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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

M 36-63.31

April 2016

Local Programs
Engineering Services

Americans with Disabilities Act (ADA) Information

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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Abbreviations and Glossary 1

Chapter 22 Local Agency Agreement

22.1 General Discussion

A Local Agency Agreement is an agreement between a local agency and the Washington State Department of Transportation (WSDOT). An agreement is prepared for each federal aid project, and it covers all phases of work involved in the project (preliminary engineering, right of way acquisition, construction). Its purpose is to ensure that the federal funds in the agreed-upon amount are spent in accordance with all applicable state and federal laws and regulations. The agreement also specifies the procedure for payment and reimbursement on the project.

If the federal aid participation ratio entered in the agreement is not the maximum rate allowed by the Federal Highway Administration (FHWA), then the participation ratio entered becomes the maximum rate allowed.

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

The total cost of a project (including federal, state, agency, and private funds) must be shown on the Local Agency Agreement for each phase of work that includes federal or state funds. At the time of each phase authorization, all funds necessary to complete the scope of work for that phase must be secured.

Project Agreement End Date – All projects are now required to have a Period of Performance which includes both a begin date and an end date. A project's begin date is the date of FHWA authorization. Local agencies will be required to supply an estimated Project Agreement End Date for each federally authorized phase of a project. To ensure adequate time for the delivery of local projects, which are subject to state environmental requirements, substantial community involvement, eminent domain, and coordination with other local projects, WSDOT recommends when establishing the "Project Agreement End Date" local agencies consider:

- For **Planning Only** projects – WSDOT recommends local agencies estimate the end of the project's period of performance and add one year.
- For **Preliminary Engineering** (PE – design) and **Right of Way** (RW) – WSDOT recommends local agencies estimate when each phase will be completed and add one year to each, due to the complications that may arise with environmental requirements and approvals and negotiating right of way with property owners and railroads.
- For **Construction** (CN) – WSDOT recommends local agencies estimate when construction will be completed and add two years, to provide adequate time to acquire all the necessary paperwork, releases, and negotiate any claims for closure of the project.

Note: Any costs incurred after the "Project Agreement End Date" are NOT eligible for federal reimbursement.

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

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

22.2 Preparation Procedure

An original Local Agency Agreement signed by the approving authority must be submitted by the local agency to the Region Local Programs Engineer when the Project Prospectus (Chapter 21) is submitted. This agreement form will be retained by WSDOT. It is the responsibility of the local agency to submit an additional agreement form or a copy if they need an executed agreement for their files. To allow sufficient time for WSDOT review and execution, these documents should be submitted a minimum of 4 weeks prior to the time when federal reimbursement is desired.

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

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

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

22.3 Supplemental Agreement

Funds requested beyond the amount set forth in a Local Agency Agreement, supplementing for the next phase of the project and/or a change to the Project Agreement End Date will require execution of a Supplemental Agreement.

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

All projects shall submit a supplemental agreement to revise the federal funds obligated within 90 days after it is determined that the estimated federal share of project costs has decreased by $250,000 or more (23 CFR Part 630.106(4) Subpart A).

Federal approval is required to change a Project Agreement End Date. Therefore, Project Agreement End Date may only be changed during a phase, through a supplement, if:

- a project has a change in the terms and conditions of the federal award (e.g., significant cost change or scope change); or

- adequate justification is provided for project schedule revision or other circumstances (e.g., litigation) and there is no change to the terms and conditions of the Federal project.

Note: Requests for reimbursement after the Project Agreement End Date are NOT eligible for federal reimbursement.

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

22.4 Documented Cost Estimate

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

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

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

22.5 Appendices

22.51 Local Agency Agreement
22.52 Local Agency Agreement – Instructions
22.53 Local Agency Agreement Supplement
22.54 Local Agency Agreement Supplement – Instructions
22.55 Vacant
22.56 Documented Cost Estimates – Example

22.6 Forms

DOT 140-039 Local Agency Agreement – Example
DOT 140-041 Local Agency Agreement Supplement – Example

Washington State Department of Transportation

Agency

Address

Local Agency Agreement

CFDA No. 20.205
(Catalog or Federal Domestic Assistance)

Project No.

Agreement No.

For OSC WSDOT Use Only

The Local Agency having complied, or hereby agreeing to comply, with the terms and conditions set forth in (1) Title 23, U.S. Code Highways, (2) the regulations issued pursuant thereto, (3) 2 CFR Part 200, (4) the policies and procedures promulgated by the Washington State Department of Transportation, and (5) the federal aid project agreement entered into between the State and Federal Government, relative to the above project, the Washington State Department of Transportation will authorize the Local Agency to proceed on the project by a separate notification. Federal funds which are to be obligated for the project may not exceed the amount shown herein on line r, column 3, without written authority by the State, subject to the approval of the Federal Highway Administration. All project costs not reimbursed by the Federal Government shall be the responsibility of the Local Agency.

Project Description

Name Length

Termini

Description of Work

Project Agreement End Date

Proposed Advertisement Date

Claiming Indirect Cost Rate
☐ Yes ☐ No

Type of Work		Estimate of Funding (1) Estimated Total Project Funds	(2) Estimated Agency Funds	(3) Estimated Federal Funds
PE	a. Agency			
%	b. Other			
Federal Aid Participation Ratio for PE	c. Other			
	d. State			
	e. Total PE Cost Estimate (a+b+c+d)			
Right of Way	f. Agency			
%	g. Other			
Federal Aid Participation Ratio for RW	h. Other			
	i. State			
	j. Total R/W Cost Estimate (f+g+h+i)			
Construction	k. Contract			
%	l. Other			
	m. Other			
Federal Aid Participation Ratio for CN	n. Other			
	o. Agency			
	p. State			
	q. Total CN Cost Estimate (k+l+m+n+o+p)			
	r. Total Project Cost Estimate (e+j+q)			

Agency Official

By

Title

Washington State Department of Transportation

By

Director, Local Programs

Date Executed

DOT Form 140-039
Revised 05/2015

Page 1

Construction Method of Financing (Check Method Selected)

State Ad and Award

Method A - Advance Payment - Agency Share of total construction cost (based on contract award)

Method B - Withhold from gas tax the Agency's share of total construction coast (line 5, column 2) in the amount of

$ at $ per month for months.

Local Force or Local Ad and Award

Method C - Agency cost incurred with partial reimbursement

The Local Agency further stipulates that pursuant to said Title 23, regulations and policies and procedures, and as a condition to payment of hte federal funds obligated, it accepts and will comply with the applicable provisions set forth below. Adopted by official action on

, , Resolution/Ordinance No.

Provisions

I. Scope of Work

The Agency shall provide all the work, labor, materials, and services necessary to perform the project which is described and set forth in detail in the "Project Description" and "Type of Work."

When the State acts for and on behalf of the Agency, the State shall be deemed an agent of the Agency and shall perform the services described and indicated in "Type of Work" on the face of this agreement, in accordance with plans and specifications as proposed by the Agency and approved by the State and the Federal Highway Administration.

When the State acts for the Agency but is not subject to the right of control by the Agency, the State shall have the right to perform the work subject to the ordinary procedures of the State and Federal Highway Administration.

II. Delegation of Authority

The State is willing to fulfill the responsibilities to the Federal Government by the administration of this project. The Agency agrees that the State shall have the full authority to carry out this administration. The State shall review, process, and approve documents required for federal aid reimbursement in accordance with federal requirements. If the State advertises and awards the contract, the State will further act for the Agency in all matters concerning the project as requested by the Agency. If the Local Agency advertises and awards the project, the State shall review the work to ensure conformity with the approved plans and specifications.

III. Project Administration

Certain types of work and services shall be provided by the State on this project as requested by the Agency and described in the Type of Work above. In addition, the State will furnish qualified personnel for the supervision and inspection of the work in progress. On Local Agency advertised and awarded projects, the supervision and inspection shall be limited to ensuring all work is in conformance with approved plans, specifications, and federal aid requirements. The salary of such engineer or other supervisor and all other salaries and costs incurred by State forces upon the project will be considered a cost thereof. All costs related to this project incurred by employees of the State in the customary manner on highway payrolls and vouchers shall be charged as costs of the project.

IV. Availability of Records

All project records in support of all costs incurred and actual expenditures kept by the Agency are to be maintained in accordance with local government accounting procedures prescribed by the Washington State Auditor's Office, the U.S. Department of Transportation, and the Washington State Department of Transportation. The records shall be open to inspection by the State and Federal Government at all reasonable times and shall be retained and made available for such inspection for a period of not less than three years from the final payment of any federal aid funds to the Agency. Copies of said records shall be furnished to the State and/or Federal Government upon request.

V. Compliance with Provisions

The Agency shall not incur any federal aid participation costs on any classification of work on this project until authorized in writing by the State for each classification. The classifications of work for projects are:

1. Preliminary engineering.
2. Right of way acquisition.
3. Project construction.

Once written authorization is given, the Agency agrees to show continuous progress through monthly billings. Failure to show continuous progress may result the Agency's project becoming inactive, as described in 23 CFR 630, and subject to de-obligation of federal aid funds and/or agreement closure.

If right of way acquisition, or actual construction of the road for which preliminary engineering is undertaken is not started by the close of the tenth fiscal year following the fiscal year in which preliminary engineering phase was authorized, the Agency will repay to the State the sum or sums of federal funds paid to the Agency under the terms of this agreement (see Section IX).

If actual construction of the road for which right of way has been purchased is not started by the close of the tenth fiscal year following the fiscal year in which the right of way phase was authorized, the Agency will repay to the State the sum or sums of federal funds paid to the Agency under the terms of this agreement (see Section IX).

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The Agency agrees that all stages of construction necessary to provide the initially planned complete facility within the limits of this project will conform to at least the minimum values set by approved statewide design standards applicable to this class of highways, even though such additional work is financed without federal aid participation.

The Agency agrees that on federal aid highway construction projects, the current federal aid regulations which apply to liquidated damages relative to the basis of federal participation in the project cost shall be applicable in the event the contractor fails to complete the contract within the contract time.

VI. Payment and Partial Reimbursement

The total cost of the project, including all review and engineering costs and other expenses of the State, is to be paid by the Agency and by the Federal Government. Federal funding shall be in accordance with the Federal Transportation Act, as amended, 2 CFR Part 200. The State shall not be ultimately responsible for any of the costs of the project. The Agency shall be ultimately responsible for all costs associated with the project which are not reimbursed by the Federal Government. Nothing in this agreement shall be construed as a promise by the State as to the amount or nature of federal participation in this project.

The Agency shall bill the state for federal aid project costs incurred in conformity with applicable federal and state laws. The agency shall minimize the time elapsed between receipt of federal aid funds and subsequent payment of incurred costs. Expenditures by the Local Agency for maintenance, general administration, supervision, and other overhead shall not be eligible for federal participation unless a current indirect cost plan has been prepared in accordance with the regulations outlined in 2 CFR Part 200 - Uniform Admin Requirements, Cost Principles and Audit Requirements for Federal Awards, and retained for audit.

The State will pay for State incurred costs on the project. Following payment, the State shall bill the Federal Government for reimbursement of those costs eligible for federal participation to the extent that such costs are attributable and properly allocable to this project. The State shall bill the Agency for that portion of State costs which were not reimbursed by the Federal Government (see Section IX).

1. Project Construction Costs

Project construction financing will be accomplished by one of the three methods as indicated in this agreement.

Method A – The Agency will place with the State, within (20) days after the execution of the construction contract, an advance in the amount of the Agency's share of the total construction cost based on the contract award. The State will notify the Agency of the exact amount to be deposited with the State. The State will pay all costs incurred under the contract upon presentation of progress billings from the contractor. Following such payments, the State will submit a billing to the Federal Government for the federal aid participation share of the cost. When the project is substantially completed and final actual costs of the project can be determined, the State will present the Agency with a final billing showing the amount due the State or the amount due the Agency. This billing will be cleared by either a payment from the Agency to the State or by a refund from the State to the Agency.

Method B – The Agency's share of the total construction cost as shown on the face of this agreement shall be withheld from its monthly fuel tax allotments. The face of this agreement establishes the months in which the withholding shall take place and the exact amount to be withheld each month. The extent of withholding will be confirmed by letter from the State at the time of contract award. Upon receipt of progress billings from the contractor, the State will submit such billings to the Federal Government for payment of its participating portion of such billings.

Method C – The Agency may submit vouchers to the State in the format prescribed by the State, in duplicate, not more than once per month for those costs eligible for Federal participation to the extent that such costs are directly attributable and properly allocable to this project. Expenditures by the Local Agency for maintenance, general administration, supervision, and other overhead shall not be eligible for Federal participation unless claimed under a previously approved indirect cost plan.

The State shall reimburse the Agency for the Federal share of eligible project costs up to the amount shown on the face of this agreement. At the time of audit, the Agency will provide documentation of all costs incurred on the project. The State shall bill the Agency for all costs incurred by the State relative to the project. The State shall also bill the Agency for the federal funds paid by the State to the Agency for project costs which are subsequently determined to be ineligible for federal participation (see Section IX).

VII. Audit of Federal Consultant Contracts

The Agency, if services of a consultant are required, shall be responsible for audit of the consultant's records to determine eligible federal aid costs on the project. The report of said audit shall be in the Agency's files and made available to the State and the Federal Government.

An audit shall be conducted by the WSDOT Internal Audit Office in accordance with generally accepted governmental auditing standards as issued by the United States General Accounting Office by the Comptroller General of the United States; WSDOT Manual M 27-50, Consultant Authorization, Selection, and Agreement Administration; memoranda of understanding between WSDOT and FHWA; and 2 CFR Part 200.501 - Audit Requirements.

If upon audit it is found that overpayment or participation of federal money in ineligible items of cost has occurred, the Agency shall reimburse the State for the amount of such overpayment or excess participation (see Section IX).

VIII. Single Audit Act

The Agency, as a subrecipient of federal funds, shall adhere to the federal regulations outlined in 2 CFR Part 200.501 as well as all applicable federal and state statutes and regulations. A subrecipient who expends $750,000 or more in federal awards from all sources during a given fiscal year shall have a single or program-specific audit performed for that year in accordance with the provisions of 2 CFR Part 200.501. Upon conclusion of the audit, the Agency shall be responsible for ensuring that a copy of the report is transmitted promptly to the State.

IX. Payment of Billing

The Agency agrees that if payment or arrangement for payment of any of the State's billing relative to the project (e.g., State force work, project cancellation, overpayment, cost ineligible for federal participation, etc.) is not made to the State within 45 days after the Agency has been billed, the State shall effect reimbursement of the total sum due from the regular monthly fuel tax allotments to the Agency from the Motor Vehicle Fund. No additional Federal project funding will be approved until full payment is received unless otherwise directed by the Director, Local Programs.

Project Agreement End Date - This date is based on your projects Period of Performance (2 CFR Part 200.309).

Any costs incurred after the Project Agreement End Date are NOT eligible for federal reimbursement. All eligible costs incurred prior to the Project Agreement End Date must be submitted for reimbursement within 90 days after the Project Agreement End Date or they become ineligible for federal reimbursement.

X. Traffic Control, Signing, Marking, and Roadway Maintenance

The Agency will not permit any changes to be made in the provisions for parking regulations and traffic control on this project without prior approval of the State and Federal Highway Administration. The Agency will not install or permit to be installed any signs, signals, or markings not in conformance with the standards approved by the Federal Highway Administration and MUTCD. The Agency will, at its own expense, maintain the improvement covered by this agreement.

XI. Indemnity

The Agency shall hold the Federal Government and the State harmless from and shall process and defend at its own expense all claims, demands, or suits, whether at law or equity brought against the Agency, State, or Federal Government, arising from the Agency's execution, performance, or failure to perform any of the provisions of this agreement, or of any other agreement or contract connected with this agreement, or arising by reason of the participation of the State or Federal Government in the project, PROVIDED, nothing herein shall require the Agency to reimburse the State or the Federal Government for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the Federal Government or the State.

XII. Nondiscrimination Provision

No liability shall attach to the State or Federal Government except as expressly provided herein.

The Agency shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract and/or agreement or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Agency shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts and agreements. The WSDOT's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Agency of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S. C. 3801 et seq.).

The Agency hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the rules and regulations of the Secretary of Labor in 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee or understanding pursuant to any federal program involving such grant, contract, loan, insurance, or guarantee, the required contract provisions for Federal-Aid Contracts (FHWA 1273), located in Chapter 44 of the Local Agency Guidelines.

The Agency further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the applicant so participating is a State or Local Government, the above equal opportunity clause is not applicable to any agency, instrumentality, or subdivision of such government which does not participate in work on or under the contract.

The Agency also agrees:

(1) To assist and cooperate actively with the State in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and rules, regulations, and relevant orders of the Secretary of Labor.

