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Remarks and Instructions

The complete manual, revision packages, and individual chapters can be accessed at www.wsdot.wa.gov/publications/manuals/m22-01.htm.

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

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**Washington State
Department of Transportation**

Local Agency Guidelines

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Local Programs
Engineering Services

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Abbreviations and Glossary 1

11.1 Purpose

The *Local Agency Guidelines* is intended to help Washington's public agencies plan, design, construct, and maintain transportation facilities. To assist agencies in accomplishing these goals, the manual describes the processes, documents, and approvals necessary to obtain Federal Highway Administration (FHWA) funds to develop local transportation projects and defray their costs.

The manual is a compilation of information from many sources and is a reference source for administrative and field personnel in any governmental agency. To serve the needs of local agencies, the manual describes development requirements and outlines procedures for obtaining approval when local conditions warrant departures from adopted standards.

Local Programs is the division within the Washington State Department of Transportation (WSDOT) which serves local agencies. The Regional Local Programs Engineer, the local agency's contact person within WSDOT, is always available to assist local officials with answers to their questions about the manual.

11.2 Organization of the Manual

Using the glossary and the cross-references, readers should be able to find answers to most questions regarding procedural requirements for FHWA assisted transportation projects. The manual is organized to reflect the flow of a project through the major phases of development and to incorporate the differing developmental needs of different projects.

The manual is divided into six parts. Each part contains one or more chapters which describe the requirements for completing specific project development activities:

Chapters 11–14, Guidelines Overview, discuss:

- Describe the purpose and objective of this manual.
- Provide a list of acronyms and a list of FHWA funding programs for local projects.
- Explain the process for becoming certified to administer FHWA projects.
- Describe the procedure for coordinating local transportation programs with areawide planning agencies.
- Provide an overview of the project development process.

Chapters 11–14, Appendices, include:

- A flowchart summarizing major activities required to develop a transportation project.
- A checklist of required approvals.
- A checklist of tasks necessary to complete various project phases.

Chapters 21–28, General Project Development Processes, describe procedures which apply to all FHWA assisted transportation projects.

Chapters 31–34, Special Project Development, describe procedures essential to some types of projects but not needed on all projects.

Chapters 41–46, Design, describe design standards for obtaining design phase approvals which must be incorporated into local projects, preparation of contract documents, and contracting for construction. Some of the chapters will apply, depending on whether a project is to be administered by WSDOT or the local agency.

Chapters 51–53, Construction and Post-Construction, describe procedures for administering the project construction phase, describe procedures for closing out FHWA projects. Procedures for state and local construction administration are discussed in separate chapters.

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

In each chapter, there is a general discussion section which gives background information, policy, and the rationale for the requirements. This is followed by a detailed description of requirements (procedures, documents, and approvals). In most cases, general discussion appears at the beginning of each chapter, while details of the process appear later in the chapters. Backup data, checklists, sample letters, and instructions for completing forms appear in appendices to each chapter.

11.3 Updating Process

Since FHWA funding programs and eligibility requirements frequently change, this manual is updated in April every year. If there are changes that need to be made immediately, the HQ Local Programs Office will issue a letter to all manual holders and CA Agencies. Agencies are encouraged visit the Local Programs website and sign up to receive emails notifications of updates.

Comments and suggestions for improvement of the manual are most welcome. They should be directed to the Region Local Programs Engineer, who will forward them to the WSDOT Local Programs Division where they will be considered in the next revision.

12.1 General Discussion

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

FHWA funds may be used to reimburse project costs for general transportation planning, preliminary engineering, right of way acquisition, construction, and audits. FHWA funds may be expended only after WSDOT notifies the agency of federal authorization. FHWA funds are not eligible for lobbying efforts ([2 CFR Part 200.450](#)).

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

.11 FHWA Eligible Roadways – Under Fixing America's Surface Transportation Act (FAST), in order for projects to be eligible for FHWA funds, roadways must be functionally classified routes.

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

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

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

Non-NHS routes include all other functionally classified routes (except rural minor collector and local access). The Act allows up to 15 percent of Surface Transportation Block Grant (STBG) rural dollars to be used on rural minor collectors.

.12 FHWA Funding Programs – FHWA reimburses eligible costs for transportation projects from the following programs (see [Section 12.5](#)):

- National Highway Performance Program (NHPP)
- Surface Transportation Block Grant (STBG)
- Congestion Mitigation and Air Quality (CMAQ)
- Highway Safety Improvement Program (HSIP)
- National Highway Freight Program (NHFP)
- Transportation Alternatives (Previously Transportation Alternatives Program) (TAP)
- Ferry Boat Program (FBP)
- Emergency Relief Program (ER)

12.2 Programming Projects

.21 Planning Requirements – The Federal Transportation Act requires a continuous, cooperative and comprehensive (3C) performance-based statewide and metropolitan multimodal transportation planning process. This process involves:

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

The statewide planning process carries out a 3C performance-based multimodal transportation approach for making transportation investment decisions to support the national goals throughout the state. The process for developing the statewide plan and transportation improvement program shall include metropolitan and non-metropolitan local officials with responsibility for transportation, including transit operators, tribal nations, and federal land management agencies. At the state and federal levels, policies and procedures are established to provide for statewide coordination of transportation programs.

