms selected. These agreements will be for a **one year** period of time and will include a "not to exceed" dollar amount. An agency may extend the agreement for one additional year provided the original dollar amount was not exceeded.

**.12a Advertisement Content** – The advertisement should contain the following information (see Appendix 31.71 for an advertisement example):

1. A project title and estimated start and end date.
2. The scope and nature of the project, including technical requirements for which services are required and the address of a representative of the Agency who can provide further details.
3. Solicitations of qualification statements, referred to as Requests for Qualifications (RFQ) from consultants, must incorporate a clear and accurate description of the technical requirements for the service to be procured, including any special conditions or certifications required. (Example Submittal Information Forms to obtain consultant qualifications for Prime and Subconsultants are contained in Appendix 31.72(a) and 31.72(b), respectively.)
4. Solicitations must clearly set forth sufficient detail on how applicant qualifications will be evaluated. These may include but are not limited to key personnel, firm experience, ability to meet schedule, past performance, in-house expertise, familiarity with WSDOT/ FHWA standards, and DBE approach and commitment.
5. Nonengineering service applicants should be asked to provide estimates for the man-hours and classifications needed to complete the project.
6. In the event that a project covers multiple phases (see Section 31.11a), the Agency is not obligated to utilize the original consultant for subsequent phases. If the Agency desires this option, the advertisement must state the possibility of a multi-phase agreement at the discretion of the contracting Agency.
7. All prospective consultants must be advised that federally funded projects will be held to Federal EEO requirements.
8. Consultants will also be held to ADA and Civil Rights language for the employing Agency.
9. **Local Agencies must be in compliance with Chapter 28 and their Title VI Agreement. Therefore, when advertising for Consultant Services, the following Title VI language must be included in advertisement:**

   **"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 ensure 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."**
10. Response due date.
11. Publication dates.

Specific project cost estimates shall not be requested until a consultant has been selected.

**.13 A&E Consultant Evaluation and Selection Process** – The Local Agency must 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. For A&E related services, fees for services cannot be considered during the selection process.

One of the following must be utilized as part of the consultant selection process:

1. **"Live" Interviews and Presentation of the RFQ by Consultant Individuals or Teams** – This provides 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.
2. **Telephone Interviews** – This 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.

   A. Exceptions to the competitive process used for consultant selection:

      1. **Subsequent Phasing** – Selection of a consultant to perform subsequent project phases may only occur if this option was advertised originally (i.e., Phase 1 Preliminary Engineering, Phase 2 Right of Way, Phase 3 Construction Engineering).
      2. **Contract Amendments** – 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.
      3. **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).
      4. **Sole Source** – Sole source agreements may be requested from 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 31.73) 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. Local Programs must approve all consultant procedures that are exceptions to the competitive process.

B. **Documentation of 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).
2. Consultant selected and reasons why this consultant was chosen over the others.
3. Prior to executing an agreement agencies must verify consultant status with the System for Award Management (SAM) at www.sam.gov/portal/public/sam to determine if the consultant has been excluded from bidding on a federal aid contract. SAM is the electronic version of the Lists of Parties Excluded from Federal Pro-curement and Nonprocurement Programs (Lists), which identifies those parties that have been suspended, debarred, or otherwise ex-cluded from bidding on federal procurement and nonprocurement con-tracts. Consultant agreements awarded to firms listed on the Excluded Parties Listing will not be eligible for federal aid reimbursement.

**.14 Establishing a Consultant "On-Call Roster"** – To efficiently obtain consultant services, a process for developing and maintaining a consultant "On-Call Roster" is necessary. Agencies may, therefore, establish and maintain a continuous "On-Call Roster" to which interested and qualified firms may apply. This "On-Call Roster" **must** be maintained annually and may be shared with other interested public agencies. The Agency must name all agencies that are utilizing the "On-Call Roster," if any, in addition to the Agency establishing the "On Call Roster."

**When using the "On-Call Roster", the federal aid project must be identified prior to the consultant selection process. No "On-Call Roster" consultant may be awarded more than one federal aid contract from the "On Call Roster" at a time. When active contracts are complete, the consultant's name will be returned to "available" status.**

1. The Agency must publish an announcement in a newspaper of general circulation at least once per year to invite consultant firms to submit statements of qualifications and performance data. The advertisement shall be for future project needs and announce generally projected requirements for any category or type of professional services. The advertisement shall state the address of the representative who can provide further details.
   a. Separate "On Call Rosters" will be kept for each discipline of work. Agencies may not select a firm from one "On Call Roster" to perform work that is covered by a different "On Call Roster." Each "On Call Roster" must have a separate list of qualification criteria which will be clearly stated in the advertisement for "On Call Roster" participants.
2. The advertisement shall encourage firms to submit or update qualifications and performance data.
3. The Agency may either provide an application that solicits desired information or allow firms to apply through other means of establishing credentials as best meets the agency's needs, or a combination thereof.

4. The Agency shall review submittals to ensure firms meet minimum eligibility criteria for responsible firms as defined by the Agency prior to establishing the "On-Call Roster." Verification shall consider required licensing, experience, and financial stability in order to establish firms that are reasonably capable of performing the work.
5. Firms that meet at least minimum levels of responsibility based on the advertisement shall be placed onto the "On-Call Roster." The "On Call Roster" shall list firms that responded to the advertisement and were found eligible for further consideration by the Agency as project needs arise.
6. Firms with applications on file will be required to update their information after one year, either through the annual advertisement or through a direct process established by the Agency prior to establishing the "On-Call Roster."
7. The Agency may issue repeat advertisements to solicit additional firms or firms with a particular specialty for the "On-Call Roster" at any time during the year.
8. The "On-Call Roster" shall be continuously open.
9. Firms listed on an Agency "On-Call Roster" shall be available for consideration and eligibility for a project need, unless a specific reason causes the firm to be placed on an inactive status. Such inactive status will be the right of the Agency; however, written notification of the change of status will be given to firms within 30 days of status change. The reason for the status change will be stated clearly in the notification.
10. The process to select firms from the "On-Call Roster" and enter into a contract shall be as follows.
    a. Agencies must interview at least three firms for each contract from the "On Call Roster."
    b. If less than three qualified firms are available for a given contract, the agency will interview as many as are available on the "On Call Roster" for that particular contract.
    c. If no qualified firms are available from the established "On Call Roster," a separate advertisement and award process must be followed.
    d. Following the interview, the Agency will select the best qualified consultant from those interviewed.

## 31.2 Professional Services Consultants

Professions outside the fields described in RCW 39.80 may provide such consulting services such as long range planning and studies, economic analyses, real estate negotiations. These consulting services are provided through professional services agreements (RCW 39.26). The basic difference between professional services and A&E consultants is that consultant fees may be considered in selecting professional services consultants, but cannot be considered in selecting A&E services consultants.

The Local Agency is to work with WSDOT Real Estate Services on right of way professional services agreements.

**.21 Determine the Need for Professional Services Consultants** – Before an Agency advertises for a professional services consultant, the agency 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.

The Agency should develop selection guidelines for all to understand, because selection of the most qualified consultant firm is based upon evaluations by the Agency. 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 the Agency's needs in the most cost-effective manner.

The Agency should determine the type of agreement to be developed with the consultant. (This may be modified during negotiations with the selected consultant.) The basic agreement types are lump sum, cost plus fixed fee and negotiated hourly rates, (see Section 31.42).

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.

Professional 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. Or a combination of the above.

**.22 Advertise the Need for Professional Services Consultants** – State law (RCW 39.26) requires that each Agency must competitively solicit that Agency's requirement for professional 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 professional 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 31.71 for an advertisement example).

**.23 Professional Services Consultant Evaluation and Selection Process** – The Local Agency must 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 professional 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 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 31.73) 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.

   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. Justification for the consultant selected, including the reasons why this consultant was chosen over the others.

3. Prior to executing an agreement agencies must verify consultant status with the System for Award Management (SAM) at www.sam.gov/portal/public/sam to determine if the consultant has been excluded from bidding on a federal aid contract. SAM 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. Consultant agreements awarded to firms listed on the Excluded Parties Listing will not be eligible for federal aid reimbursement.

## 31.3 Negotiation With Selected Firm, A&E, and Professional 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 31.74, Independent Estimate for Consulting Services, DOT Form 140-012.) 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. Apply the consultant's overhead rate and profit/fixed fee (see below) to develop the total project staff cost estimate.

The Agency will use 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 indirect cost rate from the WSDOT Consulting Services Office (see Section 31.5 for indirect cost rate details).
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 AC. 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 (20 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 is set up. To set up a task order, 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. Consultant agreements are available at www.wsdot.wa.gov/localprograms.

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 payments are generally used for investigations, studies, and basic services on design projects. 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. Lump Sum contracts cannot be supplemented.

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. 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 schedule must be prepared in compliance with CFR Part 31. The indirect costs must be allowable, allocable and properly segregated.

   d. 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.

   e. 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, direct labor rates, indirect cost rate and fixed fee.

3. **Specific Rates of Pay** – 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. This rate of pay is established through:

   a. **Negotiated Hourly Rate** – The rate of pay is established through use of the consultant firm's payroll register, the indirect cost rate obtained from WSDOT's Consultant Services 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 schedule must be prepared in compliance with 48 CFR Part 31. The indirect costs must be allowable, allocable and properly segregated.
3. 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.
4. 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).

Prime consultants cannot markup subconsultants contracts, however the fee (profit) should be negotiated to reflect a percentage of subcontracting relative to the percentage of work by the prime consultant. Subcontracting is then one of several considerations when determining a reasonable profit. Justification for the profit should be included in the record of contract negotiations.

**.33 Agency/Consultant Negotiations** – Negotiate an agreement with the selected consultant and retain a record of these negotiations (see Appendix 31.75). 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 Consultant Agreements, Exhibits, and Supplements to Agreements, A&E, and Professional Services

When the **total cost** of consulting services (including supplements) is $10,000 or more, Local Agencies must use the Local Agency Standard Consultant Agreements. (Consultant Agreement forms are available online at www.wsdot.wa.gov/localprograms. 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 monitors 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 Vacant**

**.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 consultant 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. (Supplemental Agreement forms are available online at www.wsdot.wa.gov/localprograms.) 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 Consultant 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 XII of the Consultant 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 consultant 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 H. This exhibit is not needed if the consultant 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 H 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 Indirect Cost Rates

The Agency will utilize a consultant's Indirect Cost Rate (ICR) that is compliant with 48 CFR Part 31 of the Federal Acquisition Regulation (FAR), or has been approved through the Safe Harbor Indirect Cost Rate Pilot Program.

If a consultant does not have a FAR compliant ICR, it is their responsibility to review the eligibility requirements of the Safe Harbor program (www.wsdot.wa.gov/Audit/SafeHarbor.htm).

Consulting firms that use the Safe Harbor Rate will still be required to have an accounting system capable of accumulating and tracking direct labor and other direct costs by contract, segregating indirect costs, and removing unallowable costs. These basic accounting system functions are essential for accurate billing of costs under

a cost-reimbursement contract. Additionally, the expectation will be for the firm to establish a cost history for the eventual development of a FAR compliant indirect cost rate for the firm, based on actual cost data.

Consultants who do not qualify or choose not to enroll in the Safe Harbor will be subject to a review by the WSDOT Consultant Service Office (CSO). CSO will utilize a risk assessment process to provide WSDOT the necessary assurance that the consultant's accounting practices are FAR compliant. There are multiple tools that consultants may submit to assist CSO review such as the following:

- An audit conducted by another governmental agency that conforms to 48 CFR Part 31;
- An audit conducted by an independent CPA that conforms to 48 CFR Part 31
- A WSDOT approved ICR provided by the Internal Audit Office ( IAO)

If the consultant does not have any of the above, the consultant may submit their ICR schedule to the CSO for review. The CSO will perform a review of the consultant's proposed rate using the 48 CFR part 31 to adjust line item costs on the ICR and determine a provisional ICR rate. The CSO will notify the consultant of these adjustments. The consultant will decide whether these adjustments are fair and reasonable and notify the CSO whether they agree or disagree with the determination.

If the consultant does not have an ICR, the CSO may establish a provisional ICR of 100% and a recommended fixed fee of 10% or less of direct labor and overhead. This rate would be effective from the end of the consultant's fiscal year plus 180 days. During that time it is expected that the consultant will develop an ICR which would conform to the requirement outlined in 48 CFR Part 31. Each firm has the option of providing an Indirect Cost Rate or qualifying for the Safe Harbor program. Please choose one of those options listed below and provide the documentation listed with your request for a rate. Incomplete submission of documents for review will not be evaluated.

**For the Safe Harbor Program**

Documents needed include:

- Labor Checklist
- Examples of timesheets from December 2013
  - For smaller firms – one for each person

Link to Safe Harbor: www.wsdot.wa.gov/Audit/SafeHarbor.htm

**CSO review of an Indirect Cost Rate**

Documents needed include:

- Indirect Cost Rate Schedule (ICR)
- FHWA Certification Document
- Consultant Information Worksheet
- Timesheet & Labor System Checklist

All requests for the Safe Harbor Program or for an Indirect Cost Rate review must be sent to ConsultantRates@.WSDOT.WA.GOV, include the words "Local Programs" in the subject line of your email. The following information must also be included:

- Number of active local agency contracts, including the contract amount.
- Number of local agency contracts, including the contract amount for the previous fiscal year.

The documents listed above are available at www.wsdot.wa.gov/localprograms.

## 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.
10. Establish controls to prevent overpayment of the agreement.
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. All employees who worked on the project during the billing period;
2. The classification of each employee, the hours worked, the actual hourly payroll rate, and the amount billed; 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 claimed cost, which are 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. In compliance with 48 CFR part 31, the consultant is responsible for maintaining records, including supporting documentation that costs claimed have been incurred and are allocable to the agreement. 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 31.76).

**.64 Alleged Consultant Design Error** – There may be times during a construction contract that a potential error or omission in the design is discovered. Other times an error or omission is discovered after the work is completed. Appendix 31.77 establishes the procedures to follow if this occurs.

**.65 Consultant Claim Procedures** – Most contract claims are based on requests for additional payment beyond was agreed to when the consultant agreement was executed. There are two circumstances that usually lead to this request:

- The first is when the consultant's understanding of the consultant agreement expectations is different than that of the local agency.
- The second is when the consultant has been asked, or believes they have been asked, to perform work outside the original scope work.

Appendix 31.78 outlines the procedures to be followed by both the consultant and the agency to consider a potential claim.

## 31.7 Appendices

| | |
|---|---|
| 31.71 | Advertisement – Example |
| 31.72(a) | Submittal Information Form (Prime) |
| 31.72(b) | Submittal Information Form (Subconsultant) |
| 31.73 | Request for Sole Source Consultant Services |
| 31.74 | Independent Estimate for Consulting Services |
| 31.75 | Record of Negotiations – Example |
| 31.76 | Performance Evaluation Consultant Services |
| 31.77 | Alleged Consultant Design Error Procedures |
| 31.78 | Consultant Claim Procedures |

**(*AGENCY NAME*) NOTICE TO CONSULTANTS FOR**
**(*PROJECT NAME*)**

The (*AGENCY NAME)* solicits interest from consulting firms with expertise in Civil and Structural Engineering Design. This agreement will be for approximately (*TIME FRAME*) in duration with the option for the (*AGENCY NAME*) to extend it for additional time and money if necessary. Consultants will be considered for the following project.

The (*AGENCY NAME*) reserves the right to amend terms of this "Request for Qualifications" (RFQ) to circulate various addenda, or to withdraw the RFQ at any time, regardless of how much time and effort consultants have spent on their responses.

**Project Description**

The work to be performed by the CONSULTANT consists of preparing preliminary engineering design for improvements to 36th Street East to Rainier Boulevard East. The proposed improvements include widening the road to accommodate four lanes of traffic, improving intersection radii, increasing left turn storage, revisions to existing signal systems in order to accommodate the proposed improvements, and construction of retaining walls to provide for roadway widening. The major features of the project are as follows:

- Approximately 1.74 miles of widening for two additional lanes.
- Improving intersection radii to meet design standards.
- Environmental documentation and preparation of permit applications.
- Signal modifications and design.
- Structural design for retaining walls and culvert extensions/replacements.
- Determination of R/W needs and R/W plan preparation.

The (*AGENCY NAME*) reserves the right to retain the services of the successful firm(s) for any subsequent phases (R/W, CN) associated with this/these project(s).

**Evaluation Criteria**

Submittals will be evaluated and ranked based on the following criteria:

1) Qualification of Proposed Project Manager

2) Qualifications/Expertise of Firm

3) Ability to meet schedule

4) Approach to project

5) Familiarity with WSDOT/FHWA standards

6) Past Performance/References.

**Submittal**

Submittals should include the following information: Firm name, phone and fax numbers; Name of Principal-in-Charge and Project Manager; and Number of employees in each firm proposed to project.

Please submit FOUR copies of your Statement of Qualifications to: (*AGENCY NAME, ADDRESS, and CONTACT PERSON*) no later than10:00 a.m. on June 28, 2015. Submittals will not be accepted after that time

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and date. Any questions regarding this project should be directed to (*AGENCY CONTACT PERSON*), at (*AGENCY PHONE*).

**Americans with Disabilities Act (ADA) Information**

This material can be made available in an alternate format by emailing (*AGENCY CONTACT PERSON*) at (*EMAIL ADDRESS*) or by calling collect (*AGENCY PHONE*).

**Title VI Statement**

The (*AGENCY NAME*) 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 ensure 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."

Dates of publication in the (*NEWSPAPER of RECORD*): June 7, 2015, and June 14, 2015.

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## Submittal Information Form (Prime)

**Project Name or Roster Category:** Click here to enter text.

**Prime**

Firm Name: Click here to enter text.

Address: Click here to enter text.

Phone: Click here to enter text. Fax: Click here to enter text.

Company Website: Click here to enter text.

Federal Tax ID Number: Click here to enter text.

Unified Business Identifier Number: Click here to enter text.

D/M/WBE Certification Number: Click here to enter text.

Year Firm Established: Click here to enter text.

SIC Code (Name): Click here to enter text.

NAICS Code (Name): Click here to enter text.

Contact Person Regarding This Submittal's Information: Click here to enter text.

**Firm Type**

☐ Sole Proprietor ☐ Partnership ☐ C – Corp.
☐ Limited Partnership ☐ Subchapter S Corp. ☐ Limited Liability Company

**Annual Gross Receipt**

☐ $0 to $1 Million ☐ $1 Million to $5 Million ☐ $5 Million to $10 Million
☐ $10 Million to $15 Million ☐ Over $15 Million

**Firms Areas of Expertise**

Click here to enter text.

***Note:***
**Firm Name:** Please ensure that the firm name listed is the same firm name that is legally assigned to the federal tax ID number. Please **do not** use: DBA's – Doing Business As; Combination names when two firms are working together; derivatives of your legal name; Acronyms; etc.
**Unified Business Identifier (UBI) Number:** If your firm does not have a UBI number for Washington State, please put pending in the box. You will be required to acquire a UBI Number if you are awarded the contract.

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## Submittal Information Form (Sub-consultant)

**Project Name or Roster Category:** Click here to enter text.

**Sub-consultant**

Firm Name: Click here to enter text.

Address: Click here to enter text.

Phone: Click here to enter text. Fax: Click here to enter text.

Company Website: Click here to enter text.

Federal Tax ID Number: Click here to enter text.

Unified Business Identifier Number: Click here to enter text.

D/M/WBE Certification Number: Click here to enter text.

Year Firm Established: Click here to enter text.

SIC Code (Name): Click here to enter text.

NAICS Code (Name): Click here to enter text.

Contact Person Regarding This Submittal's Information: Click here to enter text.

**Firm Type**

☐ Sole Proprietor ☐ Partnership ☐ C – Corp.
☐ Limited Partnership ☐ Subchapter S Corp. ☐ Limited Liability Company

**Annual Gross Receipt**

☐ $0 to $1 Million ☐ $1 Million to $5 Million ☐ $5 Million to $10 Million
☐ $10 Million to $15 Million ☐ Over $15 Million

**Firms Areas of Expertise**

Click here to enter text.

***Note:***
**Firm Name:** Please ensure that the firm name listed is the same firm name that is legally assigned to the federal tax ID number. Please **do not** use: DBA's – Doing Business As; Combination names when two firms are working together; derivatives of your legal name; Acronyms; etc.
**Unified Business Identifier (UBI) Number:** If your firm does not have a UBI number for Washington State, please put pending in the box. You will be required to acquire a UBI Number if you are awarded the contract.

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10/2015

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## Request for Sole Source Consultant Services

**Checklist for Submitting a Request for Sole Source Consulting Services**

**(Adapted in part from a WSDOT Memorandum:**
**Request for Consultant Services, A&E Services Project Specific Sole Source)**

The following checklist must be provided with requests to use sole source consultant services, rather than competitive bid procedures, on a project:

Agency: Click here to enter text. Date: Click here to enter text.

Project Title: Click here to enter text. Federal-Aid Number: Click here to enter text.

1. Checklist for a Supplement to an Existing Agreement

   Description of the Existing Project:

| Initials | Date or N/A | Checklist Items for a Supplement to an Existing Agreement |
|---|---|---|
| | | Date the project was originally advertised. |
| | | Date the original Agreement was executed. |
| | | Completion date of the original Agreement. |
| | | Total dollar amount of the original Agreement Click here to enter text.. |
| | | Date Supplemental Agreement Number 1 was executed. |
| | | Completion date of Supplemental Agreement Number 1. |
| | | Total dollar amount of Supplemental Agreement Number 1. |
| | | Describe the reason(s) for Supplemental Agreement Number 1. |

   (***Note:*** Using an electronic form of this checklist, provide the above information for each existing Supplemental Agreement, numbering the Supplements sequentially.)

2. Checklist for Both a New Agreement and Supplement to an Existing Agreement

| Initials | Date or N/A | Checklist Items – New and Supplements to Agreements |
|---|---|---|
| | | Describe the proposed project for the Sole Source Agreement:<br>Click here to enter text. |
| | | State the specific intended purpose of the Agreement and describe the services and/or deliverables that are needed: (***Note:*** If two or more phases of work are anticipated, describe each phase separately.)<br>Click here to enter text. |
| | | Date that the sole source consulting services are desired.<br>Click here to enter text. |
| | | Duration of work/phase 1 of work Click here to enter text. |

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| Initials | Date or N/A | Checklist Items – New and Supplements to Agreements |
|---|---|---|
| | | *(Repeat this line for each phase of work, numbering them sequentially.)*<br>Describe the funding sources of the project (including participation percentages):<br>Click here to enter text. |
| | | Provide the estimated cost of the services that will be performed by the sole source consultant":<br>Click here to enter text. |
| | | Provide the estimated cost of services to be provided by a subconsultant:<br>Click here to enter text. |
| | | Describe the work to be performed by a subconsultant:<br>Click here to enter text. |
| | | Provide justification for the use of sole source consultant services (i.e., how it was determined that competitive procurement is not appropriate for this project) by giving an explanation to the items listed below:<br>Click here to enter text. |
| | | Describe 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., describe how they are highly specialized or one-of –a-kind, include other factors which may be considered, such as what is their past performance, cost effectiveness [learning curve], and /or the follow-up nature of the required services):<br>Click here to enter text. |
| | | Describe other special circumstances which may be relevant, such as confidential investigations, copyright restrictions or time constraints. If time constraints are applicable, identify when the agency was on notice of the need for the services and the entity that imposed the constraints, explain the authority (if not obvious) of the entity to impose them, and provide the timelines within which the work must be accomplished.<br>Click here to enter text. |
| | | Describe the availability of consultants in the location required (e.g., if the proposed consultant is the only source available in the geographical area, state the basis for this conclusion and the rationale for limiting the size of the geographical area selected):<br>Click here to enter text. |
| | | Disadvantaged Business Enterprise (DBE) goals may apply on a federally funded project. Explain reason(s) for waiving DBE participation goals:<br>Click here to enter text. |

**Agency**

Signature of Agency Official | Date

**Recommended Approval**

Region Local Programs Engineer | Date

**Approval**

Local Programs | Date

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Washington State Department of Transportation

## Independent Estimate For Consulting Services

| Direct Salary Cost (Composite) : | | | |
|---|---|---|---|
| Breakdown Of Work | Manhours | Average Rate Of Pay | Estimated Cost |
| | | | |
| **Totals** | | | |

**Overhead Cost (including payroll additives)** _____ % $ _____

**Fixed Fee** _____ % $ _____

Reimbursable

A. Travel and Per Diem $ _____

B. Reproduction Expenses $ _____

C. Computer Expense $ _____

D. Communication $ _____

E. Sampling and Testing $ _____

F. Outside Consultants $ _____

G. Other (Specify) $ _____

**Total $** _____

Sub-total $ _____

Contingencies _____ % *Contingencies $ _____

**Grand Total $** _____

* Use only on cost plus net fee type of payment

| Agency | File No. | Project No. |
|---|---|---|
| Project Title | | |
| Estimate Prepared By: (signature) | Date April 24, 2013 | |

DOT Form 140-012 EF
Revised 04/2007

# Appendix 31.75 Record of Negotiations – Example

Name and Job Title: John Doe, PW Contracts Manager

_____ (signature)

| | Action | Date |
|---|---|---|
| 1. | Consulting firm of Acme Consulting selected. | 2/15/99 |
| 2. | Independent cost estimate of $953,000.00 prepared by agency to address the following*:<br>Develop design for Timermann Rd. Realignment from MP 53 to MP 57; including pre-engineering services of biological assessment, & NEPA/SEPA documentation. | 2/25/99 |
| 3. | Meeting held with consultant to ensure thorough understanding of the scope of work. | 2/20/99 |
| 4. | Consultant provided scope of work; request for proposal solicited. | 2/15/99 |
| 5. | Consultant submitted proposal in the amount of $1,203,000.00. | 2/27/99 |
| 6. | Agency compared proposal with independent estimate and negotiation objectives were established | 3/3/99 |
| 7. | Agency negotiator contacted/met with the consultant and identified the following as items which needed revision (i.e., excessive or insufficient principal/ management involvement, high overhead, \|unallowable costs).<br>**Mark-ups on two subconsultants for environmental work not allowable; overhead rate of 35 percent too high based on nature of the work and degree of risk; consultant management and principal attendance redundant at meetings; subconsultant time excessive* | 3/5/99 |
| 8. | Agency revised detailed cost estimate based on negotiations.** | 3/15/99 |
| 9. | Consultant submitted revised proposal with following changes: **<br>Removed $53,000 in subconsultant mark-ups; overhead rate reduced to 26 percent; reduced management attendance with principal to two meetings.* | 3/20/99 |
| 10. | Agency accepted final fee proposal of $1,000,000.00 to address the following:<br>Develop design for Timermann Rd. Realignment from MP 53 to MP 57; including pre-engineering services of biological assessment, and NEPA/SEPA documentation to be completed by Ace Engineering Services as subconsultant.* | 3/23/99 |
| 11. | *(or alternately) Agency could not agree to final proposal and notified the consultant in writing of this fact.* | 3/23/99 |

The negotiations were conducted in good faith to ensure the fees were fair and reasonable. The procedures outlined in this manual were followed.