(2) To furnish the State such information as it may require for the supervision of such compliance and that it will otherwise assist the State in the discharge of its primary responsibility for securing compliance.

(3) To refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, government contracts and federally assisted construction contracts pursuant to the Executive Order.

(4) To carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the State, Federal Highway Administration, or the Secretary of Labor pursuant to Part II, subpart D of the Executive Order.

In addition, the Agency agrees that if it fails or refuses to comply with these undertakings, the State may take any or all of the following actions:

(a) Cancel, terminate, or suspend this agreement in whole or in part;

(b) Refrain from extending any further assistance to the Agency under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the Agency; and

(c) Refer the case to the Department of Justice for appropriate legal proceedings.

XIII. Liquidated Damages

The Agency hereby agrees that the liquidated damages provisions of 23 CFR Part 635, Subpart 127, as supplemented, relative to the amount of Federal participation in the project cost, shall be applicable in the event the contractor fails to complete the contract within the contract time. Failure to include liquidated damages provision will not relieve the Agency from reduction of federal participation in accordance with this paragraph.

XIV. Termination for Public Convenience

The Secretary of the Washington State Department of Transportation may terminate the contract in whole, or from time to time in part, whenever:

(1) The requisite federal funding becomes unavailable through failure of appropriation or otherwise.
(2) The contractor is prevented from proceeding with the work as a direct result of an Executive Order of the President with respect to the prosecution of war or in the interest of national defense, or an Executive Order of the President or Governor of the State with respect to the preservation of energy resources.
(3) The contractor is prevented from proceeding with the work by reason of a preliminary, special, or permanent restraining order of a court of competent jurisdiction where the issuance of such order is primarily caused by the acts or omissions of persons or agencies other than the contractor.
(4) The Secretary is notified by the Federal Highway Administration that the project is inactive.
(5) The Secretary determines that such termination is in the best interests of the State.

XV. Venue for Claims and/or Causes of Action

For the convenience of the parties to this contract, it is agreed that any claims and/or causes of action which the Local Agency has against the State of Washington, growing out of this contract or the project with which it is concerned, shall be brought only in the Superior Court for Thurston County.

XVI. Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The approving authority certifies, 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 the Standard Form - LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.
(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, and contracts and subcontracts under grants, subgrants, loans, and cooperative agreements) which exceed $100,000, and that all such subrecipients shall certify and disclose accordingly.

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 as 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 such failure.

XVII. Assurances

Local agencies receiving Federal funding from the USDOT or its operating administrations (i.e., Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration) are required to submit a written policy statement, signed by the Agency Executive and addressed to the State, documenting that all programs, activities, and services will be conducted in compliance with Section 504 and the Americans with Disabilities Act (ADA).

Additional Provisions

Appendix 22.52 Local Agency Agreement – Instructions

.01 **Agency Name and Billing Address** – Enter the Agency of primary interest which will become a party to the agreement.

.02 **Project Number** – Leave blank. This number will be assigned by WSDOT.

.03 **Agreement Number** – Leave blank. This number will be assigned by WSDOT.

.04

a. **Project Description** – Enter the project name, total length of the project (in miles), and a brief description of the termini. Data entered here must be consistent with the name, length, and termini noted in the STIP and Project Prospectus.

   Example: (Name) "Regal Road", (Length) "1.2 miles", (Termini) "Smith Road to Main Street"

b. **Description of Work** – Enter a concise statement of the major items of work to be performed. Statement must be consistent with the description of work noted in the STIP and Project Prospectus.

   Example: "Asphalt overlay of Regal Road; curb, gutter, and sidewalk on the east side of the roadway; illumination; and traffic signal at the intersection of Regal Road and Dakota Avenue."

c. **Project Agreement End Date** – Enter your Project Agreement End Date. This date is based on your projects Period of Performance (2 CFR 200.309).

   For Planning Only projects – WSDOT recommends agencies estimate the end of the project's period of performance and add one year to determine the "Project Agreement End Date".

   For PE and RW – WSDOT recommends agencies estimate when the phase will be completed and add one year to determine the "Project Agreement End Date".

   For Construction – WSDOT recommends agencies estimate the end of the project's period of performance and add two years to determine the "Project Agreement End Date".

d. CN Phase Authorization Only – Enter your proposed project advertisement Date.

e. **Claiming Indirect Cost Rate** – Check the Yes box if you will be claiming indirect costs on your project. For those projects claiming indirect costs approval by your cognizant agency and supporting documentation is required to be available for review by FHWA, WSDOT and /or State Auditor. Check the No box if you will not be claiming indirect costs on your project. See section 23.5 for additional guidance.

.05 **Type of Work and Funding (Round all dollar amounts to the nearest dollar)**

a. **PE** – Lines a through d show Preliminary Engineering costs for the project by type of work (e.g., consultant, agency, state services, etc.).

*Federal aid participation ratio for PE – enter ratio for PE lines with amounts in column 3.

Line a – Enter the estimated amount of agency PE in columns 1 through 3.

Line b & c – Identify user, consultant, etc., and enter the estimated amounts in columns 1 through 3.

Line d – State Services. Every project must have funding for state services. Secure an estimate from the Region Local Programs Engineer and enter in columns 1 through 3.

Line e – Total of lines a + b + c + d.

b. **Right of Way** – If Right of Way is acquired on the project, the appropriate costs are shown in lines f through i.

*Federal aid participation ratio for R/W – enter ratio for R/W lines with amounts in column 3.

Line f – Enter the estimated amount of agency work in columns 1 through 3.

Line g & h – Identify user, consultant, etc., and enter the estimated amounts in columns 1 through 3.

Line i – State Services. If state services are required in the acquisition, enter the estimated amounts in columns 1 through 3.

Line j – Total of lines f + g + h + i.

c. **Construction** – Lines k through p show construction costs for the project by type of work (e.g., contract, consultant, agency, state services, etc.).

*Federal aid participation ratio for CN – enter ratio for CN lines with amounts in column 3.

Line k – Enter the estimated cost of the contract.

Lines l & m & n – Enter other estimated costs such as utility and construction contracts or non-federally matched contract costs.

Line o – Enter estimated costs of all construction related agency work.

Line p – State force. Every project must have funds set up for state force work. Contact the Region Local Programs Engineer for an estimate and record in columns 1 through 3.

Line q – Total Construction Cost Estimate. Total of lines k + l + m + n + o + p.

d. **Total Project Cost Estimate**

Line r – Total Cost Estimate of the Project. Total of lines e + j + q.

*Please remember, if the federal aid participation rate entered is not the maximum rate allowed by FHWA, then the participation rate entered becomes the maximum rate allowed.

.06 **Signatures** – An authorized official of the local agency signs the agreement, and writes in their title. ***Note:*** Do **not** enter a date on the Date Executed line.

.07 **Method of Construction Financing** – Choose the method of financing for the construction portion of the project.

a. **Method "A"** is used when the state administers the contract for the agency.

b. **Method "B"** is also used when the state administers the contract for the agency.

c. **Method "C"** is used with projects administered by the local agency. The agency will submit billings monthly through the state to FHWA for all eligible costs. The billings must document the payment requests from the contractor. If state-force work, such as audit and construction engineering, is to receive federal participation, it will be billed to the agency and FHWA simultaneously at the indicated ratio. To show continuous progress agencies should bill monthly until agreement is closed.

.08 **Resolutions/Ordinances** – When someone other than the County Executive/ Chairman, County Commissioners/Mayor is authorized to sign the agreement, the agency must submit to WSDOT with the agreement a copy of the Resolution/ Ordinance designating that individual.

.09 **Parties to the Agreement** – Submit one originally signed agreement form to the Region Local Programs Engineer. It is the responsibility of the local agency to submit an additional, originally signed agreement form if they need an executed agreement for their files. The agreement is first executed by the agency official(s) authorized to enter into the agreement. It is then transmitted to the state for execution by Local Programs. The agreement is dated at the time of final execution by Local Programs.

Washington State Department of Transportation

Local Agency Agreement Supplement

Agency		Supplement Number
Federal Aid Project Number	Agreement Number	CFDA No. **20.205** (Catalog of Federal Domestic Assistance)

The Local Agency requests to supplement the agreement entered into and executed on
All provisions in the basic agreement remain in effect except as modified by this supplement.
The change to the agreement are as follows:

Project Description

Name Length

Termini

Description of Work ☐ No Change

Reason for Supplement

Are you claiming indirect cost rate? ☐ Yes ☐ No Project Agreement End Date

Does this change require additional Right of Way or Easements? ☐ Yes ☐ No Advertisement Date:

Type of Work		Estimate of Funding				
		(1) Previous Agreement/Suppl.	(2) Supplement	(3) Estimated Total Project Funds	(4) Estimated Agency Funds	(5) Estimated Federal Funds
PE	a. Agency			0.00		
%	b. Other			0.00		
Federal Aid Participation Ratio for PE	c. Other			0.00		
	d. State			0.00		
	e. Total PE Cost Estimate (a+b+c+d)	0.00	0.00	0.00	0.00	0.00
Right of Way	f. Agency			0.00		
%	g. Other			0.00		
Federal Aid Participation Ratio for RW	h. Other			0.00		
	i. State			0.00		
	j. Total R/W Cost Estimate (f+g+h+i)	0.00	0.00	0.00	0.00	0.00
Construction	k. Contract			0.00		
%	l. Other			0.00		
	m. Other			0.00		
Federal Aid Participation Ratio for CN	n. Other			0.00		
	o. Agency			0.00		
	p. State			0.00		
	q. Total CN Cost Estimate (k+l+m+n+o+p)	0.00	0.00	0.00	0.00	0.00
	r. Total Project Cost Estimate (e+j+q)	0.00	0.00	0.00	0.00	0.00

The Local Agency further stipulates that pursuant to said Title 23, regulations and policies and procedures, and as a condition to payment of the Federal funds obligated, it accepts and will comply with the applicable provisions.

Agency Official

By
Title

Washington State Department of Transportation

By
Director, Local Program
Date Executed

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Agency		Supplement Number
Federal Aid Project Number	Agreement Number	CFDA No. **20.205** (Catalog of Federal Domestic Assistance)

VI. Payment and Partial Reimbursement

The total cost of the project, including all review and engineering costs and other expenses of the State, is to be paid by the Agency and by the Federal Government. Federal funding shall be in accordance with the Federal Transportation Act, as amended, 2 CFR Part 200. The State shall not be ultimately responsible for any of the costs of the project. The Agency shall be ultimately responsible for all costs associated with the project which are not reimbursed by the Federal Government. Nothing in this agreement shall be construed as a promise by the State as to the amount or nature of federal participation in this project.

The Agency shall bill the state for federal aid project costs incurred in conformity with applicable federal and state laws. The agency shall minimize the time elapsed between receipt of federal aid funds and subsequent payment of incurred costs. Expenditures by the Local Agency for maintenance, general administration, supervision, and other overhead shall not be eligible for federal participation unless a current indirect cost plan has been prepared in accordance with the regulations outlined in 2 CFR Part 200 - Uniform Admin. Requirements, Cost Principles and Audit Requirements for Federal Awards, and retained for audit.

The State will pay for State incurred costs on the project. Following payment, the State shall bill the Federal Government for reimbursement of those costs eligible for federal participation to the extent that such costs are attributable and properly allocable to this project. The State shall bill the Agency for that portion of State costs which were not reimbursed by the Federal Government (see Section IX).

VII. Audit of Federal Consultant Contracts

The Agency, if services of a consultant are required, shall be responsible for audit of the consultant's records to determine eligible federal aid costs on the project. The report of said audit shall be in the Agency's files and made available to the State and the Federal Government.

An audit shall be conducted by the WSDOT Internal Audit Office in accordance with generally accepted governmental auditing standards as issued by the United States General Accounting Office by the Comptroller General of the United States; WSDOT Manual M 27-50, Consultant Authorization, Selection, and Agreement Administration; memoranda of understanding between WSDOT and FHWA; and 2 CFR Part 200.501 - Audit Requirements.

If upon audit it is found that overpayment or participation of federal money in ineligible items of cost has occurred, the Agency shall reimburse the State for the amount of such overpayment or excess participation.

IX. Payment of Billing

The Agency agrees that if payment or arrangement for payment of any of the State's billing relative to the project (e.g., State force work, project cancellation, overpayment, cost ineligible for federal participation, etc.) is not made to the State within 45 days after the Agency has been billed, the State shall effect reimbursement of the total sum due from the regular monthly fuel tax allotments to the Agency from the Motor Vehicle Fund. No additional Federal project funding will be approved until full payment is received unless otherwise directed by the Director, Local Programs.

Project Agreement End Date - This date is based on your projects Period of Performance (2 CFR Part 200.309).

Any costs incurred after the Project Agreement End Date are NOT eligible for federal reimbursement. All eligible costs incurred prior to the Project Agreement End Date must be submitted for reimbursement within 90 days after the Project Agreement End Date or they become ineligible for federal reimbursement.

VIII. Single Audit Act

The Agency, as a subrecipient of federal funds, shall adhere to the federal regulations outlined in 2 CFR Part 200.501 as well as all applicable federal and state statutes and regulations. A subrecipient who expends $750,000 or more in federal awards from all sources during a given fiscal year shall have a single or program-specific audit performed for that year in accordance with the provisions of 2 CFR Part 200.501. Upon conclusion of the audit, the Agency shall be responsible for ensuring that a copy of the report is transmitted promptly to the State.

XVII. Assurances

Local Agencies receiving Federal funding from the USDOT or its operating administrations (i.e., Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration) are required to submit a written policy statement, signed by the Agency Executive and addressed to the State, documenting that all programs, activities and services will be conducted in compliance with Section 504 and the Americans with Disabilities Act (ADA).

.01 **Agency** – Enter the agency name as entered on the original agreement.

.02 **Supplemental Number** – Enter the number of the supplement. Supplement numbers will be assigned in sequence beginning with Number 1 for the first supplement.

.03 **Project Number** – Enter the federal aid project number assigned by WSDOT on the original agreement.

.04 **Agreement Number** – Enter the agreement number assigned by WSDOT on the original agreement.

.05 **Execution Date** – Enter date the original agreement was executed on.

.06 **Project Description.** Enter the project name, length, and termini.

.07 **Description of Work** – Clearly describe if there is a change in work such as the addition or deletion of work elements and/or changes to the termini. If the work has not changed, put a check mark in the "No Change" box.

.08 **Reason for Supplement** – Enter the reason for this supplement, i.e., increase PE funding to cover design changes presented in the revised prospectus; request funding of construction phase; decrease construction funding to the contract bid amount. If the supplement is authorizing a construction phase, the project's proposed advertisement date must be included in the space provided.

.09 **Claiming Indirect Cost Rate** – Check the Yes box if you will be claiming indirect costs on your project. For those projects claiming indirect costs approval by your cognizant agency and supporting documentation is required to be available for review by FHWA, WSDOT and /or State Auditor. Check the No box if you will not be claiming indirect costs on your project. See Section 23.5 for additional guidance.

.10 **Project Agreement End Date** – Enter your previously established Project Agreement End Date. If authorizing a new phase of the project determine your revised Project Agreement End Date based on the following guidance:

For PE and RW – WSDOT recommends agencies estimate when the phase will be completed and add one year to determine the "Project Agreement End Date".

For Construction – WSDOT recommends agencies estimate the end of the project's period of performance and add two years to determine the "Project Agreement End Date".

.11 **Type of Work and Funding** – Complete this section in the manner described in Appendix 22.52, Paragraph .05.

1. **Column 1** – Enter the amounts from column 1 of the original local agency agreement. If the agreement has already been supplemented, enter the amounts by type of work from column 3 of the last supplemental agreement.
2. **Column 2** – Enter additional amounts requested by type of work.
3. **Column 3** – Add the amounts in columns 1 and 2.
4. **Columns 4 and 5** – Enter the appropriate amounts based on the participation ratio recorded on the original agreement.

.12 **Signatures** – An authorized official of the local agency signs the Supplemental Agreement, and writes in their title. Submit one originally signed supplement form to the Region Local Programs Engineer. It is the responsibility of the local agency to submit an additional, originally signed agreement form if they need an executed agreement for their file.