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

- Cities and towns are required to prepare and adopt a six-year Transportation Program by June 30 annually and file a copy with the Secretary of Transportation not more than 30 days after adoption ([RCW 35.77.010](#)).
- Counties are required to prepare and adopt a six-year transportation program by December 31 annually and file copies with the County Road Administration Board (CRAB) and the Secretary of Transportation not more than 30 days after adoption ([RCW 36.81.121](#)).
- Tribal Nations are required to prepare a Tribal Transportation Improvement Program (TTIP) and forward it to the Bureau of Indian Affairs (BIA). ([25 CFR 170.400](#)).
- Transit agencies are required to prepare a six-year transit development plan by September 1st of each year and file a copy with WSDOT, the Transportation Improvement Board, cities, counties, and regional planning councils where the transit agency is located ([RCW 35.58.2795](#)).
- WSDOT prepares a 6-year project delivery plan based on identified system deficiencies and priorities by July 1 annually and makes the plan available for use in consulting with communities, metropolitan and non-metropolitan local officials.

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

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

12.3 Coordination With Agencies

.31 Metropolitan Planning Organizations (MPO) – An MPO is the policy board designated to carry out the metropolitan transportation planning process for an urbanized area with 50,000 or more population as designated by the Bureau of the Census. ([23 USC 134\(d\)](#) and [23 CFR Part 450](#)).

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

- Carry out a 3C performance-based multimodal transportation planning process for decision making to support national performance goals.
- Prepare a 20-year metropolitan transportation plan (MTP) that is financially constrained and serves as a basis for the selection of projects in the MTIP.
- Develop programmatic mitigation plans to address the potential environmental impacts of future transportation projects.
- Develop a congestion management process, typically called a CMP.
- Develop criteria that relate to regional priorities, establish application procedures, project selection, inform local agency of selection, and monitor to ensure delivery of regional STP, CMAQ, and TAP funds that correlates with the MTP. Federal funds cannot be sub-allocated to individual jurisdictions or modes based on a predetermined percentage or formula ([23 CFR 450.326\(m\)](#)).
- Develop a four-year MTIP, which:
 - Is required to be updated at least once every four years and approved by the MPO and Governor or Governor’s designee.
 - Contains projects consistent with the current metropolitan transportation plan.
 - Includes a list of prioritized projects for four years.
 - Follows a documented public participation plan that provides reasonable opportunities for involvement in the metropolitan transportation planning process by interested parties.
 - Includes a financial plan for implementing the projects that is also consistent with reasonable expectation of available funding.
 - Includes sufficient descriptive project descriptions (such as type of work, termini, length, and other similar factors) to identify the project or phase of the project.
 - Contains projects being funded by Title 23, FHWA, or Title 49, FTA funding.
 - Estimates the total cost of the project (all phases, all funding sources).
 - Contains the amount of federal, state, and local funds to be obligated during each program year.
 - Contains regionally significant projects funded with federal funds other than those administered by FHWA or FTA and projects funded with non-federal funds.
 - Contains a project or identified phase of a project, only if full funding can reasonably be anticipated to be available for the project or phase within the time period contemplated for completion of the project or the identified phase (see STIP Appendix C).

- Includes performance target achievement. The MTIP shall include, to the maximum extent practicable, a description of the anticipated effect of the TIP toward achieving the performance targets established in the metropolitan transportation plan, linking investment priorities to those performance targets.
- Each year, include a listing of obligated projects (including investments in pedestrian walkways and bicycle transportation facilities). The listing shall be published by March 30 of each year, identifying the Title 23 and/or Title 49, FHWA funds, and FTA funds that were obligated in the preceding calendar year. For each federally funded project, the listing shall include:
 - All federal funded projects authorized or revised to increase obligations in the previous calendar year.
 - The agency responsible for carrying out the project or phase.
 - Sufficient project descriptions (such as type of work, termini, length, and other similar factors) to identify the project or phase of the project.
 - The amount of federal funds requested in the TIP.
 - The federal funding obligated during the previous calendar year.
 - The federal funding remaining for subsequent years.
- After the MPO TIP is approved, it is submitted to WSDOT through the web-based system for inclusion in the STIP.

.32 Regional Transportation Planning Organizations (RTPO) – As part of the Growth Management Act (GMA), the state legislature authorized the creation of RTPOs ([RCW 47.80](#)). RTPOs are voluntary organizations composed of local governments within a county, or within geographically contiguous counties, whose purpose is to coordinate transportation planning on a regional basis and to develop a regional transportation plan as applicable. Some RTPO responsibilities may include:

- Establish a cooperative planning process with public involvement.
- Provide a forum for state and local agencies to coordinate their planning.
- Certify that local plans are consistent with the GMA and the regional plan.
- Prepare a regional transportation plan that identifies regionally important transportation facilities, outline a strategy and approach for the region to guide system development and a financing plan.
- Develop a six-year RTIP which is required to be updated at least once every two years and includes a prioritized list of regional projects drawn from state, transit, tribal, city, and county transportation programs and how the program of projects will be financed.
- Develop criteria that relates to regional priorities, establish application procedures, project selection, inform local agency of selection, and monitor to ensure delivery of regional TAP funds. Federal funds cannot be sub-allocated to individual jurisdictions or modes based on a predetermined percentage or formula ([23 CFR 450.324](#)).

After the RTPO TIP is approved, it is submitted to WSDOT through the web-based system. Only the first four years of the RTPO TIP, County Lead agency and rural city transportation programs are included in the STIP.