*Additional detail should be expanded upon with documentation.
**These steps should be repeated as often as necessary, with documentation.

*This example has been simplified and does not include the level of detail typically found in a complete record of negotiations.*

Washington State
Department of Transportation

# Performance Evaluation Consultant Services

| | |
|---|---|
| Consultant Name | Evaluation Type<br>☐ Interim ☐ Subconsultant ☐ Final |
| Consultant Address | Project Title |
| | Agreement Number |
| Type of Work<br>☐ Study ☐ Design ☐ R/W ☐ PS&E ☐ Other (Specify Below): | Type of Agreement<br>☐ Lump Sum<br>☐ Hourly Rate<br>☐ Cost Plus Fixed Fee<br>☐ Other |
| Complexity of Work<br>☐ Difficult ☐ Routine<br>Date Agreement Approved | |

| | | |
|---|---|---|
| Amount of Original Agreement<br>$ | Total Amount Modifications<br>$ | Total Amount Agreement<br>$ |
| Completion Date Including Extensions | Actual Completion Date | Actual Total Paid<br>$ |

Type and Extent of Subcontracting

Performance Rating Scale (From Average Score Below)

| 10 9 | 8 7 | 6 5 | 4 3 | 2 1 |
|---|---|---|---|---|
| Superior | Above Reqmnts | Meets Reqmnts | Below Reqmnts | Poor |

| Criteria | Comment | Score |
|---|---|---|
| 1. Negotiations<br>Cooperative and responsive. | | |
| 2. Cost / Budget<br>Complete within agreement budget including supplements. | | |
| 3. Schedule<br>Complete within agreement schedule including supplements. | | |
| 4. Technical Quality<br>Met Standards. | | |
| 5. Communications<br>Clear, Concise Communication (Oral, written, drawings). | | |
| 6. Management<br>Team player. Managed subs. Accurate, timely invoices.<br>Appropriate, periodic, accurate progress reports | | |
| **Total Score** | | |
| **Average Score (Total Score / Number of criteria rated)** | | |

| | | |
|---|---|---|
| Rated By (Project Manager Name and Title) | Project Manager Signature | Date |
| Rated By (Area Consultant Liaison Name and Title) | Area Consultant Liaison Signature | Date |
| Executive Review (Name and Title) | Executive Signature | Date |

DOT Form 272-019 EF
Revised 3/2002

Distribution: Original: Consultant
Copies: Project Manager - Area Consultant Liaison - Consultant Services Office

# Performance Evaluation Instructions

## How

- Form should be reviewed and discussed with the Consultant prior to contract negotiations. Establish your expectations.
- Supplementary forms are available form the Consultant Services Office which expand the considerations for each criteria (e.g. “Schedule: A. Achieved schedule; B. Prompt response to review comments; C. Adapted to changes by WSDOT; D. Notified WSDOT early, regarding schedule impactors”).
- If evaluation criterion number 7, “Other” is relevant (e.g. public involvement or volume of work) that criterion must be specified and mutually agreeable in advance.
- Score accurately. A “7” is respectable; “9” is exceptional, it should be rare.

## When

### Final Evaluation

- Always complete and distribute a performance evaluation at the point of termination of the agreement.
- See distribution at bottom of form.

### Interim Evaluation

- Interim evaluations should be performed as follows:
    1. At phase transitions.
    2. When any project management changes occur.
    3. To alert a consultant to poor performance.
    4. Annually if none of the other conditions occur.
- Distribute as usual.

### Subconsultant Evaluation

- For subconsultants with significant project participation (more than $100,000) an evaluation is recommended. Ensure coordination and review with the prime consultant prior to distribution.
- Distribute similar to usual. Include prime consultant and subconsultant.

## Why

- Scores from these evaluations factor into “Past Performance” ratings, which are used to help determine selection of future consultants. Meaningful evaluations help us hire the best.

DOT Form 272-019 EF Instructions
Revised 1/99

**Washington State Department of Transportation**

# Consultant Services Evaluation Supplement

| | |
|---|---|
| Consultant Name | Evaluation Type<br>☐ Interim ☐ Subconsultant ☐ Final |
| Consultant Address | Project Title |
| | Agreement Number |

Performance Rating Scale (From Average Scores)

| 10 9 | 8 7 | 6 5 | 4 3 | 2 1 |
|---|---|---|---|---|
| Superior | Above Reqmnts | Meets Reqmnts | Below Reqmnts | Poor |

## Negotiation and Cost / Budget Criteria

### 1. Negotiations

| Sub-Criteria | Score |
|---|---|
| A. Adhered to WSDOT guidelines on fee. | |
| B. Met negotiation schedule. | |
| C. Open and honest communications. | |
| D. Willingness to compromise. | |
| E. | |
| F. | |
| **Total Score** | |
| **Average Score (Total Score / Number of sub-criteria rated)** | |

Comments

### 2. Cost / Budget

| Sub-Criteria | Score |
|---|---|
| A. Finished within budget, including all supplements. | |
| B. Appropriate level of effort. | |
| C. Reasonable direct, non-salary expenses. | |
| D. | |
| E. | |
| F. | |
| **Total Score** | |
| **Average Score (Total Score / Number of sub-criteria rated)** | |

Comments

DOT Form 272-019 EF Supplement
Revised 3/2002

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## Schedule and Technical Quality Criteria

| Consultant Name | Agreement Number |
|---|---|
| | |

| 3. Schedule | |
|---|---|
| **Sub-Criteria** | **Score** |
| A. Achieved schedule (Including all supplements). | |
| B. Prompt response to review comments. | |
| C. Adapted to changes by WSDOT. | |
| D. Notified WSDOT early regarding schedule "impactors." | |
| E. | |
| F. | |
| **Total Score** | |
| **Average Score (Total Score / Number of sub-criteria rated)** | |
| Comments: | |

| 4. Technical Quality | |
|---|---|
| **Sub-Criteria** | **Score** |
| A. Work products meet standards; where "practical." | |
| B. Performed appropriate quality control. | |
| C. Responds to review comments in subsequent submission. | |
| D. Sought opportunities to incorporate innovative designs. | |
| E. Delivered "compatible" electronic files. | |
| F. Implemented procedures to control construction costs. | |
| G. | |
| H. | |
| **Total Score** | |
| **Average Score (Total Score / Number of sub-criteria rated)** | |
| Comments: | |

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## Comunication and Management Criteria

| Consultant Name | Agreement Number |
|---|---|
| | |

| 5. Communications | |
|---|---|
| **Sub-Criteria** | **Score** |
| A. Produced clear, concise oral and written communication. | |
| B. Demonstrates an understanding of oral and written instructions. | |
| C. Communicated at intervals appropriate for the work. | |
| D. Respects and uses lines of communications. | |
| E. | |
| F. | |
| G. | |
| **Total Score** | |
| **Average Score (Total Score / Number of sub-criteria rated)** | |
| Comments: | |

| 6. Management | |
|---|---|
| **Sub-Criteria** | **Score** |
| A. Provided creative cost control measures / ideas. | |
| B. Submitted appropriate, periodic, accurate progress reports. | |
| C. Accurate and timely invoicing. | |
| D. Conducted meetings efficiently. | |
| E. Limited the number of consultant-initiated contract modifications / supplements. | |
| F. Coordinated with WSDOT effectively; was a “team player.” | |
| G. Responsive | |
| H. Managed subconsultants effectively. | |
| I. | |
| J. | |
| **Total Score** | |
| **Average Score (Total Score / Number of sub-criteria rated)** | |
| Comments: | |

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The purpose of this appendix is to establish a procedure to determine if a consultant's alleged design error is of a nature that exceeds the accepted standard of care. In addition, it will establish a uniform method for the resolution and/or cost recovery procedures in those instances where the agency believes it has suffered some material damage due to the alleged error by the consultant.

**Step 1 Potential Consultant Design Error(s) is Identified by Agency's Project Manager**

At the first indication of potential consultant design error(s), the first step in the process is for the Agency's project manager to notify the Director of Public Works or Agency Engineer regarding the potential design error(s). For federally funded projects, the Region Local Programs Engineer should be informed and involved in these procedures. (Note: The Director of Public Works or Agency Engineer may appoint an agency staff person other than the project manager, who has not been as directly involved in the project, to be responsible for the remaining steps in these procedures.)

**Step 2 Project Manager Documents the Alleged Consultant Design Error(s)**

After discussion of the alleged design error(s) and the magnitude of the alleged error(s), and with the Director of Public Works or Agency Engineer's concurrence, the project manager obtains more detailed documentation than is normally required on the project. Examples include: all decisions and descriptions of work; photographs, records of labor, materials and equipment.

**Step 3 Contact the Consultant Regarding the Alleged Design Error(s)**

If it is determined that there is a need to proceed further, the next step in the process is for the project manager to contact the consultant regarding the alleged design error(s) and the magnitude of the alleged error(s). The project manager and other appropriate agency staff should represent the agency and the consultant should be represented by their project manager and any personnel (including sub-consultants) deemed appropriate for the alleged design error(s) issue.

### Step 4 Attempt to Resolve Alleged Design Error with Consultant

After the meeting(s) with the consultant have been completed regarding the consultant's alleged design error(s), there are three possible scenarios:

- It is determined via mutual agreement that there is not a consultant design error(s). If this is the case, then the process will not proceed beyond this point.
- It is determined via mutual agreement that a consultant design error(s) occurred. If this is the case, then the Director of Public Works or Agency Engineer, or their representatives, negotiate a settlement with the consultant. The settlement would be paid to the agency or the amount would be reduced from the consultant's agreement with the agency for the services on the project in which the design error took place. The agency is to provide LP, through the Region Local Programs Engineer, a summary of the settlement for review and to make adjustments, if any, as to how the settlement affects federal reimbursements. No further action is required.
- There is not a mutual agreement regarding the alleged consultant design error(s). The consultant may request that the alleged design error(s) issue be forwarded to the Director of Public Works or Agency Engineer for review. If the Director of Public Works or Agency Engineer, after review with their legal counsel, is not able to reach mutual agreement with the consultant, proceed to Step 5.

### Step 5 Forward Documents to Local Programs

For federally funded projects all available information, including costs, should be forwarded through the Region Local Programs Engineer to LP for their review and consultation with the FHWA. LP will meet with representatives of the agency and the consultant to review the alleged design error(s), and attempt to find a resolution to the issue. If necessary, LP will request assistance from the Attorney General's Office for legal interpretation. LP will also identify how the alleged error(s) affects eligibility of project costs for federal reimbursement.

- If mutual agreement is reached, the agency and consultant adjust the scope of work and costs to reflect the agreed upon resolution. LP, in consultation with FHWA, will identify the amount of federal participation in the agreed upon resolution of the issue.
- If mutual agreement is not reached, the agency and consultant may seek settlement by arbitration or by litigation.

# Appendix 31.78 Consultant Claim Procedures

The purpose of this appendix is to describe a procedure regarding claim(s) on a consultant agreement. The following procedures should only be utilized on consultant claims greater than $1,000. If the consultant's claim(s) are a total of $1,000 or less, it would not be cost effective to proceed through the outlined steps. It is suggested that the Director of Public Works or Agency Engineer negotiate a fair and reasonable price for the consultant's claim(s) that total $1,000 or less.

This appendix will outline the procedures to be followed by the consultant and the agency to consider a potential claim by the consultant.

**Step 1 Consultant Files a Claim with the Agency Project Manager**

If the consultant determines that they were requested to perform additional services that were outside of the agreement's scope of work, they may be entitled to a claim. The first step that must be completed is the request for consideration of the claim to the Agency's project manager.

The consultant's claim must outline the following:

- Summation of hours by classification for each firm that is included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Timeframe of the additional work that was outside of the project scope;
- Summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work; and
- Explanation as to why the consultant believes the additional work was outside of the agreement scope of work.

**Step 2 Review by Agency Personnel Regarding the Consultant's Claim for Additional Compensation**

After the consultant has completed step 1, the next step in the process is to forward the request to the Agency's project manager. The project manager will review the consultant's claim and will met with the Director of Public Works or Agency Engineer to determine if the Agency agrees with the claim. If the FHWA is participating in the project's funding, forward a copy of the consultant's claim and the Agency's recommendation for federal participation in the claim to the WSDOT Local Programs through the Region Local Programs Engineer. If the claim is not eligible for federal participation, payment will need to be from agency funds.

If the Agency project manager, Director of Public Works or Agency Engineer, WSDOT Local Programs (if applicable), and FHWA (if applicable) agree with the consultant's claim, send a request memo, including backup documentation to the consultant to either supplement the agreement, or create a new agreement for the claim. After the request has been approved, the Agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the

consultant that the final payment for the agreement is subject to audit. No further action in needed regarding the claim procedures.

If the Agency does not agree with the consultant's claim, proceed to step 3 of the procedures.

**Step 3 Preparation of Support Documentation Regarding Consultant's Claim(s)**

If the Agency does not agree with the consultant's claim, the project manager shall prepare a summary for the Director of Public Works or Agency Engineer that included the following:

- Copy of information supplied by the consultant regarding the claim;
- Agency's summation of hours by classification for each firm that should be included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Agency's summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work;
- Explanation regarding those areas in which the Agency does/does not agree with the consultant's claim(s);
- Explanation to describe what has been instituted to preclude future consultant claim(s); and
- Recommendations to resolve the claim.

**Step 4 Director of Public Works or Agency Engineer Reviews Consultant Claim and Agency Documentation**

The Director of Public Works or Agency Engineer shall review and administratively approve or disapprove the claim, or portions thereof, which may include getting Agency Council or Commission approval (as appropriate to agency dispute resolution procedures). If the project involves federal participation, obtain concurrence from WSDOT Local Programs and FHWA regarding final settlement of the claim. If the claim is not eligible for federal participation, payment will need to be from agency funds.

**Step 5 Informing Consultant of Decision Regarding the Claim**

The Director of Public Works or Agency Engineer shall notify (in writing) the consultant of their final decision regarding the consultant's claim(s). Include the final dollar amount of the accepted claim(s) and rationale utilized for the decision.

**Step 6 Preparation of Supplement or New Agreement for the Consultant's Claim(s)**

The agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit.

# Chapter 41 General Project Types

## 41.1 General Discussion

This chapter identifies the design standards document, deviation approval authority, and design approval for a specific facility. The deviation process, Work Zone Safety and Mobility, and Intelligent Transportation Systems are also discussed.

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 and deviation and design approval authority are shown in the following table.

| Facility | Design Standards | Deviation Approval | Design Approval |
|---|---|---|---|
| **Interstate** | | | |
| New/Reconstruction | WSDOT *Design Manual* | WSDOT/FHWA | WSDOT/FHWA |
| ITS Over $1,000,000 | WSDOT *Design Manual* | WSDOT HQ | WSDOT HQ |
| All Other | WSDOT *Design Manual* | WSDOT HQ | WSDOT Region |
| **National Highway System (NHS)** | | | |
| State Highways outside of incorporated cities, or on a limited access highway | WSDOT *Design Manual* | WSDOT HQ | WSDOT Region |
| State Highways within incorporated cities between back of curb to back of curb | WSDOT *Design Manual* | WSDOT HQ | WSDOT Region |
| State Highways within incorporated cities beyond curb line | *City and County Design Standards See Chapter 42 | WSDOT Local Programs | City |
| City Streets (non-State highways) | *City and County Design Standards See Chapter 42 | WSDOT Local Programs | City |
| County Roads | *City and County Design Standards See Chapter 42 | WSDOT Local Programs | 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 *Design Manual* | WSDOT HQ | WSDOT Region |
| State Highways within incorporated cities between back of curb to back of curb | WSDOT *Design Manual* | WSDOT HQ | WSDOT Region |
| State Highways within incorporated cities beyond curb line | *City and County Design Standards See Chapter 42 | WSDOT Local Programs | City |
| City Streets (non-State Highways) | *City and County Design Standards See Chapter 42 | WSDOT Local Programs | City |
| County Roads | *City and County Design Standards See Chapter 42 | WSDOT Local Programs | 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 Local Programs 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 23 Code of Federal Regulations (CFR), Part 630, Subpart J: Work Zone Safety and Mobility. These rules apply 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 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.

For more information, please see WSDOT Local Program's Work Zone Safety and Mobility page: www.wsdot.wa.gov/localprograms/traffic/wzsafetymobility.htm

## 41.3 Intelligent Transportation Systems (ITS)

Intelligent Transportation Systems (ITS) have the potential to reduce crashes and increase the mobility of transportation facilities. They also enhance productivity through the use of advanced communications technologies and their integration into vehicles and the transportation infrastructure. These systems involve a broad range of wireless and wire line communications-based information, electronics, or information processing technologies. Some of these technologies include cameras, variable message signs, ramp meters, road weather information systems, highway advisory radios, traffic management centers, and adaptive signal control technology (ASCT). ASCT is a traffic signal system that detects traffic conditions and adjusts signal timing remotely in response. More information on ASCT can be found at www.fhwa.dot.gov/everydaycounts/technology/adsc.

Systems engineering is a typical part of any ITS project development process. It is required on any federal aid project that has an ITS work element, per 23 CFR 940.11. Systems engineering is an interdisciplinary step-by-step process for complex projects such as ITS projects to:

- assess a system's needs and its relationship to the regional architecture.
- plan a project that meets those needs and meets stakeholder needs and expectations.
- define other specific requirements for the project/system.
- develop and implement the project/system.
- define the operations and maintenance requirements for the system.
- plan for the refinement or replacement of the system.

Using systems engineering on ITS projects has been shown to increase the likelihood of a project's success. A successful project is one that meets the project scope and stakeholder/project sponsor expectations, is completed on time and within budget, and is efficient and cost effective to operate and maintain.

The level of systems engineering used for a project should be on a scale commensurate with the scope, cost, and risk of the project. Complete the Intelligent Transportation Systems (ITS) Systems Engineering Analysis Worksheet in Appendix 41.53, or a document with the same information, for all federal aid projects that include ITS elements. Completing the worksheet will meet the minimum requirements in 23 CFR 940.11 for systems engineering, determine the project's risk, and determine if a more in-depth systems engineering analysis is required.

As shown in the worksheet, a more in-depth analysis requires that the following four documents be completed and used to implement the project. These documents are produced as the result of the steps in the systems engineering process, often referred to as the "V" diagram, shown in Appendix 41.52.

1. **Concept of Operations** – This document defines the problem, the project's goals, stakeholder needs and expectations, constraints, and the way the ITS system is required to operate and be maintained.

2. **System Requirements** – This document contains specifications of what the system is required to do, how well it is required to do it, and under what conditions. These requirements are based on the goals, stakeholder needs and expectations, constraints, and operation and maintenance requirements documented in the Concept of Operations.
3. **System Verification Plan** – This document describes how the agency will verify that the system being built meets the requirements in the System Requirements document. The agency will implement the System Verification Plan to ensure that all system requirements are verified before it accepts the system.
4. **System Validation Plan** – This document describes how the agency will assess the system's performance against the goals, stakeholder needs and expectations, constraints, and operation and maintenance requirements documented in the Concept of Operations. The goal is for the agency to understand and review the strengths and weaknesses of the system and identify any new opportunities and needs if appropriate. The agency will implement the System Validation Plan after it accepts the system. This evaluation sets the stage for the next time the system/ project is changed or expanded.

For more specific guidance on developing the four systems engineering plans listed above, see the plan templates in the USDOT/ CalTrans' Systems Engineering Guidebook for Intelligent Transportation Systems, Version 3, November 2009 document. Pertinent page numbers include:

- Concept of Operations Template: Page 254
- System Requirements Template: Page 257
- Verification Documents Plan Template: Page 269
- Validation Documents Plan Template: Page 278

For Adaptive Signal Control Technology Projects (ASCT) using the latest edition of the USDOT *Model Systems Engineering Documents for Adaptive Signal Control Technology (ASCT) Systems*, FHWA-HOP-11-027, August 2012, is required.

For more information on systems engineering, please see the following documents, which are available on the Local Programs Use of Traffic Control Devices Web page:

- 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/ CalTrans' Systems Engineering Guidebook for Intelligent Transportation Systems, Version 3, November 2009
- USDOT's Model Systems Engineering Documents for Adaptive Signal Control Technology (ASCT) Systems, FHWA HOP-11-027, August 2012

For guidance on contracting for ITS projects, see Appendix 41.54.

## 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 collision 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 Local Programs). 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 | System Engineering Process "V" Diagram |
| 41.53 | Intelligent Transportation Systems (ITS) Systems Engineering Analysis Worksheet |
| 41.54 | ITS Project Contracting Guidance |

Washington State Department of Transportation

## Deviation Analysis Format

Agency: Click here to enter text.

Project Title: Click here to enter text.

Project Number: Click here to enter text.

1. Posted Speed Limit: Click here to enter text.
2. Physical Comparison:
   a. Standard Geometrics: Click here to enter text.
   b. Deviation Geometrics: Click here to enter text.
   c. Discussion: Click here to enter text.
3. Safety Issues:
   a. Collision History: Click here to enter text.
   b. Risk of future collisions: Click here to enter text.
   c. Discussion: Click here to enter text.
4. Cost Comparison:

| | Standard Cost | Deviation Cost | Discussion |
|---|---|---|---|
| Roadway | Click here to enter text. | Click here to enter text. | Click here to enter text. |
| Structure | Click here to enter text. | Click here to enter text. | Click here to enter text. |
| Other | Click here to enter text. | Click here to enter text. | Click here to enter text. |

5. Reasons standard cannot be achieved at this time: Click here to enter text.
6. Certification: Click here to enter text.

I have examined this deviation request and believe it to be in the best public interest that it be granted.

Local Agency Engineer

Date

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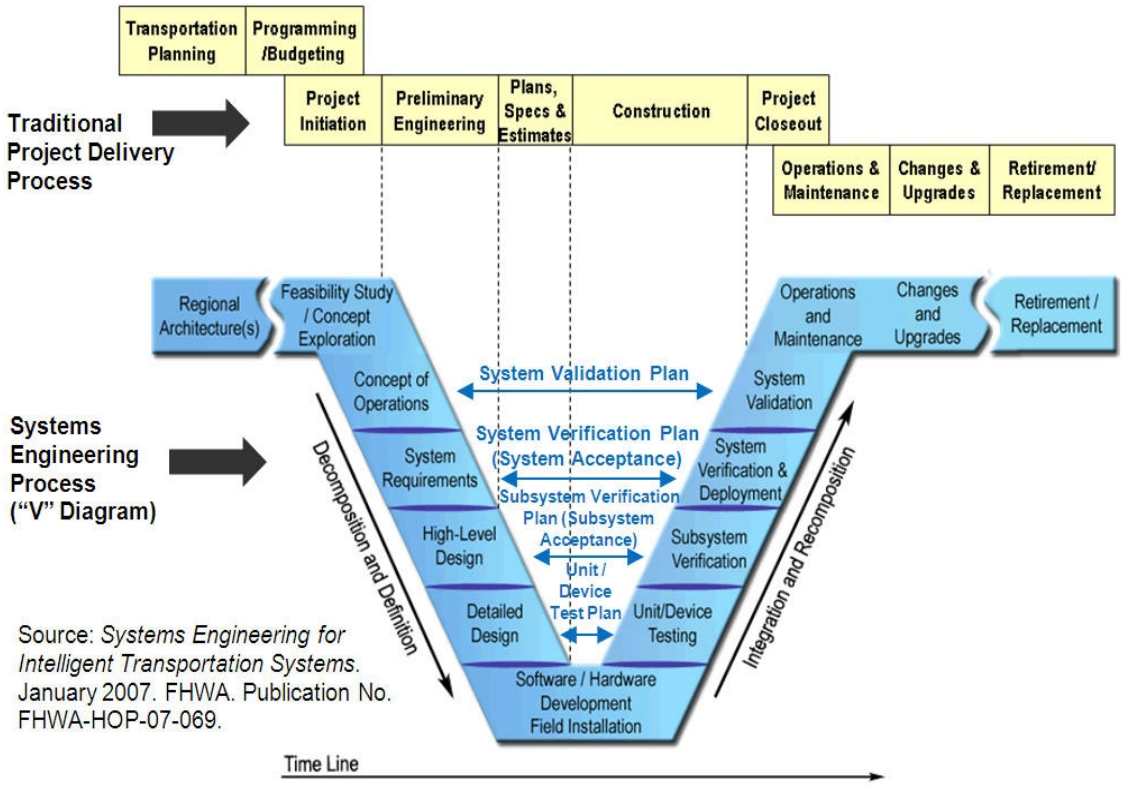
The systems engineering process contains a number of steps that are not included in a traditional project delivery process. The systems engineering process is often referred to as the "V" diagram, shown below. An ITS project begins on the left side of the "V" and progresses down the left side of the "V" and then up the right side. Then the project is evaluated by validating and verifying the elements on the right side of the "V" with the elements on the left side.