Appendix 22.55 Vacant

Appendix 22.56 Documented Cost Estimates – Example

Documented Cost Estimate for Preliminary Engineering

Agency Cost through Dec. 31, 2008	$16,144
Additional PE Agency Cost for 2009	
• PS & E Review	3,500
• Prepare Bid Documents	2,000
• Advertisement Process	2,000
	$23,644
Agency PE Cost Estimate	$24,000
Consultant PE Cost Estimate ($53,169 per consultant agreement)	$54,000

Documented Cost Estimate for Construction

Construction Cost Estimate	$420,385
Agency Construction Engineering (25%)	$105,096
	$525,481
Agency Construction Estimate	$525,000
State Construction Engineering Estimate	$ 50,000
Total Construction Cost Estimate	$575,000

1/2

PS&E ESTIMATE

No.	Item Description	Unit	Amt.	Unit Costs	Item Cost	% of total
	PREPARATION					
1	Mobilization	L.S.	L.S.	L.S.	$ 42,000	10.0%
2	Clearing and Grubbing	L.S.	1	3,000	$ 3,000	0.7%
3	Remove Exist. Bridge	L.S.	1	30,000	$ 30,000	7.1%
	GRADING					
4	Roadway Excavation Incl.Haul	C.Y.	419	25	$ 10,475	2.5%
5	Gravel Borrow Incl. Haul	C.Y.	138	15	$ 2,070	0.5%
6	Embankment Compaction	C.Y.	73	5	$ 365	0.1%
	STRUCTURE					
7	Structure Excavation Class A Incl. Haul	C.Y.	177	50	$ 8,850	2.1%
8	Shoring or Extra Excavation Cl. A	L.S.	1	17,000	$ 17,000	4.0%
9	Gravel Backfill For Walls	C.Y.	12	50	$ 600	0.1%
10	Epoxy-Coated St. Reinf. Bar For Bridge	LB	391	2.00	$ 782	0.2%
11	Steel Reinforcing Bar for Bridge	LB	6,734	2.00	$ 13,468	3.2%
12	Deficient Strength Conc. Price Adjustment	Dol.	1		$ -	0.0%
13	Superstructure - Schmid Road Bridge	L.S.	1	130,000	$ 130,000	30.9%
14	Concrete Class 4000 for Bridge	C.Y.	61	800	$ 48,800	11.6%
15	Traffic Barrier	L.F.	107	200	$ 21,400	5.1%
16	Membrane Waterproofing	S.Y.	106	50	$ 5,300	1.3%
	SURFACING					
17	Gravel Base	Ton	634	25	$ 15,850	3.8%
18	Crushed Surfacing Base Course	Ton	190	50	$ 9,500	2.3%
	HOT MIX ASPHALT					
19	Asphalt Conc. Pavement Cl. A	Ton	105	175	$ 18,375	4.4%
20	Asphalt Cost Price Adjustment	Dol.	1		$ -	0.0%
	EROSION/WATER POLLUTION CONTROL					
21	ESC Lead	Day	20	300	$ 6,000	1.4%
22	Seeding Fertilizing and Mulching	L.S.	1	3,000	$ 3,000	0.7%
23	Silt Fence	L.F.	160	5	$ 800	0.2%
24	TESC	L.S.	1	8,000	$ 8,000	1.9%
	TRAFFIC					
25	Beam Guardrail Non-Flared Terminal	Each	3	2,500	$ 7,500	1.8%
26	Beam Guardrail Transition Type 1	Each	3	2,000	$ 6,000	1.4%
27	Permanent Signing	L.S.	1	1,000	$ 1,000	0.2%
28	Project Temporary Traffic Control	L.S.	1	5,000	$ 5,000	1.2%
	OTHER ITEMS					
29	Water	M. Gal	10	125	$ 1,250	0.3%
30	Trimming and Cleanup	L.S.	1	2,000	$ 2,000	0.5%
31	SPCC	L.S.	1	2,000	$ 2,000	0.5%
	CONTRACT ITEM TOTAL				420,385	100.0%

2/4/2009

2/2

Opinion of Probable Construction Cost
30% Design Phase

Opinion of Probable Construction Cost - 30% Design		
ITEM	SUBTOTAL	
1 Mobilization	$	80,000
2 Traffic Control	$	90,000
3 TESC	$	10,000
4 Clearing, Demo, and Grading	$	25,000
5 Storm Water	$	20,000
6 Utilities	$	20,000
7 Roeder Bridge	$	507,000
Subtotal ROEDER BRIDGE, TRANSPORATION, AND UTILITIES	**$**	**752,000**
Construction Contingency (25%)	**$**	**188,000**
Transportation and Utilities Construction Total	**$**	**940,000**
Engineering and Project Management		
Project Management ($45/hr x 400 hrs.)	$	18,000
Engineering Staff ($40/hr x 200 hrs.)	$	8,000
Administrative Staff ($35/hr x 200 hrs.)	$	7,000
Inspection Staff ($40/hr x 675 hrs.)	$	27,000
Engineering and Project Management Total *	**$**	**60,000**
Opinion of Probable Project Costs Total	**$**	**1,000,000**

*Note: Engineering and Project Management cost estimates are based on previous project costs similar in nature where the City is managing and overseeing a consultant and the construction. This accounts for approximately 1500 hours of engineering, project management, inspection, and staff time

ER-012 1 07/15/2011

2009 SIDEWALK IMPROVEMENTS
FEDERAL AID PROJECT NO. STP-

Preliminary Engineers Estimate of Probable Costs
Low Range of Costs

Sidewalk Improvements

Work for each item in this schedule shall be in accordance with the Specification Reference listed for each item below.

Item No.	Description of Item Write In Unit Price in Words	Plan Quantity	Unit of Quantity	Unit Price Dollars & Cents	Total Price Dollars & Cents
1	Mobilization per lump sum	1	LS	NA	$ 110,000.00
2	Type A - Cement Concrete Curb and Gutter Project Length Minus Northern 2,500 feet per linear feet	5314	LF	$ 25.00	$ 132,850.00
3	Cement Concrete Sidewalk - 4" Depth Project Length (6 feet wide) per square yard	5209	SY	$ 45.00	$ 234,405.00
4	Cement Concrete Sidewalk/Driveway Approach - 6" Depth Every 100 Feet Along Project Length per each	78	EA	$ 2,500.00	$ 195,000.00
5	Cement Concrete Sidewalk Ramp - Type 2 Each Intersection per each	28	EA	$ 1,500.00	$ 42,000.00
6	Sawcut Ashalt Pavement Along Curb & Gutter per linear feet	5314	LF	$ 2.00	$ 10,628.00
7	Hot Mix Asphalt - (Commercial HMA) 2' Wide by 3" Deep Along Curb & Gutter per ton	300	TN	$ 200.00	$ 60,000.00

2009 Sidewalk Improvements
SUMMARY

	Description of Item		Total
	Sidewalk Improvements		$ 854,883.00
	Non-Specified Items	20%	$ 170,976.60
		7.7 % Tax	$ 78,991.19
		Subtotal Construction Cost	$ 1,104,850.79
	Design and Inspection	20%	$ 220,970.16
		TOTAL PROJECT COST	$ 1,325,820.95

Page 1 of 1

Washington State Department of Transportation

Agency

Address

Local Agency Agreement

CFDA No. 20.205
(Catalog or Federal Domestic Assistance)

Project No.

Agreement No.

For OSC WSDOT Use Only

The Local Agency having complied, or hereby agreeing to comply, with the terms and conditions set forth in (1) Title 23, U.S. Code Highways, (2) the regulations issued pursuant thereto, (3) 2 CFR Part 200, (4) the policies and procedures promulgated by the Washington State Department of Transportation, and (5) the federal aid project agreement entered into between the State and Federal Government, relative to the above project, the Washington State Department of Transportation will authorize the Local Agency to proceed on the project by a separate notification. Federal funds which are to be obligated for the project may not exceed the amount shown herein on line r, column 3, without written authority by the State, subject to the approval of the Federal Highway Administration. All project costs not reimbursed by the Federal Government shall be the responsibility of the Local Agency.

Project Description

Name Length

Termini

Description of Work

Project Agreement End Date

Proposed Advertisement Date

Claiming Indirect Cost Rate
☐ Yes ☐ No

Type of Work		Estimate of Funding (1) Estimated Total Project Funds	(2) Estimated Agency Funds	(3) Estimated Federal Funds
PE	a. Agency			
%	b. Other			
Federal Aid Participation Ratio for PE	c. Other			
	d. State			
	e. Total PE Cost Estimate (a+b+c+d)			
Right of Way	f. Agency			
%	g. Other			
Federal Aid Participation Ratio for RW	h. Other			
	i. State			
	j. Total R/W Cost Estimate (f+g+h+i)			
Construction	k. Contract			
%	l. Other			
	m. Other			
Federal Aid Participation Ratio for CN	n. Other			
	o. Agency			
	p. State			
	q. Total CN Cost Estimate (k+l+m+n+o+p)			
	r. Total Project Cost Estimate (e+j+q)			

Agency Official

By

Title

Washington State Department of Transportation

By

Director, Local Programs

Date Executed

DOT Form 140-039
Revised 05/2015

Page 1

Construction Method of Financing (Check Method Selected)

State Ad and Award

Method A - Advance Payment - Agency Share of total construction cost (based on contract award)

Method B - Withhold from gas tax the Agency's share of total construction coast (line 5, column 2) in the amount of

$ at $ per month for months.

Local Force or Local Ad and Award

Method C - Agency cost incurred with partial reimbursement

The Local Agency further stipulates that pursuant to said Title 23, regulations and policies and procedures, and as a condition to payment of hte federal funds obligated, it accepts and will comply with the applicable provisions set forth below. Adopted by official action on

, , Resolution/Ordinance No.

Provisions

I. Scope of Work

The Agency shall provide all the work, labor, materials, and services necessary to perform the project which is described and set forth in detail in the "Project Description" and "Type of Work."

When the State acts for and on behalf of the Agency, the State shall be deemed an agent of the Agency and shall perform the services described and indicated in "Type of Work" on the face of this agreement, in accordance with plans and specifications as proposed by the Agency and approved by the State and the Federal Highway Administration.

When the State acts for the Agency but is not subject to the right of control by the Agency, the State shall have the right to perform the work subject to the ordinary procedures of the State and Federal Highway Administration.

II. Delegation of Authority

The State is willing to fulfill the responsibilities to the Federal Government by the administration of this project. The Agency agrees that the State shall have the full authority to carry out this administration. The State shall review, process, and approve documents required for federal aid reimbursement in accordance with federal requirements. If the State advertises and awards the contract, the State will further act for the Agency in all matters concerning the project as requested by the Agency. If the Local Agency advertises and awards the project, the State shall review the work to ensure conformity with the approved plans and specifications.

III. Project Administration

Certain types of work and services shall be provided by the State on this project as requested by the Agency and described in the Type of Work above. In addition, the State will furnish qualified personnel for the supervision and inspection of the work in progress. On Local Agency advertised and awarded projects, the supervision and inspection shall be limited to ensuring all work is in conformance with approved plans, specifications, and federal aid requirements. The salary of such engineer or other supervisor and all other salaries and costs incurred by State forces upon the project will be considered a cost thereof. All costs related to this project incurred by employees of the State in the customary manner on highway payrolls and vouchers shall be charged as costs of the project.

IV. Availability of Records

All project records in support of all costs incurred and actual expenditures kept by the Agency are to be maintained in accordance with local government accounting procedures prescribed by the Washington State Auditor's Office, the U.S. Department of Transportation, and the Washington State Department of Transportation. The records shall be open to inspection by the State and Federal Government at all reasonable times and shall be retained and made available for such inspection for a period of not less than three years from the final payment of any federal aid funds to the Agency. Copies of said records shall be furnished to the State and/or Federal Government upon request.

V. Compliance with Provisions

The Agency shall not incur any federal aid participation costs on any classification of work on this project until authorized in writing by the State for each classification. The classifications of work for projects are:

1. Preliminary engineering.
2. Right of way acquisition.
3. Project construction.

Once written authorization is given, the Agency agrees to show continuous progress through monthly billings. Failure to show continuous progress may result the Agency's project becoming inactive, as described in 23 CFR 630, and subject to de-obligation of federal aid funds and/or agreement closure.

If right of way acquisition, or actual construction of the road for which preliminary engineering is undertaken is not started by the close of the tenth fiscal year following the fiscal year in which preliminary engineering phase was authorized, the Agency will repay to the State the sum or sums of federal funds paid to the Agency under the terms of this agreement (see Section IX).

If actual construction of the road for which right of way has been purchased is not started by the close of the tenth fiscal year following the fiscal year in which the right of way phase was authorized, the Agency will repay to the State the sum or sums of federal funds paid to the Agency under the terms of this agreement (see Section IX).

The Agency agrees that all stages of construction necessary to provide the initially planned complete facility within the limits of this project will conform to at least the minimum values set by approved statewide design standards applicable to this class of highways, even though such additional work is financed without federal aid participation.

The Agency agrees that on federal aid highway construction projects, the current federal aid regulations which apply to liquidated damages relative to the basis of federal participation in the project cost shall be applicable in the event the contractor fails to complete the contract within the contract time.

VI. Payment and Partial Reimbursement

The total cost of the project, including all review and engineering costs and other expenses of the State, is to be paid by the Agency and by the Federal Government. Federal funding shall be in accordance with the Federal Transportation Act, as amended, 2 CFR Part 200. The State shall not be ultimately responsible for any of the costs of the project. The Agency shall be ultimately responsible for all costs associated with the project which are not reimbursed by the Federal Government. Nothing in this agreement shall be construed as a promise by the State as to the amount or nature of federal participation in this project.

The Agency shall bill the state for federal aid project costs incurred in conformity with applicable federal and state laws. The agency shall minimize the time elapsed between receipt of federal aid funds and subsequent payment of incurred costs. Expenditures by the Local Agency for maintenance, general administration, supervision, and other overhead shall not be eligible for federal participation unless a current indirect cost plan has been prepared in accordance with the regulations outlined in 2 CFR Part 200 - Uniform Admin Requirements, Cost Principles and Audit Requirements for Federal Awards, and retained for audit.

The State will pay for State incurred costs on the project. Following payment, the State shall bill the Federal Government for reimbursement of those costs eligible for federal participation to the extent that such costs are attributable and properly allocable to this project. The State shall bill the Agency for that portion of State costs which were not reimbursed by the Federal Government (see Section IX).

1. Project Construction Costs

Project construction financing will be accomplished by one of the three methods as indicated in this agreement.

Method A – The Agency will place with the State, within (20) days after the execution of the construction contract, an advance in the amount of the Agency's share of the total construction cost based on the contract award. The State will notify the Agency of the exact amount to be deposited with the State. The State will pay all costs incurred under the contract upon presentation of progress billings from the contractor. Following such payments, the State will submit a billing to the Federal Government for the federal aid participation share of the cost. When the project is substantially completed and final actual costs of the project can be determined, the State will present the Agency with a final billing showing the amount due the State or the amount due the Agency. This billing will be cleared by either a payment from the Agency to the State or by a refund from the State to the Agency.

Method B – The Agency's share of the total construction cost as shown on the face of this agreement shall be withheld from its monthly fuel tax allotments. The face of this agreement establishes the months in which the withholding shall take place and the exact amount to be withheld each month. The extent of withholding will be confirmed by letter from the State at the time of contract award. Upon receipt of progress billings from the contractor, the State will submit such billings to the Federal Government for payment of its participating portion of such billings.

Method C – The Agency may submit vouchers to the State in the format prescribed by the State, in duplicate, not more than once per month for those costs eligible for Federal participation to the extent that such costs are directly attributable and properly allocable to this project. Expenditures by the Local Agency for maintenance, general administration, supervision, and other overhead shall not be eligible for Federal participation unless claimed under a previously approved indirect cost plan.

The State shall reimburse the Agency for the Federal share of eligible project costs up to the amount shown on the face of this agreement. At the time of audit, the Agency will provide documentation of all costs incurred on the project. The State shall bill the Agency for all costs incurred by the State relative to the project. The State shall also bill the Agency for the federal funds paid by the State to the Agency for project costs which are subsequently determined to be ineligible for federal participation (see Section IX).

VII. Audit of Federal Consultant Contracts

The Agency, if services of a consultant are required, shall be responsible for audit of the consultant's records to determine eligible federal aid costs on the project. The report of said audit shall be in the Agency's files and made available to the State and the Federal Government.

An audit shall be conducted by the WSDOT Internal Audit Office in accordance with generally accepted governmental auditing standards as issued by the United States General Accounting Office by the Comptroller General of the United States; WSDOT Manual M 27-50, Consultant Authorization, Selection, and Agreement Administration; memoranda of understanding between WSDOT and FHWA; and 2 CFR Part 200.501 - Audit Requirements.

If upon audit it is found that overpayment or participation of federal money in ineligible items of cost has occurred, the Agency shall reimburse the State for the amount of such overpayment or excess participation (see Section IX).

VIII. Single Audit Act

The Agency, as a subrecipient of federal funds, shall adhere to the federal regulations outlined in 2 CFR Part 200.501 as well as all applicable federal and state statutes and regulations. A subrecipient who expends $750,000 or more in federal awards from all sources during a given fiscal year shall have a single or program-specific audit performed for that year in accordance with the provisions of 2 CFR Part 200.501. Upon conclusion of the audit, the Agency shall be responsible for ensuring that a copy of the report is transmitted promptly to the State.