A list of MPOs and RTPOs is at:

www.wsdot.wa.gov/nr/rdonlyres/91717186-9193-4054-807d-3b229d016fe8/0/mportpowdsotdirectory021113.pdf

A map of MPOs and RTPOs is at:

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

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

- Develop criteria that relate to county-wide priorities, establish application procedures, project selection, inform local agencies of selection and monitor to ensure delivery of Surface Transportation Program (STP) funds. Federal funds cannot be sub-allocated to individual jurisdictions or modes based on a predetermined percentage or formula ([23 CFR 450.326\(m\)](#)).
- Include non-metropolitan local officials with responsibility for transportation, including tribal nations and provide for consideration of all modes of transportation.
- Public involvement through the respective agency’s six-year program hearings and selection processes.

After projects are prioritized, selected, and approved through the county-wide process, the projects are programmed in the respective lead agency’s transportation program. Upon adoption of the agency’s transportation program, it is submitted for inclusion in the STIP. Each county lead agency works with its jurisdictions to ensure process for inclusion in the STIP.

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

12.4 Statewide Transportation Improvement Program (STIP)

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

The STIP is developed annually beginning in October. A draft STIP is available for public review in November on WSDOT's website. FHWA and FTA approve the STIP in January. WSDOT launches the searchable database of the STIP, available to all on WSDOT's STIP web page. Monthly STIP amendments are submitted to FHWA/FTA for approval and are available for public review and comment on WSDOT's website concurrently for 10 calendar days.

The STIP includes:

- All TMA transportation improvement programs without change.
- All MPO transportation improvement programs without change.
- The first four years of all RTPO transportation improvement programs.
- The first four years of rural transportation programs for agencies not in an RTPO.
- Involvement of:
 - Local Agencies
 - Regional Transportation Planning Organizations
 - Transportation Management Areas
 - Metropolitan Planning Organizations
 - WSDOT
 - Transit Agencies
 - Tribal Nations
 - The Governor's Office

The basic required elements of the STIP are:

- All proposed highway and transit projects in the state funded under Title 23 and Title 49 USC, including federal lands projects.
- Consistent with the statewide transportation plan.
- In areas that are in a non-attainment status under the Clean Air Act for carbon monoxide, ozone, particular matter less than 10 microns in diameter (PM₁₀), or PM_{2.5}, include projects that conform with the State Implementation Plan (SIP).
- Consistent with expected available funding.
- Identify projects and selection priorities developed with appropriate consultation and coordination with local jurisdictions, metropolitan planning organizations, and federal lands agencies.
- Include regionally significant projects funded with federal funds other than those administered by FHWA or FTA, and projects funded with non-federal funds.
- Meet the requirements of 23 USC 135(e), Statewide Planning, coordination with local jurisdictions, and approved by FHWA and FTA.
- Include a project or identified phase of a project, only if full funding can reasonably be anticipated to be available for the project or phase within the time period contemplated for completion of the project or the identified phase.

The STIP shall include for each project or phase:

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

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

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

Agencies within a RTPO and/or County lead agency verify with the applicable agency the process regarding project submittals for inclusion in the STIP.

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

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

Annual STIP Timeline	
Deadline	Description
June 30	Cities' and towns' six-year transportation programs are adopted.
July	Agencies and WSDOT submit projects for inclusion in the STIP to MPOs and RTPOs, as applicable.
July 31	Adopted transportation programs are due to WSDOT.
August/September	MPOs assemble regional TIPs and prepare analysis for conformity finding (as applicable).
August	WSDOT reviews draft MPO TIPs. As requested, WSDOT reviews draft RTPO TIPs, County Lead and city transportation programs.
September 1	Transit agencies six year plans are due.
September/October	WSDOT, FHWA and FTA review MTIPs for air quality conformity.
October	All MPO and RTPO TIPs are due to WSDOT when the October amendment is due.
November	WSDOT approves MPO TIPs. FHWA and FTA issue Regional Air Quality Conformity finding. WSDOT makes the draft STIP available for public review.
December	WSDOT submits the STIP to FHWA and FTA for approval.
December	Counties adopt annual budgets and six-year programs.
January	FHWA and FTA approve the STIP.

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

12.5 Funding Sources

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

.51 Surface Transportation Block Grant Program (formerly the Surface Transportation Program, STP) – The STBG program provides flexible funding that may be used by WSDOT and local agencies for projects to preserve and improve the conditions and performance on any federal aid highway, bridge and tunnel projects on any public road, pedestrian and bicycle infrastructure, and transit capital projects, including intercity bus terminals.

For details on all eligible activities and additional details, go to www.fhwa.dot.gov/fastact

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

The federal participation rate for STBG is 86.5 percent.

Suballocation of STBG

- STBG funding is suballocated to MPOs, RTPOs, and county lead agencies based on 2010 census population. The FAST Act requires the sub-allocated amount based on population to grow over the period of the Act (51% in FY 2016; 52% in FY 2017; 53% in FY 2018; 54% in FY 2019; 55% in FY 2020). The suballocated amounts are distributed as follows:
 - Urbanized areas greater than 200,000.
 - Areas greater than 5,000 but no more than 200,000.
 - Areas with population of 5,000 or less (distributed based on rural lane miles).
- The remaining STBG is available for use in any area of the state and distribution is left to the discretion of the state. Local agencies are provided a proportion of these funds in their annual allocation that are distributed to all based on 75% total population/25% total county lane miles.