The Federal Highway Administration (FHWA) and WSDOT are in agreement that for project development and delivery, the most critical portions of the systems engineering process are the Concept of Operations, System Requirements, System Verification, and System Validation. As a result, the Intelligent Transportation Systems (ITS) Systems Engineering Analysis Worksheet in Appendix 41.53 is focused on these core areas.




**Systems Engineering Process ("V" Diagram)**

Washington State Department of Transportation

## Intelligent Transportation Systems (ITS) Systems Engineering Analysis Worksheet

This worksheet, or a document with the same information, must be completed for all federal aid projects that include Intelligent Transportation Systems (ITS) elements. This worksheet must be completed prior to submitting a construction authorization request and must be kept in the project file for the entire document retention period of the project. If Concept of Operations, System Requirements, Verification Plan, and Validation Plan documents are required for the project, as determined by this spreadsheet, these documents must be submitted for review prior to submitting a construction authorization request and must be kept in the project file for the entire document retention period.

1. Project Name: Click here to enter text.

2. Project Number (if known): Click here to enter text.

3. Total project cost (includes preliminary engineering/design, right of way, and construction phases):

   Click here to enter text.

4. Amount of total project cost for ITS elements: Click here to enter text.

5. Will this project implement a new or expand an existing adaptive signal control technology (ASCT) system?

   ☐ Yes FHWA and WSDOT consider the project to be high risk. Four additional systems engineering documents (Concept of Operations, System Requirements, Verification Plan, and Validation Plan) are required. See definitions in Section 41.3. These documents must be produced using the latest edition of the USDOT's *Model Systems Engineering Documents for Adaptive Signal Control Technology (ASCT) Systems*, FHWA-HOP-11-027, August 2012. Please skip questions 6 and 7.

   ☐ No

6. Select which of the following items, if any, apply to this project:

   ☐ The project includes new and unproven hardware and/or communications technology that is considered "cutting edge" or not in common use. This could include custom developed or unproven commercial-off-the-shelf (COTS) technology that has not been used by the agency previously. Please explain why you selected or did not select this item.

   Click here to enter text.

   ☐ The project will add new software that will be custom developed for this project or will make major modifications to existing custom developed software. Please explain why you selected or did not select this item.

   Click here to enter text.

   ☐ The project will add new interfaces to systems operated or maintained by other agencies. Please explain why you selected or did not select this item.

   Click here to enter text.

   ☐ The project will develop new system requirements or require revisions to existing system requirements that are not well understood within the agency and/or well documented at this time.

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These system requirements will be included in a request for proposal, or plans, specifications, and estimate bid document package. Therefore it will require significant stakeholder involvement and/or technical expertise to develop these items during the project delivery process. Please explain why you selected or did not select this item.

Click here to enter text.

☐ Multiple agencies will be responsible for one or more aspects of the project design, construction, deployment, and/or the ongoing operations and maintenance of the system. Please explain why you selected or did not select this item.

Click here to enter text.

**7.** If you answered yes to any of the items in question 6, FHWA and WSDOT consider the project to be high risk. Please see the following table for additional requirements**.**

| Project Risk Level | Total Project Cost for ITS Elements | |
|---|---|---|
| | **Less than $1,000,000[3]** | **Equal or Greater than $1,000,000[3]** |
| High Risk ITS | Additional systems engineering documents (Concept of Operations, System Requirements, Verification Plan, and Validation Plan)[2] are recommended.[1] | Additional systems engineering documents (Concept of Operations, System Requirements, Verification Plan, and Validation Plan)[2] are required. |

**Notes:**
1. A decision to not complete the additional systems engineering documents for high risk projects that have less than $1,000,000 of ITS elements requires FHWA concurrence prior to submitting a construction authorization request.
2. See definitions in Section 41.3.
3. Use the amount from question 4.

8. What is the name of the regional ITS architecture and which portions of the architecture will be implemented? Is the project consistent with the architecture? Are revisions to the architecture required? Also, which user services, physical subsystem elements, information flows, and market/service packages will be completed, and how will these pieces be part of the architecture?

Click here to enter text.

9. Identify the participating agencies, their roles and responsibilities, and the concept of operations. For the elements and market/service packages to be implemented, define the high-level operations of the system. This includes where the system will be used, its performance parameters, its life cycle, and who will operate and maintain it. Discuss the established requirements or agreements on information sharing and traffic device control responsibilities. The regional ITS architecture operational concept is a good starting point for discussion.

If this is a high risk project and a more extensive Concept of Operations document is being prepared for this project (see question 7, this answer can be a simple reference to that document.

Click here to enter text.

10. Define the system requirements. Based on the concept of operations, define the "what" and not the "how" of the system. Define the detailed requirements for eventual detailed design. The applicable high-level functional requirements from the regional architecture are a good starting point for discussion. A review of the requirements by the project stakeholders is recommended.

If this is a high risk project and a more extensive System Requirements document is being prepared for this project (see question 7), this answer can be a simple reference to that document.

Click here to enter text.

11. Provide an analysis of alternative system configurations and technology options to meet requirements. This analysis should outline the strengths and weaknesses, technical feasibility, institutional compatibility, and life cycle costs of each alternative. The project stakeholders should have had input in choosing the preferred solution.

    Click here to enter text.

12. Identify procurement/contracting options. Since there are different procurement methods for different types of projects, the decision regarding the best procurement option should consider the level of agency participation, compatibility with existing procurement methods, the role of the system integrator, and life cycle costs. Some options to consider include: consultant design/low-bid contractor, systems manager, systems integrator, task order, and design/build.

    If the ITS portions of the project significantly meet the definition of construction, then construction by low-bid contract would be used. Non-construction ITS portions of the project, such as services for software development, systems integration, systems deployment, systems management, or design, will be either engineering or service contracts. In these cases, a qualifications-based selection (QBS) or best value procurement may be more appropriate. For guidance on procurement options for ASCT systems, refer to Pages 15-20 of USDOT's *Model Systems Engineering Documents for Adaptive Signal Control Technology (ASCT) Systems*, FHWA-HOP-11-027, August 2012.

    Click here to enter text.

13. Identify the applicable ITS standards and testing procedures. Include documentation on which standards will be incorporated into the system design. Also include justification for any applicable standards not incorporated. The standards discussion in the regional architecture is a good starting point for discussion.

    Click here to enter text.

14. Outline the procedures and resources necessary for operations and management of the system. In addition to the concept of operations, document any internal policies or procedures necessary to recognize and incorporate the new system into the current operations and decision-making processes. Also, resources necessary to support continued operations, including staffing and training must be recognized early and be provided for. Such resources must also be provided to support necessary maintenance and upkeep to ensure continued system viability.

    Click here to enter text.

# Appendix 41.54 FHWA Washington Division ITS Project Contracting Guidance September 2012

## Purpose

The purpose of this document is to provide basic guidance related to the procurement and administration of Federal-Aid Intelligent Transportation System (ITS) contracts.

## Scope

This document is intended to be used by the Federal Highway Administration (FHWA) Washington Division Office, Washington State Department of Transportation (WSDOT), and local agencies as a guide on the proper types of procurement methods for various types of ITS projects. This guidance is not all encompassing as ITS projects can vary significantly in scope. However, it should provide adequate information to address a majority of situations. Specific questions about an individual ITS project should be directed to the Washington Division Office.

## Construction vs. Non-construction

ITS improvements may be incorporated as part of a traditional federal-aid construction contract, or the contracting agency may elect to procure ITS services under a separate contract (i.e., stand-alone ITS projects). When procured as a separate contract, the scope of an ITS contract will determine the applicability of Federal procurement requirements. Title 23 United States Code Section 101(a)(3) provides a broad definition for construction for Federal-Aid eligibility purposes. FHWA generally interprets the definition broadly resulting in many types projects being classified as construction. Very simply, a contract that incurs costs incidental to the construction or reconstruction of a highway, including improvements that directly facilitate and control traffic flow (e.g., traffic control systems) are by definition construction contracts. This includes rehabilitation of an existing physical ITS infrastructure. Construction contracts must follow the regulatory requirements of 23 CFR 635 or 23 CFR 636 in the case of Design Build.

Non-construction type ITS contracts will be either Engineering Contracts or Service Contracts. Engineering is defined as professional services of an engineering nature as defined by state law. If the ITS contract primarily involves engineering then qualifications-based selection (QBS) procedures in compliance with the Brooks Act, must be followed. Service contracts (non-construction, non-engineering in nature) are to be procured in accordance with the *Common Rule for Grants and Cooperative Agreements to States and Local Governments* found at 49 CFR 18.36.

## Types of ITS Projects

Stand-alone ITS projects can generally be categorized into one of the following types of ITS projects: 1) planning/research, 2) preliminary engineering/project development, 3) software development/system integration, 4) system deployments, 5) traditional construction, and 6) operations and maintenance. All Federal-Aid ITS projects in 23 CFR 940, regardless of the type, are directed to follow a Systems Engineering process. Refer to WSDOT *Design Manual* Chapter 1050 and WSDOT LAG Manual Chapter 41.

The following table provides further information about each of these ITS project types.

| ITS Project Type | Description | Examples |
|---|---|---|
| Planning/ Research | Generally, involves studies that research new concepts or develop plans or procedures at a broader agency- or region-wide level. These are generally are not construction and often done by agency personnel. | • Regional ITS Architecture development and maintenance<br>• Regional Concept of Operation<br>• Traffic incident management planning<br>• Standards testing and specification development<br>• Public outreach and communication |
| Preliminary Engineering/ Project Development | Generally, a project or phase of a larger project, that leads to some type of ITS deployment/ construction. Typically involve some type of service or engineering contact, or work done by agency personnel and are generally not considered construction. | • Scoping/field surveys<br>• Project-level Concept of Operation<br>• Environmental Review<br>• Development of RFPs<br>• Development of PS&Es<br>• Evaluation of technology, networking, system architecture alternatives |
| Software Development/ System Integration | Generally, involves projects that develop new or upgraded ITS-related software or involve integrating ITS services and equipment. These are typically not construction and often fall under a service contract. | • Traffic Management Center (TMC) central software design, development, installation<br>• Modifying existing central system software to communicate with new field equipment<br>• Incorporation of device control software into central systems<br>• Acceptance testing and configuration management |
| System Deployments | Generally, includes total system implementation involving design, equipment, computer systems, telecommunications, and integration. Contracts are often non-construction in nature depending on the amount and type of field work relative to the overall project. These types of projects will often be the least cut and dry in terms of the appropriate contracting method. | • Road-weather information systems (RWIS)<br>• Surveillance camera procurement and installation on existing poles (non-construction when limited in scope)<br>• Non-intrusive sensor procurement and installation on existing poles (non-construction when limited in scope)<br>• Adaptive Signal Control Systems |
| Traditional Construction | Typical construction projects involving considerable installation of equipment or work in the field. Design-Bid-Build (low bid) or Design-Build contracting appropriate for this type of work. | • Installation of variable message signs<br>• Installation of poles, controller cabinets, foundations, guardrail, gantries<br>• Installation of radio towers and civil infrastructure for wireless systems<br>• Installation of tolling field equipment (e.g. tag readers, video cameras, etc.)<br>• Installation of underground infrastructure (trenching, cable installation, etc.) |
| Operations/ Maintenance | On-going operations and/or maintenance of ITS services, software, and equipment. Typically a service contract (non-construction) | • Operating costs for traffic monitoring, management, control systems (e.g., rent, communications, labor, utilities)<br>• Preventative maintenance |

# Chapter 42 City and County Design Standards for All Routes

## 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) 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) and Section 504 of the Rehabilitation Act requirements for accessibility. For guidance on ADA standards, please see *Design Manual* M 22-01 Chapter 1510 and the Local Agency ADA Planning and Design Resource web page at www.wsdot.wa.gov/LocalPrograms/Traffic/ada.htm.

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<br>Senior Principal Engineer<br>City of Tacoma<br>jparvey@cityoftacoma.org | Vacant | Alison Hellberg<br>Association of Washington Cities<br>alisonh@awcnet.org |
| Charles Hill, PE<br>Senior Civil Engineer<br>City of Puyallup<br>chill@ci.puyallup.wa.us | Vacant | Randy Hart, PE<br>County Road<br>Administration Board<br>randy@crab.wa.gov |
| Mike Johnson, PE<br>Design Engineering and Construction Advisor<br>City of Seattle<br>mike.johnson@seattle.gov | Vacant | Greg Armstrong, PE<br>Chief Engineer<br>Transportation Improvement Board<br>grega@tib.wa.gov |
| Mike Taylor, PE<br>City Engineer<br>City of Spokane<br>pmtaylor@spokanecity.org | Jon Brand, PE<br>Assistant Director of Roads and Engineering<br>Kitsap County<br>jbrand@co.kitsap.wa.us | John Donahue<br>WSDOT Design<br>donahjo@wsdot@wa.gov |
| Martin Hoppe, PE, PTOE<br>City of Lacey<br>Transportation Manager<br>pmhoppe@ci.lacey.wa.us | Bob McEwen, PE<br>Program Engineer<br>Snohomish County<br>bob.mcewen@co.snohomish.wa.us | Megan Hall, PE<br>Federal Highway Administration<br>megan.hall@fhwa.dot.gov |
| Ravyn Whitewolf, PE, PMP, AVS<br>Public Works Director<br>City of Blaine<br>rwhitewolf@cityofblaine.com | Ramiro Chavez, PE<br>Public Works Director<br>Thurston County<br>chavezr@co.thurston.wa.us | Mike Horton<br>Operations Mgr. for Transportation<br>AECOM<br>michael.horton@aecom.com |

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

_____

Kyle McKeon, Committee Chair
Engineering Services Manager
Headquarters Local Programs
Washington State Department of Transportation

## 42.3 Local Agency Design Matrices

The Local Agency Design Matrices were created as part of the Local Agency Standards to assist designers in determining the design level for the geometric and safety elements of a project. The Local Agency Design Matrix Checklist may serve as documentation for design decisions made.

**.31 Using the Matrices** – The column headings on each of the three design matrices are design elements. They are based principally on the 13 controlling design criteria recognized by FHWA: design speed, lane width, shoulder width, bridge width, structural capacity, horizontal alignment, vertical alignment, grade, stopping sight distance, cross slope, superelevation, vertical clearance, and horizontal clearance. Within the column headings, some of the controlling criteria have been combined (for example, design speed is part of horizontal and vertical alignment). The matrices are divided into three tables, one each for Roadways, Cross Roads, and Bridges. Within the three tables the project types are identical, design elements vary depending on which elements apply.

A blank cell within the design matrix signifies that the design element need not be addressed because it is beyond the scope of the project type.

Design levels of City and County Design Standards (D), AASHTO (A), and Agency Evaluate (AE), are used in the matrix. The design level codes are noted in the cells by D, A or AE or by a number corresponding to a footnote. For roads that have volumes less than 400 ADT, AASHTO Geometric Design of Very Low Volume Roads (ADT<400) may be used.

Optional Checklists have been provided for the designer to use with the matrix. A checklist is available for each type of project in Appendix 42.101.

Matrix Cells: Each Matrix cell is either blank or has a coded design level.

**.32 Design Levels** – If the Design Level is D, use the Geometric Cross-Section for Two-Way Roads and Streets within the City and County Design Standards on page 12.

If the design level is A, the design standard is AASHTO (the most current edition of the AASHTO publication *A Policy on Geometric Design of Highway and Streets*, "Guidelines for Geometric Design of Very Low-Volume Local Roads (ADT< 400)," or as noted in the City and County Design Standards. When AASHTO and/or related design standards as contained in the references are updated and published, agencies must comply with the new design standards for all projects no later than two years after of the publication date.

When the Matrix cell has either a "D" or an "A" and the final design utilizes something less than Design Level A, a Design Deviation, approved by Headquarters Local Programs, is required.

A Blank Cell on a matrix line indicates that particular design element requires no evaluation or documentation. If the agency decides to improve or modify a blank cell design element, that element must meet Design Level A and the agency must justify in their design document files why the decision to upgrade the design element was made. Per FHWA guidelines, if an improvement in a "Blank Cell" area is made, it must meet all requirements of design level A. Or if, in the opinion of the agency's design Engineer, Design Level A cannot be achieved, a Design Exception may be considered.

AE in a matrix cell indicates that an agency needs to determine if the existing design element is less than Design Level A. If the existing design element meets or exceeds Design Level A the agency notes that in the design documents and no further action is required. If the existing design element is less than Design Level A, the agency shall determine the impacts and cost effectiveness of upgrading the design element to Design Level A. The decision whether or not to upgrade, and its analysis and justification shall be in the agency design documentation files. If the agency upgrades, Design Level A applies. Or if, in the opinion of the agency's design Engineer, Design Level A cannot be achieved, a Design Exception may be utilized.

A Design Exception may be utilized if, in the opinion of the local agency's design Engineer, the existing design element is being improved but Design Level D or A cannot be achieved. For example, design standard requires a 6 foot wide shoulder for a project, the existing condition is a two foot wide shoulder but the best that can be reasonably achieved is a 4 foot wide shoulder. This is a Design Exception, improvement is being made but not to Design Level A.

## 42.4 Local Agency Design Matrix Definitions

**.41 Design Elements** – Design elements are the principal elements of design that are common to projects. The following elements are shown on the Design Matrix.

- Horizontal Alignment is the horizontal attributes of the roadway including horizontal curvature, superelevation, and stopping sight distance; all based on design speed.
- Vertical Alignment is the vertical attributes of the roadway including vertical curvature, profile grades, and stopping sight distance; all based on design speed.
- Lane Width is the distance between lane lines.
- Shoulder Width is the distance between the outside or inside edge line and the edge of in-slope, or face of barrier.
- Lane and Shoulder Taper (pavement transitions) are the rate and length of transition of changes in width of roadway surface.
- Pedestrian Facility is a facility designed to meet the needs of pedestrians in accordance with city, county, and ADA requirements concurrent with a local agency project
- Sidewalk Width is the width of a sidewalk from the face of curb to the back of sidewalk.
- Cross Slope, Lane is the rate of elevation change across a lane. This element includes the algebraic difference in cross slope between adjacent lanes.
- Cross Slope, Shoulder is the rate of elevation change across a shoulder.
- Superelevation is the rotation of the roadway cross section in such a manner as to overcome part of the centrifugal force that acts on a vehicle traversing a curve.
- Fill/Ditch Fore Slope is downward slope from edge of shoulder to bottom of ditch or catch.
- Clear Zone is the total roadside border area, starting at the edge of the traveled lane, available for use by errant vehicles. This area may consist of a shoulder, a recoverable slope, a nonrecoverable slope, and/or a clear run-out area.

- Safety Improvements are the safety items listed under the "Safety Improvements" section of these standards.
- Shared Use Bicycle and Pedestrian Facilities are walkways, paths, or trails for shared use by both pedestrian and bicycle traffic. Effective July 1, 2012, refer to the current AASHTO bicycle design standards and/or standards submitted by the local agency which have been approved by Local Programs for any facility allowing bicycle traffic.
- Turn Radii is the geometric design of the intersection to allow the design vehicle for each turning movement to complete the turn without encroachment.
- I/S (Intersection) Sight Distance is the distance that the driver of a vehicle on the crossroad can see along the through roadway, as compared to the distance required for safe operation.
- I/S Angle is the angle between any two intersecting legs at the point that the center lines intersect.
- Barriers Standard Run (Std Run) are guardrail and other barriers excluding terminals, transitions, attenuators, and bridge rails.
- Barriers Bridge Rail is barrier on a bridge excluding transitions.
- Bridge Vertical Clearance is the minimum height between the roadway including shoulder and an overhead obstruction.
- Bridge Structural Capacity is the load bearing ability of a structure.
- Terminals are crashworthy end treatment for longitudinal barriers that is designed to reduce the potential for spearing, vaulting, rolling, or excessive deceleration of impacting vehicles from either direction of travel. Impact attenuators are considered terminals and beam guardrail terminals include anchorage.
- Transitions are sections of barriers used to produce a gradual stiffening of a flexible or semi-rigid barrier as it connects to a more rigid barrier or fixed objects.

### .42 Project Type Definitions

- New Construction involves the construction of a new roadway facility or structure where nothing of its type currently exists.
- Reconstruction projects may add additional travel lanes to an existing roadway or bridge and if 50 percent or more of the project length involves vertical or horizontal alignment changes, the project will be considered reconstruction.
- 3R projects focus primarily on the preservation and extending of the service life of existing facilities and on safety enhancements. Work may include: resurfacing, pavement structural and joint repair, lane and shoulder widening, alterations to vertical grades and horizontal curves, bridge repair, removal or protection of roadside obstacles, and improving bridges to meet current standards for structural loading and to accommodate the approach roadway width.
- 2R projects focus primarily on restoration of pavement structure, crown correction, ride quality basic safety, and spot safety. Widening shoulders for continuity with the existing roadway cross section is acceptable.

- Railroad is a project to reduce the accident frequency and severity at grade crossings. Project elements may include, signals, bells, signage, pavement markings gates or surfacing at the crossing. Railroad-highway grade separation projects are also in this category. If the project includes other roadway work, use 3R matrix line.
- Bridge New/Replacement is a new bridge or a replacement of an existing bridge.
- Bridge Widening is the widening of existing bridges.
- Bridge-Other are Project types that may include, scour mitigation, painting, seismic retrofit, deck repair, strengthening, rehabilitation, and electrical mechanical repairs.
- Paths and/or Trails is the construction of non-motorized facilities that are independent of a roadway alignment.
- Pedestrian Facilities are projects with a main focus of providing pedestrian facilities for public use.
- Other, Interpretive Centers, Etc. projects may include, bicycle facilities, structures, bus shelters, archeology and historic preservation, and buildings.
- Parking Facilities are projects that construct parking facilities. Project types may include Park and Ride facilities and on-street parking.

### .43 Other Definitions

- Average Daily Traffic (ADT) – The general unit of measure for traffic defined as the total volume during a given time period (in whole days), greater than one day and less than one year, divided by the number of days in that time period.
- 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.
- Low Volume Roads and Streets – For this document, a collector or lower classified road or street with an ADT of less than 400.
- Resurfacing – The addition of a layer or layers of paving material to provide additional structural integrity or improved serviceability and rideability.
- Restoration – Work performed on either pavement sections or bridge decks to render them suitable for an additional stage of construction. This may include supplementing the existing roadway by increasing surfacing and paving courses to provide structural capability and minor shoulder widening to provide roadway section continuity. Restoration will generally be performed within the existing right of way.
- Rehabilitation – Similar to “Restoration” except the work may include, but is not limited to, the following:
  - Reworking, strengthening, or removing and replacing the base and/or subgrade.
  - Recycling or reworking existing materials to improve their structural integrity.
  - Adding underdrains.
  - Replacing or restoring malfunctioning joints.
  - Substantial pavement under-sealing when essential for stabilization.

- Pavement grinding to restore smoothness, providing adequate structural thickness remains.
- Removing and replacing deteriorated materials.
- Crack and joint sealing but only when the required shape factor is established by routing or sawing.
- Improving or widening shoulders.

Rehabilitation may require acquisitions of additional right of way.

- Traveled Lane – The portion of the roadway intended for the movement of vehicles, exclusive of shoulders and lanes for parking, turning, and storage for turning.

**.044 Safety Improvements** – When using AASHTO guidance for clear zone determinations, the designer should take into account all AASHTO guidance (i.e., AASHTO Roadside Design Guide) relating to clear zone and project circumstances. See references section of this chapter.

Mandatory Upgrades

1. Update all delineation and signing in accordance with the current MUTCD. (This does not include replacement of sign bridges or cantilever supports.)
2. Modify substandard guardrail transitions and terminals to current standards.

Agency Evaluate Need

3. Adjust existing features that are affected by resurfacing, such as guardrails, monuments, catch basins, and access covers. Adjustment may include asphalt tapers as appropriate.
4. Modification of drainage structures, which present a hazard in the clear zone, e.g., beveled end sections/safety bars for both parallel and cross-drains.
5. Remove, relocate, reduce severity of hazard by providing crashworthy features, protect, or delineate roadside obstacles inside the design clear zone.
6. Restore sight distance at public road intersections and the inside of curves through low cost measures if they are available such as removal or relocation of signs and other obstructions, and cutting of vegetative matter. The local agency Engineer will determine if the measures are low cost.

| ⇩ Project Type | Roadways | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Design Elements ⇨ | 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 7. 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 Improve-ments | 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 |

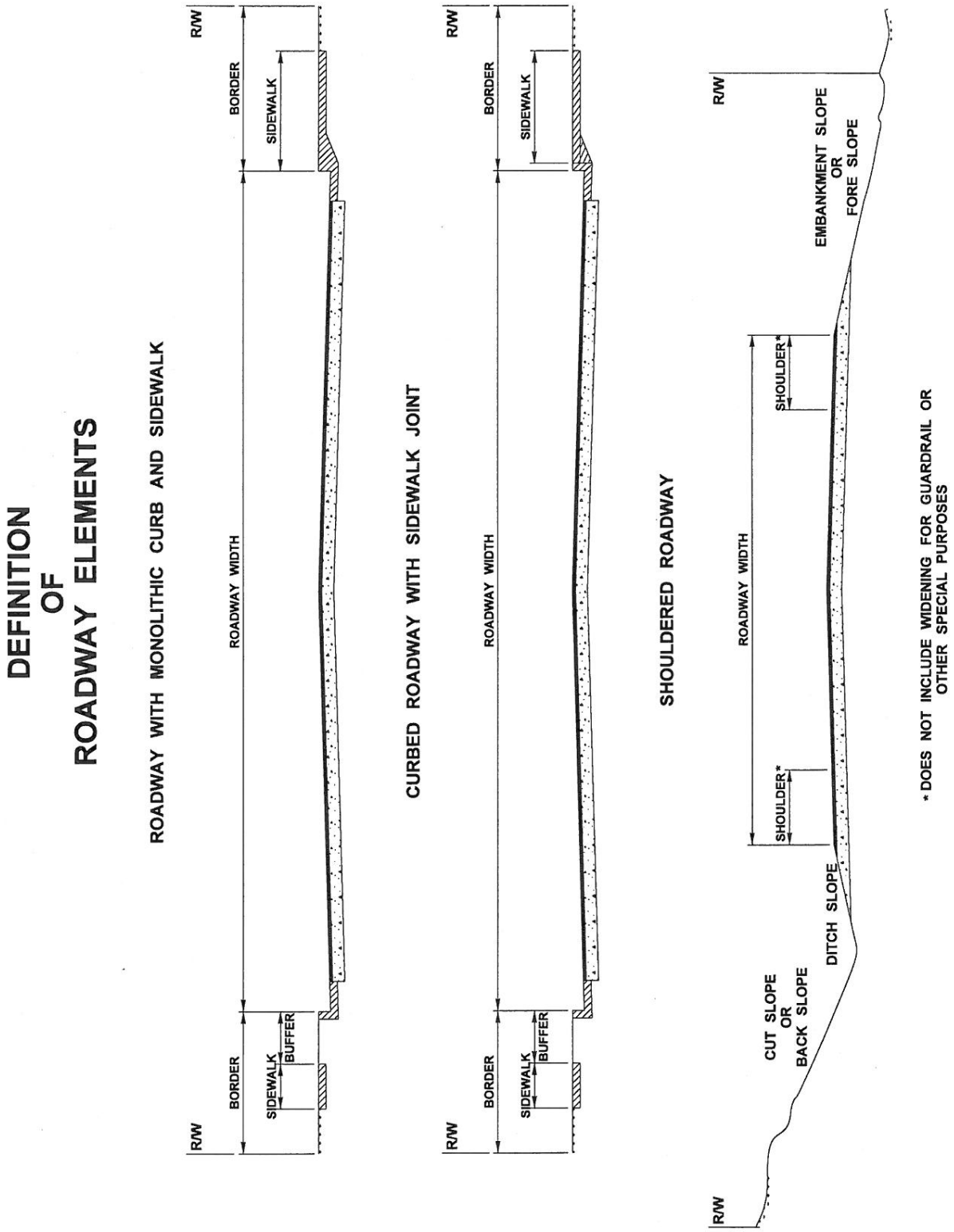
D Design Level D
A Design Level A
AE Agency Evaluate to Design Level A

1. When provided, must meet current standards.
2. Refer to Safety Improvements on page 7. Mandatory Upgrade items 1 and all others are AE.