IX. Payment of Billing

The Agency agrees that if payment or arrangement for payment of any of the State's billing relative to the project (e.g., State force work, project cancellation, overpayment, cost ineligible for federal participation, etc.) is not made to the State within 45 days after the Agency has been billed, the State shall effect reimbursement of the total sum due from the regular monthly fuel tax allotments to the Agency from the Motor Vehicle Fund. No additional Federal project funding will be approved until full payment is received unless otherwise directed by the Director, Local Programs.

Project Agreement End Date - This date is based on your projects Period of Performance (2 CFR Part 200.309).

Any costs incurred after the Project Agreement End Date are NOT eligible for federal reimbursement. All eligible costs incurred prior to the Project Agreement End Date must be submitted for reimbursement within 90 days after the Project Agreement End Date or they become ineligible for federal reimbursement.

X. Traffic Control, Signing, Marking, and Roadway Maintenance

The Agency will not permit any changes to be made in the provisions for parking regulations and traffic control on this project without prior approval of the State and Federal Highway Administration. The Agency will not install or permit to be installed any signs, signals, or markings not in conformance with the standards approved by the Federal Highway Administration and MUTCD. The Agency will, at its own expense, maintain the improvement covered by this agreement.

XI. Indemnity

The Agency shall hold the Federal Government and the State harmless from and shall process and defend at its own expense all claims, demands, or suits, whether at law or equity brought against the Agency, State, or Federal Government, arising from the Agency's execution, performance, or failure to perform any of the provisions of this agreement, or of any other agreement or contract connected with this agreement, or arising by reason of the participation of the State or Federal Government in the project, PROVIDED, nothing herein shall require the Agency to reimburse the State or the Federal Government for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the Federal Government or the State.

XII. Nondiscrimination Provision

No liability shall attach to the State or Federal Government except as expressly provided herein.

The Agency shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract and/or agreement or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Agency shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts and agreements. The WSDOT's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Agency of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S. C. 3801 et seq.).

The Agency hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the rules and regulations of the Secretary of Labor in 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee or understanding pursuant to any federal program involving such grant, contract, loan, insurance, or guarantee, the required contract provisions for Federal-Aid Contracts (FHWA 1273), located in Chapter 44 of the Local Agency Guidelines.

The Agency further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the applicant so participating is a State or Local Government, the above equal opportunity clause is not applicable to any agency, instrumentality, or subdivision of such government which does not participate in work on or under the contract.

The Agency also agrees:

(1) To assist and cooperate actively with the State in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and rules, regulations, and relevant orders of the Secretary of Labor.

(2) To furnish the State such information as it may require for the supervision of such compliance and that it will otherwise assist the State in the discharge of its primary responsibility for securing compliance.

(3) To refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, government contracts and federally assisted construction contracts pursuant to the Executive Order.

(4) To carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the State, Federal Highway Administration, or the Secretary of Labor pursuant to Part II, subpart D of the Executive Order.

In addition, the Agency agrees that if it fails or refuses to comply with these undertakings, the State may take any or all of the following actions:

(a) Cancel, terminate, or suspend this agreement in whole or in part;

(b) Refrain from extending any further assistance to the Agency under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the Agency; and

(c) Refer the case to the Department of Justice for appropriate legal proceedings.

XIII. Liquidated Damages

The Agency hereby agrees that the liquidated damages provisions of 23 CFR Part 635, Subpart 127, as supplemented, relative to the amount of Federal participation in the project cost, shall be applicable in the event the contractor fails to complete the contract within the contract time. Failure to include liquidated damages provision will not relieve the Agency from reduction of federal participation in accordance with this paragraph.

XIV. Termination for Public Convenience

The Secretary of the Washington State Department of Transportation may terminate the contract in whole, or from time to time in part, whenever:

(1) The requisite federal funding becomes unavailable through failure of appropriation or otherwise.
(2) The contractor is prevented from proceeding with the work as a direct result of an Executive Order of the President with respect to the prosecution of war or in the interest of national defense, or an Executive Order of the President or Governor of the State with respect to the preservation of energy resources.
(3) The contractor is prevented from proceeding with the work by reason of a preliminary, special, or permanent restraining order of a court of competent jurisdiction where the issuance of such order is primarily caused by the acts or omissions of persons or agencies other than the contractor.
(4) The Secretary is notified by the Federal Highway Administration that the project is inactive.
(5) The Secretary determines that such termination is in the best interests of the State.

XV. Venue for Claims and/or Causes of Action

For the convenience of the parties to this contract, it is agreed that any claims and/or causes of action which the Local Agency has against the State of Washington, growing out of this contract or the project with which it is concerned, shall be brought only in the Superior Court for Thurston County.

XVI. Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The approving authority certifies, 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 the Standard Form - LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.
(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, and contracts and subcontracts under grants, subgrants, loans, and cooperative agreements) which exceed $100,000, and that all such subrecipients shall certify and disclose accordingly.

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 as 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 such failure.

XVII. Assurances

Local agencies receiving Federal funding from the USDOT or its operating administrations (i.e., Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration) are required to submit a written policy statement, signed by the Agency Executive and addressed to the State, documenting that all programs, activities, and services will be conducted in compliance with Section 504 and the Americans with Disabilities Act (ADA).

Additional Provisions

Local Agency Agreement Supplement – Example

Washington State Department of Transportation

Local Agency Agreement Supplement

Agency		Supplement Number
Federal Aid Project Number	Agreement Number	CFDA No. **20.205** (Catalog of Federal Domestic Assistance)

The Local Agency requests to supplement the agreement entered into and executed on
All provisions in the basic agreement remain in effect except as modified by this supplement.
The change to the agreement are as follows:

Project Description

Name Length

Termini

Description of Work ☐ No Change

Reason for Supplement

Are you claiming indirect cost rate? ☐ Yes ☐ No Project Agreement End Date

Does this change require additional Right of Way or Easements? ☐ Yes ☐ No Advertisement Date:

Type of Work		Estimate of Funding				
		(1) Previous Agreement/Suppl.	(2) Supplement	(3) Estimated Total Project Funds	(4) Estimated Agency Funds	(5) Estimated Federal Funds
PE	a. Agency			0.00		
%	b. Other			0.00		
Federal Aid Participation Ratio for PE	c. Other			0.00		
	d. State			0.00		
	e. Total PE Cost Estimate (a+b+c+d)	0.00	0.00	0.00	0.00	0.00
Right of Way	f. Agency			0.00		
%	g. Other			0.00		
Federal Aid Participation Ratio for RW	h. Other			0.00		
	i. State			0.00		
	j. Total R/W Cost Estimate (f+g+h+i)	0.00	0.00	0.00	0.00	0.00
Construction	k. Contract			0.00		
%	l. Other			0.00		
	m. Other			0.00		
Federal Aid Participation Ratio for CN	n. Other			0.00		
	o. Agency			0.00		
	p. State			0.00		
	q. Total CN Cost Estimate (k+l+m+n+o+p)	0.00	0.00	0.00	0.00	0.00
	r. Total Project Cost Estimate (e+j+q)	0.00	0.00	0.00	0.00	0.00

The Local Agency further stipulates that pursuant to said Title 23, regulations and policies and procedures, and as a condition to payment of the Federal funds obligated, it accepts and will comply with the applicable provisions.

Agency Official

By
Title

Washington State Department of Transportation

By
Director, Local Program
Date Executed

DOT Form 140-041
Revised 05/2015

Page 1

Agency		Supplement Number
Federal Aid Project Number	Agreement Number	CFDA No. **20.205** (Catalog of Federal Domestic Assistance)

VI. Payment and Partial Reimbursement

The total cost of the project, including all review and engineering costs and other expenses of the State, is to be paid by the Agency and by the Federal Government. Federal funding shall be in accordance with the Federal Transportation Act, as amended, 2 CFR Part 200. The State shall not be ultimately responsible for any of the costs of the project. The Agency shall be ultimately responsible for all costs associated with the project which are not reimbursed by the Federal Government. Nothing in this agreement shall be construed as a promise by the State as to the amount or nature of federal participation in this project.

The Agency shall bill the state for federal aid project costs incurred in conformity with applicable federal and state laws. The agency shall minimize the time elapsed between receipt of federal aid funds and subsequent payment of incurred costs. Expenditures by the Local Agency for maintenance, general administration, supervision, and other overhead shall not be eligible for federal participation unless a current indirect cost plan has been prepared in accordance with the regulations outlined in 2 CFR Part 200 - Uniform Admin. Requirements, Cost Principles and Audit Requirements for Federal Awards, and retained for audit.

The State will pay for State incurred costs on the project. Following payment, the State shall bill the Federal Government for reimbursement of those costs eligible for federal participation to the extent that such costs are attributable and properly allocable to this project. The State shall bill the Agency for that portion of State costs which were not reimbursed by the Federal Government (see Section IX).

VII. Audit of Federal Consultant Contracts

The Agency, if services of a consultant are required, shall be responsible for audit of the consultant's records to determine eligible federal aid costs on the project. The report of said audit shall be in the Agency's files and made available to the State and the Federal Government.

An audit shall be conducted by the WSDOT Internal Audit Office in accordance with generally accepted governmental auditing standards as issued by the United States General Accounting Office by the Comptroller General of the United States; WSDOT Manual M 27-50, Consultant Authorization, Selection, and Agreement Administration; memoranda of understanding between WSDOT and FHWA; and 2 CFR Part 200.501 - Audit Requirements.

If upon audit it is found that overpayment or participation of federal money in ineligible items of cost has occurred, the Agency shall reimburse the State for the amount of such overpayment or excess participation.

IX. Payment of Billing

The Agency agrees that if payment or arrangement for payment of any of the State's billing relative to the project (e.g., State force work, project cancellation, overpayment, cost ineligible for federal participation, etc.) is not made to the State within 45 days after the Agency has been billed, the State shall effect reimbursement of the total sum due from the regular monthly fuel tax allotments to the Agency from the Motor Vehicle Fund. No additional Federal project funding will be approved until full payment is received unless otherwise directed by the Director, Local Programs.

Project Agreement End Date - This date is based on your projects Period of Performance (2 CFR Part 200.309).

Any costs incurred after the Project Agreement End Date are NOT eligible for federal reimbursement. All eligible costs incurred prior to the Project Agreement End Date must be submitted for reimbursement within 90 days after the Project Agreement End Date or they become ineligible for federal reimbursement.

VIII. Single Audit Act

The Agency, as a subrecipient of federal funds, shall adhere to the federal regulations outlined in 2 CFR Part 200.501 as well as all applicable federal and state statutes and regulations. A subrecipient who expends $750,000 or more in federal awards from all sources during a given fiscal year shall have a single or program-specific audit performed for that year in accordance with the provisions of 2 CFR Part 200.501. Upon conclusion of the audit, the Agency shall be responsible for ensuring that a copy of the report is transmitted promptly to the State.

XVII. Assurances

Local Agencies receiving Federal funding from the USDOT or its operating administrations (i.e., Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration) are required to submit a written policy statement, signed by the Agency Executive and addressed to the State, documenting that all programs, activities and services will be conducted in compliance with Section 504 and the Americans with Disabilities Act (ADA).

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.

Upon completion of project, the local agency must submit a final bill (Appendix 23.71) clearly marked "Final Billing" and final summary (Appendix 23.75) to the WSDOT Headquarters Local Programs. The purpose of this summary is for the Agency to report the total project costs including federal, state, local and other funds received. The form must be completed in accordance with the instructions outlined in Appendix 23.76

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. Timekeeping procedures need to provide for allocating employees' time to projects and/or other activities each day on an hourly basis. The timekeeping document, such as a time slip, time and attendance report, or time book, is the source document which must be available for examination by audit personnel to support direct labor costs claimed on any federal project. The document needs to be signed by both the employee and a responsible employee (supervisor) having knowledge that the time distribution is accurately reported.

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
23.76 Local Programs Final Project Summary – Instructions

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

Appendix 23.75

Final Project Summary

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

Participation Rate: 86.50% **Authorized Amount:** 1,500,000.00

Authorization Date: PE 03/07/13
CN 12/30/13

Project End Date: N/A

Type of Work		Total Project Cost	Total Federal/State Claimed to date	Agency Funds
	PE			
Consultant		230,829.99	188,270.00	42,559.99
Agency Non-Eligible		2,117.88	0.00	2,117.88
Agency		25,000.00	21,625.00	3,375.00
		0.00	0.00	0.00
Total		257,947.87	209,895.00	48,052.87
	RW			
		0.00	0.00	0.00
		0.00	0.00	0.00
		0.00	0.00	0.00
		0.00	0.00	0.00
		0.00	0.00	0.00
Total		0.00	0.00	0.00
	CN			
Consultant		1,543,033.01	871,054.36	671,978.65
Agency Non-Eligible		514.46	0.00	514.46
Agency		25,000.00	21,625.00	3,375.00
		0.00	0.00	0.00
Total		1,568,547.47	892,679.36	675,868.11
Project Total		1,826,495.34	1,102,574.36	723,920.98

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

The final progress bill must include a final summary. The purpose of this summary is for the Agency to report total project costs including federal, state, local and other funds received. This form can be downloaded at www.wsdot.wa.gov/localprograms/programmgmt/forms.htm

Exception – If a project is not completed and the Agency is billing remaining available funds with the possibility of incurring more eligible costs; do not mark the billing as a final bill. Upon completion of project, submit a final bill to report the eligible costs even if zero dollars are being claimed along with the final summary.

Required Data – This form is arranged in the same manner as the Local Agency Agreement.

The form must include the following:

- Agency Name, Project Title, Federal Aid Number and LA Agreement Number.
- Federal Participation Rate Authorized Amount, Authorized Dates, Project End Date. (Refer to the last supplement of the Local Agency Agreement).
- Type of work – Should align with Local Agency Agreement. (Add or remove lines on form as needed).
- Total Project Cost – Record all costs incurred on Project including Federal, State, Local other grants. (Add or remove lines from form as needed).
- Total Federal/State Claimed to date – Record the amount of funds reimbursed from WSDOT. This amount should mirror the amount on final progress billing column 6.
- Agency Funds – Record all costs (not reimbursed by WSDOT), that are considered Agency costs or that have been reimbursed from other Agencies, Grants, programs, etc.

*Total Federal/State Claimed to date plus Agency Funds should equal Total Project Cost.

Sign and date form and send to the WSDOT Headquarters Local Programs (address on form) or submit electronically via email to hqlpbillings@wsdot.wa.gov

Chapter 29 Section 504 and the Americans with Disabilities Act

29.1 General Discussion

This chapter summarizes the regulations and implementing requirements local agencies shall 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. The USDOT Section 504 Regulations (49 CFR Part 27.5) define a recipient as any public entity that receives Federal financial assistance from a USDOT or its operating administrations either directly or through another recipient. An example of a recipient is WSDOT and an example of a subrecipient is a local agency funded through WSDOT.

All public entities shall 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 will 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 (such as FHWA) shall 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 signed by the Agency Executive and 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, that number is the number of paid permanent, temporary, and contract employees regardless of whether the employees are full or part time.

- Each agency, regardless of the number of employees and funding sources, shall 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 shall be as effective as communications with other persons. This applies 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, pedestrian signal systems, etc.
  - Maintenance of programs and facilities. This includes maintaining accessibility of pedestrian facilities that may be impacted by overgrown vegetation, snow/ice, severe heaving/cracking of surfaces, construction work zones, etc. Pedestrian signals/pushbuttons must also be accessible and maintained in working order.
  - New construction and altered facilities.
- Each agency with 15 or more employees that is a recipient or subrecipient of Federal financial assistance shall designate at least one person as its ADA/504 Coordinator. Each agency with 50 or more employees that is not a recipient or subrecipient of Federal financial assistance shall also designate at least one person as its ADA/504 Coordinator. The individual designated as the ADA/504 Coordinator is responsible for coordinating ADA/Section 504 compliance throughout the agency. The agency shall provide the name, office address, and telephone number of the ADA/504 Coordinator both internally and externally.
- Each agency with 15 or more employees that is a recipient or subrecipient of Federal financial assistance shall adopt and publish grievance/complaint procedures. Each agency with 50 or more employees that is not a recipient or subrecipient of Federal financial assistance shall also adopt and publish grievance/complaint procedures. These procedures shall be posted internally and externally and be made available in alternative formats that address the needs of persons with mobility, visual, and hearing disabilities. An example of grievance procedures can be found on the U.S. Department of Justice website at www.ada.gov/pcatoolkit/chap2toolkit.htm.