.52 National Highway Performance Program (NHPP) – The NHPP program provides funding for the condition and performance of the National Highway System (NHS), for the construction of new facilities on the NHS, and to ensure that investments of Federal-aid funds in highway construction are directed to support progress toward the achievement of performance targets established in the State’s asset management plan for the NHS. The NHPP program provides funding that may be used by WSDOT and local agencies for projects including: construction, reconstruction, resurfacing, restoration, rehabilitation, and preservation of highways and bridges, including bridges on a non-NHS Federal-aid highway (if Interstate System and NHS Bridge Condition provision requirements are satisfied); bridge and tunnel inspection and evaluation, as well as training bridge and tunnel inspectors; transit capital;

environmental restoration and mitigation; safety; construction, rehabilitation, or replacement of ferry boats and facilities; Intelligent Transportation Systems (ITS); and bicycle and pedestrian infrastructure.

FAST continues the focus on performance, accountability and performance targets nationally. This requirement has states develop a risk-based asset management plan for the NHS. A portion of these funds is being used for a statewide NHS Asset Management program. The objective of the program is to highlight the importance of preserving the roadway system by incentivizing agencies to use asset management strategies that provide cost-effective solutions to maximize the life expectancy of a NHS roadway.

Approximately 6 percent of the NHPP program for local entities is dedicated to fund a portion of a statewide local agency competitive bridge program.

For information on the designated local NHS routes, go to:

www.fhwa.dot.gov/planning/national_highway_system/nhs_maps/section1122.cfm

For details on NHPP and eligible activities, go to:

www.fhwa.dot.gov/fastact/factsheets/nhppfs.cfm

www.fhwa.dot.gov/specialfunding/nhpp/160309.cfm

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

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

WSDOT has two programs to address safety:

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

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

The federal participation rate for HSIP is 90 percent.

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

.54 Transportation Alternatives – The FAST Act replaced the Transportation Alternative Program (TAP) with a set-aside of Surface Transportation Block Grant (STBG) program funding for transportation alternatives (TA). These set-aside funds include all projects and activities previously eligible under TAP, encompassing a variety of smaller-scale transportation projects, such as on-and off-road trail facilities, pedestrian and bicycle facilities, infrastructure projects for improving non-driver access to public transportation and enhanced mobility, community improvement activities, environmental mitigation, recreational trail program projects, and Safe Routes to School projects.

Suballocation of TA

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

WSDOT and MPOs are not eligible project sponsors for TA funds. However, State DOTs and MPOs may partner with an eligible project sponsor to carry out a project.

Nonprofits are not eligible as direct grant recipients of TA funds unless, they are a designated transit agency, school, or responsible for the administration of local transportation safety programs.

The federal share for TA is 86.5 percent.

The FAST Act requires states and MPOs to report annually to USDOT on project applications and projects that are awarded TA funding. The USDOT must make these reports available to the public. The reports are based on each Federal Fiscal Year (FFY). The report is due from the MPO/RTPO/County by November 20th each year to WSDOT's Local Programs office in order to meet the FHWA deadline in December.

MPO/RTPO/County is to submit to WSDOT a report for each FFY that includes:

- The number of project applications received that FFY;
- The aggregate cost of the projects for which applications were received that FFY;
- The number of projects selected for funding that fiscal year, including:
 - Aggregate costs of the projects selected, and
 - Location of the projects selected.
- The types of projects to be carried out, based on the following seven categories:
 - Pedestrian and Bicycle Facilities
 - Recreational (recreational trail projects only)
 - Turnouts, Overlooks, Viewing Area
 - Historic Preservation
 - Environmental and Wildlife

- Safe Routes to School
- Other – Inventory, control or removal of outdoor advertising

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

.55 Congestion Management and Air Quality (CMAQ) – The CMAQ program provides funding for transportation projects and programs that will reduce congestion and improve air quality for areas that do not meet the National Ambient Air Quality Standards (NAAQS) for ozone, carbon monoxide, or particulate matter (non-attainment areas), and for former nonattainment areas that are now in compliance (maintenance areas).

The Clean Air Act (CAA) of 1970 also provides for a set-aside for those areas with a classification for PM_{2.5} (particulate matter under 2.5 micrograms in diameter). For more information on Air Quality requirements, see the *Environmental Manual* M 31-11.

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

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

CMAQ funds are distributed to the five MPOs representing maintenance areas – Puget Sound Regional Council (PSRC), Spokane Regional Transportation Council (SRTC) for CO and PM₁₀, Yakima Valley Conference of Governments (YVCOG) for CO and PM₁₀, and Thurston Regional Planning Council (TRPC) PM₁₀. FAST has a set-aside for MPOs designated as nonattainment or maintenance areas for PM_{2.5} that are to be used to address PM_{2.5} emissions. Tacoma, within PSRC, is designated as a maintenance area for PM_{2.5}.

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

Sidewalk extensions and wheelchair ramps are eligible if they are incidental to an eligible CMAQ project, but are not eligible if they are the only work in the project. Paving projects for dust control are eligible only in areas where PM₁₀ nonattainment is or has been attributed to transportation sources.

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

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

The federal participation for CMAQ is 86.5 percent.

For details on all eligible activities, go to www.fhwa.dot.gov/fastact/factsheets/cmaqfs.pdf

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

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

Ferry entities are required to submit data to the national ferry database in order to be eligible for FBP funding. FBP funds will be allocated using the most current data.

The federal participation is 80 percent.