**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***




**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: | | | | | | | | | | | | |
| 1. Exterior(2)(7) | 12ft | 12ft | 12ft | 12ft | 12ft | 12ft | 12ft | 12ft | 10ft | 10ft | 11ft | 12ft |
| 2. Interior Thru(2) | 11ft | 11ft | 11ft | 11ft | 11ft | 11ft | 11ft | 11ft | 10ft | 10ft | 11ft | 11ft |
| 3. Two Way Left Turn(2) | 11ft | 11ft | 11ft | 11ft | 11ft | 11ft | 11ft | 11ft | 10ft | 10ft | 11ft | 11ft |
| 4. Exclusive Turn(2) | 11ft | 11ft | 11ft | 11ft | 11ft | 11ft | 11ft | 11ft | 10ft | 10ft | 11ft | 11ft |
| 5. 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 the WSDOT *Standard Plans*, F40 series. For material contrast requirements, see proposed ADA guidance from the U.S. Access Board at www.access-board.gov/ada-aba.htm<br>U.S. Access Board at www.access-board.gov/prowac/draft.htm |
| New Sidewalks (when provided) | • Minimum Width – 60 inches continuous clear width exclusive of the curb or 48 inches clear width exclusive of the curb with 60 inch by 60 inch clear passing spaces at 200-foot maximum intervals.<br>• Surface – Firm, stable, and slip resistant.<br>• Crosslopes – 1:50 (2 percent) maximum.<br>• Running Slope – When within street or highway right of way, must be consistant with the slope established by the roadway. If outside street or highway right of way, must be 5% max. unless designed as a ramp (see ADA guidance).<br>• Buffer – Separation from vehicular ways by curbs or other barriers. |

## 42.6 Roadway Geometrics

The AASHTO publication *A Policy on Geometric Design of Highways and Streets* (Green Book) is the design standard accepted by FHWA for project funding. The designer should read all text associated with the standards and should also consider related tables and text. Additionally, design references are provided in the References for New Construction and Reconstruction, 3R, and 2R Standards and in Tables 1.1, 1.2, and 1.3 of this chapter.

### .61 Bridge Standards

| Design Elements | References |
|---|---|
| Bridge Width | The minimum bridge width for two-way structures is the greater of: (1) the design roadway width, or (2) the existing roadway width. |
| Loading | HL 93 (for federally funded projects), others may use HS 20-44. |
| Vehicular Railing | AASHTO Crash Tested Rail, or Approved NCHRP 350 Crash Tested Rail. |
| Pedestrian Railing | AASHTO, NCHRP 350. |
| Approach Railing | AASHTO Crash Tested Rail, or Approved NCHRP 350 Crash Tested Rail. |
| Vertical Clearance | 16.5 feet minimum. |

### .62 Other Standards

| Design Elements | References |
|---|---|
| Bicycle | AASHTO Guide for the Development of Bicycle Facilities (RCW 35.75.060 and 36.82.145) and/or standards submitted by the local agency which have been approved by Local Programs. |
| Signing | MUTCD, as modified by the Washington State Transportation Commission per RCW 47.36.030. |
| Americans with Disabilities Act – 1990 ADA | Code of Federal Regulations 28 CFR Part 35, Interim Final Rules U.S. Department of Justice. The Architectural and Transportation Barriers Compliance Board WSDOT/ Standard F40 Series Current International Building Code, and Washington State Amendments. |
| Sidewalks | AASHTO Guide for Planning, Design, and Operation of Pedestrian Facilities |
| Low Volume Roads | 2001 AASHTO Geometric Design of Very Low Volume Local Roads (ADT < 400) |

## 42.7 3R Projects

**.71 General Discussion** – Funding restrictions and other considerations do not always allow improvement of all existing roads and streets to the standards desirable for new construction. Therefore, when pavement condition deteriorates to the level of minimal standards, a cost-effective pavement improvement is needed.

A project becomes 3R when the proposed improvement consists of resurfacing, restoration, or rehabilitation to preserve and extend the service life of the roadway, or enhances the safety of the traveling, bicycling, and/or walking public.

3R projects primarily involve work on an existing roadway surface and/or subsurface. Their purpose includes extending the service life, providing additional pavement strength, restoring or improving the original cross-section, increasing skid resistance, decreasing noise, improving the ride of the roadway, and enhancing safety.

Many factors influence the scope of 3R projects, including:

- Roadside conditions.
- Funding constraints.
- Environmental concerns.
- Changing traffic and land use patterns.
- Deterioration rate of surfacing.
- Accidents or accident rates.

Normally, all 3R improvements are made within the existing right of way, although acquiring right of way and/or easements should be considered when and where practical.

Each 3R project should be considered in context with the entire route between logical termini and within the constraints imposed by limited funding and other considerations.

As a minimum, normally include the following for a 3R project:

- Guardrail end treatments upgraded to current standards.
- Appropriate transition and connection of approach rail to bridge rail.
- Beveled end sections for both parallel and cross-drain structures located in the clear zone.
- Relocating, protecting, or providing breakaway features for sign supports and luminaires.
- Protection for exposed bridge piers and all abutments.
- Modification of raised drop inlets that present a hazard in the clear zone.

It is desirable to provide a roadside clear of fixed objects and nontraversable obstacles. The priority for action relative to roadside obstacles is: (1) remove, (2) redesign, (3) relocate, (4) reduce severity by crashworthy features, (5) protect, or (6) delineate.

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*, 2011 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* LRFD M 23-50
- *Hydraulics Manual* M 23-03
- *Standard Plans* M 21-01
- *Design Manual* M 22-01
- WSDOT's *Pavement Design* Website: www.wsdot.wa.gov/Business/MaterialsLab/Pavements/PavementDesign.htm

Institute of Transportation Engineers (ITE)

- *Traffic Engineering Handbook*

FHWA

- *Manual on 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
- Local Agency ADA Planning and Design Resource
  www.wsdot.wa.gov/LocalPrograms/Traffic/ada.html

Roundabouts

- NCHRP Reports 572, 672, and 772
- WSDOT *Design Manual* M 22-01
  Chapter 1300 Intersection Control Type
  Chapter 1320 Roundabouts

Traffic Calming

- *A Guidebook for Residential Traffic Management*, Final Report, December 1994, WSDOT 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

WSDOT
Publications Services
PO Box 47304
Olympia, WA 98504-7304
360-705-7430
www.wsdot.wa.gov/publications/manuals

ITE
Institute of Transportation Engineers
1627 Eye Street NW, Suite 600
Washington, DC 20006
202-785-0060
202-785-0609 (fax)
http://ite.org/

MUTCD
http://mutcd.fhwa.dot.gov/ser-pubs.htm

ADA
Office of the General Counsel Architectural and Transportation Barriers Compliance Board
1331 F Street NW, Suite 1000
Washington, DC 20004-1111
www.access-board.gov

National Assoication of City Transportation Officials (NACTO)
Urban Bikeway Design Guide

- http://nacto.org/cities-for-cycling/design-guide

Urban Street Design Guide

- http://nacto.org/usdg

## 42.10 Appendices

42.101 Local Agency Design Matrix Checklists

| Design Element | Design Level | Any work on Blank Cell Design Element? If "No" move down to next Design Element | If "Yes" | Meets Standard? If "Yes" move down to next Design Element | If "No" | Upgraded to Standard? If "Yes" move down to next Design Element | If "No" | Is a Deviation or Design Exception Required? If "No" Document to File | If "Yes" | HQ Local Programs Deviation Approval Date | Local Agency Design Exception Approval Date |
|---|---|---|---|---|---|---|---|---|---|---|---|
| **Roadways** | | | | | | | | | | | |
| Horizontal Alignment | | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Vertical Alignment | | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Lane Width | | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Shoulder Width | | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Lane & Shoulder Taper | | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Ped. Facility | | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes | → | | |
| Cross Slope Lane | AE | → | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Cross Slope Shoulder | AE | → | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Fill/Ditch Slopes | | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Safety Improvements | 2 | → | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes | → | | |
| Shared Bike/Ped | 1 | → | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| Turn Radii | | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Sight Distance | | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| I/S Angle | | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Std Run | 1 | → | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| **Cross Roads** | | | | | | | | | | | |
| Horizontal Alignment | | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Vertical Alignment | | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Lane Width | | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Shoulder Width | | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Fill/Ditch Slopes | | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Safety Improvements | | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes | → | | |
| Shared Bike/Ped Facility | 1 | → | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| **Bridges** | | | | | | | | | | | |
| Lane Width | | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Shoulder Width | | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Vertical Clearance | AE | → | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Structural Capacity | AE | → | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Bridge Rail | 1 | → | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |

**Design Levels**

- ☐ Blank Cell
- **D** Design Level D
- **A** Design Level A
- **AE** Agency Evaluate to Design Level A

(1) When provided, must meet current standards.

(2) Items 1 and 2 under Safety Improvements Definitions are required and all others are AE.

**2R Project Checklist**
***Page 1 of 1***

| Design Element | Design Level | Meets AASHTO? If "Yes" move down to next Design Element | If "No" | Upgraded to AASHTO? If "Yes" move down to next Design Element | If "No" | Is a Deviation or Design Exception Required? If "No" Document to File | If "Yes" | HQ Local Programs Deviation Approval Date | Local Agency Design Exception Approval Date |
|---|---|---|---|---|---|---|---|---|---|
| **Roadways** | | | | | | | | | |
| Horizontal Alignment | AE | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Vertical Alignment | AE | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Lane Width | AE | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Shoulder Width | AE | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Lane & Shoulder Taper | AE | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Ped. Facility | 1 | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| Cross Slope Lane | AE | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Cross Slope Shoulder | AE | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Fill/Ditch Slopes | AE | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Safety Improvements | 2 | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| Shared Bike/Ped. | 1 | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| Turn Radii | AE | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Sight Distance | AE | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| I/S Angle | AE | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Std Run | 1 | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| **Cross Roads** | | | | | | | | | |
| Horizontal Alignment | AE | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Vertical Alignment | AE | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Lane Width | AE | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Shoulder Width | AE | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Fill/Ditch Slopes | AE | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Safety Improvements | 2 | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| Shared Bike/Ped. Facility | 1 | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| **Bridges** | | | | | | | | | |
| Lane Width | AE | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Shoulder Width | AE | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Vertical Clearance | AE | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Structural Capacity | AE | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Bridge Rail | 1 | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |

**Design Levels***
☐ Blank Cell
**D** Design Level D
**A** Design Level A
**AE** Agency Evaluate to Design Level A
**See Matrix Definitions for requirements.**

(1) When provided, must meet current standards.
(2) Items 1 and 2 under Safety Improvements Definitions are required and all others are AE.

**3R Project Checklist**
***Page 1 of 1***

| Design Element | Design Level | Meets AASHTO? If "Yes" move down to next Design Element | If "NO" | Upgraded to AASHTO? If Yes" move down to next Design Element | If "NO" | Is a Deviation or Design Exception Required? If "NO" Document to File | If "Yes" | HQ Local Programs Deviation Approval Date | Local Agency Design Exception Approval Date |
|---|---|---|---|---|---|---|---|---|---|
| **Roadways** | | | | | | | | | |
| Horizontal Alignment | A | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| Vertical Alignment | A | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| Lane Width | A | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| Shoulder Width | A | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| Lane & Shoulder Taper | A | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| Ped. Facilities | 1 | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| Cross Slope Lane | A | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| Cross Slope Shoulder | A | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| Fill/Ditch Slopes | A | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| Safety Improvements | A | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| Bike & Ped | 1 | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| Turn Radii | A | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| Sight Distance | A | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| I/S Angle | A | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| Std Run | A | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| **Cross Roads** | | | | | | | | | |
| Horizontal Alignment | AE | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Vertical Alignment | AE | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Lane Width | AE | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Shoulder Width | AE | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Fill/Ditch Slopes | AE | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Safety Improvements | AE | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Shared Bike/Ped. Facilities | 1 | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| **Bridges** | | | | | | | | | |
| Lane Width | A | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| Shoulder Width | A | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| Vertical Clearance | D | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| Structural Capacity | D | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| Bridge Rail | D | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |

**Design Levels***
- ☐ Blank Cell
- **D** Design Level D
- **A** Design Level A
- **AE** Agency Evaluate to Design Level A

(1) When provided, must meet current standards.

(2) Items 1 and 2 under Safety Improvements Definitions are required and all others are AE.

## Local Agency Guidelines Design Matrix Reconstruction Checklist

***Page 1 of 1***

| Design Element | Design Level | Meets AASHTO? If "Yes" move down to next Design Element | If "NO" | Is a Deviation or Design Exception Required? If "NO" Document to File | If "Yes" | HQ Local Programs Deviation Approval Date | Local Agency Design Exception Approval Date |
|---|---|---|---|---|---|---|---|
| **Roadways** | | | | | | | |
| Horizontal Alignment | D | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| Vertical Alignment | D | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| Lane Width | D | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| Shoulder Width | D | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| Lane & Shoulder Taper | D | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| Ped. Facilities | 1 | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| Cross Slope Lane | D | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| Cross Slope Shoulder | D | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| Fill/Ditch Slopes | D | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| Safety Improvements | A | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| Shared Bike/Ped. Facilities | 1 | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| Turn Radii | A | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| Sight Distance | D | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| I/S Angle | A | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| Std Run | A | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| **Cross Roads** | | | | | | | |
| Horizontal Alignment | AE | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Vertical Alignment | AE | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Lane Width | AE | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Shoulder Width | AE | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Fill/Ditch Slopes | AE | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Safety Improvements | AE | ☐ Yes ☐ No | → | ☐ Yes ☐ No | → | | |
| Shared Bike/Ped. Facilities | 1 | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| **Bridges** | | | | | | | |
| Lane Width | D | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| Shoulder Width | D | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| Vertical Clearance | D | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| Structural Capacity | D | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |
| Bridge Rail | D | ☐ Yes ☐ No | → | ☐ Yes | → | | N/A |

**Design Levels***
☐ Blank Cell
**D** Design Level D
**A** Design Level A
**AE** Agency Evaluate to Design Level A
**See Matrix Definitions for requirements.**

(1) When provided, must meet current standards.
(2) Items 1 and 2 under Safety Improvements Definitions are required and all `others are AE.

**Local Agency Guidelines Design Matrix New Construction Project Checklist**
***Page 1 of 1***

# Chapter 43 Design Approval

## 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 on the NHS receiving $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 and 43.62. 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 and that they are consistent with the PS&E.

## 43.3 Bridge Design Approval

**.31 Policy**

1. 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.
2. Agencies that perform a Type, Size, and Location (TS&L) for bridge projects, as the first order of work after being selected, must receive approval from Local Programs. (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.)
3. 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.

Local Programs 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 NHS projects $50 million or more and for all bridges on NHS routes $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.

Reducing the scope of a project, compromising the performance of an element, or simply substituting cheaper materials is not VE. VE is not just "good engineering." It simply answers the question, "What else will accomplish the purpose of the product, service, or process we are studying?" All costs are taken into account over the entire life of the project.

**.42 Why VE is Needed** – The costs of highway needs far exceed the funds available for improvements. As the cost of highway construction increases, more emphasis is being placed on the maintenance and rehabilitation of existing facilities to maximize these available funds.

VE is a tool that can counteract these growing problems by providing (1) cost reduction, (2) product or process improvement, and (3) alternative means and materials for highway construction and maintenance.

**.43 VE Application (General)** – VE may be applied at any point in highway development, operation, and maintenance. For maximum effectiveness, however, VE should be undertaken as early as possible (during the first 30 percent of design) when decisions on life-cycle costs are being made and valid project development recommendations can be implemented. When a complex, costly project is selected as a candidate for potential cost reductions, investigations should start as soon as a preliminary estimate is in hand.

VE should be employed when the ratio of potential savings to the cost of the VE study is significant. VE can also be used in evaluating standard details that are used repetitively on many projects. The cost of VE studies in preconstruction activities may be allocated to the preliminary engineering cost of the related project.

Local agencies are also encouraged to include a VE incentive clause in their construction specifications; such clauses encourage contractors to propose changes to the contract that fulfill a project's functional requirements at less cost.

When VE is not mandatory and the local agency staff is considering a VE, it is recommended that the local agency staff prepare a "VE Assessment Report" (Appendix 43.61). The report will address the project characteristics, cost per mile, potential savings of high cost items, and other considerations unique to the project. From this assessment, a recommendation can be developed as to whether a VE study is needed. Use the references listed in Section 43.45 when a mandatory VE study is performed.

**.44 VE Study Team** – The VE Study Team will be headed by a qualified facilitator. The duties and responsibilities of the facilitator will include, but are not limited to, the following:

1. Acts as chairperson at meetings of the VE Team.
2. Presents the findings and recommendations of the VE study to the local agency management and other interested agencies.
3. Provides the final VE Study Report to the local agency and WSDOT Local Programs.

The VE Team will be comprised of a minimum of five members including the facilitator. One team member should have a background in bridge design (if a bridge is part of the project) or construction. If environmental factors are part of the study process, then the team should also include a member who has expertise on environmental issues.

The VE Team will formally present their study results to local agency representatives, WSDOT Local Programs, and all other interested persons. Team findings and recommendations will then be documented in a formal report and should be provided to all interested parties soon as possible. Courtesy copies are sent to other appropriate agencies and individuals.

The local agency will evaluate the VE Team recommendations. Should their preferred alternative differ from the prospectus or if no project prospectus has been approved, the local agency submits a new or revised prospectus for their preferred alternative to the Region Local Programs Engineer. A summary of the VE study results shall be included in this transmittal as reference material. The project then proceeds as defined in this manual.

### .45 Reference Materials

- *Value Engineering Guide for Cities and Counties,* Kempter-Rossman International.
- *Operating Tip — Value Engineering,* NWT2 Center, October 1985.
- *Value Engineering Contract Provisions on Federal Aid Highway Construction Projects,* Report No. 7584217, FHWA, December 1984.
- *Pavement and Shoulder Maintenance Performance Guide*, Report No. TS-84-208, FHWA, August 1984 (Developed in conjunction with Arkansas, Colorado, Iowa, New Mexico, North Dakota, South Dakota, Utah, and Washington).
- *Value Engineering for Highways,* prepared for FHWA by Kempler-Rossman International, revised October 1983.
- *Value Engineering Conference Summary Report,* Report No. TS-80-246, FHWA, August 7, 1980.
- *Value Engineering — A Systematic Approach,* Arthur E. Mudge, McGraw-Hill, New York, 1971.
- *Value Engineering in the Construction Industry,* Alphonse J. Dell'isola, Construction Publishing Co., Inc., New York, 1974.
- *Guidelines for Value Engineering (VE)*, subcommittee on New Highway Materials, AASHTO-AGC-ARTBA Joint Cooperative Committee. Reprinted by USDOT/ FHWA February 1983.
- WSDOT *Design Manual* M 22-01 Value Engineering (VE) section.

## 43.5 Additional Data Required for Special Projects

**.51 Traffic Signal Projects** – The local agency shall provide warrants for signalization in accordance with Part 4c of the Manual on Uniform Traffic Control Devices (MUTCD). Designs for signalization at intersections with state routes require review by WSDOT. A signal permit is required for all traffic signals on state routes. An early application to the WSDOT Region Administrator is advisable.

**.52 Projects Involving State Routes** – Designs for all projects involving state routes shall be submitted to WSDOT for approval. All work at intersections with state routes requires submittal of an intersection plan to WSDOT for approval. Prints of existing intersection plans are available from WSDOT. Revisions should be shown on these prints.

## 43.6 Appendices

43.61 VE Assessment Report

43.62 Example of Design Approval Documentation

Washington State Department of Transportation

# VE Assessment Report

Agency: Click here to enter text. Date: Click here to enter text.

Project Title: Click here to enter text.

Project Number: Click here to enter text.

Reviewing Team: Click here to enter text.

## Project Characteristics

Length: Click here to enter text. Cost: Click here to enter text. Cost/Unit Length: Click here to enter text.

Major structure ☐ Yes ☐ No

Extensive R/W ☐ Yes ☐ No

Complex project ☐ Yes ☐ No

Includes Items that appear too costly ☐ Yes ☐ No

Includes Critical or Expensive Materials ☐ Yes ☐ No

Includes items that have questionable, complex, or costly function ☐ Yes ☐ No

Includes items difficult to construct ☐ Yes ☐ No

Complicated or costly traffic control or detours ☐ Yes ☐ No

Horizontal Alignment: Click here to enter text.

Vertical Alignment: Click here to enter text.

Materials Source: Click here to enter text.

Design Concept: Click here to enter text.

Other Considerations: Click here to enter text.

Other Alternatives Considered: Click here to enter text.

| Major High Cost Items and Potential Cost Saving Ideas | Cost | Potential Savings |
|---|---|---|
| 1. Click here to enter text. | $ | $ |
| 2. Click here to enter text. | $ | $ |
| 3. Click here to enter text. | $ | $ |

Conclusions and Recommendations: Click here to enter text.

Approving Authority Recommendations: Click here to enter text.

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10/2015

Page 1 of 1

**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<br>Title<br>Agency | Date |

# Chapter 44 Plans, Specifications, and Estimates

## 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 document that approval, 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 must maintain a commitment file, when applicable. This must contain a summary of all commitments made during the development of the project. The file should be reviewed to ensure that the commitments that apply to the contractor are incorporated in the PS&E. This file must also include commitments the local agency is responsible for completing, such as annual reporting to resource agencies. It is the local agency's responsibility to ensure this file is updated to show when these commitments were completed. Commitments typically involve right of way, maintenance and/or environmental considerations.

A copy of the preliminary PS&E must be submitted to the Region Local Programs Office for concurrence prior to Advertisement. An Ad-ready copy shall also be furnished to the Region Local Programs Engineer prior to advertisement. If the local agency would like WSDOT to prepare the Record of Materials (ROM), an additional copy is also needed.

In addition, any local agency project with work on, over or below state routes or within limited access for the interstate system requires design and traffic documentation approval and PS&E concurrence from WSDOT prior to advertisement. A WSDOT general permit may also be required prior to Ad. The Region Local Programs Engineer can assist in coordinating these approvals.

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.
- The effective date for determining federal prevailing wage rates shall be ten days prior to bid opening (or less if the engineer determines an addenda can be issued prior to bid opening). For contracts awarded more than 90 days after the bid opening date, the effective date for determining the wage rates shall be the award date.

Prior to bid opening, the local agency may contact the Region Local Programs Engineer to see if wage rates have changed or are pending.

To minimize the possibility of out-of-date state and federal wage rates at the time of bid opening, the wage rates should be requested from the Region Local Programs Engineer seven days before the advertising date.