- Each agency, regardless of the number of employees, shall provide public notice of its ADA provisions. This notice shall contain a brief description about how the agency will address ADA accessibility in its employment, communications, policies, and resolution of complaints. This notice shall 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. An example of a public notice can also be found at the DOJ website referenced above.
- Each agency, regardless of the number of employees, shall 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.
- Each agency with 50 or more employees shall 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 regulations. Therefore, each agency with fewer than 50 employees that is a recipient or subrecipient of Federal financial assistance 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 (see Section 29.4).

  Each agency shall provide an opportunity for interested parties (i.e., persons with disabilities/advocacy groups) to participate in the process when conducting a self-evaluation and developing a transition plan or compliance planning document.

  For examples of a public notice, grievance/complaint procedures, and other documents, see the Local Programs ADA Policies and Resources website www.wsdot.wa.gov/LocalPrograms/Traffic/ada_policy.htm.

29.4 Transition Plan, Compliance Planning Document, and Accessible Pedestrian Signal and Pushbutton Policy

Transition Plan

As stated in Section 29.3 of this chapter, agencies with 50 or more employees (ADA), regardless of funding source, shall develop a transition plan when structural modifications are necessary to achieve ADA compliance. Based on 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. This is typically the agency's ADA/504 Coordinator.

FHWA recommends that an agency include the estimated cost of each modification 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 the 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 shall 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.

For examples of transition plans, see the Local Programs ADA Policies and Resources website www.wsdot.wa.gov/LocalPrograms/Traffic/ada_policy.htm.

Compliance Planning Document

As stated in Section 29.3 of this chapter, agencies with fewer than 50 employees and a recipient of Federal financial assistance are required to develop a compliance planning document. Similar to a transition plan, agencies 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/actions needed to make the facilities accessible.
- Specify a schedule (milestones) of when the agency plans to make the necessary modifications.

Accessible Pedestrian Signal and Pushbutton (APS) Policy

Based on input from the U.S. Department of Justice (DOJ), it is FHWA's policy to require recipients and subrecipients (of FHWA funding) to 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, compliance planning document, or a stand-alone document if a transition plan or compliance planning document 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 in the Public Right of Way

Title II of the ADA requires that new and altered 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 shall meet new construction standards unless it is technically infeasible to do so. If full ADA compliance cannot be achieved in an alteration, the agency shall 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 shall 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 shall be addressed in conjunction with the resurfacing project, either prior to or at the same time as the resurfacing project. For additional guidance on resurfacing projects and ADA accessibility, see USDOJ-USDOT's Joint Technical Assistance document, dated July 8, 2013 and the Supplement to this document, Both documents are available on WSDOT Local Program's ADA/Section 504 website: www.wsdot.wa.gov/LocalPrograms/Traffic/ada.htm

Safe Harbor

Both the Section 504 and ADA requirements contain a "safe harbor" provision. However, there is a difference in the timeline associated with the Section 504 safe harbor provision and the ADA safe harbor provision.

In 2006, the USDOT adopted the 2004 ADA Accessibility Guidelines (2004 ADAAG) into its Section 504 regulations. This revision provided a "safe harbor" provision similar to the ADA provision. Under the Section 504 safe harbor provision, if curb ramps were built or altered prior to November 29, 2006, and if they comply with the 1991 ADA Standards for Accessible Design (1991 ADA Accessibility Guidelines) or the Uniform Federal Accessibility Standards (UFAS), they do not need to be modified as part of a roadway resurfacing project. If the existing curb ramps do not comply with the 1991 ADAAG or UFAS at the time of the roadway alteration, then they must be brought into compliance with the USDOT 2004 Section 504 requirements (2004 ADAAG) including detectable warnings (truncated domes).

As mentioned above in Section 29.1, if an agency receives Federal financial assistance from USDOT – either directly or through another DOT recipient (such as WSDOT), then the agency is subject to the 2004 ADAAG as part of the USDOT Section 504 regulations.

For those agencies who are not a recipient or subrecipient of Federal financial assistance from USDOT, the safe harbor provision in the 2010 ADA Standards for Accessible Design (2010 Standards) would apply. Under the 2010 Standards' safe harbor provision, if curb ramps were built or altered (in existing facilities) prior to

March 15, 2012 and if they comply with the 1991 ADA Standards for Accessible Design (1991 ADA Accessibility Guidelines - ADAAG) or the Uniform Federal Accessibility Standards (UFAS), they do not need to be modified as part of a resurfacing project.

However, if an existing curb ramp does not comply with either the 1991 Standards or the UFAS (including if the curb ramp is in a state of disrepair), then the Safe Harbor provision does not apply and the curb ramp would need to be brought into compliance with the 2010 Standards at the time of roadway alteration.

When curb ramps or abutting sidewalks are altered, they shall be reconstructed to meet the 2010 Standards. Curb ramp requirements in the 2010 Standards are identical to the 1991 Standards.

Documentation

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 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 (such as FHWA). 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 (such as FHWA). 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 Non-A&E 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.
- Real Estate activities including acquisition, relocation, appraisal, appraisal review, and property management
- 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).
6. An independent agency cost estimate.

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 Non-A&E 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, and real estate activities. 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.

Real Estate consulting activities include acquisition, relocation, appraisal, appraisal review and property management and can be contracted under a Non A&E professional services agreement under authority of RCW 39.26.

The Local Agency is to work with Local Programs Real Estate section on right of way non-A&E 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 Non-A&E 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 Non-A&E 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

Chapter 33 Emergency Relief Program

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

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

- The Federal Highway Administration (FHWA) under Title 23, USC, Section 125 provides Emergency Relief (ER) funds for the restoration of all damaged public roads and bridges except for rural minor collectors and local roads.
- FHWA's Western Federal Lands Highway Division Office directly handles ERFO funds (Emergency Relief for Federally Owned Lands) for repairs to roads on federal lands (Forest Service, Park Service, etc.) that are not federal-aid highways (rural minor collectors and local roads).
- Federal Emergency Management Agency (FEMA) provides federal funds under Public Law 93-288, the Stafford Act, for restoration of damaged roads and bridges on rural minor collectors and local roads not on federal lands.

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

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

References

- State of Washington Comprehensive Emergency Management Plan
- WSDOT *Emergency Relief Procedures Manual* M 3014, February 2012
- USDOT/FHWA *Emergency Relief Manual*, Updated May 31, 2013
- USDOT/FHWA *ERFO Disaster Assistance Manual*, October 2014
- The Stafford Act, April 2013

33.1 Steps Following a Disaster

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

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

   It is very important to make timely and accurate damage reports to the EMD. These reports should describe the disaster and any local response. The "Incident Report" and "Disaster Analysis Report" forms provided by EMD and completed by the local agency (see Comprehensive Emergency Management Plan) are approved means of providing such a report. In addition, this notification should include the local agency's "Proclamation of Emergency."
6. **Proclamation by the Governor** – From the information received EMD will inform the Governor's Office. If the situation warrants state assistance, EMD will coordinate the state response to supplement the efforts of local governments. The Governor will proclaim a State of Emergency when necessary. The Governor's proclamation is required to obtain assistance under both ER and FEMA (Appendix 33.92).

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

33.2 FHWA's Emergency Relief Program Guidelines

The Emergency Relief (ER) Program is administered by FHWA through WSDOT. To qualify for ER funds the damages to be corrected must have resulted from the declared disaster or catastrophic failure (as described above) and be for emergency opening, repair, or reconstruction of roadways and bridges on federally functionally classified routes except for rural minor collectors and local roads and streets. In addition, the total federal share of statewide damage for the entire event must exceed $700,000. Individual sites must have $5,000 or more in repair costs; exceed heavy maintenance; not be a pre-existing condition; and not already programmed for construction with federal aid funding to be eligible for ER funds.

Eligible temporary or emergency repairs (Section 33.41), to minimize damage, protect facilities or restore essential traffic, accomplished within 180 calendar days after the first day of the actual disaster occurrence may be eligible for 100 percent ER funds. Repairs performed beyond 180 days after the actual occurrence of the disaster will be funded at the current program participation ratio for the federal aid route affected. Permanent restoration and any work beyond what is needed to minimize damage, protect facilities or restore essential traffic which is completed concurrently with or incidental to the emergency repairs will be funded at the current program participation ratio for the federal aid route affected.

.21 Application for Federal Assistance – WSDOT and local agencies are empowered to immediately begin emergency repairs to restore essential traffic service and to prevent further damage to the roadways. Properly documented costs will later be reimbursed if FHWA determines the disaster event and damaged sites are eligible. The determination of eligibility/noneligibility does not usually occur until approximately 60 days after the incident period. However, the following steps should be ongoing during this interval.

1. **Letter of Intent** – WSDOT prepares and transmits to FHWA a "letter of intent" to apply for ER program funds per the requirements. The letter of intent includes: an estimate of the damage on WSDOT eligible roadways; an estimate of damage on local agency's eligible roadways; and notifies FHWA that WSDOT intends to request ER funds. This request usually follows the Governor's proclamation.

2. **FHWA Division Acknowledgment** – The FHWA Division response to WSDOT directs WSDOT and local agencies to proceed with emergency repairs: to restore essential travel; to protect remaining facilities; to reduce the extent of damage; to begin preliminary engineering consisting of surveys, design, and preparation of construction plans; to perform any work which is incidental to the emergency operation; and to use local forces, contracts and/or equipment-rental contracts as necessary to perform the work.

3. **Approval of ER Events** – Upon reviewing damaged sites and/or information regarding damaged sites, FHWA Division Office will determine if the event qualifies for ER funds and will notify WSDOT of the determination typically as part of the letter of acknowledgement. WSDOT Local Programs is informed accordingly and notifies the affected local agencies.

.22 FHWA Approval of Damaged Sites – From the time the disaster/emergency occurs local agency forces are out working to protect their transportation investments. The local agency will work with the Region Local Programs Engineer (LPE) to determine if the damage is likely eligible by describing the damage, review the site or photos, and estimate repair costs. If the damage is likely eligible then they will need to work with the LPE to prepare a Detailed Damage Inspection Report (DDIR).

If the disaster damage is eligible for ER funds, DDIRs are prepared to summarize the amount and scope of reimbursement for temporary repairs, emergency repairs, incidental repairs, and permanent restoration work. To better understand the damage and the repair to the agency's transportation system, the Region Local Programs Engineer may contact the agency to coordinate an onsite visit with a FHWA representative, at a mutually agreed upon time. If an agency has good documentation (including plenty of photographs), then site visits may not be necessary.

The agency will need to prepare a package of all relevant information for review by Local Programs and FHWA. In many cases, the emergency work will already have been completed. Accurate and detailed records are required to verify the expenditures. The package is to include:

1. **Detailed Damage Inspection Report (DDIR)** – The DDIR (see Forms) is prepared by the agency and submitted for review to the LPE. The DDIR should include all pertinent information pertaining to the site's damage caused by the ER event and a breakdown of damage estimates or actual costs (as applicable) of the work identified. Completion of the DDIR is a joint effort by FHWA, WSDOT Local Programs, and local agency personnel.

   It is important that the DDIR document the scope of the approved repairs, but it is not critical that the cost estimate be precise at the time of the DDIR (the cost estimate can be refined later). It is important that the damage inspections be completed as soon after the event as possible, even if final cost data is not yet available. The approved DDIR serves as the basic justification and cost document. Each agency receives a copy of the approved DDIR.

   If the local agency agreement exceeds any amount on the DDIR by more than 10 percent or significant scope change, a revised DDIR will need to be approved by FHWA.

2. **Maps** – A vicinity map showing the location of the damage (can be agency-wide or site by site).

3. **Visual Aids** – Photographs, newspaper articles, and related documents (i.e., sketches, video tapes) are necessary to show the actual damage.

4. **Records** – Agency records must be site-specific [identified by M.P., route, or cross street identifiers] for each eligible federal aid route. Costs must be supported by labor, equipment and material records or contract documents. This is necessary to obtain full reimbursement. (These records are critical for the long-term but need not be fully complete at the time of the DDIR since the DDIRs cost estimate can be just that – an estimate.)

5. **Additional Data** – This will include any items FHWA requests. Because a significant amount of time may have elapsed since the disaster, the local agency may have to fund restoration costs while waiting for reimbursement. In many cases, the emergency work will already have been completed. Therefore, accurate and detailed records are required to verify the expenditures.

33.3 Reimbursable Expenses

.31 Eligible Costs – The following is the basic information on FHWA guidance regarding emergency relief procedures for reimbursement under the ER Program. This is also outlined in the USDOT/FHWA *Emergency Relief Manual* May 31, 2013.

Only certain items of repair or reconstruction of roads, streets, and bridges are eligible under the emergency relief program. FHWA will participate in costs when they are properly supported and documented and when such costs are directly attributable and properly allocable to ER projects. For a site to qualify it must: exceed heavy maintenance; not be a pre-existing condition; and not already be programmed for federal aid funding. For the purposes of the ER Program, heavy maintenance is repair work that is usually accomplished by highway agencies in repairing damage normally expected from seasonal or occasionally different natural conditions, doesn't disrupt essential traffic for more than a short period of time (often less than 1-2 days), and can be repaired with equipment and labor forces commonly available to State or Local maintenance crews. Work is considered already programmed if construction funding for it is included in the State Transportation Improvement Program (STIP).

The emergency conditions most frequently experienced in Washington State are those resulting from damage to highways caused by unseasonal severe storms which create flooding conditions. The processing of claims for damage by typhoons, tidal waves (or tsunamis), earthquakes, severe storms, landslides, volcanic eruptions, and other catastrophes will normally follow the criteria established for flood disasters. ER funds may participate in the emergency repair or reconstruction of: pavements or other surface courses; shoulders; embankments; cut slopes; natural and constructed drainage channels, including riprap, cribbing, or other bank control features; guardrail; bridges; retaining walls; signs and traffic control devices; culverts; bike and pedestrian paths, and fencing.

The ER program will only fund those activities: beyond heavy maintenance; required to restore essential travel; to prevent additional damage to the roadway; and work required to restore the roadway to its pre-disaster condition. Types of these eligible costs are as follows:

1. **Debris Removal** – This includes clearing debris from the traveled way, the cut and fill slopes, the clear zone and in some cases the drainage systems associated with damaged project sites.

   This does not include the clearing of trees and other debris from all areas within the right of way. If debris is not obstructing traffic, in safety clear zones, or a drainage facility, removal of that debris would not be eligible for ER funds. Only debris on the facility or posing an immediate threat (including the immediate clear zone) to the facility will be considered emergency repair eligible for 100% reimbursement. All other debris removal will be considered permanent repair and will be reimbursed at the pro-rata. In the event that debris removal (both emergency and

permanent) is completed at the same time and cannot be documented separately, a reasonable negotiated split between emergency and permanent must be determined that is acceptable to FHWA or all debris removal at the site will be treated as permanent restoration and reimbursed at the pro-rata share for the facility.

If an ER event is declared to be an emergency or a major disaster by the President under the Stafford Act and debris removal is eligible for assistance under Sections 403, 407, or 502 of the Act, debris removal previously eligible for ER funding may no longer be eligible if it is eligible for FEMA funding instead. Presidential declarations are not common in Washington State.

2. **Traffic Control** – For ER eligible roadways traffic control devices such as barrels, barricades and signs; the establishment of detour routes; and enforcement of detours and road closures by law enforcement personnel are eligible for funding. ER reimburses the local agency and the state enforcement agencies for regular and overtime rates on ER eligible routes for performing disaster related traffic control activities. Documentation of hours, routes, etc., is required for reimbursement.
3. **Landscaping** – Landscaping and functional planting are eligible when incidental to otherwise eligible damage.
4. **Active Construction Contracts** – Damage due to the ER event within the limits of an active construction contract may also be eligible for ER funds. To be eligible damage must be due to the event, involve project elements that are in place and accepted by the owner, and clearly not be the responsibility of the contractor (e.g., not due to inadequate protection of disturbed areas). The work must be done by change order (Section 52.5).
5. **Detour Routes** – Establishment or construction of detours is eligible for ER funding if it can be shown that the detour will relieve excess traffic directly attributed to the eligible disaster. To be eligible, the detour must be designated which means the detour route is officially signed to reroute traffic around the damaged roadway. Routine maintenance of detours is not eligible, but repair of detour routes whether or not they are federal aid eligible, is eligible for ER funding. Ferry or transit service may be eligible where an alternate existing route may not be practical.
6. **Administrative Expenses** – Administrative expenses as listed below are also eligible for reimbursement.

    a. **Regular and Extra Employees** – Regular salaries, overtime salaries and wages of all the regular and extra employees directly engaged in work on ER projects are eligible for reimbursement. Timekeeping procedures should provide for allocating employees' time to projects and/or other activities each day on an hourly basis. The timekeeping document, such as a time slip, time and attendance report, or time book, is the source document which must be available for examination by audit personnel to support direct labor costs claimed on any ER project. The document should be signed by a responsible employee having knowledge that the time distribution is accurately reported.

b. **Payroll Additives** – Usually referred to as a labor surcharge, a set percentage over and above the total direct labor costs charged to a project is eligible for participation. This surcharge is to cover costs of various types of leave allowances, industrial accident insurance coverage and other employee benefits. The allowable percentage rates will consist of the agency's calculated rates which normally vary from year to year. Therefore, the records used in developing percentage rates should be preserved under suitable control conditions to assure availability for examination when requested. The acceptable percentage rate may be applied only to direct labor costs.