For details on all eligible activities, go to www.fhwa.dot.gov/fastact/factsheets/ferryboatfs.cfm

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

.58 National Highway Freight Program (NHFP) – The FAST Act establishes a National Highway Freight Program to improve the efficient movement of freight on the National Highway Freight Network (NHFN) and support several goals, including—

- Investing in infrastructure and operational improvements that strengthen economic competitiveness, reduce congestion, reduce the cost of freight transportation, improve reliability, and increase productivity;
- Improving the safety, security, efficiency, and resiliency of freight transportation in rural and urban areas;
- Improving the state of good repair of the NHFN;
- Using innovation and advanced technology to improve NHFN safety, efficiency, and reliability;
- Improving the efficiency and productivity of the NHFN;
- Improving State flexibility to support multi-State corridor planning and address highway freight connectivity; and
- Reducing the environmental impacts of freight movement on the NHFN. [23 U.S.C. 167 (a), (b)]

The federal participation rate is 86.5 percent.

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

12.6 FHWA Discretionary Programs

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

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

- **Federal Lands Transportation Program** – Provides funding for projects that improve access within federal lands, such as national forests, national wildlife refuges, national recreation areas and other federal public lands on transportation facilities in the national Federal Lands transportation inventory, and owned and maintained by the federal government. The National Park Service, U.S. Fish and Wildlife Service and U.S. Forest Service receive annual allocations identified in legislation. The Secretary decides allocation amounts for Bureau of Land Management, Bureau of Reclamation, U.S. Army Corps of Engineers and eligible independent Federal agencies with natural resources and land management responsibilities.
- **Federal Lands Access Program** – Provides funding for projects on federal lands access transportation facilities that are located on or adjacent to, or that provide access to federal lands. The program supplements state and local resources for public roads, transit systems, and other transportation facilities that provide seamless access to high-use federal recreation sites or federal economic generators with federally-owned lands. Funds are distributed by formula based on recreational visitation, federal land area, federal public road mileage, and the number of federal public bridges. Programming decisions will be made locally using a tri-party model in each state comprised of representatives from FHWA, state DOT, and local government, in consultation with applicable Federal Land Management Agencies (FMLAs). A new federal match is required for these funds.
- **Tribal Transportation Program** – Provides funding for projects that improve access to and within Tribal lands. This program continues to provide set-asides for tribal bridge projects, tribal safety, program administration and tribal planning. FAST continues the statutory formula for distributing funds among tribes, based on tribal population, road mileage, and average tribal shares under the SAFETEA- LU Indian Reservation Road program.

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

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

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

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

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

This matrix illustrates the FTA transfer options:

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

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

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

For any FHWA funds requested to go to another federal agency for administration a letter/email from the federal agency accepting the FHWA funds must accompany the transfer request.

12.8 Appendices

[12.81](#) MPO Planning Flowchart

[12.82](#) STP Lead Agencies

14.1 General Discussion

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

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

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

Chapters [21–28](#), General Project Development Processes, describe activities required during preliminary engineering on all projects.

Chapters [31–34](#), Special Project Development Processes, describe activities that may be required on some projects.

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

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

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

14.2 Project Development Process Overview

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

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

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

Phase Requirements When Utilizing FHWA Funds – For all phases, and at the time of each phase authorization, all funds necessary to complete the scope of work being authorized for the phase must be secured.

Preliminary Engineering Phase – FHWA Funds in PE Phase Only. For FHWA funds to be used in the PE phase of the project, the environmental documentation including FHWA NEPA approval, must be completed prior to advertising the project for construction. With no federal funds in the right of way or construction phases, the local agency must still follow federal environmental regulations and the Uniform Relocation Assistance and Real Property Acquisition Policies Act. A NEPA document must be approved by FHWA and all environmental commitments must be incorporated into the right of way and construction phases. Effective October 1, 2012 Section 1518 of MAP-21 amended the Buy America Statute. If any phase of a project (PE, RW, CN) within the scope of a NEPA document is awarded using Federal-aid funding then the Buy America provisions will apply to all construction phases within the scope of the NEPA document, regardless of the source of funding. Right of way must be acquired per the *Right of Way Manual* M 26-01 and acquisition may proceed during the PE Phase in accordance with the manual.

Any study projects are excluded from NEPA approval, planning studies must be completed and a copy provided to WSDOT to close the project.

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

Right of Way Phase – FHWA Funds in Right of Way Phase. For FHWA funds to be used in the right of way phase of the project, the environmental documentation including FHWA NEPA approval, approved relocation plan (if applicable), Project Funding Estimate and approved right of way plan must be completed prior to FHWA R/W authorization. All property acquisitions and relocations must be completed prior to advertising the project and must comply with the Uniform Act and [49 CFR Part 24](#) or the local agency is at risk of repayment of all federal funds used in the project. All environmental commitments must be incorporated into the R/W and construction phases. (See also “Determining Whether or Not Land or Property Rights or interest are Needed” flowchart in [Appendix 25.174](#).)