### .22 Other Requirements

a. **Form FHWA-1273** – Each set of contract documents shall include Form FHWA-1273, Required Contract Provisions Federal-Aid Construction Contracts. Copies of FHWA-1273 are available from the Region Local Programs Engineer.

b. **Affirmative Action** – See Chapter 27, Equal Employment Opportunity and Training.

c. **Disadvantaged Business Enterprises (DBE)** – In accordance with FHWA and WSDOT efforts to increase DBE participation in FHWA projects, WSDOT has developed a management-by-objective goal-setting process for DBE participation. For additional information, see Chapter 26, Disadvantaged Business Enterprises.

d. **"Buy-America" Requirements** – 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. 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 without an approved public interest finding from Local Programs, to the limit allowed by the "Buy America" General Special Provision.

e. **Traffic Control Plans** – Traffic Control Plans (TCP) must be included in the contract documents. TCPs shall be consistent with Part 6 of the MUTCD, low volume roads, Part 5. Detour Plans and agreements shall be included in the contract documents to demonstrate constructability. **K Plans used as a reference are no longer allowed. Agencies must develop contract specific traffic control plans for each contract.**

   Construction projects that impact bicycle and/or pedestrian traffic must include accommodation for all impacted modes of travel in the contract Traffic Control Plans. Ensure these accommodations are in compliance with ADA standards.

f. **A "tied bid"** is a federal project and a non-federal project or two federal projects (otherwise separate contacts) that are advertised and bid together as a single contract. To bid the projects under a single contract, approval is required by Local Programs prior to being advertised.

g. **Sole Source Justification** – Justification for the use of agency-supplied materials must be documented by the local agency. The materials must have been produced by agency forces or acquired through competitive bidding. Material purchased from a sole source may be used only when preapproved by Local Programs. To receive approval, submit a Public Interest Finding (PIF) for approval prior to use.

h. **Warranty/Guarantee** – No warranty requirement shall be approved which may place an undue obligation on the contractor for items or conditions over which the contractor has no control. Warranties/guarantees shall not be included in federal aid projects or the bonds except as follows:

   On NHS construction contracts a warranty can be included in the contract in accordance with the following: Warranty provisions shall be for a specific product or feature. Warranties for items of maintenance are not eligible for federal participation and will not be allowed. All warranty requirements and subsequent revisions shall be submitted to the WSDOT Region Local Programs Engineer and forwarded to Local Programs for advance approval.

   On non-NHS construction contracts a warranty can be included in the contract in accordance with the following: Project warranty/maintenance provisions may be included in a project if a nonparticipating bid item and special provision is included in the contract. All other warranty requirements other than product or feature, and subsequent revisions, shall be submitted to Region Local Programs Engineer for advance approval.

**.23 Local Ad and Award Projects** – See Chapter 46.

**.24 State Ad and Award Projects** – See Chapter 45.

## 44.3 Documents Requiring Professional Stamps

The following documents require a PE stamp upon completion. The Professional Engineer with responsible charge of the project will assure that appropriate engineering reports and documents are stamped in accordance with RCW 18.43.070. If a particular "Engineering Report or Document" is not listed, it is not necessarily exempt from the requirement.

The list includes:

- Design Documents
- Right of Way Plans
- Type, Size, and Location Report
- Plans, Specifications (with appropriate Division 1 approvals as outlined in Section 44.5), and Estimates, including all plan sheets.
- Special Provisions
- Temporary Erosion and Sediment Control Plan
- Plans for Falsework and Forms, normally the contractor's responsibility
- Bridge Design Report
- Bridge Load Ratings
- As Built Plans
- Technical Change Orders
- Value Engineering Study Report
- Standards Deviation Request
- Emergency Contracts that contain the equivalent of PS&E documents

## 44.4 Contract Plans

For WSDOT ad-and-award projects, the plans should be prepared in accordance with the *Plans Preparation Manual* M 22-31. For local ad-and-award projects, there are no federal or state requirements for plan sheet size or guidelines for preparing contract plans.

## 44.5 Specifications

WSDOT publishes and distributes the Standard Specifications, and the Amendments and General Special Provisions. On federal aid projects, any revision to Division 1 of the Standard Specifications or approved Division 1 revision (Amendment or WSDOT or APWA General Special Provision) requires prior approval from Local Programs. In all cases, naming conventions will clearly identify the origin, General Special Provision, APWA Special Provision, Agency Provision, or Project Provisions.

**.51 Standard Specifications** – All FHWA funded projects, including local agency force projects, will be constructed in conformance with the current *Standard Specifications for Road, Bridge, and Municipal Construction* M 41-10, and such approved amendments that modify these specifications.

**.52 Amendment to the Standard Specifications** – These amendments are approved changes to the Standard Specifications.

**.53 General Special Provisions** – These are specifications that describe special project features in common usage.

**.54 APWA General Special Provisions** – These are specifications unique to local agency projects. See www.wsdot.gov/partners/apwa.

**.55 Special Provisions** – Since Special Provisions are specifications governing matters peculiar to an individual project, they are not covered in the *Standard Specifications*. Their use should be held to a minimum and applicable *Standard Specifications* should be used instead. Issues mandated in the state and federal laws shall not be changed.

Special Provisions are required:

a. For the presentation of all features of a project not covered by the *Standard Specifications* and General Special Provisions.

b. Where the *Standard Specifications* are being amended.

c. For any deviation from the *Standard Specifications* with regard to materials, construction details, measurement, and payment.

d. When noted in the WSDOT Standard Item Table.

The following paragraphs discuss some pertinent aspects of special provisions.

- All nonstandard pay items shall be covered in the Special Provisions.
- The local agency is encouraged to include a value engineering incentive clause in their construction specifications encouraging the contractor to propose changes in contract requirements that will accomplish the project's functional requirements at less cost on high cost and major projects.
- Traffic control must be in accordance with the MUTCD. A Special Provision shall be prepared outlining traffic control requirements and including any pay items.
- Neatline measurement of quantities is allowed by special provision. This specification may allow payment of the neatline measurement from the lines and grades as shown on the plans or as directed by the Engineer's stakes on the ground. This may apply to aggregates, base course, and surfacing. On asphalt quantities, the unit price could include the cost of coring to verify density and depths. Culvert and pipeline installation may be paid by the lineal foot-in place with bedding, backfill, and compaction as incidental to the unit price. In these instances, an item should be added for extra excavation or backfill if the profile varies or is subject to change during the contract. Shoring must be paid as a separate bid item.
- Direct reference to proprietary specifications of national, regional, or local trade associations should not be included in FHWA contract specifications; such proprietary specifications are subject to change without notice to, or acceptance by, the state or FHWA. If proprietary specifications must be used, the complete text, or such parts as are applicable, should be incorporated into special provisions for the project.

### Proprietary Items – Sole Source

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:

#### Specify at Least Three Brand Names

- 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.

#### 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 Local Programs.

#### 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):
  >
  > a. (feature)
  > b. (functions)
  > c. (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 44.83 for detailed instructions and example.

Proprietary items must be approved by Local Programs.

A PIF is not required when:

A utility agreement is being established and the utility company supplies the material at no cost. This includes 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. The material must still comply with the Buy America requirements.

## 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 | Tied Bids – PIF Instructions |
| 44.83 | Public Interest Finding – Example |

## 44.8 Forms

FHWA-1273 Required Contract Provisions Federal-Aid Construction Contracts

1. Local Agencies must use DOT Form 272-056A and 422-031A on all projects that have an established DBE goal.
2. Local Agencies may delete DOT Form 272-063A.

***Note:*** This package is available electronically at www.wsdot.wa.gov/forms. Follow the instructions to download the package. The Local Agency Bid Proposal Package is located behind the "agreement and Contract Forms" button.

# Local Agency Bid Proposal Package - Data Entry

**Enter the Appropriate Information for the Local Agency Proposal Package**

**Local Agency:**

**Local Agency Address:**

**City** **State** **Zip Code**

**Is this Bid Package for a Federal or State project?**

○ Federal ○ State

**Enter the Road or Bridge Name**

SR

**Enter the Mileposts (include "MP") or Project Limits**

**Enter the Project Title**

**Enter Agency Job Number(s)**

**Local Agency Bid Proposal Package – Data Entry**
*(Page 1 of 3)*

# Local Agency Bid Proposal Package - Data Entry

**Enter the Federal Aid Number(s) and TA Number**

**Bid Open Time (24 hour clock)**

**Enter the Agency street address for the Bid Opening**

**Enter the Bid opening Location. Include the room number if applicable**

**City** **Zip Code**

**Enter the Agency mailing Post Office Bix or Street Address for mail in Bids**

**Address**

**City** **Zip Code**

**Enter the Fax Number for Bid Changes**

☐ Expedite / Bidx.com Option

**This field shows the Bid Opening information that will print on the Cover Page exactly as displayed.**
**Please verify and correct any incorrect information**

"Sealed bids will be received by at , , , *Washington* , until , or at ", ,

**Local Agency Bid Proposal Package – Data Entry**
***(Page 2 of 3)***

# Local Agency Bid Proposal Package - Data Entry

"Sealed bids will be received by at *, , , Washington* , until , or at ", , *Washington* until *:00 AM on the date scheduled for opening bids.*

| Click on forms to include in this Bid Package | Enter Correct Page Letter |
|---|---|
| ☐ Certification for Federal Aid Contracts (272-040A)<br>Required for all Federal Aid jobs over $100,000 | _____ |
| ☐ Proposal Bond (272-001A)<br>Use when bid bond is required | |
| ☐ Non-Collusion Declaration (272-036I)<br>Required for all Federal Aid jobs | _____ |
| ☐ DBE Documentation Reminder Page<br>Required for Federal Aid jobs with DBE Condition of Award goals | _____ |
| ☐ DBE Utilization Certification (272-056A)<br>Required for Federal Aid jobs with DBE Condition of Award goals | _____ |
| ☐ DBE Written Confirmation Document (422-031A)<br>Required for Federal Aid jobs with DBE Condition of Award goals | _____ |
| ☐ Subcontractor's List (271-015A EF)<br>Required for all jobs over $1,000,000 | _____ |
| ☐ Region Ad and Award Contract Proposal - Signature Page (272-036J)<br>Used only for contracts $50,000 or less when no bond is required | _____ |
| ☐ Proposal - Signature Page (272-036K)<br>Required for all jobs over $1,000,000 | _____ |

**Local Agency Bid Proposal Package – Data Entry**
***(Page 3 of 3)***

# Local Agency Certification for Federal-Aid Contracts

**The prospective participant certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:**

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is material representation of the fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such subrecipients shall certify and disclose accordingly.

SR

DOT Form 272-040A
07/2011

**Local Agency Proposal Certification for Federal-Aid Contracts**
**(DOT Form 272-040A EF)**

## Local Agency Proposal Bond

KNOW ALL MEN BY THESE PRESENTS, That we,

of as principal, and the

a corporation duly organized under the laws of the state of , and

authorized to do business in the State of Washington, as surety, are held and firmly bound unto the State of Washington in the full and penal sum of five (5) percent of the total amount of the bid proposal of said principal for the work hereinafter described, for the payment of which, well and truly to be made, we bind our heirs, executors, administrators and assigns, and successors and assigns, firmly by these presents.

The condition of this bond is such, that whereas the principal herein is herewith submitting his or its sealed proposal for the following highway construction, to wit:

said bid and proposal, by reference thereto, being made a part hereof.

NOW, THEREFORE, If the said proposal bid by said principal be accepted, and the contract be awarded to said principal, and if said principal shall duly make and enter into and execute said contract and shall furnish bond as required by the within a period of twenty (20) days from and after said award, exclusive of the day of such award, then this obligation shall be null and void, otherwise it shall remain and be in full force and effect.

IN TESTIMONY WHEREOF, The principal and surety have caused these presents to be signed and sealed this _____ day of _____, _____.

_____

_____
(Principal)

_____
(Surety)

_____
(Attorney-in-fact)

SR

DOT Form 272-001A
07/2011

**Local Agency Proposal Bond**
**(DOT Form 272-001A EF)**

**Failure to return this Declaration as part of the bid proposal package will make the bid nonresponsive and ineligible for award.**

## NON-COLLUSION DECLARATION

**I, by signing the proposal, hereby declare, under penalty of perjury under the laws of the United States that the following statements are true and correct:**

1. That the undersigned person(s), firm, association or corporation has (have) not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the project for which this proposal is submitted.
2. **That by signing the signature page of this proposal, I am deemed to have signed and to have agreed to the provisions of this declaration.**

## NOTICE TO ALL BIDDERS

To report rigging activities call:

**1-800-424-9071**

The U.S. Department of Transportation (USDOT) operates the above toll-free "hotline" Monday through Friday, 8:00 a.m. to 5:00 p.m., eastern time. Anyone with knowledge of possible bid rigging, bidder collusion, or other fraudulent activities should use the "hotline" to report such activities.

The "hotline" is part of USDOT's continuing effort to identify and investigate highway construction contract fraud and abuse and is operated under the direction of the USDOT Inspector General. All information will be treated confidentially and caller anonymity will be respected.

SR

DOT Form 272-036I
07/2011

**Non-Collusion Declaration**
**(DOT Form 272-036I EF)**

## 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 ***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 online at: http://omwbe.wa.gov/directory-of-certified-firms/

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

Disadvantaged Business Enterprise Subcontracting Goal: _____ (Box 2) DBE Total $ _____ *** (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

DOT Form 272-056A
10/2015

**Local Agency Disadvantaged Business Enterprises Utilization Certification (DOT Form 272-056A EF)**

# Local Agency Disadvantaged Business Enterprise (DBE) Written Confirmation Document

As an authorized representative of the Disadvantaged Business Enterprise (DBE), I confirm that we have been contacted by the referenced bidder with regard to the referenced project and if the bidder is awarded the contract we will enter into an agreement with the bidder to participate in the project consistent with the information provided in the bidder's Disadvantaged Business Enterprise Utilization Certification.

**Contract Title:** _____

**Bidder's Business Name:** _____

**DBE's Business Name:** _____

**DBE's Business Address:**

_____

**DBE Signature:** _____

**DBE's Title:** _____

**Date:** _____

The entries must be consistent with what is shown on the bidder's Disadvantaged Business Enterprise Utilization Certification. Failure to do so will result in bid rejection. See contract provision; *Disadvantaged Business Enterprise Condition of Award Participation.*

Description of Work: _____

Amount to be Applied Towards Goal: _____

SR

DOT Form 422-031A
10/2015

**Local Agency Disadvantaged Business Enterprise (DBE) Written Confirmation Document (DOT Form 422-031A EF)**

**Local Agency Signature Page**

The undersigned hereby agrees to pay labor not less than the prevailing rates of wages in accordance with the requirements of the special provisions for this project.

Receipt is hereby acknowledged of addendum(s) No.(s) _____ , _____& _____

Signature of Authorized Official(s)

**Proposal Must be Signed** →

_____

_____

Firm Name _____

Address _____

_____

_____

State of Washington Contractor's License No. _____

Federal ID No. _____

**Note:**

(1) This proposal form is not transferable and any alteration of the firm's name entered hereon without prior permission from the will be cause for considering the proposal irregular and subsequent rejection of the bid.

(2) Please refer to section 1-02.6 of the standard specifications, re: "Preparation of Proposal," or "Article 4" of the Instruction to Bidders for building construction jobs.

(3) Should it be necessary to modify this proposal either in writing or by electronic means, please make reference to the following proposal number on in your communication _____ .

(4) RCW 47.28.030 (2) applies: No bid deposit or performance bond shall be required but it shall be specified in the bidding proposal that each month the contractor may be required to submit paid invoices showing that disbursements have been made to laborers, materialmen, mechanics, and subcontractors due such persons from the previous progress payment. If such disbursements have not been made, the monthly progress payment shall be withheld pending receipt of the paid invoices.

SR

DOT Form 272-036J
07/2011

**Local Agency Signature Page**
**(DOT Form 272-036J EF)**

## Local Agency Proposal - Signature Page

The bidder is hereby advised that by signature of this proposal he/she is deemed to have acknowledged all requirements and signed all certificates contained herein.
A proposal guaranty in an amount of five percent (5%) of the total bid, based upon the approximate estimate of quantities at the above prices and in the form as indicated below is attached hereto:

| | | |
|---|---|---|
| Cash | ☐ | In the Amount of _____ |
| Cashier's Check | ☐ | _____ Dollars |
| Certified Check | ☐ | ($ _____ ) Payable to the Agency |
| Proposal Bond | ☐ | In the Amount of 5% of the Bid |

Receipt is hereby acknowledged of addendum(s) No.(s) _____ , _____ & _____

Signature of Authorized Official(s)

_____

_____

Firm Name _____

Address _____

_____

_____

State of Washington Contractor's License No. _____

Federal ID No. _____

**Note:**

(1) This proposal form is not transferable and any alteration of the firm's name entered hereon without prior permission from the _ will be cause for considering the proposal irregular and subsequent rejection of the bid.

(2) Please refer to section 1-02.6 of the standard specifications, re: "Preparation of Proposal," or "Article 4" of the Instruction to Bidders for building construction jobs.

SR

DOT Form 272-036K
07/2011

**Local Agency Proposal - Signature Page**
**(DOT Form 272-036K EF)**

| Local Agency Name |
|---|
| Local Agency Address |

# Local Agency Subcontractor List

*Prepared in compliance with RCW 39.30.060 as amended*

**To Be Submitted with the Bid Proposal**

Project Name _____

**Failure to list subcontractors with whom the bidder, if awarded the contract, will directly subcontract for performance of the work of heating, ventilation and air conditioning, plumbing, as described in Chapter 18.106 RCW, and electrical, as described in Chapter 19.28 RCW or naming more than one subcontractor to perform the same work will result in your bid being non-responsive and therefore void.**

Subcontractor(s) with whom the bidder will directly subcontract that are proposed to perform the work of heating, ventilation and air conditioning, plumbing, as described in Chapter 18.106 RCW, and electrical as described in Chapter 19.28 RCW **must** be listed below. The work to be performed is to be listed below the subcontractor(s) name.

**To the extent the Project includes one or more categories of work referenced in RCW 39.30.060, and no subcontractor is listed below to perform such work, the bidder certifies that the work will either (i) be performed by the bidder itself, or (ii) be performed by a lower tier subcontractor who will not contract directly with the bidder.**

Subcontractor Name _____
Work to be Performed _____

Subcontractor Name _____
Work to be Performed _____

Subcontractor Name _____
Work to be Performed _____

Subcontractor Name _____
Work to be Performed _____

Subcontractor Name _____
Work to be Performed _____

* Bidder's are notified that is the opinion of the enforcement agency that PVC or metal conduit, junction boxes, etc, are considered electrical equipment and therefore considered part of electrical work, even if the installation is for future use and no wiring or electrical current is connected during the project.

SR

DOT Form 271-015A
Revised 08/2012

**Local Agency Subcontractors List (All Contracts Over $1,000,000)**
**(DOT Form 271-015A EF)**

# Local Agency Performance Bond

## PERFORMANCE BOND

**to [City of _____ or _____ County], WA**

Bond No. _____

The [City of _____ or _____ County], Washington ([City or County]) has awarded to _____ (Principal), a contract for the construction of the project designated as _____ ,Project No. _____ , in [location], Washington (Contract), and said Principal is required to furnish a bond for performance of all obligations under the Contract.

The Principal, and _____ (Surety), a corporation, organized under the laws of the State of _____ and licensed to do business in the State of Washington as surety and named in the current list of "Surety Companies Acceptable in Federal Bonds" as published in the Federal Register by the Audit Staff Bureau of Accounts, U.S. Treasury Dept., are jointly and severally held and firmly bound to the [City or County], in the sum of _____ US Dollars ($ _____ ) Total Contract Amount, subject to the provisions herein.

This statutory performance bond shall become null and void, if and when the Principal, its heirs, executors, administrators, successors, or assigns shall well and faithfully perform all of the Principal's obligations under the Contract and fulfill all terms and conditions of all duly authorized modifications, additions, and changes to said Contract that may hereafter be made, at the time and in the manner therein specified; and if such performance obligations have not been fulfilled, this bond shall remain in force and effect.

The Surety for value received agrees that no change, extension of time, alteration or addition to the terms of the Contract, the specifications accompanying the Contract, or to the work to be performed under the Contract shall in any way affect its obligation on this bond, and waives notice of any change, extension of time, alteration or addition to the terms of the Contract or the work performed. The Surety agrees that modifications and changes to the terms and conditions of the Contract that increase the total amount to be paid the Principal shall automatically increase the obligation of the Surety on this bond and notice to Surety is not required for such increased obligation.

This bond may be executed in two (2) original counterparts, and shall be signed by the parties' duly authorized officers. This bond will only be accepted if it is accompanied by a fully executed and original power of attorney for the office executing on behalf of the surety.

| PRINCIPAL | | SURETY | |
|---|---|---|---|
| Principal Signature | Date | Surety Signature | Date |
| Printed Name | Date | Printed Name | Date |
| Title | | Title | |

Name, address, and telephone of local office/agent of Surety Company is:

Approved as to form:

[City or County] Attorney, [City of _____ or _____ County] _____ Date

DOT Form 272-002A
08/2012

**Local Agency Performance Bond**
**(DOT Form 272-002A EF)**

# Local Agency Payment Bond

## PUBLIC WORKS PAYMENT BOND

**to [City of _____ or _____ County], WA**

Bond No. _____

The [City of _____ or _____ County], Washington ([City or County]) has awarded to _____(Principal), a contract for the construction of the project designated as _____ ,Project No. _____ , in [location], Washington (Contract), and said Principal is required under the terms of that Contract to furnish a payment bond in accord with Title 39.08 Revised Code of Washington (RCW) and (where applicable) 60.28 RCW.

The Principal, and _____ (Surety), a corporation organized under the laws of the State of _____ and licensed to do business in the State of Washington as surety and named in the current list of "Surety Companies Acceptable in Federal Bonds" as published in the Federal Register by the Audit Staff Bureau of Accounts, U.S. Treasury Dept., are jointly and severally held and firmly bound to the [City or County], in the sum of _____ US Dollars ($ _____ ) Total Contract Amount, subject to the provisions herein.

This statutory payment bond shall become null and void, if and when the Principal, its heirs, executors, administrators, successors, or assigns shall pay all persons in accordance with RCW 39.08, 39.12, and 60.28 including all workers, laborers, mechanics, subcontractors, and materialmen, and all person who shall supply such contractor or subcontractor with provisions and supplies for the carrying on of such work, and all taxes incurred on said Contract under Titles 50 and 51 RCW and all taxes imposed on the Principal under Title 82 RCW; and if such payment obligations have not been fulfilled, this bond shall remain in full force and effect.

The Surety for value received agrees that no change, extension of time, alteration or addition to the terms of the Contract, the specifications accompanying the Contract, or to the work to be performed under the Contract shall in any way affect its obligation on this bond, and waives notice of any changes, extension of time, alteration or addition to the terms of the Contract or the work performed. The Surety agrees that modifications and changes to the terms and conditions of the Contract that increase the total amount to be paid the Principal shall automatically increase the obligation of the Surety on this bond and notice to Surety is not required for such increased obligation.

This bond may be executed in two (2) original counterparts, and shall be signed by the parties' duly authorized officers. This bond will only be accepted if it is accompanied by a fully executed and original power of attorney for the office executing on behalf of the surety.

| PRINCIPAL | | SURETY | |
|---|---|---|---|
| _____ | | _____ | |
| Principal Signature | Date | Surety Signature | Date |
| _____ | | _____ | |
| Printed Name | Date | Printed Name | Date |
| _____ | | _____ | |
| Title | | Title | |

Name, address, and telephone of local office/agent of Surety Company is:

| |
|---|
| |

Approved as to form:

_____ _____

[City or County] Attorney, [City of _____ or _____ County] Date

DOT Form 272-003A
08/2012

**Local Agency Payment Bond**
**(DOT Form 272-003A EF)**

# Local Agency Contract

THIS AGREEMENT, made and entered into this day of , . between the , and the

_____ under and by virtue of Title 47 RCW, as amended and

hereinafter called the Contractor.

WITNESSETH:

That in consideration of the terms and conditions contained herein and attached and made a part of this agreement, the parties hereto covenant and agree as follows:

I. The Contractor shall do all work and furnish all tools, materials, and equipment for:

in accordance with and as described in the attached plans and specifications, and the standard specifications of the which are by this reference incorporated herein and made part hereof and, shall perform any changes in the work in accord with the Contract Documents.

The Contractor shall provide and bear the expense of all equipment, work and labor, of any sort whatsoever that may be required for the transfer of materials and for constructing and completing the work provided for in these Contract Documents except those items mentioned therein to be furnished by .

II. hereby promises and agrees with the Contractor to employ, and does employ the Contractor to provide the materials and to do and cause to be done the above described work and to complete and finish the same in accord with the attached plans and specifications and the terms and conditions herein contained and hereby contracts to pay for the same according to the attached specifications and the schedule of unit or itemized prices at the time and in the manner and upon the conditions provided for in this contract.

SR

DOT Form 272-006A
07/2011

**Local Agency Contract - Highway Construction (DOT Form 272-006A EF)**
***(Page 1 of 2)***

III. The Contractor for himself/herself, and for his/her heirs, executors, administrators, successors, and assigns, does hereby agree to full performance of all convenants required of the Contractor in the contract.

IV. It is further provided that no liability shall attach to the State by reason of entering into this contract, except as provided herein.

IN WITNESS WHEREOF, the Contractor has executed this instrument, on the day and year first below written and has caused this instrument to be executed by and in the name of the day and year first above written.

Executed by the Contractor _____ , _____.

_____

_____

_____
(Contractor)

Local Agency: _____

Title: _____

By: _____

Date: _____ , _____

SR

DOT Form 272-006A
07/2011

**Local Agency Contract - Highway Construction (DOT Form 272-006A EF)**
***(Page 2 of 2)***

# Local Agency Contract

THIS AGREEMENT, made and entered into this day of , ,
between the , and

_____

under and by virtue of Title 39 RCW, as amended and

hereinafter called the Contractor.

WITNESSETH:

That in consideration of the terms and conditions contained herein and attached and made a part of this agreement, the parties hereto covenant and agree as follows:

I. The Contractor shall do all work and furnish all tools, materials, and equipment for:

in accordance with and as described in the attached Contract Drawings and Project Manual, which are by this reference incorporated herein and made a part hereof, and as directed shall perform any changes in the work in accord with the Contract Documents.

The Contractor shall provide and bear the expense of all equipment, work and labor, of any sort whatsoever that may be required for the transfer of materials and for constructing and completing the work provided for in these Contract Documents except those items mentioned therein to be furnished by .

II. hereby promises and agrees with the Contractor to employ, and does employ the Contractor to provide the materials and to do and cause to be done the above described work and to complete and finish the same in accord with the attached Contract Drawings and Project Manual and the terms and conditions herein contained and hereby contracts to pay for the same according to the attached Schedule of Values and Contracts Sum at the time and in the manner and upon the conditions provided for in this contract.