7. **Engineering and Right of Way** – Only that preliminary engineering, right of way, and construction engineering that are necessary, reasonable, and directly attributable to repair of eligible damages are eligible for ER reimbursement. Administrative costs are not eligible.

8. **Traffic Damage** – Generally damages of roadway surfaces due to traffic damage is not eligible for ER funds, but may be for surface damage repair (1) on any public road when it is caused by vehicles making repairs to federal eligible roadways, (2) on any public road officially designated a detour route around a damaged federal eligible roadway, and (3) on any federal eligible roadway when damage is caused by vehicles responding to a disaster.

9. **Overlays** – Where entire sections of roadway are damaged and need to be constructed, new surfacing is eligible. Roadways submerged during flooding, but suffering no significant damage, are not eligible.

10. **Raising Grades** – For traditional flooding, temporary work, fill material and minimum riprap to raise roadway grades to maintain essential traffic service during flooding is eligible. Roadways temporarily raised to maintain essential traffic service and that suffer no significant damage as a result of the flood and work to permanently provide a higher grade (recompact fill and provide permanent surfacing) are not eligible. Contact your Region Local Programs Engineer to have them consult with FHWA on raising grades in basin flooding situations.

11. **Slides** – The removal of rock and mud slides is eligible. To be eligible for correction to provide a safe roadway, such a slide must be associated with the overall natural disaster or by itself qualify as a natural disaster. Projects to stabilize the slide area to protect the roadway or to relocate the roadway are eligible when justified as a betterment.

12. **Traffic Control Devices** – The cost of repair and replacement of traffic control devices (traffic signal, traffic control signs) is eligible only if such damage exceeds heavy maintenance.

13. **Roadside Appurtenances** – The cost of repair and replacement of roadside appurtenances (guardrail, bridge rails, impact attenuators, right of way fences, etc.) is eligible if such damage exceeds heavy maintenance.

14. **NEPA Process** – An ER repair project may need to incorporate added features to mitigate impacts of associated items such as wetlands, noise, endangered species, etc. A general rule of thumb to follow: if the added feature is related to a betterment that is eligible for ER participation, then the mitigation feature is probably eligible for ER funding; if the betterment is not justified for ER funding, any added

feature related to the betterment is probably not eligible for ER funding. Contact your Region Local Programs Engineer to have them consult with FHWA on your specific situation.

15. **Outside of the Roadway Right of Way** – Generally, damage repair activities outside the roadway right of way is not eligible for ER funding. The exception to this would be work (riprap, bank protection, etc.) associated with a stream channel adjacent to a roadway when the work is directly related to protection of the roadway.
16. **Supplies and Materials** – Engineering and general office supplies of an expendable nature, charged from stock or purchased for a particular project, and properly identified on the stock-issue slip or vendor's invoice with the project charged, are eligible for ER funding participation.
17. **Equipment** – The use of applicant-owned equipment or equipment owned by, and rented from, another public entity, or equipment rented from commercial sources (provided rental costs are reasonable) which is necessary for the work authorized under an ER project will be eligible for participation.
18. **Indirect Cost** – Costs that are not allocable to a specific project such as a general overall assessment of damage, administration, overhead, general supervision, contract administration other than construction engineering, and project planning and scheduling are considered indirect costs that may be eligible for ER funding if the agency has an indirect cost rate that complies with 2 CFR 200. For additional guidance concerning indirect costs, please contact your LPE.

.32 Ineligible Costs – The ER Program is intended to correct disaster damage to highways. The ER program does not provide emergency transportation services (e.g., ambulances, helicopters), compensation for material, equipment, or economic losses (e.g., stockpiled material, maintenance equipment, lost revenue). Also, non-federal eligible roads, bridges and trails are not eligible for ER funds but can be submitted to FEMA for reimbursement. Below are descriptions of work that is ineligible for reimbursement:

1. **Heavy Maintenance** – The purpose of the ER program is to address major, widespread damage that disrupts essential traffic along Federal-aid highways. When a disaster has caused damage requiring heavy maintenance or work frequently performed by the applicant's maintenance crews, repairs are usually not eligible. Heavy maintenance is work which is less severe, doesn't disrupt essential traffic for more than a short period of time (often less than 1-2 days), and usually can be performed by agencies in repairing damage normally expected from seasonal and occasionally unusual natural conditions or occurrences. It includes work at a site, required as a direct result of a disaster, that can reasonably be accommodated by an agency's maintenance, emergency or contingency program. For the purposes of determining if work at a site is heavy maintenance or work eligible under the ER Program, the type of work, the volume or amount of work, the cost per site, and the abilities of the local agency will be considered.
2. **Snow Removal** – Snow removal is not eligible for ER funds.

3. **Prior Scheduled Work.** Work already scheduled for repairing or replacing deficient facilities with federal aid funds, which are damaged during a disaster, will not be eligible for ER funds. Work is considered already scheduled if construction funding for it is included in the STIP. This work should be funded as originally intended.
4. **Traffic Damage** – Repair of roadway surface damage caused by traffic, even if the roadway was inundated or the subgrade saturated, is not eligible, except as noted in Section 33.31-i.
5. **Frost Heaving** – Damage to roadway subbase and base materials due to inundation or because of freezing and resultant frost heaves, even if the roadbed has been saturated by flood waters, is not eligible for repair using ER funds.
6. **Applicant-Owned Material** – Replenishment of destroyed or damaged stockpiles of materials for both maintenance and construction that have not been incorporated into the roadway is not eligible for replacement under the ER program. Repair or replacement of damaged facilities such as maintenance sheds or equipment is not eligible for ER funds.
7. **Erosion Damage** – Minor erosion damage due primarily or wholly to rainfall and resulting from surface saturation of slopes and embankments, rather than flood waters, is considered heavy maintenance and is not eligible.
8. **Mitigation/Preventative Work Prior to Disaster** – Preventative work to avoid damage to a highway facility in anticipation of a disaster is not eligible for ER funding (e.g., work to prevent scour at a bridge site in anticipation of high rainfall and potential flooding).
9. **Catastrophic Failure from Internal Cause** – If the catastrophic failure is due to an internal cause, such as gradual and progressive deterioration or lack of proper maintenance, it is not eligible for ER funding.
10. Project delay costs or lost toll revenues are not eligible.
11. Radiological contamination with no incidental structural damage is not eligible for ER funding.

33.4 Types of Emergency Relief Work

.41 Temporary Emergency Repairs – The intent of temporary operations, including emergency repairs, is to restore essential traffic which cannot wait for a finding of eligibility and programming of a project. Emergency repair work should be accomplished in a manner which will reduce additional work required for permanent repairs. Temporary emergency repair work, accomplished within the first 180 days after the occurrence of the disaster, may be eligible for 100 percent federal aid.

Local agencies will need to coordinate with resource agencies for accelerated permit requirements. Local agencies will need to meet all local and state requirements.

The use of ER funds for temporary repairs to roadways will normally be limited to the amount necessary to bring the washed-out fills and slip-outs back to grade with a gravel surface. However, in most cases these emergency repairs to roadways will not be constructed to true line and grade. They will usually follow the terrain and be

constructed in the easiest and fastest manner. The repair to the road, nevertheless, should be good enough so traffic can travel over it safely at a speed reasonable for the site conditions. Where routes handle heavy traffic, an appropriate type of bituminous surface as a temporary repair will be eligible for short sections of roadway.

.42 Incidental Restoration – Incidental restoration that is more economical or practical to perform as an associated part of the emergency repairs may be eligible. This incidental restoration work can be performed with the emergency work provided it is properly documented and authorized in the DDIR. Incidental restoration work will be funded at the prorata share.

.43 Permanent Restoration – Permanent restoration is funded at the prorata share for the route regardless of when the work is done. Permanent restoration shall be administered using normal Federal aid procedures that include written authorization, NEPA clearance, design approval, permits, right of way certification, PS&E, advertisement period, etc. Permanent restoration work must begin within two federal fiscal years after the end of the federal fiscal year in which the event occurred.

Permanent restoration may involve one or more of the following categories of work:

1. **Restoration-In-Kind** – The ER program provides for repair and restoration of highway facilities to predisaster conditions. Restoration-in-kind is the expected predominant type of repair to be accomplished with ER funds. Any additional features or changes in character from that of the predisaster facility are generally not eligible for ER funding unless they can be justified because of construction, economy, and prevention of future recurring damage or technical feasibility.

2. **Replacement In-Kind** – If WSDOT and FHWA agree that it is not technically or economically feasible to restore a damaged facility to its pre-disaster condition, a comparable replacement facility may be warranted. Replacement roadways and bridges should be designed to the current geometric and construction standards required for the proposed replacement facility should be evaluated and incorporating cost effective features that will make the facility more resilient and reduce the risk of damage from future events should be considered.

   ER participation may be prorated. Where the replacement project exceeds ER eligibility limitations, the ER share of project cost will be limited to the estimated cost of the ER eligible replacement roadway or bridge.

   Where relocation is necessary, each case must be considered carefully to determine what part of the relocation is eligible for ER funding. When relocation is being considered, the new location should be evaluated to determine its susceptibility to climate change damage.

3. **Betterments** – Betterments are defined as (1) added protective features, such as the rebuilding of roadways at a higher elevation, or the lengthening of bridges, or (2) changes which modify the function or character of the facility from its pre-disaster condition, such as additional lanes, or added access control. Betterments are generally not eligible for ER funding unless justified on the basis of economy, suitability and engineering feasibility and reasonable assurance of preventing future similar damage. Betterments should be obvious and quickly justified without extensive public hearing, environmental, historical, right of way or other encumbrances. The justification must weigh the costs of the betterment against the probability of future recurring eligible damage and repair costs.

Upgrading that results from construction of replacement facilities to current standards as defined above is not considered a betterment requiring further justification. However, with respect to roadways, increases in capacity or a change in character of the facility would be considered betterments and are not justified for ER participation.

Betterments resulting from environmental or permit requirements beyond the control of the agency are eligible for ER funds, if these betterments are normally required when the agency makes repairs of a similar nature in its own work.

Minor relocations and alignment shifts are frequently advisable and are generally eligible for ER participation. However, any design changes made to avoid damage which could be expected to occur infrequently is questionable. Added features of appropriate protection, such as slope stabilization, slope protection and slide prevention measures wherever practicable, must have proper support. Slide stabilization work has been declared ineligible in problem areas where slides recur regularly. The cost of monitoring slide stabilization measures after completion of the initial stabilization is not eligible. ER participation in the initial construction does not create a continuing ER responsibility for future additional work.

Betterments which are eligible for reimbursement will be addressed, agreed to and documented on the DDIR or approved separately by WSDOT and FHWA in response to a local agency request justifying the proposed betterment.

4. **Replacement of Culverts** – Upgrading culverts to current standards must be specifically related to eligible disaster damage repair. Damaged culverts are eligible for repair in kind. Destroyed culverts are eligible for replacement to current standards. Area-wide upgrading of deficient culverts on an area or route basis is not eligible.

5. **Deficient Bridges** – This category includes structural deficiencies only. It does not consider waterway opening, functional obsolescence or serviceability, etc. Permanent repair of a structurally deficient damaged bridge is eligible for ER funding if the replacement is not already under construction or if the construction phase of the bridge replacement is not scheduled in the approved STIP.

   ER eligibility criteria for two common situations are provided below:

   a. Bridge is damaged and is repairable.
      - Reasonable emergency repair to restore travel.
      - Permanent repair of damage if such repair also removes the structural deficiency.
      - Permanent repair of disaster damage if other funds are used to simultaneously correct the structural deficiencies. This involves situations where undamaged portions of a bridge still render the bridge structurally deficient.
      - No permanent repair if construction phase of replacement bridge is scheduled in the STIP at the time of the event.
      - No permanent repair if bridge was deficient at the time of the event and the bridge will remain deficient after permanent repairs are made.

b. Bridge is destroyed or repair is not feasible.
   - Reasonable emergency repair to restore traffic.
   - New comparable replacement structure to current design standards and to accommodate design-year traffic volume if bridge is not scheduled for replacement.
   - No permanent repair if construction phase of a replacement bridge is scheduled in the STIP at the time of the event.

33.5 Contracts

The onslaught of a disaster requires quick reaction by local agencies to protect the traveling public and the remaining facility. The initial actions taken by local agency personnel are usually reimbursable if they meet the ER program requirements. The initial repairs may be accomplished using local agency forces, solicited contracts and/or sole source contracts, as described below. These are all allowable during the initial impact to agencies. When agencies use these methods, documentation of their procedures are required for reimbursement.

Permanent restoration work normally should be undertaken by competitively bid construction contracts (Chapter 52). All federal requirements (i.e., FHWA-1273, Title VI, Davis-Bacon, Buy America, Federal Wage Rates, DBE, etc.,) must be included in the same manner as a typical nondisaster federal aid project.

.51 Local Agency Forces – Due to the emergency character of the work, state and local agency forces (Chapter 61) and/or negotiated equipment rental contracts with owner/operators may be used in handling a considerable portion of the emergency repairs. An owner/operator is defined as someone who owns and operates their own equipment, with no other employees on a payroll, at a negotiated hourly operated rate. Local agencies may supplement their own forces by using the Public Works Emergency Response Mutual Aid Agreement or other interlocal agreements as appropriate. The intent is to restore essential traffic and stabilize any hazardous conditions caused by a disaster.

A formal finding for local agency forces work for temporary emergency repairs is not required. WSDOT approval is required for reimbursement of local agency forces work on permanent restoration work.

.52 Solicited Contract – This type of contract may be warranted due to the emergency character of the work. A minimum of three contractors/material suppliers are contacted and asked to submit bids on specific units of work. A source for these contractors would be the local agency's small works roster. These contracts shall be based on force account procedures (*Standard Specifications* 1 09.6), unit bid items or a combination of the two. These contracts will have a set of plans and specifications which may be abbreviated but must contain all federal requirements (Section 33.63).

The intent is to restore essential traffic and stabilize any hazardous conditions caused by a disaster or as noted on the DDIR. WSDOT approval is required to use this method of contracting. Unless emergency circumstances make it impossible or unfeasible to do so, provisions of 23 USC 112(c) which requires a sworn statement of noncollusion shall apply.

Likewise, a written summary must be prepared showing how the solicitation was done, who was contacted, and the responses by the contractors/material suppliers.

.53 Sole Source Contract – Approval by WSDOT is required to use this type of contract. The approval may be given verbally or at the time of the onsite review (DDIR). The intent is to restore essential traffic and stabilize any hazardous conditions caused by a disaster or as noted on the damage inspection report. These contracts shall be based on force account procedures (*Standard Specifications* 1-09.6), unit bid items or a combination of the two. These contracts will have a set of plans and specifications which may be abbreviated but must contain all federal requirements (Section 33.63).

The type of work allowed for using a sole source contract include:

- Only one contractor in the area to perform the work.
- A contractor on-site under a current contract.
- The work is defined as specialty work.

Documentation is required justifying the use of a sole source contract.

33.6 Additional Project Requirements

.61 Design Standards – Reconstruction of damaged roadway and bridge facilities must be to adequate standards, including appropriate safety features. Reconstruction of extensively damaged facilities, including betterment projects when adequately justified, should be to the current design standards. Roadways and bridges may be replaced with a facility which meets current geometric and construction standards required for the type and traffic volume which such facility will carry over its design life.

.62 Environmental Impact Assessment – Emergency repairs during or immediately after a natural disaster are generally classified as categorical exclusions as are general permanent repairs if they are replacements in kind (23 CFR 771.117(c)(9) and 40 CFR 1508.4).

.63 Abbreviated Plans – WSDOT may approve the use of abbreviated plans provided that they provide essential information necessary to describe the work to be accomplished and determine the reasonableness of unit prices for contract or force account work.

33.7 Funding

WSDOT Local Programs will process all the required data and submit it to FHWA for fund authorization. A standard funds request package should include:

- Project checklist with supporting data as appropriate (Chapter 21).
- Pictures of the affected site (before and after).
- A **signed** copy of the DDIR.

When submitting projects for funding, multiple sites on the same federal route or area within a local agency's jurisdiction may be grouped together under one Local Agency Agreement and Project Prospectus provided individual site information is included. Headquarters' approval for grouping sites is required prior to submittal.