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

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

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

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

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

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

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

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

.22 Documentation Required for Authorization of Funds

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

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

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

- a. Project prospectus planning scope of work ([Chapter 21](#)).
 - b. Local Agency Agreement ([Chapter 22](#)).
 - c. Evidence of STIP inclusion.
 - d. Documented cost estimate.
 - e. Updated Quarterly Project Report, if required.
2. **Preliminary Engineering Funds** – When applying for preliminary engineering funds only, the following documents are required:
 - a. Project Prospectus ([Chapter 21](#)).
 - b. Local Agency Agreement ([Chapter 22](#)).
 - c. Typical sections, vicinity map, and evidence of STIP inclusion.
 - d. Documented cost estimate
 - e. Updated Quarterly Project Report, if required.
 3. **Right of Way Funds** – When applying for right of way funds, after preliminary engineering funds have developed right of way plans, the following documents are required, if appropriate:
 - a. Supplement to original Local Agency Agreement ([Chapter 22](#)).
 - b. FHWA approval of environmental documents ([Chapter 24](#)).
 - c. Relocation plan, if relocation is required ([Chapter 25](#)).
 - d. Approved Right of way plan ([Chapter 25](#)).
 - e. Right of way Project Funding Estimate or True-Cost estimate ([Chapter 25](#)).

- f. Evidence of STIP inclusion.
 - g. Updated Quarterly Project Report, if required.
4. **Construction Funds** – The following documents must be submitted to request construction funds:
- a. Supplement to Local Agency Agreement. The agency’s proposed advertisement date must be noted on the supplement, or the original LAA if construction is the first phase authorized.
 - b. Right of way certification (if required).
 - c. Final FHWA approval of environmental documents ([Chapter 24](#)).
 - d. Evidence of STIP inclusion.
 - e. Updated project prospectus. To ensure utility and railroad work is adequately addressed ([23 CFR 635.309\(b\)](#)) local agencies are required to provide an updated, signed project prospectus at time of construction phase authorization.
 - f. Engineer’s Estimate.
 - g. Evidence of assignment of DBE/training goals.
 - h. Updated Quarterly Project Report, if required.

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

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

14.3 Projects Within Interstate Rights of Way

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

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

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

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

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

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

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

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

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

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

14.4 Project Development Process Flowchart and Checklist

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

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

14.5 Appendices

[14.51](#) Project Development Process Flowchart

[14.52](#) Project Development Checklist

21.1 General Discussion

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

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

21.2 Procedure for Submitting the Planning Authorization Package

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

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

21.3 Procedure for Compiling the Project Authorization Package

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

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

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

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

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

The next item is the three-page Federal Aid Project Prospectus itself, which must be filled out with the current project information. The Federal Aid Project Prospectus is used for FHWA federal aid programming purposes along with providing the state and FHWA needed information about the proposed project, such as design and accident data. [Appendix 21.44](#) contains instructions for completing the prospectus. Agency codes and numbers are provided in Appendices [21.45](#) through [21.47](#).

21.4 Appendices

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

21.5 Forms

Federal-Aid Project Prospectus Planning Scope of Work



Washington State
Department of Transportation

Prospectus Submittal Checklist

Agency: _____

Project Title: _____

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

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

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

Application	
1. Authorization Package Checklist (Appendix 21.43)	
2. Project Prospectus (Chapter 21)	
3. Vicinity Map	
4. Typical Roadway or Pathway Section	
5. Typical Bridge Section	
6. Local Agency Agreement (Chapter 22)	
7. Documented Cost Estimate (Chapter 22)	
8. TIP/STIP Inclusion (MPO/County/Agency, selected/limited to \$)	
Supporting Data	
9. Local Agency Design Matrix Checklist (Appendix 42.101)	
10. Photos (Railroad Crossing, ER event sites, as required)	
11. Deviation Analysis Format (Appendix 41.51)	
12. Environmental Considerations (Chapter 24)	
a. Class II Categorically Excluded (CE) - Environmental Classification Summary (ECS)	
b. Class III Environmental Assessment (EA)	
c. Class I Environmental Impact Statement (EIS)	
d. SEPA Checklist	
e. NEPA/SEPA/Section 404 Interagency Working Agreement	
f. Evolutionarily Significant Unit (ESU) Determination of Effect Concurrence	
g. Value Engineering Study (where applicable)	
13. Right of Way Requirements (Chapter 25)	
a. Relocation Plan	
b. Approved Right of Way Plans	
c. Right of Way Project Funding Estimate or True Cost Estimate	
d. Request Right of Way Fund Authorization	
14. Right of Way Certification (Appendix 25.179)	
15. Agreements/Easements with Railroads, Utilities, and Other Agencies (Chapter 32 and 25)	
16. Design Approval (Chapter 43)	
17. Tied Bids (Chapter 44)	
18. Nondiscrimination Agreement (Submit new agreement if outdated)	

Remarks:

The authorization package shall include:

1. **Authorization Package Checklist** – This checklist provides a summarized list of project elements and approvals that, when missing or unclear, can delay the authorization process. This checklist is required to be filled out and submitted with all authorization packages. Any errors, inconsistencies, or missing items noted via the checklist must be addressed prior to authorization package submittal.
2. **Project Prospectus** – (Attach completed prospectus submittal checklist.) To be included with original submittal, at time of construction phase authorization, and whenever there is a change in the scope of work, termini, right of way, or environmental classification. For planning projects, use the Project Prospectus Planning Scope of Work.