SR

DOT Form 272-008A
07/2011

**Local Agency Contract - Building Construction (DOT Form 272-008A EF)**
***(Page 1 of 2)***

III. The Contractor for himself/herself, and for his/her heirs, executors, administrators, successors, and assigns, does hereby agree to full performance of all convenants required of the Contractor in the contract.

IV. It is further provided that no liability shall attach to by reason of entering into this contract, except as provided herein.

IN WITNESS WHEREOF, the Contractor has executed this instrument, on the day and year first below written and has caused this instrument to be executed by and in the name of

the day and year first above written.

Executed by the Contractor _____ , _____ .

_____

_____

_____
(Contractor)

Local Agency: _____

Title: _____

By: _____

Date: _____ , _____

SR

DOT Form 272-008A
07/2011

**Local Agency Contract - Building Construction (DOT Form 272-008A EF)**
***(Page 2 of 2)***

## Local Agency Contractor Prequalification Questionnaire and Affidavit for Region Ad and Award Contracts ($100,000 or Less)

| | | |
|---|---|---|
| Date | Submitted By | Business License No. |
| Address ((Street) | | Telephone No. |
| City | State | Zip |
| Prequalification Requested For (Identify project by advertised name) | | |
| What is the Value of Your Firm's Assets (Net Worth)? $ | | |
| List Two Similar Projects Your Firm Has Completed in the Last Year. Give Owner's Name and Telephone Number. | | |
| 1. | | |
| Owner: | Telephone No.: | |
| 2. | | |
| Owner: | Telephone No.: | |
| Were the projects listed above completed on time? | ☐ Yes ☐ No | |
| Does your firm owe any monies on any projects which were completed within the last year? (If Yes, provide a separate statement.) | ☐ Yes ☐ No | |
| Have you or your firm been convicted of any criminal act involving a contractor or contracts? (If Yes, provide a separate statement.) | ☐ Yes ☐ No | |

### Affidavit

| | |
|---|---|
| State of | County of |

The undersigned, being duly sworn, deposes and says that the foregoing is a true statement of facts concerning the firm (or individual herein named). As of the date indicated: that the answers to the foregoing interrogatories are true; that this statement is for the express purpose of inducing the to award the firm (or individual) a contract and that the depository, vendor, or other agency herein named is hereby authorized to supply or its agents with any information necessary to verify this statement.

Name of Firm (***Be Exact***): _____

_____ Authorized Signature

_____ Authorized Signature

_____ Authorized Signature

_____ Authorized Signature

Sworn to before me this

_____ day of _____ , 20 _____

_____ (Notary Public)

Corporate Seal(s)

Notary Seal

Approved By _____ Region Administrator

Date _____

SR

DOT Form 272-063A
07/2011

**Local Agency Contractor Prequalification Questionnaire and Affidavit for Region Ad and Award Contracts ($100,000 or Less) (DOT Form 272-063A EF)**

Re:

(State Ad and Award)

Award of Project

Attn:
Assistant Secretary, Local Programs

Gentlemen:

The Mayor of the city of _____ gives permission to award the above noted project after advertisement and bid opening, where the bid to be awarded is not more than 10 percent above the current engineer's estimate.

Should the award bid exceed the current municipal agreement dated _____ the city agrees to assume the responsibility for arranging project financing in excess of the agreement after the contract is awarded.

_____
Mayor

_____
Date

Re:

(State Ad and Award)

Award of Project

Attn:
Assistant Secretary, Local Programs

Gentlemen:

The Board of County Commissioners of _____ County gives permission to award the above noted project after advertisement and bid opening, where the bid to be awarded is not more than 10 percent above the current engineer's estimate.

Should the award bid exceed the current municipal agreement dated _____ the county agrees to assume the responsibility for arranging project financing in excess of the agreement after the contract is awarded.

_____
Chairman

_____
Date

## Metric

| | |
|---|---|
| **Preliminary Estimate Dated:** | January 13, 1994 |
| **Title:** | North Ridge Road |
| **Highway:** | Laramie County Road |
| **Type of Work:** | Grading, surfacing, paving with asphalt concrete, construct cement concrete driveways, erosion control, and pavement marking. |
| **Project:** | STPUL-6969(007) |
| **County:** | Laramie |
| **Total Length:** | Length of Project |

**Estimate Cost Data:**

| | |
|---|---|
| Contract Total | 391,507.50 |
| Engineering 15% | 58,726.13 |
| **Total Cost of Project:** | 450,233.63 |

Note: Include below the line items such as: value of materials furnished by agency, agency force work, signs and traffic control, royalties, etc.

| Item No. | Description | Unit | Price | Unit Quantity | Amount |
|---|---|---|---|---|---|
| 1 | Mobilization | Lump Sum | | Lump Sum | $ 20,000.00 |
| 2 | Clearing and Grubbing | Lump Sum | | Lump Sum | 1,400.00 |
| 3 | Roadway Excavation Including Haul | $m^3$ | $ 2.00 | 780.0 | 1,560.00 |
| 4 | Embankment Compaction | $m^3$ | 1.00 | 413.0 | 413.00 |
| 5 | Adjust Manhole | Each | 300.00 | 12.0 | 3,600.00 |
| 6 | Adjust Catch Basin | Each | 100.00 | 24.0 | 2,400.00 |
| 7 | Gravel Base Class B | Tonne | 3.00 | 28,870.0 | 86,610.00 |
| 8 | Crushed Surfacing Top Course | Tonne | 5.00 | 6,500.0 | 32,500.00 |
| 9 | Asphalt for Tack Coat | Tonne | 200.00 | 10.0 | 2,000.00 |
| 10 | Cement Contract Driveway 14 Day | $m^2$ | 16.00 | 289.0 | 4,624.00 |
| 11 | Asphalt Concrete Pavement | | | | |
| | Class B Excluding Paving Asphalt | Tonne | 15.00 | 10,283.0 | 154,245.00 |
| 12 | Topsoil Type B | $m^3$ | 6.00 | 410.0 | 2,460.00 |
| 13 | Cement Concrete Curb & Gutter | Lin. m | 3.50 | 13,073.0 | 45,755.50 |
| 14 | Lane Marker Type 1 | Hundred | 200.00 | 19.5 | 3,900.00 |
| 15 | Lane Marker Type 2 | Hundred | 400.00 | 2.1 | 840.00 |
| 16 | One-Way Piloted Traffic Control | Estimate | | | 6,000.00 |
| 17 | Labor for Traffic Control | Hour | 12.00 | 600.0 | 7,200.00 |
| 18 | Reconstruct Wooden Fence | Lin. m | 8.00 | 2,000.0 | 16,000.00 |
| | Contract Total | | | | $ 391,507.50 |

Laramie County Road
North Ridge Road

**Total Preliminary Estimate**
**Groups 1 and 2**

1/13/94

Project STPUL-6969(007) Group No. 1
Federal Participation

Description: Two 3.6 m lanes from Sta. 8+658.50 to Sta. 8+954.92
F.A. Funds 83.01% Urban. Sales Tax 0.00%

Title: Laramie County Road Length: 9 kilometers

| Item No. | Description | Unit | Price | Unit Quantity | Amount |
|---|---|---|---|---|---|
| 1 | Mobilization | Lump Sum | | | $15,000.00 |
| 2 | Clearing and Grubbing | Lump Sum | | | 1,000.00 |
| 3 | Roadway Excavation Including Haul | $m^3$ | $ 2.00 | 590.0 | 1,180.00 |
| 4 | Embankment Compaction | $m^3$ | 1.00 | 313.0 | 313.00 |
| 5 | Adjust Manhole | Each | 300.00 | 9.0 | 2,700.00 |
| 6 | Adjust Catch Basin | Each | 100.00 | 18.0 | 1,800.00 |
| 7 | Gravel Base Class B | Tonne | 3.00 | 21,660.0 | 64,980.00 |
| 8 | Crushed Surfacing Top Course | Tonne | 5.00 | 4,900.0 | 24,500.00 |
| 9 | Asphalt for Tack Coat | Tonne | 200.00 | 7.0 | 1,400.00 |
| 10 | Cement Contract Driveway 14 Day | $m^2$ | 16.00 | 209.0 | 3,344.00 |
| 11 | Asphalt Concrete Pavement | | | | |
| | Class B Excluding Paving Asphalt | Tonne | 15.00 | 7,773.0 | 116,595.00 |
| 12 | Topsoil Type B | $m^3$ | 6.00 | 410.0 | 2,460.00 |
| 13 | Cement Concrete Curb & Gutter | Lin. m | 3.50 | 10,409.0 | 36,431.50 |
| 14 | Lane Marker Type 1 | Hundred | 200.00 | 14.8 | 2,960.00 |
| 15 | Lane Marker Type 2 | Hundred | 400.00 | 1.6 | 640.00 |
| 16 | One-Way Piloted Traffic Control | Estimate | | | 5,000.00 |
| 17 | Labor for Traffic Control | Hour | 12.00 | 500.0 | 6,000.00 |
| 18 | Reconstruct Wooden Fence | Lin. m | 8.00 | 2,000.0 | 16,000.00 |

| | |
|---|---|
| Group Subtotal | $ 302,303.50 |
| Engineering 15 Percent | 45,345.53 |
| Group 1 F.A. Total | $ 347,649.03 |

Laramie County Road
North Ridge Road

**Group 1 Estimate**

1/13/94

Project STPUL-6969(007) Group No. 2
Local Funds Only

Description: Two 3.6 m lanes from Sta. 8+954.92 to Sta. 9+054.70
No. F.A. Funds and No Sales Tax

Title: Laramie County Road Length: 3 kilometers

| Item No. | Description | Unit | Price | Unit Quantity | Amount |
|---|---|---|---|---|---|
| 1 | Mobilization | Lump Sum | | | $ 5,000.00 |
| 2 | Clearing and Grubbing | Lump Sum | | | 400.00 |
| 3 | Roadway Excavation Including Haul | $m^3$ | $ 2.00 | 190.0 | 380.00 |
| 4 | Embankment Compaction | $m^3$ | 1.00 | 100.0 | 100.00 |
| 5 | Adjust Manhole | Each | 300.00 | 3.0 | 900.00 |
| 6 | Adjust Catch Basin | Each | 100.00 | 6.0 | 600.00 |
| 7 | Gravel Base Class B | Tonne | 3.00 | 7,210.0 | 21,630.00 |
| 8 | Crushed Surfacing Top Course | Tonne | 5.00 | 1,600.0 | 8,000.00 |
| 9 | Asphalt for Tack Coat | Tonne | 200.00 | 3.0 | 600.00 |
| 10 | Cement Contract Driveway 14 Day | $m^2$ | 16.00 | 80.0 | 1,280.00 |
| 11 | Asphalt Concrete Pavement | | | | |
| | Class B Excluding Paving Asphalt | Tonne | 15.00 | 2,510.0 | 37,650.00 |
| 13 | Cement Concrete Curb & Gutter | Lin. m | 3.50 | 2,664.0 | 9,324.00 |
| 14 | Lane Marker Type 1 | Hundred | 200.00 | 4.7 | 940.00 |
| 15 | Lane Marker Type 2 | Hundred | 400.00 | 0.5 | 200.00 |
| 16 | One-Way Piloted Traffic Control | Estimate | | | 1,000.00 |
| 17 | Labor for Traffic Control | Hour | 12.00 | 100.0 | 1,200.00 |

| | |
|---|---|
| Group Subtotal | $ 89,204.00 |
| Engineering 15 Percent | 13,380.60 |
| Group 2 Local Funds Only Total | $ 102,584.60 |

Laramie County Road
North Ridge Road

**Group 2 Estimate**

# English

| | |
|---|---|
| **Preliminary Estimate Dated:** | January 13, 1994 |
| **Title:** | North Ridge Road |
| **Highway:** | Laramie County Road |
| **Type of Work:** | Grading, surfacing, paving with asphalt concrete, construct cement concrete driveways, erosion control, and pavement marking. |
| **Project:** | STPUL-6969(007) |
| **County:** | Laramie |
| **Total Length:** | Length of Project |

**Estimate Cost Data:**

| | |
|---|---|
| Contract Total | 391,507.50 |
| Engineering 15% | 58,726.13 |
| **Total Cost of Project:** | 450,233.63 |

Note: Include below the line items such as: value of materials furnished by agency, agency force work, signs and traffic control, royalties, etc.

| Item No. | Description | Unit | Price | Unit Quantity | Amount |
|---|---|---|---|---|---|
| 1 | Mobilization | Lump Sum | | Lump Sum | $ 20,000.00 |
| 2 | Clearing and Grubbing | Lump Sum | | Lump Sum | 1,400.00 |
| 3 | Roadway Excavation Including Haul | Cu. Yd. | $ 2.00 | 780.0 | 1,560.00 |
| 4 | Embankment Compaction | Cu. Yd. | 1.00 | 413.0 | 413.00 |
| 5 | Adjust Manhole | Each | 300.00 | 12.0 | 3,600.00 |
| 6 | Adjust Catch Basin | Each | 100.00 | 24.0 | 2,400.00 |
| 7 | Gravel Base Class B | Ton | 3.00 | 28,870.0 | 86,610.00 |
| 8 | Crushed Surfacing Top Course | Ton | 5.00 | 6,500.0 | 32,500.00 |
| 9 | Asphalt for Tack Coat | Ton | 200.00 | 10.0 | 2,000.00 |
| 10 | Cement Contract Driveway 14 Day | Sq. Yd. | 16.00 | 289.0 | 4,624.00 |
| 11 | Asphalt Concrete Pavement | | | | |
| | Class B Excluding Paving Asphalt | Ton | 15.00 | 10,283.0 | 154,245.00 |
| 12 | Topsoil Type B | Cu. Yd. | 6.00 | 410.0 | 2,460.00 |
| 13 | Cement Concrete Curb & Gutter | Lin. Ft. | 3.50 | 13,073.0 | 45,755.50 |
| 14 | Lane Marker Type 1 | Hundred | 200.00 | 19.5 | 3,900.00 |
| 15 | Lane Marker Type 2 | Hundred | 400.00 | 2.1 | 840.00 |
| 16 | One-Way Piloted Traffic Control | Estimate | | | 6,000.00 |
| 17 | Labor for Traffic Control | Hour | 12.00 | 600.0 | 7,200.00 |
| 18 | Reconstruct Wooden Fence | Lin. Ft. | 8.00 | 2,000.0 | 16,000.00 |
| | Contract Total | | | | $ 391,507.50 |

Laramie County Road
North Ridge Road

**Total Preliminary Estimate**
**Groups 1 and 2**

1/13/94

Project STPUL-6969(007) Group No. 1
Federal Participation

Description: Two 12 ft. lanes from Sta. 8+658.50 to Sta. 8+954.92
F.A. Funds 83.01% Urban. Sales Tax 0.00%

Title: Laramie County Road Length: 5.614 miles

| Item No. | Description | Unit | Price | Unit Quantity | Amount |
|---|---|---|---|---|---|
| 1 | Mobilization | Lump Sum | | | $15,000.00 |
| 2 | Clearing and Grubbing | Lump Sum | | | 1,000.00 |
| 3 | Roadway Excavation Including Haul | Cu. Yd. | $ 2.00 | 590.0 | 1,180.00 |
| 4 | Embankment Compaction | Cu. Yd. | 1.00 | 313.0 | 313.00 |
| 5 | Adjust Manhole | Each | 300.00 | 9.0 | 2,700.00 |
| 6 | Adjust Catch Basin | Each | 100.00 | 18.0 | 1,800.00 |
| 7 | Gravel Base Class B | Ton | 3.00 | 21,660.0 | 64,980.00 |
| 8 | Crushed Surfacing Top Course | Ton | 5.00 | 4,900.0 | 24,500.00 |
| 9 | Asphalt for Tack Coat | Ton | 200.00 | 7.0 | 1,400.00 |
| 10 | Cement Contract Driveway 14 Day | Sq. Yd. | 16.00 | 209.0 | 3,344.00 |
| 11 | Asphalt Concrete Pavement | | | | |
| | Class B Excluding Paving Asphalt | Ton | 15.00 | 7,773.0 | 116,595.00 |
| 12 | Topsoil Type B | Cu Yd. | 6.00 | 410.0 | 2,460.00 |
| 13 | Cement Concrete Curb & Gutter | Lin. Ft. | 3.50 | 10,409.0 | 36,431.50 |
| 14 | Lane Marker Type 1 | Hundred | 200.00 | 14.8 | 2,960.00 |
| 15 | Lane Marker Type 2 | Hundred | 400.00 | 1.6 | 640.00 |
| 16 | One-Way Piloted Traffic Control | Estimate | | | 5,000.00 |
| 17 | Labor for Traffic Control | Hour | 12.00 | 500.0 | 6,000.00 |
| 18 | Reconstruct Wooden Fence | Lin. Ft. | 8.00 | 2,000.0 | 16,000.00 |
| | Group Subtotal | | | | $ 302,303.50 |
| | Engineering 15 Percent | | | | 45,345.53 |
| | Group 1 F.A. Total | | | | $ 347,649.03 |

Laramie County Road
North Ridge Road

**Group 1 Estimate**

1/13/94

Project STPUL-6969(007) Group No. 2
Local Funds Only

Description: Two 12 ft. lanes from Sta. 8+954.92 to Sta. 9+054.70
No. F.A. Funds and No Sales Tax

Title: Laramie County Road Length: 1.900 miles

| Item No. | Description | Unit | Price | Unit Quantity | Amount |
|---|---|---|---|---|---|
| 1 | Mobilization | Lump Sum | | | $ 5,000.00 |
| 2 | Clearing and Grubbing | Lump Sum | | | 400.00 |
| 3 | Roadway Excavation Including Haul | Cu. Yd. | $ 2.00 | 190.0 | 380.00 |
| 4 | Embankment Compaction | Cu. Yd. | 1.00 | 100.0 | 100.00 |
| 5 | Adjust Manhole | Each | 300.00 | 3.0 | 900.00 |
| 6 | Adjust Catch Basin | Each | 100.00 | 6.0 | 600.00 |
| 7 | Gravel Base Class B | Ton | 3.00 | 7,210.0 | 21,630.00 |
| 8 | Crushed Surfacing Top Course | Ton | 5.00 | 1,600.0 | 8,000.00 |
| 9 | Asphalt for Tack Coat | Ton | 200.00 | 3.0 | 600.00 |
| 10 | Cement Contract Driveway 14 Day | Sq. Yd. | 16.00 | 80.0 | 1,280.00 |
| 11 | Asphalt Concrete Pavement | | | | |
| | Class B Excluding Paving Asphalt | Ton | 15.00 | 2,510.0 | 37,650.00 |
| 13 | Cement Concrete Curb & Gutter | Lin. Ft. | 3.50 | 2,664.0 | 9,324.00 |
| 14 | Lane Marker Type 1 | Hundred | 200.00 | 4.7 | 940.00 |
| 15 | Lane Marker Type 2 | Hundred | 400.00 | 0.5 | 200.00 |
| 16 | One-Way Piloted Traffic Control | Estimate | | | 1,000.00 |
| 17 | Labor for Traffic Control | Hour | 12.00 | 100.0 | 1,200.00 |

| | |
|---|---|
| Group Subtotal | $ 89,204.00 |
| Engineering 15 Percent | 13,380.60 |
| Group 2 Local Funds Only Total | $ 102,584.60 |

Laramie County Road
North Ridge Road

**Group 2 Estimate**

Washington State Department of Transportation

# Local Agency Plans Preparation Checklist

| Rd/St. No./Name | Project No. | P.I.N. | Federal Aid No. | Local Agency |
|---|---|---|---|---|
| Job Title | | | | Program |
| Design Engineer | Phone Number | Reviewer | | Phone Number |

**X** Items Required On This Project **IN** Initial When Complete

| Permits & Approvals | N/A | X | IN |
|---|---|---|---|
| Army Corp of Eng. (Sec. 10 Or Sec. 404) | | | |
| FAA Airport/Highway Clearance | | | |
| FERC Restricted Hydro-Electric Land | | | |
| USFWS Wetlands Report | | | |
| USFWS/NMFS Endangered/Threatened Species | | X | |
| Soil Conservation Service Prim & Unique Farmlands | | | |
| Nat/l Forest Restriction | | | |
| Park Restriction (4 (f)) | | | |
| OAHP Historic/Archaeological (Sec. 106) | | X | |
| EPA Sole Source Aquifer | | | |
| Dept's Of Fish And Wildlife HPA | | | |
| DOE Water Quality Cert. | | | |
| DOE/Counties Flood Plains | | | |
| DOE Coastal Zone Management Act | | | |
| DOE Discharge of Pollutants into Surface Water (NPDES) | | | |
| DOE State Waste Disposal | | | |
| DOE Short Term Mod. | | | |
| DOE Water Right Approp. | | | |
| DOE Water Pollution Control Plan | | | |
| Counties/Cities DOE Shoreline Management Substantial Development | | | |
| Counties Cities DOE conditional use | | | |
| EIS Commitments | | | |
| NEPA (All Federal Aid Projects) | | | |
| SEPA | | X | |
| | | | |

| Railroads | N/A | X | IN |
|---|---|---|---|
| Railway Easement (Checked For Stipulations) | | | |
| Railway Construction Agreement | | | |
| Railroad Insurance | | | |
| Flagging Cost Estimate | | | |
| | | | |

| Cities | N/A | X | IN |
|---|---|---|---|
| Approval Of City Streets As Detours (Agreement) | | | |
| City Participation In Cost (Agreement) | | | |
| City Streets Used As Haul Roads (Agreement) | | | |
| Construction Permits | | | |
| Turnback Agreement | | | |
| | | | |

| County | N/A | X | IN |
|---|---|---|---|
| Approval Of County Roads As Detours (Agreement) | | | |
| County Participation In Cost (Agreement) | | | |
| County Roads Used As Haul Roads (Agreement) | | | |
| Construction Permits | | | |
| Turnback Agreement | | | |
| | | | |

| Compare Previous Approvals | N/A | X | IN |
|---|---|---|---|
| Detours | | | |
| Approved Rec. Plan For Pit Site | | | |
| Approval For Tied Bids | | | |
| Approval Not To Use Bridge Approach Slab | | | |
| | | | |

| Hydraulics | N/A | X | IN |
|---|---|---|---|
| Pipe Alternates | | | |
| | | | |

| Materials | N/A | X | IN |
|---|---|---|---|
| Sufficient Quantity In Pit Site | | | |
| Spec. Conditions - Wet Soil, Unsuitable, Etc. | | | |
| Spec. Treat. For Exist. Pave. | | | |
| Ret. Wall Data Sheet For Rock Walls Over 5' And All Other Walls Over 10' | | | |
| pH And Soil Resistively Values For Pipe Alternates | | | |
| | | | |

| Plans - General | N/A | X | IN |
|---|---|---|---|
| Township, Range, Subdivision, North Arrow, Scale Bar Each Sheet | | X | |
| State Boundary, County Line, Corporate Limit | | | |
| Reservation, Park Or Forest Boundary | | | |
| Project Limits Noted | | X | |
| Construction Limits Noted | | | |
| Federal Aid Sections Noted | | | |
| Ultimate Const. Detailed (FA Jobs) | | | |
| Note "Bridges Included" Or "Bridges Not Included" | | | |
| Equations Noted | | | |
| Contract Rec. Plan Included | | | |
| Index To Plans (More Than 30 Sheets) | | | |
| Sheets Numbered (In Pencil Or Use Ref. No. For Large Projects) | | X | |
| Project Title Block Left Blank | | X | |
| Sheets Identified In Lower Left Corner | | X | |

DOT Form 272-070 EF
Revised 03/2011

Page 1 of 5

| Job Title | Project No. |
|---|---|
| | |

**X** Items Required On This Project **IN** Initial When Complete

| Plans - General (continued) | N/A | X | IN |
|---|---|---|---|
| Sheet Titles In Ink In Lower Right Title Block | | X | |
| Local Agencies Seals & Signatures | | | |
| Consultant Signatures & Seals | | | |
| Consultant Written Consent To Revised Plan | | | |
| All Plan Sheets In Proper Order | | X | |
| Connect. To Existing Streets, Driveways, Etc. (Field Rev.) | | | |
| No Combination Of Ink And Pencil On Same Sheet | | X | |
| Plan Symbols In Accord. Chapter 5 - Legend | | X | |
| Min. Lettering Height 1/8" On Full Size Sheet | | X | |
| | | | |

| Vicinity Map | N/A | X | IN |
|---|---|---|---|
| Reasonable Scale To Show The Project | | X | |
| Project Limits By Milepost And Stationing | | X | |
| Construction Limits By Milepost And Stationing | | | |
| Equations And Exceptions | | | |
| Distance to towns (Rural Projects Only) | | | |
| Pit, Waste, And Stockpile Sites And Haul Roads | | | |
| Detour Routes | | | |
| Railroad Lines-IMPORTANT To Show Any In Area | | | |
| If Staged Project, Show Staging For Future FA Funding | | | |
| Show Bridge No. | | | |
| | | | |

| Summary of Quantities | N/A | X | IN |
|---|---|---|---|
| All Necessary Groups Per Design Manual | | X | |
| Separate Groups For Agreement Work | | | |
| Review For Order, Nomenclature And Standard Number | | X | |
| Look For Unusual And Non-Stand Items - These Need Sp. Provs. | | X | |
| Used Std, Tem No. For Std. Item | | X | |
| All Items Tabulated | | X | |
| Check Quantities From Plans | | X | |
| Q.A. Items | | | |
| | | | |

| Roadway Sections | N/A | X | IN |
|---|---|---|---|
| Mainline | | | |
| Ramps | | | |
| Frontage Roads | | | |
| City/County roads at intersections | | | |
| Road Approaches | | | |
| Detours | | | |
| Trails | | | |
| Bridge Approach Slab | | | |
| Bridge | | | |

| Roadway Sections | N/A | X | IN |
|---|---|---|---|
| Label Sections | | | |
| Sta Limits For Each Sec-Entire Length Of Each Roadway Must Be Covered | | | |
| Check For Overlap And Gaps In Stationing | | | |
| Show Future On F.A. Projects For Future FA Funding | | | |
| Conformance With Soils Report | | | |
| Conformance With Design Report | | | |
| Guardrail Widening Details | | | |
| Shoulder Dressing Details | | | |
| Slope Rounding Details | | | |
| Broken Back Subgrade Shoulder Detail | | | |
| ACP planing detail | | | |
| Table For Variable Slopes | | | |
| Legend All Sheets | | | |
| Reference Notes | | | |
| Note Equations And Exception | | | |
| Lift thickness for ACP and surfacing (Compacted depth) | | | |
| No "Min." Or "Max." For Surf. And Paving Depth Or Slopes | | | |
| | | | |

| Alignment, R/W, Grading & Existing Features Plan | N/A | X | IN |
|---|---|---|---|
| Curve Data, Super Elevation Rates | | | |
| Show Cut And Fill Catch Line | | | |
| Monumentation - Protect Existing, Install New | | | |
| Legend Or Reference Note On All Sheet | | | |
| Alignment Plan Must Show R/W Centerline (Including R/W Curve Data) And Const. Centerline With Ties If Different | | | |
| R/W And L/A Must Agree With Approved R/W & L/A Plan | | | |
| Show RR Alignment And RR R/W | | | |
| Are Easements And/Or Permits Required | | | |
| Show Site Prep. And Demolition Work | | | |
| All Items To Be Removed Shown | | | |
| Show Fencing | | | |
| Show Guardrail (Or Paving Plan) | | | |
| | | | |

| Quantity Tabulations | N/A | X | IN |
|---|---|---|---|
| Same Order And Nomenclature As On Summary Of Quantities | | | |
| Items Required On Q-tab Per Design Manual | | | |
| Round Off Quantities Per Design Manual | | | |
| Correct Totals (Sheet And Project) | | | |
| Transfer Project Totals To Summary Of Quantities | | | |
| Guide Post Color And Reflector Type Indicated | | | |
| T-2 Raised Pave. Mark. Color Indicated | | | |