Project fund requests which exceed the original DDIR must have a detailed explanation of the additional work required to complete the work. If the work done is outside the scope of the DDIR, concurrence by FHWA will need to be coordinated through the Region Local Programs Engineer prior to fund authorization. Any work to be done per the finding of a geotechnical report needs to be pre-approved by FHWA through the Region Local Programs Engineer.

All projects which involve a contract must follow the guidelines outlined in Chapter 46. All further action, including processing, billing, and payment, will be in accordance with Chapter 23.

Final vouchers, inspection, audit, and project closure are accomplished in accordance with Chapter 53.

33.8 FEMA Program Guidelines

Federal Emergency Management Agency (FEMA) provides funding for restoration of damaged roads and bridges not eligible for ER, individual assistance and public assistance. Off system roads, bridges and trails (no matter where the initial funding came from) are eligible for FEMA reimbursement. Although neither FHWA nor WSDOT is involved in disaster relief project funding for non-federal aid roads/streets, this section has been included for informational purposes. For additional information, call 1-800-562-6108.

Federal share payable is 75 percent of the eligible costs for damage described under FEMA's emergency activities. Overtime only, on non ER eligible routes, for debris removal, emergency protective measures and traffic control is also reimbursable at 75 percent by FEMA.

The FEMA program provides federal reimbursement of eligible costs to repair, restore, reconstruct or replace damaged roadway facilities not eligible for ER. This includes emergency opening and permanent restoration.

Before funds are made available, the Governor must proclaim a state of emergency and request assistance from the President for assistance. The President must declare either an emergency or a major disaster.

The Disaster Recovery Manager of FEMA and Washington State's Governor's Authorized Representative are responsible for determining program eligibility based on criteria established by the federal government. The Governor's Representative is responsible for the program's administration.

Applying for Federal Assistance

1. **Governor's Request for Federal Assistance** – Based on the preliminary damage assessments, the EMD prepares the Governor's request letters, for the Governor's signature, which are submitted through FEMA to the President of the United States.
2. **Presidential Declaration** – If the President determines that the situation warrants federal assistance, the President declares either an emergency or major disaster and invokes the applicable sections of the FEMA regulations.

3. **Federal/State Agreement** – After the President makes the declaration of emergency, the Governor and the FEMA Administrator sign a federal/state agreement for federal, state and local participation.

Actions After Federal Funding Approval

1. **Preparation of Damage Survey Reports (DSR)** – EMD and FEMA jointly establish disaster field offices to coordinate federal and state response.
2. **Applicant Briefings – Eligibility Determination** – The Governor's Representative and Federal Disaster Recovery Manager will conduct applicant briefings. These briefings are for local elected officials, program administrators and accountants/ bookkeepers. Local representatives are told what kind of assistance they will receive and the process to obtain the assistance. WSDOT Local Programs will provide a representative at the briefing to discuss the ER program.
3. **Determination Review** – In most cases, if not all, the Governor's Representative and the Disaster Recovery Manager will review and determine eligibility of the DSRs in the disaster field office. Those not determined in the disaster field office will be followed up by both the Governor's Representative and the Disaster Recovery Manager at a later date.
4. **State Requirements** – The Governor's Representative will coordinate with fisheries and wildlife departments to review each project's DSR and determine if a hydraulic permit approval is required.
5. **Project Modifications** – The applicant does the work and if a time extension, scope, or fiscal modification is required, the applicant makes a request to the Governor's Representative for consideration.
6. **Project Closure** – When the work has been completed, the applicant submits a Statement of Documentation to the Governor's Representative. The Governor's Representative determines whether or not final inspections need to be conducted based on program guidelines. Projects will be audited as part of the Single Audit Act by the State Auditors Office. Once all the program requirements have been met and final payment made, the Governor's Representative will send a close-out letter to the applicant.

When the federal audit or review is completed, the FEMA Regional Office forwards the reimbursement request to their National Office. The FEMA National Office forwards the final payment through the state's EMD, and closes out the project application.

33.9 Appendices

33.91 Local Agency Proclamation
33.92 Governor's Proclamation
33.93 Local Agency Detailed Damage Inspection Report

Date

WHEREAS, the _____ County Department of Community Development/Division of Emergency Management has reported to the Board of County Commissioners, that beginning on _____, 19___, unusual weather conditions, consisting of heavy snowfall followed by rain, have caused a disaster by creating extensive flooding in parts of _____ County; and

WHEREAS, extensive damage has occurred and is still occurring to county roads and bridges, private roads, homes, businesses, and farmland; and

WHEREAS, persons and property are and will be damaged unless further efforts are taken to reduce the threat to life and property; and

WHEREAS, there is a present emergency which necessitates activation of the _____ County Disaster Preparedness Plan and utilization of emergency powers granted pursuant to RCW 36.40.180 and RCW 38.52.070(2), therefore

BE IT RESOLVED BY THE BOARD OF _____ COUNTY COMMISSIONERS:

SECTION 1

It is hereby declared that there is an emergency due to the flooding conditions in _____ County. Therefore, designated departments are authorized to enter into contracts and incur obligations necessary to combat such disaster, protect the health and safety of persons and property, and provide emergency assistance to the victims of such disaster.

SECTION 2

Each designated department is authorized to exercise the powers vested under Section 1 of this resolution in the light of the urgency of an extreme emergency situation without regard to time-consuming procedures and formalities prescribed by law (excepting mandatory constitutional requirements).

Board of County Commissioners

Click here to enter text. County, Washington

Chairperson, Click here to enter text.

Commissioner, Click here to enter text.

Commissioner, Click here to enter text.

Note: Mailed to all county newspapers on above date.

cc: Washington State Emergency Management, re. notification by phone
Washington State Department of Transportation, Region Local Programs Engineer

JAY INSLEE
Governor

STATE OF WASHINGTON
Office of the Governor

PROCLAMATION BY THE GOVERNOR

15-15

WHEREAS, from November 13 through 18, 2015, a series of severe storms struck Washington State, producing high winds and extreme rainfall resulting in major flooding, saturated soils, landslides, stream bank and slope erosion, fallen tree limbs, broken and uprooted trees, and flying debris; and

WHEREAS, throughout the State, these storms caused three confirmed deaths, injuries to citizens, significant power outages, evacuations, temporary road closures and detours, rail line closures, ferry system and airline cancellations, and extensive damage to homes, businesses, public utilities, public facilities, electrical power systems, infrastructure, and property, in addition to creating sheltering needs for impacted citizens, threatening fragile and at-risk populations, and jeopardizing the health and safety of citizens with special medical needs; and

WHEREAS, erosion, landslides, and flooding resulting from these storms has been exacerbated in some areas of the State due to major wildfire damage in July through September 2015 that left large areas of land burned clear of trees and other vegetation; and

WHEREAS, blocked and damaged roadways caused by these storms resulted in limited access impacts complicating the provision of response and recovery efforts by emergency responders, businesses, and utilities to address the aftermath of these storms; and

WHEREAS, state agencies and local jurisdictions are coordinating resources to address damaged and blocked roadways, assess damage caused by the storms, and implement damage repairs; and

WHEREAS, the storm damage and its effects continue to impact the life and health of our citizens, as well as the property and infrastructure of Washington State, all of which is a public disaster that affects life, health, property, or the public peace; and

WHEREAS, the Washington State Military Department activated the State Emergency Operations Center, implemented emergency response procedures, and is coordinating resources to support local officials in alleviating the immediate social and economic impacts to people, property, and infrastructure, and is continuing to assess the magnitude of the event.

NOW, THEREFORE, I, Jay R. Inslee, Governor of the state of Washington, as a result of the above-noted situation and under Chapters 38.08, 38.52, and 43.06 RCW, do hereby proclaim that a State of Emergency exists in all counties in the state of Washington, and direct the plans and procedures in the *Washington State Comprehensive Emergency Management Plan* be

implemented. State agencies and departments are directed to utilize state resources in accordance with the Washington State Comprehensive Emergency Management Plan and to do everything reasonably possible to assist affected political subdivisions in an effort to respond to and recover from the event.

As a result of this event, I also hereby order into active state service the organized militia of Washington State to include the National Guard and the State Guard, or such part thereof as may be necessary in the opinion of the Adjutant General, to perform such duties as directed by competent authority of the Washington Military Department in addressing this event. Additionally, the Washington State Military Department, Emergency Management Division, is instructed to coordinate all incident-related assistance to the affected areas.

Signed and sealed with the official seal of the state of Washington this 18th day of November, A.D. Two-thousand and Fifteen at Olympia, Washington.

By:

/s/

Jay Inslee, Governor

BY THE GOVERNOR:

/s/

Secretary of State

Washington State Department of Transportation

Detailed Damage Inspection Report
FHWA Emergency Relief

Applicant	County(s)	FHWA Disaster No.
Location of Damage (Name of Road or Street)	Milepost From _____ To _____	Inspection Date Federal-Aid Route
Description of Damage (Include Bridge Number(s) if Applicable)		Local /State Project No(s). Functional Class

Cost Estimate (Including Preliminary and Construction Engineering)

Temporary/Emergency Repair *(Work required to restore essential travel and protect the remaining facility from immediate threat.)* Method of Work: ☐ Local/State Force Account ☐ Emergency Contract Total Temporary Repair	Temporary / Emergency Repair $
Incidental Permanent Restoration *(That portion of the permanent work which has been determined to be more economical to be constructed along with the Temporary/Emergency work.)* Method of Work: ☐ Local/State Force Account ☐ Emergency Contract Total Incidental Perm.	Incidental Permanent Restoration $
Permanent Restoration *(This work is eligible for Federal participation at the standard matching ratio. This work must receive additional FHWA authorization before advertisement.) Describe any proposed betterments and their eligibility.* Preliminary Engineering Right of Way Construction Method of Work: ☐ Local/State Force Account ☐ Contract Total Perm. Restoration	Permanent Restoration _____ _____ _____ $
Environmental Classification ESA, Section 106, and Section 4(f) are required on all ER work. NEPA approval is required on permanent work only.	Total Estimated Cost $

Recommendation for Eligibility ☐ Yes ☐ No	Local Agency Representative	Date
Recommendation for Eligibility ☐ Yes ☐ No	State Representative	Date
FHWA Recommendation ☐ Eligible ☐ Ineligible	FHWA Engineer	Date

DOT Form 300-001EF
(Revised 04/2011)

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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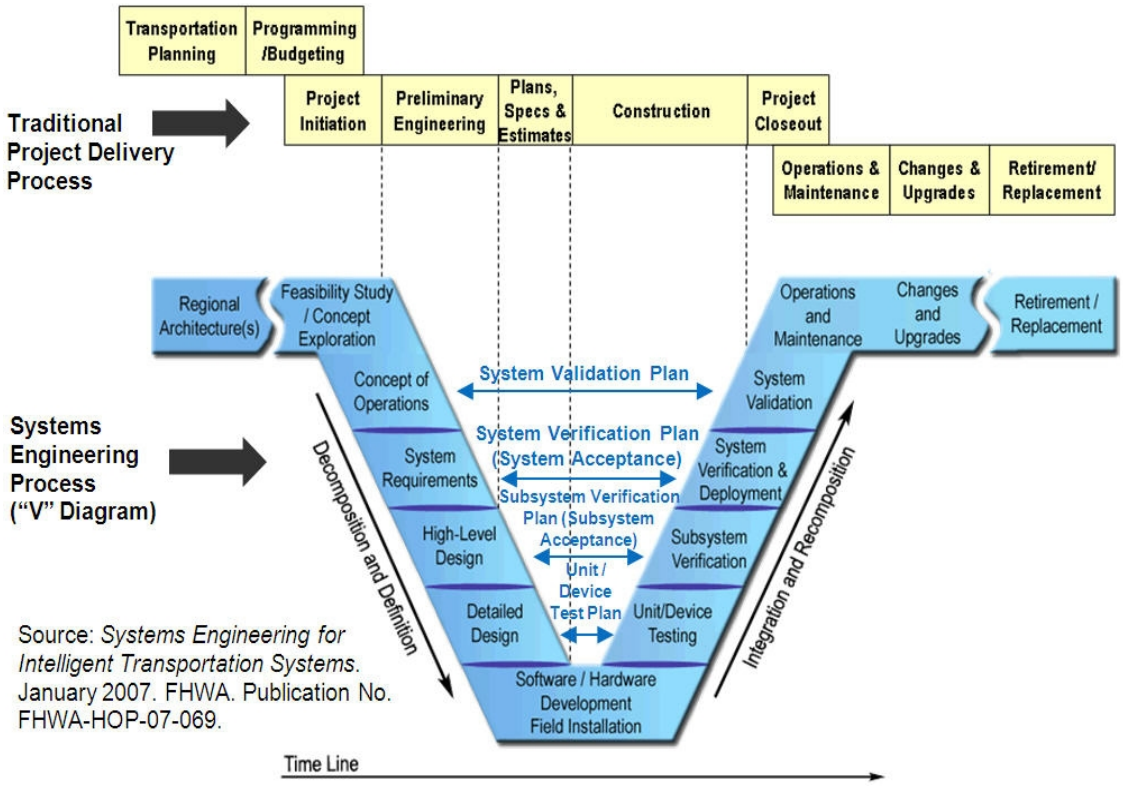
The systems engineering process contains a number of steps that are not included in a traditional project delivery process. The systems engineering process is often referred to as the "V" diagram, shown below. An ITS project begins on the left side of the "V" and progresses down the left side of the "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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10/2015

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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 • Regional Concept of Operation • Traffic incident management planning • Standards testing and specification development • 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 • Project-level Concept of Operation • Environmental Review • Development of RFPs • Development of PS&Es • 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 • Modifying existing central system software to communicate with new field equipment • Incorporation of device control software into central systems • 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) • 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 • Installation of poles, controller cabinets, foundations, guardrail, gantries • Installation of radio towers and civil infrastructure for wireless systems • Installation of tolling field equipment (e.g. tag readers, video cameras, etc.) • 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) • 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 Senior Principal Engineer City of Tacoma jparvey@cityoftacoma.org	Seth Walker, PE Assistant County Engineer Columbia County seth_walker@co.columbia.wa.us	Alison Hellberg Association of Washington Cities alisonh@awcnet.org
Charles Hill, PE Senior Civil Engineer City of Puyallup chill@ci.puyallup.wa.us	Jeff Tincher, PE County Engineer Grant County jtincher@co.grant.wa.us	Randy Hart, PE County Road Administration Board randy@crab.wa.gov
Mike Johnson, PE Design Engineering and Construction Advisor City of Seattle mike.johnson@seattle.gov	Mitch Reister, PE County Engineer Spokane County mreister@spokanecounty.org	Chris Workman, PE Project Engineer Transportation Improvement Board chrisw@tib.wa.gov
Mike Taylor, PE City Engineer City of Spokane pmtaylor@spokanecity.org	Jon Brand, PE Assistant Director of Roads and Engineering Kitsap County jbrand@co.kitsap.wa.us	John Donahue WSDOT Design donahjo@wsdot@wa.gov
Martin Hoppe, PE, PTOE City of Lacey Transportation Manager pmhoppe@ci.lacey.wa.us	Bob McEwen, PE Program Engineer Snohomish County bob.mcewen@co.snohomish.wa.us	Megan Hall, PE Federal Highway Administration megan.hall@fhwa.dot.gov
Ravyn Whitewolf, PE, PMP, AVS Public Works Director City of Blaine rwhitewolf@cityofblaine.com	Ramiro Chavez, PE Public Works Director Thurston County chavezr@co.thurston.wa.us	Mike Horton Operations Mgr. for Transportation AECOM 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