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

3. **Vicinity Map** – A vicinity map of the project with the termini clearly marked must be submitted with the Project Prospectus. The map should be 8.5 inches (212.5 mm) by 11 inches (275 mm), and of a scale such that a reviewer can identify the project area in the field. Show the agency name, project title, project termini, north arrow, map scale, and nearest city or distance to the nearest city/town, or major road intersection.
4. **Typical Roadway or Pathway Section** – Attach a sketch of the proposed roadway or pathway section showing all data pertaining to the section, including side slopes and limits of right of way. Also indicate stationing and note any variations of the section throughout the stationing. If the design does not conform to the design standards (see Section 41.6), a request for deviation from these standards with complete justification is required.
5. **Typical Bridge Section (if necessary)** – Attach a sketch of the proposed bridge section showing all dimensions and type of construction and Structure ID #.

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

6. **Local Agency Agreement** – This agreement is necessary on all projects. It must be submitted with the Project Prospectus. See [Chapter 22](#) for instructions on completing the agreement.
7. **Documented Cost Estimate** – All funds shown on the Local Agency Agreement must be supported by a documented cost estimate that is based on an agency's best estimate of cost. See [Chapter 22](#) for further explanation.
8. **STIP Documentation** – Attach copy of the page of the current STIP that shows your project.

9. **Design Matrix Checklist** – See [Appendix 42.101](#).
10. **Photos** – As required for ER sites and Railroad Crossings.
11. **Deviation Request** – See [Appendix 41.51](#).
12. **Environmental Considerations** – See [Chapter 24](#).
13. **Right of Way Requirements**
 - a. No right of way needed. Mark appropriate box on prospectus. This serves as the agency’s right of way certification.
 - b. Right of way needed. Mark appropriate box on prospectus and refer to [Chapter 25](#) for further instructions.

Note: Right of Way is required if the project cannot be constructed within the pre-project right of way limits. This includes property rights whether temporary or permanent are needed to construct, operate and maintain the proposed project including any early/advanced acquisition. For assistance in determining whether or not ROW is needed refer to [Appendix 25.174](#).
14. **Right of Way Certification** – Required on all projects where right of way was acquired. Refer to [Chapter 25](#) for further explanation.
15. **Agreements/Easements With Railroads** – Refer to [Chapter 32](#) for instructions.
16. **Location and Design Approval** – For most projects, the Project Prospectus along with the data satisfying items 1 to 14 of this transmittal pavement design criteria and geometric design will be considered sufficient for the location and design report. For complicated projects requiring a more detailed location and design report, refer to [Chapter 43](#).
17. **Tied Bids** – If the project has tied bids (see [Chapter 44](#)), indicate the approval date. If the project is tied to another federally funded project, include the federal aid project number of the project, along with other information outlined in Section 44.

Authorization Package Checklist

Agency: _____
 Project Title: _____
 Fed Aid/State Project #: _____

Funding Request	By Phase (check all that apply)				Included?	Region Check	HQ Check
	PL	PE	RW	CN			
New Phase Authorization	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
Increase/Decrease	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
Other: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			

Project Prospectus

- Are all three pages included?
- Does information (title, termini, description, RW needs, cost, etc.) agree with STIP/LAA/NEPA-CE?
- Is the project description written such that the project scope is clear to all?
- Are pages 1 and 3 signed?
- Is page 1 signed by a CA Agency? If not, indicate which Agency will serve as CA.
 CA Agency: _____
- Are the Latitude and Longitudes included and correct?
- Are Congressional and Legislative Districts filled out and correct?
- Project Zip Code includes the +4?
- Are estimated costs included for all phases of the project?
- Are the Functional Classification and Urban/Rural designation correct?
- Are the Right of Way, Utilities, and Railroad sections filled out?

Typical Sections & Vicinity Map

- Are the Vicinity Map(s) and Roadway Section(s) included?
- Can someone unfamiliar with the project's location easily tell where it's located using the vicinity map?
- Are the project limits clearly marked on the map?
- Does the section include all elements, with dimensions, of the roadway prism?
- Are section changes, if applicable, throughout the project limits noted/displayed?

STIP/Funding Documentation

- Is the currently approved STIP page included?
- Does STIP information (termini, description, etc.) match the LAA and Prospectus?
- Are phases being authorized included in the STIP?
- Is funding from all requested programs shown in the STIP?
- Are the requested funds supported by the STIP?
- If funded through a HQ managed program (ex. Bridge, Demo), is the award letter included?

Local Agency Agreement

- Is at least one LAA or LAA supplement with an original signature included?
- Current form used? (check revision date at bottom left)
- All pages of Agreement included?
- Are the Agency information, Project #, LAA #, Supplement #, and date of original agreement execution correct?
- Does project information (title, termini, length, description, etc.) agree with STIP/Prospectus/NEPA-CE?
- Is the reason for supplement accurate and up to date?
- Is the Project Agreement End Date (month, day, and year) included? Does it follow LAG guidance?
- When not authorizing a new phase, is the end date the same as shown on the previous agreement?
- If not, is adequate justification (see LAG 22.3) included to support changing the end date?
- Is the Advertisement Date (month, day, and year) included? Is it within 6 weeks of estimated CN authorization?
- If the indirect cost rate box is checked 'Yes', is the rate provided in the funding package?
- If being claimed, note the Indirect Cost Rate in SPORT in the FAPA statement.
- If corrections made, are they initialed? If made by WSDOT is permission from Agency provided?
- Are funding amounts calculated correctly?
- Are the federal aid participation ratios correct, and are the requested federal amounts being maximized?

Documented Cost Estimate

- Is a Documented Cost Estimate included for each phase requesting/changing funds?
- Are total dollars on the LAA supported by the phase estimates?
- Does the estimate sufficiently demonstrate how the costs were determined?
- If historical percentages are used for PE/CE estimates, are the percentages reasonable and supported?