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| Job Title | Project No. |
|---|---|
| | |

**X** Items Required On This Project **IN** Initial When Complete

| Quantity Tabulations (continued) | N/A | X | IN |
|---|---|---|---|
| Traffic Arrow Type Indicated | | | |
| Agreement Items Denoted | | | |
| Plan Sheet Reference Number Filled In | | | |
| Stations Agree With Plans | | | |
| Guardrail Placement Case | | | |
| Radius And G. R. Length For Non-Std. Bends | | | |
| Design "F" Guardrail Terminal Approval By Bridge | | | |
| Leave Every 5th Item Column And Station Line Blank | | | |
| Appropriate Special Provision Referred To In General Notes | | | |
| | | | |

| Profiles | N/A | X | IN |
|---|---|---|---|
| Mainline | | | |
| Ramps | | | |
| Frontage Roads | | | |
| Detours | | | |
| Trails | | | |
| Show Equations And Exceptions | | | |
| Plan/profile Sheets, Stationing Must Be Identical | | | |
| Coordinate With Roadway Sections And Plans | | | |
| Show Bridges ("Included" Or "Not Included") | | | |
| Show Quantities Per Design Manual (10 Station Totals) | | | |
| Round Off Quantities Per Design Manual | | | |
| Correct Totals To Summary Of Quantities | | | |
| Show Unsuite. Exc. Limits And Excavation Slopes | | | |
| Superelevation Diagrams, Match Rates As Shown On Alignment Plan | | | |
| Datum Symbol And Bench Mark Location | | | |
| Show Road Approach Arrow & Indicate Lt. & Rt. | | | |
| | | | |

| Structure Notes | N/A | X | IN |
|---|---|---|---|
| Order And Nomenclature Of Item As Shown On Summary Of Quantities | | | |
| Round Off Quantities Per Design Manual | | | |
| Correct Totals (Sheet & Project) | | | |
| Transfer Project Totals To Summary Of Quantities | | | |
| Consistency Between Structure Notes, Plans Profiles, And Spec's | | | |
| Agreement Items Noted | | | |
| Steel., Alum., And Conc. Pipe Alter. Provided | | | |
| Alternate Treat. For Steel And Alum. Pipe | | | |
| Maximum Height Of Cover Column On Structure Notes In Pencil, Or Separate Level In Cad Files | | | |
| Note Beveled End Sections | | | |
| Leave Every 5th Item Column Blank | | | |

| Structure Notes (continued) | N/A | X | IN |
|---|---|---|---|
| Appropriate Special Provision Referred To In General Notes | | | |
| Leave Several Station Lines Blank Between Ref. Sheet Nos. | | | |
| Box Culvert Quantities | | | |
| | | | |
| | | | |

| Drainage Plans and Profiles | N/A | X | IN |
|---|---|---|---|
| Legend Or Reference Note On All Sheets | | | |
| Need Profiles For Major Culverts And Sewer Systems | | | |
| Conformance With Hydraulics Report | | | |
| Pipes Over 30" Dia. Need Design Review By Hydraulics | | | |
| Details Required For Work Not Covered By Standard Plans | | | |
| Show Distance Between Structures (ie.℄ C.B. to ℄ C.B.) | | | |
| | | | |

| Utility Relocations | N/A | X | IN |
|---|---|---|---|
| Existing Utilities Must Be Shown In Plan | | | |
| Reloc. Costs - Reflect In Below-The-Line Costs | | | |
| Timing Of Work-Address In Provision | | | |
| Details | | | |
| | | | |

| Channelization and Paving Plan | N/A | X | IN |
|---|---|---|---|
| Paving Plan And Road. Sect. Must Agree | | | |
| Legend Or Reference Note On All Sheets | | | |
| Show Paving Plan For I/C And Intersections | | | |
| Channelization Detail | | | |
| Show Guide Posts Especially I/C And Intersections<br>Show Pave. Marking (Optional) | | | |
| | | | |

| Miscellaneous Details | N/A | X | IN |
|---|---|---|---|
| Required For Work Not Covered By Standard Plan | | | |
| | | | |

| Illumination Plans, Schedules and Details | N/A | X | IN |
|---|---|---|---|
| Legend Or Reference Notes On All Sheets | | | |
| Conflicts With Existing Features, i.e., Utilities, Drainage, & Sidewalks | | | |
| All Work Within R/W Or Construction Permit Area | | | |
| | | | |

| Signal Plans, Schedules and Details | N/A | X | IN |
|---|---|---|---|
| Legend Or Reference Note On All Sheets | | | |
| Conflicts With Existing Features | | | |
| Traffic Signal Approval/Permit No. | | | |
| All Work Within R/W Or Construction Permit Areas | | | |
| | | | |

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| Job Title | Project No. |
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**X** Items Required On This Project **IN** Initial When Complete

| Signing Plans and Sign Specifications | N/A | X | IN |
|---|---|---|---|
| Legend Or Reference Note On All Sheets | | | |
| Separate Set Of Plan Sheets For Construction Signing | | | |
| Separate Plan Sheet Specification For Sign Removal/Relocation | | | |
| | | | |

| Landscape | N/A | X | IN |
|---|---|---|---|
| Contour Grading Plan | | | |
| Planting Detail | | | |
| Approval From District Landscape | | | |
| Approval From Hq Landscape | | | |
| Wildflower Policy (Federal Aid Project) | | | |
| | | | |

| Rest Areas | N/A | X | IN |
|---|---|---|---|
| | | | |
| | | | |

| Viewpoints | N/A | X | IN |
|---|---|---|---|
| | | | |
| | | | |

| Minor Structures (Ret. Wall) | N/A | X | IN |
|---|---|---|---|
| Quantities tabulated | | | |
| | | | |

| Building Plans, Schedules and Details | N/A | X | IN |
|---|---|---|---|
| Any Building Being Constructed Will Require A Building Permit | | | |
| | | | |
| | | | |
| | | | |

| Bridge Plan | N/A | X | IN |
|---|---|---|---|
| Match Of Wingwalls To Walls On District PS&E | | | |
| Items To Be Included On Plans | | | |
| Gravel Backfill | | | |
| Drainage | | | |
| Barrier | | | |
| Approach Slabs | | | |
| Slope Protection | | | |
| Conduit Runs | | | |
| Aesthetic Appearance Of Bridge Connection To Barrier Or Guardrail | | | |
| Log Of Test Boring Prepared | | | |
| Profile, Alignment, And Station Match PS&E | | | |
| | | | |

| Traffic Control Plans | N/A | X | IN |
|---|---|---|---|
| Project Specific Traffic Control Plans | | | |
| Detour Plan If Needed - May Require Agreements Through Local Programs | | | |
| Detour Sign Details | | | |

**Traffic Control Plans (continued)**

**Bid Items Required For:**

| N/A | X | IN | | N/A | X | IN | |
|---|---|---|---|---|---|---|---|
| | | | Change Mess Sign | | | | Sign Cover |
| | | | Chann. Devices | | | | Temp. Conc. Barr |
| | | | Const. Sign Class A | | | | Temp. Illum. Sys. |
| | | | Contr. Furn. Const. Sign | | | | Temp. Impact Atten. |
| | | | Contr. Piolt. Traff. Control | | | | Temp. Inert. Barr. Config |
| | | | Deline. Light | | | | Temp. Pave. Mark. |
| | | | Emerg. Traff. Control | | | | Temp. Sig. Sys. |
| | | | Rem. Temp. Pave. Mark | | | | Traff. Control Labor |
| | | | Reset. Conc. Barr. | | | | Traff. Control Super. |
| | | | Reset. Deline. Light | | | | Traff. Control Vehicle |
| | | | Reset Temp. Imp. Atten. | | | | Traff. Safe. Drum |
| | | | Reset Temp. Inert. Barr | | | | Type III Barr. |
| | | | Sequent. Arrow Sign | | | | |

| Traffic Control Plans | N/A | X | IN |
|---|---|---|---|
| Reasonable Quantities For Traffic Control Items - Send To Constr. Proj. Engr.'s For Approval | | | |
| | | | |

| Special Provisions | N/A | X | IN |
|---|---|---|---|
| Notice To All Planholders | | | |
| Table Of Contents - Computer Generated | | | |
| Amendments And GSP's Arranged In Proper Order | | | |
| Revisions To All Division 1 Specifications Approved | | | |
| Appendix prepared (Good Reproducible Copy) | | | |
| Special Provisions For All Non-Standard Items<br>Standard Items Table Is A Guide To What Items Need Specials: Need A Special Provision For Each Item That Appears On The Summary Of Quantities That Is Not Covered In Standard Specifications | | | |
| Sales Tax Checked, Appropriate GSP Used | | | |
| Special Provision For Agree, Stipulation | | | |
| Check Amendments And GSP's Against Up-to-date Index List | | | |
| Any Fed. Money In A Proj. Requires All Fed Provision Per GSP Index | | | |
| Prevention Of Environmental Pollution And Preservation Of Public Natural Resources (HB 621)<br>Environmental Regulations - Verify Correct For Location | | | |
| Obtain Copy Of Any New Ordinance And Get It Added To GSP's | | | |
| Archeological, Paleontological | | | |
| Wildlife, Fisheries And Pollution Regulations | | | |
| Additonal Requirements Requested By F & W Etc., (From HPA, WPCP) | | | |
| Expiration Date Of Permit And Work "Windows' | | | |
| Trainees - Determined In Headquarters | | | |
| MBE Goal - Determined In Headquarters | | | |
| RR Provisions | | | |
| Compare To Local Map To Find RR Lines | | | |

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| Job Title | Project No. |
|---|---|
| | |

**X** Items Required On This Project **IN** Initial When Complete

| Special Provisions (continued) | N/A | X | IN |
|---|---|---|---|
| Include RR GSP And Mention In Transmittal Letter | | | |
| Forest Practices Permit: Merchantable Timber 5,000 Or More Board Feet (One Logging Truckload) Use GSP | | | |
| Traffic | | | |
| Work Period Specs | | | |
| Lane Closure Hours With Appropriate Liquid. Damages | | | |
| Construction Impact Specs. | | | |
| METRO Notification Paragraph | | | |
| Time For Completion (Be Very Careful To Select Correct GSP For Intended Purpose) | | | |
| Signal Jobs With State Furnished Equipment Have A Unique Provision | | | |
| Clearing And Grubbing Including Disposal Of Debris Per Design Manual Removal Of Structures And Obstructions Per GSP Instructions | | | |
| Anticipated Quantities Must Be Listed | | | |
| Salvaged Items (Verify With Maint.) | | | |
| Disposal Of Material (State Waste Site May Require Haul Road Agreements) | | | |
| Roadside Seeding Including Fertilizer Application | | | |
| Correct Seeding Specification | | | |
| Provide For 2nd App. Of Fertilizer After Contract Comp. - Not All Jobs | | | |
| Pay Item Must Match Summ. Quant. | | | |
| Verify Ref. To Std. Spec. And Std. Plans | | | |
| Correct Seeding Specification | | | |
| Provide For 2nd. App. Of Fertilizer After Contract Comp. - Not All Jobs | | | |
| Pay Item must Match Summ. Quant. | | | |
| Verify Ref. To Std. Spec. And Std. Plan | | | |
| | | | |

| Estimate | N/A | X | IN |
|---|---|---|---|
| Estimate Entered In BASS | | | |
| If Estimate Exceeds Budget Inform Prog. Man. & Proj. Dev. Calc. Of Lump Sum Items | | | |
| Compare Against Recent Bid History (Price Check) | | | |
| Group Description To Match Appendix 3-13 | | | |
| Extra Construction State Forces Listed | | | |
| Extra Construction Agreement Listed | | | |
| Agreement Costs Included | | | |
| Below-The-Line Costs For R.R. Flagging (Amount Over $5000) | | | |
| Pit Amortization | | | |
| Royalties | | | |
| Calc. For Paths and Trails | | | |
| | | | |

| Miscellaneous | N/A | X | IN |
|---|---|---|---|
| Justification For Proprietary Items (F.A. Proj.) | | | |
| Justification For State Furnished Material Including Pit Site And Stockpile Material (F.A. Proj.) | | | |
| Justification For Mandatory Use Of Disposal Site (F.A. Proj.) | | | |
| Justification For Local Agency Work (All Proj.) | | | |
| Justification for Non-Standard Items | | | |
| Justification For No Pipe Alternates | | | |
| Data For Liquidated Damages From Traffic Data Office | | | |
| Data For Incent./Disincent. From Traffic Data Office | | | |
| Review In Field For Utility Agree. Needs | | | |
| Utility Agreements Work Included | | | |
| Haul Road Agreement Checked | | | |
| Review Items In Clear Zone Inventory For Removal | | | |
| Is Stur. Exc. Cl. B And Stru. Exc. Cl. B Incl. Haul Being Used Correctly | | | |
| Use The Item "Anti-Stripping Additive" For Over 200 Tons Of ACP | | | |
| | | | |

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## 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, 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 Local Programs.
- 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 44.83).

**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. 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 without an approved Public Interest Form Local Programs 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.

**Environmental** – N/A

**NEPA/SEPA Logical Termini & Independent Utility** – N/A

**Conclusion**

- A brief summary of the overall benefits and cost effectiveness.
- Approval by WSDOT 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** – 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 44.83).

**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. 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 without an approved Public Interest Finding Form Local Programs, 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.

**Environmental** – N/A

**NEPA/SEPA Logical Termini & Independent Utility** – N/A

**Conclusion**

- A brief summary of the overall benefits and cost effectiveness.
- Approval by WSDOT 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 Categor**y – 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 44.83).

**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. 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 without an approved Public Interest Finding Form Local Programs, 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.

**Environmental** – N/A

**NEPA/SEPA Logical Termini & Independent Utility** – N/A

**Conclusion**

- A brief summary of the overall benefits and cost effectiveness.
- Approval by WSDOT 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 44.83).

**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. 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 without an approved Public Interest Finding From from Local Programs 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.

**Environmental** – N/A

**NEPA/SEPA Logical Termini & Independent Utility** – N/A

**Conclusion**

- A brief summary of the overall benefits and cost effectiveness.
- Approval by WSDOT 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 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 44.83).

**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. 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 without an approved Public Interest Finding Form Local Programs, 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.

**Environmental** – N/A

**NEPA/SEPA Logical Termini & Independent Utility** – N/A

**Conclusion**

- A brief summary of the overall benefits and cost effectiveness.
- Approval by WSDOT

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.
- Local Agency staff responsible for purchasing must comply with Washington State procurement procedures in accordance with RCW 39.26 - Procurement of Good and Services.

## 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 44.83).

**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. 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 without an approved Public Interest Finding Form Local Programs, 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.

**Environmental** – N/A

**NEPA/SEPA Logical Termini & Independent Utility** – N/A

**Conclusion**

- A brief summary of the overall benefits and cost effectiveness.
- Approval by WSDOT 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.

# Agency Forces Guardrail Installation

Project:
Location:
Project Number:

| Class | Rate | Quantity | Hours | Amount |
|---|---|---|---|---|
| 39-5 | $31.23 | 1 | 5 | $156.15 |
| 6-5 | $28.94 | 0 | 0 | $0.00 |
| 5-5 | $27.57 | 1 | 25 | $689.25 |
| 4-5 | $26.21 | 3 | 25 | $1,965.75 |
| 3-5 | $24.92 | 1 | 25 | $623.00 |
| 2-5 | $23.66 | 0 | 0 | $0.00 |
| 1-5 | $22.26 | 0 | 0 | $0.00 |
| | | Subtotal | | $3,434.15 |
| | | Fringe Benefits at 53% | | $1,820.10 |
| | | Labor Total | | $5,254.25 |
| | | Admin/Overhead at 15% | | $788.14 |
| | | Total | | $6,042.39 |

| Equipment | Rate | Quantity | Hours | Amount |
|---|---|---|---|---|
| Flatbed | $10.00 | 1 | 25 | $250.00 |
| Equipment Trailer | $8.63 | 1 | 25 | $215.75 |
| Backhoe | $20.00 | 1 | 0 | $0.00 |
| Post Driver Truck | $22.44 | 1 | 25 | $561.00 |
| Pickup Truck | $4.48 | 1 | 5 | $22.40 |
| | | Equipment Total | | $1,049.15 |

| Materials | Cost | Quantity | Amount |
|---|---|---|---|
| E-T 2000 G.Rail end Term | $2,740.00 | 1 | $2,740.00 |
| STD Guardrail-Core Tin | $141.00 | 73 | $10,293.00 |
| Flared End Term. | $1,350.00 | 1 | $1,350.00 |
| Type 10 Anchor | $700.00 | 0 | $0.00 |
| Type 21 (L) Trans. | $900.00 | 0 | $0.00 |
| Type 21 (R) Trans. | $900.00 | 0 | $0.00 |

| | | | | |
|---|---|---|---|---|
| Quad guard Reflectors | $4.00 | | 18 | $72.00 |
| 6"x8"x6' Wood Post | $22.92 | | 147 | $3,369.24 |
| 6"x8"x6' Steel Post | $54.29 | | 0 | $0.00 |
| 6"x8"x8' Steel Post | $66.95 | | 0 | $0.00 |
| 6"x8"x9' Steel Post | $80.60 | | 0 | $0.00 |
| 6"x8"x11' Steel Post | $91.80 | | 0 | $0.00 |
| 6"x8"x14" Blocks | $6.00 | | 147 | $882.00 |
| 6"x8"x45" Posts | $23.00 | | 4 | $92.00 |
| Bolts, Nuts and Washers | $5.30 | | 151 | $800.30 |
| | | Materials Subtotal | | $19,598.54 |
| | | Tax | | $1,685.47 |
| | | Materials Total | | $21,284.01 |
| | | Total | | $28,375.55 |

## 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 by a tied bid

**Description of Work** – Provide a detailed description of the work being performed under both contracts. This description should also include a purpose and need statement that explains why the project is being proposed.

## Justification or Supporting Information

**Cost Effectiveness Determination** – Provide an explanation of cost effectiveness (see Appendix 44.83).

**Schedule Issues** – N/A

**Buy America Compliance** – N/A

**Environmental** – Provide documentation to show that the environmental process is complete for each project.

**NEPA/SEPA Logical Termini & Independent Utility** – Attach a Vicinity Map and/or other plan sheets to show that each project has Logical Termini and Independent Utility.

- Logical termini for project development are defined as (1) rational end points for a transportation improvement, and (2) rational end points for a review of the environmental impacts.
- Independent Utility – A project must be able to function on its own, without further construction of an adjoining segment.

**Conclusion**

- A brief summary of the overall benefits and cost effectiveness.
- Approval by WSDOT 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.

Washington State Department of Transportation

# Public Interest Finding

## Project Information

State/Local Project Number | Project Name

Federal Aid Project Number | NEPA Category ☐ CE ☐ EA ☐ EIS | NEPA Clearance Date

Region or Agency

Amount | Full Oversight ◯ Yes ◯ No

## Public Interest Finding (PIF) Information

Select Type of PIF: ▼ | Regulatory Reference:

## Justification or Supporting Information

Goal Statement

Description of Work

(Please keep answers within the text boxes and attach additional sheets as needed)

DOT Form 140-050 EF
Revised 09/2013

**Public Interest Finding - Continuation**

| **Justification or Supporting Information** |
|---|
| Cost Effectiveness Determination |
| Schedule Issues |
| Buy America Compliance |
| Environmental |
| NEPA/SEPA Logical Termini and Independent Utility |
| Conclusion |
| (Please keep answers within the text boxes and attach additional sheets as needed) |

| **Approvals** | | |
|---|---|---|
| Name | Signature | Date |
| Name | Signature | Date |
| Name | Signature | Date |
| Name | Signature | Date |

DOT Form 140-050 EF
Revised 09/2013

**REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS**
FHWA-1273 -- Revised May 1, 2012

I. General
II. Nondiscrimination
III. Nonsegregated Facilities
IV. Davis-Bacon and Related Act Provisions
V. Contract Work Hours and Safety Standards Act Provisions
VI. Subletting or Assigning the Contract
VII. Safety: Accident Prevention
VIII. False Statements Concerning Highway Projects
IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
X. Compliance with Governmentwide Suspension and Debarment Requirements
XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

## I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with

the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

## II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding $10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

**1. Equal Employment Opportunity:** Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this

contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

**2. EEO Officer:** The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

**3. Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

**4. Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

**5. Personnel Actions:** Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

**6. Training and Promotion:**

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

**7. Unions:** If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

**8. Reasonable Accommodation for Applicants / Employees with Disabilities:** The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

**9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:** The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

**10. Assurance Required by 49 CFR 26.13(b):**

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

**11. Records and Reports:** The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

## III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

## IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding $2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 “Contract provisions and related matters” with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

### 1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and

mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH–1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

**2. Withholding**

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

**3. Payrolls and basic records**

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee ( e.g. , the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/esa/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

(2) Each payroll submitted shall be accompanied by a “Statement of Compliance,” signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH–347 shall satisfy the requirement for submission of the “Statement of Compliance” required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may,

after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

**4. Apprentices and trainees**

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and

individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

**5. Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

**6. Subcontracts.** The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

**7. Contract termination: debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**8. Compliance with Davis-Bacon and Related Act requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

**9. Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

**10. Certification of eligibility.**

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

## V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

**1. Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

**2. Violation; liability for unpaid wages; liquidated damages**. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of $10 for each calendar day on which such individual

was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

**3. Withholding for unpaid wages and liquidated damages.** The FHWA or the contacting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

**4. Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

## VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term “perform work with its own organization” refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
(2) the prime contractor remains responsible for the quality of the work of the leased employees;
(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and

(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

## VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

## VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

## IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.
2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

## X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost $25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1**. Instructions for Certification – First Tier Participants:**

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. “First Tier Covered Transactions” refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or

general contract). “Lower Tier Covered Transactions” refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). “First Tier Participant” refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). “Lower Tier Participant” refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (https://www.epls.gov/), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

**2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:**

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. **Instructions for Certification - Lower Tier Participants:**

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost $25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. “First Tier Covered Transactions” refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). “Lower Tier Covered Transactions” refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). “First Tier Participant” refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). “Lower Tier Participant” refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or

voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (https://www.epls.gov/), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:**

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

## XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed $100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS**

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5.The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

# Chapter 46 Local Advertising and Award Procedures

This chapter is used by local agencies operating under Certification Acceptance (Chapter 13) and choosing to advertise and award construction contracts themselves. Chapter 52 will also apply to these agencies.

Local agencies wanting to have the Washington State Department of Transportation (WSDOT) administer their construction contracts should refer to Chapter 51.

## 46.1 General Discussion

Local agencies may let contracts for their projects provided that the following conditions are met:

**.11** The local agency uses the advertising and award procedures outlined in this section to advertise for bids, select the responsible bidder with the lowest responsive bid, and award the contract.

**.12** A Local Agency Agreement between the state and local agency is in effect setting forth the conditions under which the project will be constructed.

**.13** The local agency is participating in the cost of the project or has other special interests in it.

**.14** The local agency is certified for project administration in accordance with Chapter 13.

No project can be advertised until the following items have been completed:

- PS&E has been approved.
- The environmental document has been approved.
- The project's right of way has been certified.
- Project Disadvantaged Business Enterprise (DBE) and Training goals have been established.
- Construction funds have been authorized by Local Programs.
- A contract number has been obtained from the Region Local Programs Engineer.
- FHWA has authorized the project in FMIS.
- The Region Local Programs Engineer has concurred with advertising the project.

## 46.2 Procedures

**.21 Funding** – A Local Agency Agreement and construction funds must be authorized by the Local Programs before a contract is advertised.

**.22 Bidding Procedures** – The local agency is prohibited from establishing any procedures or requirements for qualification or licensing of contractors, which prevents the submission of bids or prohibits consideration of bids submitted by any responsible contractor, whether resident or nonresident of the state, except as outlined.

The prequalification of prospective bidders is the responsibility of the local agency. WSDOT will not prequalify prospective bidders for local agency projects. A local

agency may at its option use the WSDOT prequalification procedure specified in the *Standard Specifications* M 41-10. If another procedure is used, it must be approved by FHWA prior to use. When an agency does not prequalify prospective bidders, they should afford ten days after notification for the low bidder to provide evidence of capability to perform the work.