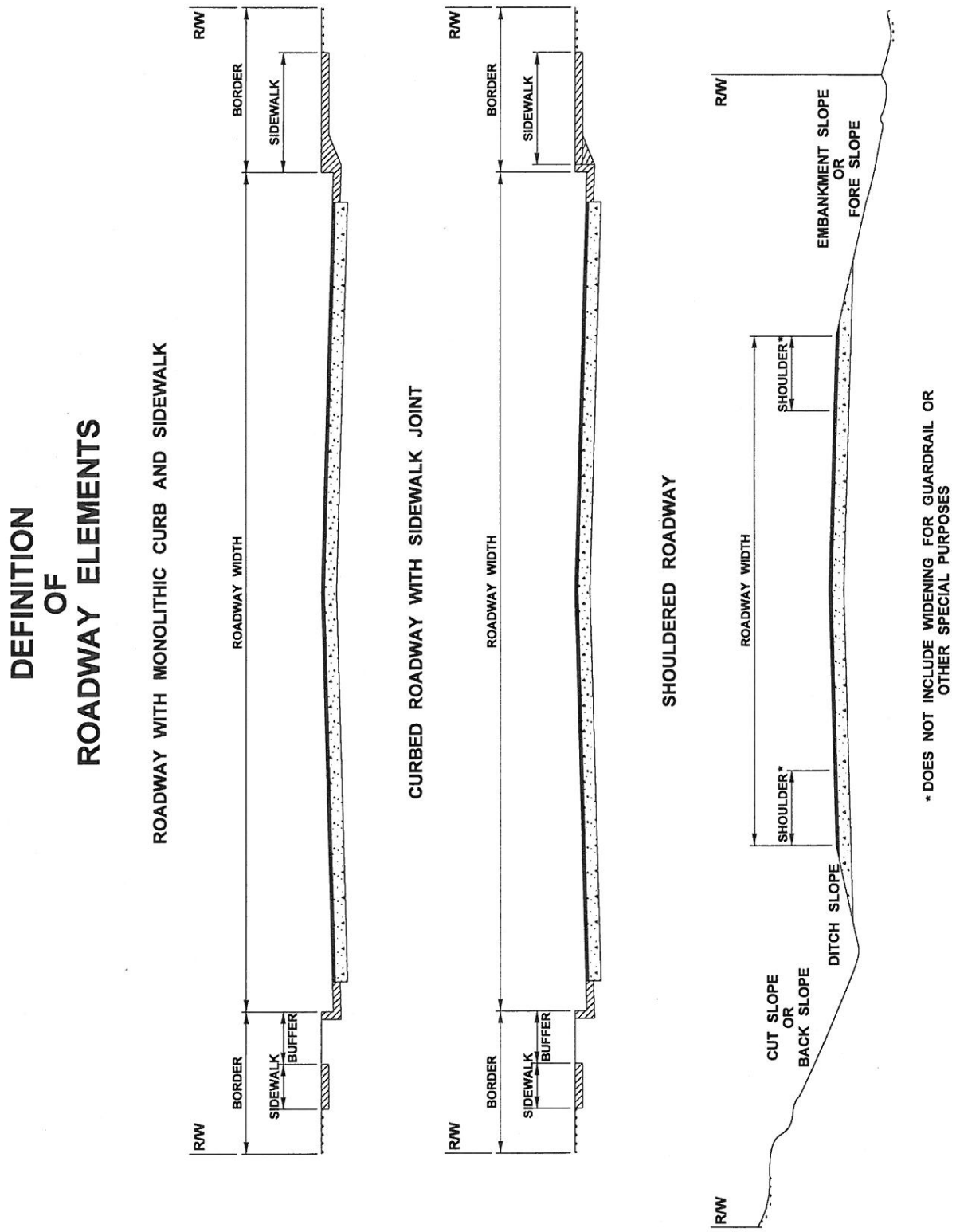
D Design Level D
A Design Level A
AE Agency Evaluate to Design Level A

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 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. • Surface – Firm, stable, and slip resistant. • Crosslopes – 1:50 (2 percent) maximum. • 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). • 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

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) Required for all Federal Aid jobs over $100,000	_____
☐ Proposal Bond (272-001A) Use when bid bond is required	
☐ Non-Collusion Declaration (272-036I) Required for all Federal Aid jobs	_____
☐ DBE Documentation Reminder Page Required for Federal Aid jobs with DBE Condition of Award goals	_____
☐ DBE Utilization Certification (272-056A) Required for Federal Aid jobs with DBE Condition of Award goals	_____
☐ DBE Written Confirmation Document (422-031A) Required for Federal Aid jobs with DBE Condition of Award goals	_____
☐ Subcontractor's List (271-015A EF) Required for all jobs over $1,000,000	_____
☐ Region Ad and Award Contract Proposal - Signature Page (272-036J) Used only for contracts $50,000 or less when no bond is required	_____
☐ Proposal - Signature Page (272-036K) 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)

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)

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)

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

Disadvantaged Business Enterprise Subcontracting Goal: _____ (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)

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)

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)

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)

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)

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)

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)

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)
(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)
(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)
(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)
(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)

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	

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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 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.

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 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) 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.

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.

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 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.

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.

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.

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.

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

(Please limit answers to the spaces provided, attached additional sheets as needed)

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: Select One	Regulatory Reference

Justification or Supporting Information
Goal Statement
Description of Work

DOT Form 140-050
Revised 09/2013

Cost Effectiveness Determination
Schedule Issues
Buy America Compliance
Environmental
NEPA/SEPA Local Termini and Independent Utility
Conclusion

Approvals		
Name	Signature	Date
Name	Signature	Date
Name	Signature	Date
Name	Signature	Date

DOT Form 140-050
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.

AMENDMENT
REQUIRED CONTRACT PROVISIONS
(Exclusive of Appalachian Contracts)

FEDERAL-AID CONSTRUCTION CONTRACTS

The Federal–Aid provisions are supplemented with the following:

XII. Cargo Preference Act

1. U.S. Department of Transportation Federal Highway Administration memorandum dated December 11, 2015 requires that all federal-aid highway programs awarded after February 15, 2016 must comply with the Cargo Preference Act and its regulation of 46 CFR 381.7 (a)-(b).

Chapter 52 Local Administered Projects

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) 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 (based on available workforce).
- Local agencies may pursue tester qualification through WSDOT for agency personnel (based on available workforce).
- 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 (based on available workforce)
- 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.

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, Local Agency Monthly 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. 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

52.11 Forms

See *Construction Manual* Chapter 11

FHWA Form WH-347

Chapter 53 Project Closure

53.1 General Discussion

After substantial completion of the work, the agency shall diligently pursue contract completion. In cases where the contractor is not diligently pursuing completion, the agency shall impose liquidating damages penalties, completion of remaining work with local forces or unilateral closure and claims against the contractor.

After the construction phase of a FHWA transportation project, done either by competitive bidding or by local agency forces, specific procedures are carried out to terminate the project's finances and review project performance. These procedures are necessary in order to settle any outstanding contract obligations, and to ensure that funds were expended properly.

This chapter lists requirements for closing the project accounts at WSDOT and FHWA and discusses project management reviews and project audits.

53.2 Closure

After the construction contract is complete, a 90-day project closure period begins. This closure period is initiated upon receipt of either a completion letter from the local agency or a final inspection of the project from the Region Local Programs Office. During this period, the local agency must complete the requirements described below.

No further payment will be made after the date indicated on the 90-day closure letter without the approval of Local Programs.

The local agency may request, however, that the 90-day closure period be extended. In this case, the local agency shall submit a written request to Local Programs justifying an extended closure period.

All Local Agency Agreements are required to have a Project Agreement End Date (2 CFR 200.309). Any costs incurred after the Project Agreement End Date are NOT eligible for federal reimbursement. All eligible costs incurred prior to the Project Agreement End Date must be submitted for reimbursement within 90 days after the Project Agreement End Date or they become ineligible for federal reimbursement.

.21 WSDOT Project Review – The Region Local Programs Engineer will conduct the final field inspection. It is suggested that the Region Local Programs Engineer be invited to the final project inspection with the contractor. If the final inspection reveals items that must be corrected or resolved before the project can be closed, these will be noted in the final inspection report. The Region Local Programs Engineer will work with the local agency to make the necessary corrections or to accomplish resolutions. If there is an unresolvable item indicating that a portion of project work is ineligible for FHWA reimbursement, WSDOT will issue a letter of notification outlining the ineligible work items and related costs.

.22 Final Billing – Within 90 calendar days of the completion date, the local agency shall submit a final bill (Appendix 23.71) clearly marked "Final Billing" and a Final Project Summary (Appendix 23.75) to WSDOT Headquarters Local Programs.

.23 Project Closure – Once the project has been reviewed and closed by FHWA, Local Programs provides the agency with an Administrative Review letter. The letter includes a final accounting and settlement of the total project costs which may result in a payment or billing to the agency as appropriate; and provides information on records retainage.

53.3 Project Reviews

In order to be reasonably certain that local agencies are administering FHWA funds in accordance with the Local Agency Guidelines, WSDOT will perform procedural reviews on selected local agency ad-and-award projects.

These reviews will be:

- Project Management Reviews (PMR) performed by Local Programs (see Appendix 53.51 for review questions for PMR's and Documentation Reviews).
- Documentation Reviews performed by the Region Local Programs Engineer.

The agency may lose CA status, have its delegation of authority reduced to a project or phase of a project, or be placed on probationary CA. This may be the result of:

- A PMR or Documentation Review.
- An audit by the State Auditor.
- Final project inspection.
- The qualifications and experience of the agency staff are altered.

.31 PMR Preparation – Local Programs, through the Region Local Programs Engineer, will schedule a PMR with the agency and will request that the local agency managers participate. The local agency should have all pertinent documentation ready for the scheduled review. Typical procedural review questions are listed in Appendix 53.51. Typical documents to be examined during this review are also listed in Appendix 53.51. All deficiencies will be identified for the agency at the time of the PMR. Copies of documentation not available at the time of review shall be submitted through the Region Local Programs Engineer within 30 calendar days. After the 30-day period, the final PMR letter will be sent to the agency.

.32 PMR Deficiencies – If no major deficiencies are found in the local agency's project management methods, the local agency will be informed in writing of the review team's findings and recommendations.

If major deficiencies exist, the local agency will be asked to take corrective action within 60 days. If the deficiencies include ineligible work, WSDOT will issue a citation letter.

If deficiencies exist in the agency's procedures, management practices, or systems, or if specific project errors are found, WSDOT's administrative response might be one or more of the following:

- No action against the agency.
- Joint conference with the Local Agency, Region Local Programs Engineer, and the Director, Local Programs or the director's designee.

- Limit or withhold the agency's future Certification Acceptance authority (Chapter 13) to the extent deemed necessary:
  1. Allow Certification on a project-by-project basis.
  2. Direct WSDOT to assign a Project Engineer to each project for supervision, inspection, and administration.
  3. Contract the supervision, inspection, and administration to a consulting firm.
  4. Delay project authorization until adequate supervision, inspection, and administration is available from the local agency, WSDOT, or consultants.
- Establish a repayment plan when violations to procedures make certain expenditures ineligible for federal reimbursement. Per Section VII of the Local Agency agreement, withholding of funds from the local agency's gasoline tax distribution may be necessary if a satisfactory repayment plan is not established within 45 days.

53.4 Financial and Compliance Audit

.41 Single Audit – The local agency is responsible for ensuring that a federal single audit is performed in accordance with 2 CFR Part 200.501 – Audit Requirements. WSDOT is also responsible for ensuring that FHWA funds are properly expended. The State Auditor will therefore audit each local agency.

.42 Project Audit – A project audit by WSDOT Local Programs is triggered by deficiencies found during:

1. A routine audit by the State Auditor, either on an FHWA project or on any other project where federal funds are involved.
2. A documentation review.
3. A project management review.

.43 Project Records – Project records shall be maintained in accordance with the terms of the Local Agency Agreement and shall be made available to the audit personnel upon request. It is helpful if field notes and other documentation are available in sufficient detail to facilitate the audit review.

.44 Audit Report – The state auditor notifies Local Programs upon completion of a formal audit report. If findings on a particular audit arise, Local Programs contacts the agency to confirm the findings and coordinate resolution. Audit findings must be resolved within six months of the date that the audit report is issued. Upon resolution, Local Programs issues a Management Review letter to the agency and provides copies to the FHWA. Audits will normally include the following categories:

- Interagency Agreements
- Land Development or Land Acquisition Projects
- Tier Contracting Procedures
- Fund Management – Transactions
- Accounting Methods – Cash or Accrual
- DBE-EEO Practices
- Use of Grant Acquired Equipment

53.5 Appendices

53.51 Local Agency Project Management Review Checklist (DOT Form 272-024 and DOT Form 272-026)
53.52 Final Inspection of Federal Aid Project
53.53 Local Agency Monthly Report of Amounts Credited as DBE Participation
53.54 Certified Payroll Example

List of Forms

	Form Number
Project Initiation	
Local Agency Federal Aid Project Prospectus	140-101
Local Agency Damage Inspection Report – FHWA Emergency Relief	300-001
Special Transportation Planning Study Agreement	224-080
Request Preliminary Engineering Funds	
Local Agency Agreement (Federal)	140-039
Local Agency Agreement Supplement (Federal)	140-041
Local Agency Agreement (State)	140-087
Local Agency Agreement Supplement (State)	140-087A
Progress Billing	
Federal Aid Request for Payment	Appendix 23.71
Final Project Summary	Appendix 23.75
Consultant Selection Process	
Independent Estimate for Consultant Services	140-012
Supplemental Agreement	140-063
Environmental	
Local Agency Environmental Classification Summary	140-100
Plans, Specifications, and Estimates	
Local Agency Railway Agreement	140-044
Required Contract Provisions, Federal Aid Construction Contracts	FHWA-1273
Local Ad and Award	
Award of Contract	
Contract Bond	FHWA-45
DBE Utilization Certification	272-056A
Construction Administration	
Change Order – Local Agency	140-005
Change Order – Minor Change	421-005
Local Agency Quarterly Report of Amounts Credited as DBE Participation	422-103
Weekly Statement of Working Days Example Sheet	Appendix 52.105
Project Completion	
Final Inspection of Federal Aid Project	140-500
Local Agency Project Management Review Checklist	272-024

The following forms are provided in Chapter 11 of the *Construction Manual* M 41-01.

Form Number	Rev. Date	Form Name
272-050	1-97	Apprentice/Trainee Approval Request
350-092	6-97	Asphalt Concrete Pavement Compaction Control Report
350-073	7-95	Asphalt Concrete Test Section Report
350-126	8-97	Asphalt Plant Inspection
540-020	12-95	Backflow Prevention Assembly Test Report
140-043	8-00	Certification Acceptance Qualification Agreement
420-004	10-94	Certification for Federal-Aid Projects
350-109	2-98	Certification of Materials Origin
540-509	3-96	Commercial Pesticide Application Record
350-009	5-98	Concrete Cylinder Transmittal
350-115	9-98	Contract Materials Checklist
421-040A & B	10-95	Contractor's Daily Report of Traffic Control – Traffic Control Log
350-112	9-97	Correlation Nuclear Gauge to Core Density
351-015	11-97	Daily Compaction Test Report
422-008	3-98	Daily Report of Force Account Worked
422-644	12-95	Daily Report of BST Operations
300-001	1-97	Detailed Damage Inspection Report FHWA Emergency Relief
424-003	12-96	Employee Interview Report
421-014	1-97	Examination Sheet for Contract Items
750-001	10-97	Fall Protection Plan
272-060	9-97	Federal-Aid Highway Construction Annual Project Training Report
FHWA-1391	9-92	Federal-Aid Highway Construction Contractors' Annual EEO Report
272-061	9-97	Federal-Aid Highway Construction Cumulative Training Report
FHWA-1392	9-92	Federal-Aid Highway Construction Summary of Employment Data
350-130	7-97	Field Acceptance Report for Qualified Products
350-074	10-93	Field Density Test Report (Nuclear Gauge)
422-635	3-98	Field Note Record
422-637	9-97	Field Note Record for Drainage
422-636	9-96	Field Note Record (Sketch Grid)
134-146	1-00	Final Contract Voucher Certificate
422-009	2-96	Final Record Notes
422-009B	2-96	Final Record Notes
230-036B	1-97	Follow-Up Documentation Review
422-010	9-97	Force Account Equipment Rate Request
350-564	1-96	Gradation Chart 0.45 Power
230-036A	1-97	Initial Documentation Review (Procedures)
422-100	10-94	Inspection of Federal Aid Project
422-004	4-97	Inspector's Daily Report
422-004A	9-94	Inspector's Daily Report
422-004B	4-96	Inspector's Daily Report

Form Number	Rev. Date	Form Name
422-020	5-95	Inspector's Record of Field Test
422-103	2-06	Local Agency Monthly Report of Amounts Credited as DBE Participation
272-051	6-98	M/D/WBE On-Site Review
450-001	1-96	Manufacturer's Certificate of Compliance for Ready Mixed Concrete
820-010	6-99	Monthly Employment Utilization Report
421-007	9-96	Order to Resume Work
421-006	9-96	Order to Suspend Work
450-005	1-97	Post-Tensioning Record
350-026	9-98	Preliminary Sample Transmittal
421-010	1-97	Prime Contractor Performance Report
350-040	11-00	Proposed Mix Design
420-012	1-96	Recommended Changes to Specifications and Construction Manual
421-009	12-96	Release Retained Percentage (Except Landscaping)
350-042	9-97	HMA Mix Design Submittal
422-007	3-98	Report of Protested Work
350-071	11-98	Request for Approval of Material
421-012	6-97	Request to Sublet Work
350-056	6-99	Sample Transmittal
422-027	5-97	Scaleman's Daily Report
FHWA-47	7-98	Statement of Materials and Labor Used by Contractors on Highway Construction Involving Federal Funds
272-049	11-96	Training Program
410-025	8-97	Project Engineer Transmittal Checklist
350-572	8-99	Manufacturer's Certificate of Compliance Checklist