When evaluating whether or not the Bidder is qualified to perform the work the following information should be considered:

- Experience
- Personnel
- Equipment
- Financial Resources
- Performance Record

Qualifications must, at a minimum, consist of bonding capability as required by state law and compliance with licensing requirements of state law. The local agency may include additional requirements.

When the DBE participation goal is included in the contract provisions, meeting the goal is part of the bidding requirements, as explained in Chapter 26 and Chapter 44.

For all FHWA projects, bidding opportunities, on a nondiscriminatory basis, shall be afforded to all qualified bidders regardless of state boundaries, race, sex, color, or national origin.

No bidder shall be disqualified or prevented from competitive bidding by restricting the purchase of a surety bond or insurance policy from any surety or insurer outside the state and authorized to do business with the state.

**.23 Preparation of the Project Proposal** – See WSDOT *Standard Specifications* Section 1.02.6.

**.24 Advertising of the Project** – Federal aid projects shall be advertised for a three-week period prior to opening of bids. The contract advertisement period shall be as follows: Projects shall be advertised in the local agency's official legal publication at least twice, 20 calendar days prior to the last date upon which the bids will be received. The agency will award and execute the contract to the responsible bidder with the lowest responsive bid unless the agency decides that all bids are to be rejected. Local Programs must concur when rejecting all bids. An advertisement period less than three weeks may be approved in special cases when justified. Shortened advertisement periods shall be no less than two weeks and require approval from FHWA. Approval must be properly documented in the project file. Examples for requesting shorter advertising periods are as follows:

- Emergency correction of roadways or bridges.
- To meet the conditions of an environmental permit (fish windows).
- To meet the conditions of a Bureau of Reclamation Permit (Irrigation Canal).
- To complete project prior to a school district opening in the fall.

In addition, the justification for the two week ad request should include the following:

- Will the shorter ad period limit the competition?
- Will the shorter ad period increase the overall cost of the project?
- Does the project include a Disadvantaged Business Enterprise (DBE) goal and will it allow the subcontractors sufficient time to submit a bid to the proposal holders?

The project will be advertised in the official legal publication for the agency and, if necessary, other newspapers to provide the widest possible coverage commensurate with the size of the project. Affidavits of publication must be in the project file.

The local agency will comply with the standard USDOT Title VI Assurances by inclusion of the following language in the solicitations for bids:

> "The (Local Agency) in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 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 ensure 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."

Should an addendum be necessary during the advertising period to correct or add something to the bid or plan data, such addenda if **minor** shall be approved by the CA local agency prior to transmittal to all the plan holders. A **major** addendum, which constitutes a change that significantly affects the cost of the project to the FHWA or alters the termini, character, or scope of the work requires HQ Local Programs approval. Each bidder shall present with their bid written notice of their receipt of each addendum received.

**.25 Bid Opening** – All bids received in accordance with the terms of the advertisement shall be publicly opened and announced, either item by item or by total amount.

If any bid received is not read, the name of the bidder and the reason for not reading the bid shall be publicly announced at the bid opening.

Negotiation with contractors, during the period following the opening of bids and before the award of the contract is not permitted.

Adequate justification for rejecting any bids must be documented by the local agency.

**.26 Evaluation of Bids for Award** – The local agency shall verify that all required bid documents have been properly submitted and executed by all bidders. All bids are then reviewed for accuracy, unbalancing of bid items, etc., and tabulations checked and confirmed. Any corrections to the bid tabulations are made, if necessary, in accordance with *Standard Specifications* Section 1-02 and 1-03.

In order for a bid to be considered responsive, a bid deposit of at least 5 percent of the total bid proposal must accompany each bid. In accordance with *Standard Specifications* Section 1 02.7, the Proposal Bond shall not be conditioned in any way to modify the minimum 5 percent required.

When there is a specified DBE goal for the project, the successful bidder will be selected on the basis of having submitted: (1) the lowest responsive bid which has met the DBE goal; or (2) when the DBE participation is less than the specified goal, responsiveness will be determined on the basis of good faith efforts to attain the goal. All agencies that have projects with mandatory DBE goals must submit the bid tabs, the DBE Utilization Certification and the DBE Written Confirmation Document of the apparent low bidder to the Region Local Programs Engineer (LPE) to obtain concurrence to award before the contract is officially awarded to the apparent low bidder. Failure to gain LPE concurrence prior to award on every project with DBE goals and subsequent award of a contract to a nonresponsive bidder will jeopardize the project's federal funding. For more information on DBE program requirements, see Chapter 26.

The local agency shall prepare a tabulation of bids showing the item details for at least the three lowest acceptable bids.

On projects where the lowest responsible bid exceeds the engineer's estimate, it is the local agency's decision whether or not to award the project. Reasons for justifying award:

- There was adequate competition for the project location and/or type of work.
- The project is essential to the public interest (safety, emergency repair, etc.).
- There was a significant error in the engineer's estimate.
- If advertising again would likely result in higher bids.

If the local agency determines that the lowest bidder is not qualified or deemed non-responsive, it shall document those findings prior to awarding the bid to the next lowest responsive bidder.

The Local Agency Agreement must be supplemented if any overrun or underrun occurs beyond the authorized amount. See Section 22.3.

The original signed Supplemental Agreement form must be submitted to the Region Local Programs Engineer. This supplemental agreement form will be retained by WSDOT. It is the responsibility of the local agency to submit an additional supplemental agreement form or copy if they need an executed supplemental agreement for their files.

**.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 (SAM) at www.sam.gov/portal/public/sam to determine if a contractor and or a supplier has been excluded from bidding on a federal aid contract. The results of that search will be documented to the project file. SAM 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
46.46 Request for Concurrence to Award - Example

## Invitation to Bid

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 waiver 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 ensure 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 Number:
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

Contract Number
Project Title
Federal Aid Number

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. 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 this information 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 Contractor shall submit a Small Business Enterprise (SBE) Participation Plan prior to commencing contract work. Although the goal is voluntary, the outreach efforts to provide SBE maximum practicable opportunities are not.

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 Local Programs Engineer

# Appendix 46.44 Mandatory Goal – Award Letter Example

Date

Principle, Title
Company Name
Address
City, State, Zip

Contract Number
Project Title
Federal Aid Number

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 Local 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, mechanics, 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 |
|---|
| |

Washington State Department of Transportation

## Request for Concurrence to Award

Project: _____

FHWA Project Number: _____

Attached are the following required documents plus any additional information that may be applicable:

- ☐ Bid proposal from the lowest responsible bidder
- ☐ Bid bond
- ☐ Noncollusion Plan Certification
- ☐ DBE Utilization Certification
- ☐ DBE written confirmation
- ☐ Tabulation of Bids
- ☐ FHWA cost breakdown showing total project cost, FHWA participation and Local Agency participation
- ☐ Additional documents

| | |
|---|---|
| Date | Local Agency Engineer |
| Date | Approving Authority |

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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. Local Programs 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), on the Job Training (OJT) 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 as soon as possible to avoid delaying the contractor. The average processing time is approximately four to eight 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:

1. **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.
2. **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.
3. **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).

**.33 Quality Assurance Program for Qualified Testers** – For work on an NHS Highway System local agencies must develop a quality assurance program which will assure that the materials and workmanship incorporated into each federal-aid highway construction project is in conformity with the requirements of the approved plans and specifications, including approved changes. The program must meet the criteria in FHWA regulation for *Quality Assurance Procedures for Construction* (23 CFR 637).

The Quality Assurance Program includes the following:

- Qualified Tester Program
- Equipment Calibration/Standardization/Check and Maintenance Program
- Qualified Laboratory Program
- Independent Assurances (IA) Program

There are three ways an agency can meet the IA on-site evaluation requirements. They are as follows:

- Contract with WSDOT 's Region Materials Lab
- Contract with a qualified local agency
- Contract with a qualified testing firm.

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
- **AASTHO 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 272** – Family of Curves – One-Point Method
- **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
   Aggregate
2. Asphalt in the roadway
   Density
   Hot Mix
   Aggregate

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

**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. Construction Geosynthetics
   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**

**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

*See *Standard Specifications* Section 9-06.5.

**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.

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

## 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.

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 Local Programs 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:

1. The approved change order signed by the agency and the contractor.
2. 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 Local Programs 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 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 substantial completion of work by the contractor. A copy of the completion letter that is sent to the contractor should accompany the request.

**.82 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 audit and acceptance by WSDOT. The agency shall diligently pursue closure of the contract.

**.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.

1. **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).

2. **Comparison of Preliminary and Final Quantities (Approving Authority File) –** This is a listing of items that show the preliminary and final quantities.
3. **Certified Final Bill for Utility Agreement, if applicable, to Region Local Programs Engineer.**
4. **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 Local Programs. The Local Agency will receive the administrative review letter showing the starting and ending date of the three-year retention period from the Director, Local Programs Division (OMB Circular A-133).
5. **Record of Material Samples and Tests.**
6. **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.

   a. 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.
7. **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 bond will be released.
8. 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.

9. 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 Section 14.3 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* M 41-01
52.108 Clarification of Manufactured Products Under Buy America

## 52.11 Forms

See *Construction Manual* Chapter 11
FHWA Form WH-347

1. Order of work (Progress Schedule)
2. 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.
3. 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.
4. 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. Per the FHWA 1273, employee full social security numbers and home addresses shall not be included on weekly payrolls.
   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.

5. 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.
6. 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).
7. Dismiss Disinterested Parties (list those leaving)
8. 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.

To: (Contractor)

Agency:
Project Title:
F.A.:
Contract Number:

Date:

Attention: (Contractor's Representative)

1. Time:
   Location of meeting:
2. Persons attending and organizations represented:
3. Description of work:
4. Discussion items:

Prepared by:

cc: Region Local Programs Engineer

Each agency, organization, and firm who has involvement or interest in the project.

Date

Region Local Programs Engineer
Department of Transportation

Contract Number
Contract Name
Federal Aid Number

Dear Sir:

For your information, I am sending you a copy of the contract completion letter that was sent to the -contractor. I request inspection and acceptance of the project by WSDOT.

Sincerely,

_____
(Director of Public Works)
(County Engineer)
(City Engineer)
(Local Agency Engineer)

Washington State Department of Transportation

## Materials Certification

Project: _____

Contract Number: _____

**Checklist for Project Certification**

| | Yes | No | N/A | |
|---|---|---|---|---|
| 1. | ☐ | ☐ | ☐ | Request for approval of material sources was submitted for all items listed on the record of materials and as required by Chapter 9-4 of the Construction Manual or alternative procedures authorized by LAG Appendix 52.107. |
| 2. | ☐ | ☐ | ☐ | All preliminary samples requested by or for approval of source were submitted and approved or an alternate approval material or product was used. |
| 3. | ☐ | ☐ | ☐ | All samples and documentation including manufacturer's certificate of compliance, shop drawings, mill test certificates, etc., as required by the record of materials were submitted and subsequently approved. |
| 4. | ☐ | ☐ | ☐ | If job quantities differed from those listed on the record of materials, acceptance samples were taken at the frequency listed in Chapter 9-5.7 of the Construction Manual or alternative procedures authorized by LAG Appendix 52.107. |
| 5. | ☐ | ☐ | ☐ | All items requiring inspection at the point of fabrication were so inspected and were accepted at the jobsite by the presence of an approved stamp, sticker, tag, or mark. |
| 6. | ☐ | ☐ | ☐ | The results of the tests on acceptance samples indicate that the materials incorporated in the construction work, and the construction operations controlled by sampling and testing, were in conformity with the approved plans and specifications. Exceptions to the plans and specifications are explained on the back hereof (or on attached sheet). |
| 7. | ☐ | ☐ | ☐ | Items added by change order and not listed on the record of materials were accepted in accordance with procedures listed in Chapter 9 of the Construction Manual or alternative procedures authorized by LAG Appendix 52.107. |

***Note:*** Any "No" answers on this checklist must be fully explained and documented. Attach test reports representing nonspecification material as well as an explanation of the circumstances leading to acceptance of said material. All seven items must be completed before the project can be certified.

Certified Signature: _____ _____

Approving Authority Date

DOT Form 140-574
10/2015

Page 1 of 1

## WASHINGTON STATE
## DEPARTMENT OF TRANSPORTATION
## WEEKLY STATEMENT OF WORKING DAYS

Page 1 of 1

CONTRACT NO: FEDERAL AID NO:
CONTRACTOR:

CONTRACT TITLE:
STATEMENT NO: STATEMENT DATE:

This statement shows the number of working days charged to your contract for the week ending:

| DATE | WEATHER | PHASE 00 | | PHASE | | REASON |
|---|---|---|---|---|---|---|
| | | WORK | UNWORK | WORK | UNWORK | |
| | Sun | 0.00 | 0.00 | 0.00 | 0.00 | |
| | Mon | 0.00 | 0.00 | 0.00 | 0.00 | |
| | Tues | 0.00 | 0.00 | 0.00 | 0.00 | |
| | Wed | 0.00 | 0.00 | 0.00 | 0.00 | |
| | Thurs | 0.00 | 0.00 | 0.00 | 0.00 | |
| | Fri | 0.00 | 0.00 | 0.00 | 0.00 | |
| | Sat | 0.00 | 0.00 | 0.00 | 0.00 | |
| | Days This Week: | 0.00 | 0.00 | 0.00 | 0.00 | |
| | Days Work Suspended: | | 0.00 | | 0.00 | |
| | Days Previously Reported: | .00 | 0.00 | 0.00 | 0.00 | |
| | Total Days To Date: | .00 | 0.00 | 0.00 | 0.00 | |

CURRENT STATUS:

| | | |
|---|---|---|
| Days Specified In Contract: | .00 | 0.00 |
| Approved Extension of Time: | .00 | 0.00 |
| Total Authorized Time of Contract: | .00 | 0.00 |
| Less Workable Days Charged: | .00 | 0.00 |
| Working Days Remaining: | .00 | 0.00 |

SUMMARY OF WEEKS ACTIVITIES:

PROJECT ENGINEER: _____

NOTE: The contractor will be allowed 10 days from the date of this report in which to protest in writing the correctness of this statement, otherwise it shall be deemed to have been accepted as correct.

DOT FORM 422-022 (Revised 12/91)

Washington State Department of Transportation

# Change Order

| Contract Number | Contract Title | Federal Aid Number |
|---|---|---|
| Change Order Number | Change Description | Date |
| Prime Contractor / Design-Builder | | |

☐ Ordered by Engineer under the terms of Section 1-04.4 of the Standard Specifications

☐ Change proposed by Contractor / Design-Builder

Change Description

| Verbal Approval Given By | Verbal Approval Date | Working Days +/- |
|---|---|---|

| Original Contract Amount | Current Contract Amount | Est. Net Change This C.O. | Est. Contract Amount |
|---|---|---|---|

| | |
|---|---|
| Approval Recommended Approved<br>Project Engineer<br>Date | Approved<br>Approving Authority per C.A. Agreement<br>Date |
| Approval Recommended<br>By Prime Contractor<br>Date | Other Approval As Required<br>Signature Date<br>Representing |

WSDOT Form 140-005
Revised 04/2015

Page 1

| Contract Number | Contract Title | Change Order Number |
|---|---|---|
| | | |

Change Description Cont.

WSDOT Form 140-005
Revised 04/2015

Page 2

# Checklist

## Change Order

| Question | Yes | No | N/A |
|---|---|---|---|
| 1. Does the change order alter the termini, character, or scope of the work? | ☐ | ☐ | ☐ |
| If yes, you must have H & LP approval to be eligible for federal funds. | ☐ | ☐ | ☐ |
| If yes, you must submit a revised Page 1 of the prospectus. | ☐ | ☐ | ☐ |
| 2. Is the Change Order over $7,500.00 and outside the scope of work? | ☐ | ☐ | ☐ |
| If yes, the change cannot be a change order and must be an independent work. | ☐ | ☐ | ☐ |
| 3. Does the Change Order detail all items involved with the change? | ☐ | ☐ | ☐ |
| 4. Does the Change Order include an adjustment in working days? | ☐ | ☐ | ☐ |
| If yes, the time extension must be stated in the Change Order. | ☐ | ☐ | ☐ |
| If yes, an independent engineer's estimate of time must be included to document the extension. | ☐ | ☐ | ☐ |
| If no, that must be stated in the Change Order. | ☐ | ☐ | ☐ |
| 5. Does the Change Order alter the DBE Condition of Award? | ☐ | ☐ | ☐ |
| If yes, you must obtain concurrence form Local Programs. | ☐ | ☐ | ☐ |
| If yes, you must obtain the DBE's signature on the Change Order. | ☐ | ☐ | ☐ |
| 6. Does the Change Order involve a material substitution? | ☐ | ☐ | ☐ |
| If yes, you must determine if a material credit is appropriate. | ☐ | ☐ | ☐ |
| 7. If Change Order work started prior to it's execution, prior verbal approval by the Approving Authority must be granted and documented. | ☐ | ☐ | ☐ |
| 8. Has the Change Order been signed by the contractor? | ☐ | ☐ | ☐ |
| 9. Has the Change Order been executed by the Approving Authority? | ☐ | ☐ | ☐ |
| If you are a "non CA Agency", you must have the acting CA Authority's approval. | ☐ | ☐ | ☐ |
| 10. Has an independent engineer's estimate justifying the costs and time extensions been completed and documented? | ☐ | ☐ | ☐ |
| 11. Has a detailed memo outlining the chronology of events, basis of need, costs and working days been prepared and placed in the file accompanying the Change Order? | ☐ | ☐ | ☐ |

# Appendix 52.107 Exceptions to the WSDOT Construction Manual M 41-01

The following exceptions to the *Construction Manual* M 41-01 may be used by the local agency.

- The local agency may develop their own Record of Materials (ROM), and approve manufacturers not listed on the approved WSDOT manufacturers list. The ROM is a listing of the construction items, generated by either the State Materials Laboratory or the Local Agency that has been identified from the plans and specifications for each project. The ROM identifies the types and quantities of materials, the standard acceptance methods and the number of acceptance and verification samples required for all material that will be used on the project. The ROM should always be maintained. If material quantities are increased or decreased during the construction of the project the ROM must reflect these changes. This may either increase or decrease the amount of acceptance tests needed. The ROM needs to reference the standard specification or contract provision where the material requirement is defined. The ROM also lists the acceptance requirements for materials requiring other actions, such as fabrication inspection, manufacturer's certificate of compliance, shop drawing or catalog cuts.
- Asphalt plant inspectors and scalepersons are not required at established commercial sources. This exception does not allow the agency to eliminate acceptance sampling of the materials.
- The following items may be accepted with an approved catalogue cut and documented by visual inspection or a manufacturer's material certification (provided manufacturer's certification is based on actual testing):
  - Electrical items and accessories
  - Paving fabrics or construction geosynthetics
  - Fencing of any kind
  - Landscaping or irrigation items
  - Glare screens
  - Traffic buttons or pavement markings
  - Guardrail items
    (Certificate of Material Origin is required)
  - Drainage items
    (Certificate of Material Origin is required)
  - Emulsified Asphalt for HMA Tack Coat and BST (Suppliers Bill of Lading acts as Manufacturer's Certificate of Compliance)
  - Re Bar Tie Wire
  - Backer Rod under RCS Expansion Joint
  - Rebar Chairs and Dobie Blocks
  - Temporary Items
  - Sandbags, Rope, and Wood Stakes
  - Compost, topsoil

  - Monument Case and Cover (Certificate of Material Origin is required)
  - PG Binder (Suppliers Bill of Lading acts as Manufacturer's Certificate of Compliance)
  - Sign Inspection (Manufacturer's Certificate of Compliance is required)
  - Pigmented Sealer
- A Certificate of Material Origin is required for all steel and iron items on federally funded projects.
- Local agencies are not required to have Scaleman's Daily Reports as long as:
  - The printed ticket contains **all** of the same information that is on the Scaleman's Daily Report Form 422-027.
  - You must have an AM and PM tare weight for each truck. The tare weights must be shown on the printed ticket.
  - **Local agencies are still required to collect scale certifications at 6-month intervals per Standard Specification 1-09.2(2).**
- Local agencies may test their own signal cabinets.
- Local agencies may lower the density testing requirements to 90 percent of the rice density for non structural overlay pavement designs with a thickness of 1.25 to 2 inches (30 to 50 mm). This should be limited to areas or projects with documented foundation problems and on overlay of existing pavements.
- Local agencies are not required to follow the qualified testing program outlined in the *Construction Manual* M 41-01 if the agencies projects are not on the NHS, or are on the NHS and the project does not contain federal funding AND the acceptance sampling frequencies and test methods are done in accordance with Chapter 9 of the *Construction Manual* M 41-01 and the exceptions listed above.

In addition to mandatory acceptance sampling, a local agency may choose to do independent assurance sampling. If a local agency elects to do independent assurance sampling, the procedures listed shall be followed.

- Assurance sampling and testing will be done independent of acceptance testing, not utilizing the same testing equipment or performed by the same personnel. Assurance samples of aggregate may be taken by the field inspector and split two ways. One split will be tested by the inspector in the field as an acceptance sample and the other split will be an assurance sample for immediate testing and comparison with field results.
- Assurance sample testing does not reflect on the acceptability of the material involved. Acceptance under the contract is determined by the acceptance testing process. Assurance testing is performed to obtain an independent verification of proper testing procedure and equipment.

**Comparison of Assurance and Acceptance Test Results** – Assurance sample results will be compared with the acceptance test results of the companion samples.

Reports of the comparison of results will be placed in the project file. The degree of conformance will be determined according to the deviation ranges noted below. Gradation test results will be compared only on specification screens.

| Test | Normal Range of Deviation | Maximum Range of Deviation |
|---|---|---|
| Sand Equivalent | ±8 points | ±15 points |
| Fracture | ±5 percent | ±10 percent |
| Asphalt Content (HMA and ATB) | ±0.3 percent | ±0.6 percent |
| Sieve Analysis – All Items:<br>No. 4 (4.75 mm) sieve and larger | ±5 percent | ±8 percent |
| No. 6 (3.35 mm) sieve to<br>No. 80 (0.180 mm) sieve | ±3 percent | ±6 percent |
| No 100 (0.150 mm) and<br>No. 200 (0.075 mm) sieve | ±2 percent | ±4 percent |

In the table above, "Normal Range" indicates an acceptable range of variation between test results and no action is required. Test results which fall in this category will be so indicated by the wording "normal deviation" on the assurance test reports. Test results falling outside of the "Normal Range" but within the "Maximum Range," will be indicated by the wording "questionable deviation" on the assurance test reports. For deviations falling into this category, the Project Engineer or a representative shall review the original test report form, advise the responsible test operator of the deviation, and review the test procedure at the next opportunity.

Test results exceeding the maximum range will be indicated by the wording "excessive deviation." For deviations falling in the excessive category, the Project Engineer or a representative will notify the appropriate personnel for corrective action.

Corrective action will include review of sampling procedures, sample splitting procedures, testing procedures, and testing equipment. Actions and results of these investigations will be documented to the project file by a notation. These may include comments or findings by the Lab and testing personnel.

## Independent Assurance Sampling Frequency Guide

| Item | Test | Assurance Sample |
|---|---|---|
| Gravel Borrow | Grading & SE | 1 – 20,000 Ton |
| Select Borrow | Grading & SE | 1 – 20,000 Ton |
| Sand Drainage Blanket | Grading | 1 – 20,000 Ton |
| Gravel Base | Grading, SE & Dust Ratio | 1 – 20,000 Ton |
| CSTC | Grading, SE & Fracture | 1 – 10,000 Ton |
| | | |
| CSBC Grading | SE & Fracture | 1 – 10,000 Ton |
| Maintenance Rock | Grading, SE & Fracture | 1 – 10,000 Ton |
| Ballast Grading | SE & Dust Ratio | 1 – 10,000 Ton |
| Shoulder Ballast | Grading & Fracture | 1 – 10,000 Ton |
| Backfill for Sand Drains | Grading | 1 – 10,000 Ton |
| | | |
| Crushed Coverstone | Grading, SE & Fracture | 1 – 5,000 Ton |
| | | |
| Crushed Screening | | |
| 5/8 – 1/4 | Grading & Fracture | 1 – 5,000 Ton |
| 1/2 – 1/4 | Grading & Fracture | 1 – 5,000 Ton |
| 1/4 – 0 | Grading & Fracture | 1 – 5,000 Ton |
| Gravel Backfill for Foundations | Grading, SE & Dust Ratio | 1 – 5,000 Ton |
| Walls | Grading, SE & Dust Ratio | 1 – 5,000 Ton |
| Pipe Bedding | Grading, SE & Dust Ratio | 1 – 5,000 Ton |
| Drains | Grading | 1 – 5,000 Ton |
| | | |
| PCC Paving | | |
| Coarse Aggregate | Grading | 1 – 10,000 Ton |
| Fine Aggregate | Grading | 1 – 5,000 Ton |
| | | |
| Completed Mix | | |
| Consistency | Slump | 1 – 25,000 SY |
| Air Content | Air | 1 – 25,000 SY |
| Yield | Cement Factor | 1 – 25,000 SY |
| Test Beam | Flexural Strength | 1 – 25,000 SY |
| | | |
| PCC Structures | | |
| Coarse Aggregate | Grading | 1 – 5,000 Ton |
| Fine Aggregate | Grading | 1 – 2,500 Ton |
| Consistency | Slump | 1 – 1,000 CY |
| Air Content | Air | 1 – 1,000 CY |
| Cylinders (28-day) | Compressive Strength | 1 – 1,000 CY |
| Yield | Cement Factor | 1 – 1,000 CY |
| Cement | Chemical and Physical Certification (Verification Sample) | 1 – 1,000 Ton |
| | | |
| Asphalt Materials | | Verification |
| Paving Asphalt (AR, AC, PBA) | | 1 qt. every 3rd shipment |
| Liquid Asphalt (Cutback, Emulsion) | | 1 qt. every other shipment |
| Emulsion for ACP Tack Coat | | None required |

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.