Appendix 21.44

Project Prospectus – Instructions

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

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

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

Date	Form is filled out.
Federal Aid Project Number	Number assigned by Local Programs to each federal aid project.
DUNS#	Required. Enter your agency's Dun & Bradstreet provided DUNS number.
Local Agency Project Number	Alpha/numeric characters that your agency identifies.
Federal Employer Tax ID Number	Required. Indicate the agency's tax identification number.
Agency	Required. This is your agency's name.
CA agency	Check Yes or No as applicable.
Federal Program Title	Check 20.205 Highway Planning and Construction or Other Most local agency projects are 20.205.
Project Title	Write the project's title, as shown in TIP/STIP.
Project Latitude and Longitude	Enter the project start and end latitude and longitude in the format below: Latitude N XX-XX-XX.XX Longitude W XXX-XX-XX.XX
Project Termini	Indicate the beginning and ending limits of the section to be improved. For railway/highway grade crossing projects, show the name of the railroad involved. For intersection projects write the name of the crossroad.
City Name	Name of the nearest city to where the work is to be performed. For projects that span more than one jurisdiction, list the city where most of the work will be done.
ZIP Code	5 plus 4 digit Zip Code of the location where the majority of the work will be done. (Not necessarily the same city named above.)
Begin Mile Post	Indicate your projects beginning MP.
End Mile Post	Indicate your projects ending MP.
Length of Project	Project's length in miles.
Award Type	Mark the appropriate type.
Project Route ID	Enter your projects Linear Reference System - Route ID number. (For future use).
Begin Mile Point	Enter your projects Linear Reference System Route Beginning Mile Point. (For future use).
End Mile Point	Enter your projects Linear Reference System Route Ending Mile Point. (For future use).
City Number	For a city project, write the city number from Appendix 21.46 .
County Number	Write your county number from Appendix 21.45 .
County Name	Write the county the project is in.

WSDOT Region	Locate your WSDOT region number from Appendix 21.45 or 21.46 .
Legislative District	Indicate the number of the legislative district or districts in which this project is located.
Congressional District	Indicate the number of the congressional district or districts in which this project is located.
Urban Area Number	For projects inside urban areas, locate the appropriate urban area number from Appendix 21.47 .
Total Estimated Cost	Required for each phase of the project; estimate to the nearest hundred dollars.
Local Agency Funding	Required for each phase of the project; estimate to the nearest hundred dollars.
Federal Funds	Required for each phase of the project; estimate to the nearest hundred dollars.
Phase Start Date	Enter the month and year which authorization for the phase will happen.
Description of Existing Facility	In one or two paragraphs, give a detailed description of the existing facility including but not limited to: (1) type, pavement, lane and shoulder width, horizontal and vertical alignment; and (2) condition of existing surfacing and roadway within project limits, and on adjacent sections at each end of the project. Note any substandard existing alignment and grade or other project deficiencies.
Description of Proposed Work	Explain the nature of the improvement proposed such as widening of existing roadway for additional lanes or left-turn channelization; or to provide signalization to an intersection. Give the purpose of the improvement, such as upgrade facility to current standards, or to remedy a hazardous situation, or reduce congestion. Indicate the major work involved, such as grading, surfacing, bridge construction, drainage, etc. Give a contact person for the project in case there are questions.
Project Prospectus Approval	<p>The project prospectus will be reviewed and approved by the agency. If the agency has CA status the designated authority per the agreement on file will sign the form. If the agency does not have CA status the Region Local Program Engineer will review and approve the prospectus and the agency will sign the form.</p> <p>The agency shall submit a revised project prospectus at construction phase authorization and any time the project termini, scope, right of way, or environmental classification is revised or modified.</p>

Type of Proposed Work	Check whether the project is new construction, 3-R, 2-R, etc., as described in Chapter 42 . Enter the Roadway Width and Number of Lanes.
Geometric Design Data	Refer to design report data and/or Chapter 42 .
Performance of Work	PE: Indicate who will be performing the work and the percentage of the work they will do. CN: Indicate if work is to be done by contract and/or local forces and the percentage to be done by each.
Environmental Classification	Mark the appropriate NEPA class of the project as defined in Chapter 24 . Class I, if the nature of the proposed improvement is likely to have a significant impact on the environment and an “Environmental Impact Statement” (EIS) is required. Check the box pertaining to the NEPA/SEPA/Section 404 Interagency Agreement if the project requires an individual permit from the U.S. Corps of Engineers.* Class II, if the project is not expected to have a significant impact on the environment and a “Categorical Exclusion” (CE) is determined. Completion of the Environmental Classification Summary (ESC) is required.* Class III, when the significance of the impact on the environment is not clearly established and an “Environmental Assessment” (EA) will be required. Check the box pertaining to the NEPA/SEPA/Section 404 Interagency Agreement if the project requires an individual permit from the U.S. Corps of Engineers.* *This includes a biological assessment effect determination for each project.
Environmental Considerations	If the box for either a Class I or Class III category action is checked under the Environmental Classification section, make reference to the enclosed Environmental Classification Summary Form marked preliminary. If the project is a Class II “Projects That Require Documentation and FHWA Approval,” make reference to the enclosed Environmental Classification Summary Form, if available at this time, or in a brief narrative, describe the environmental impact of the proposed project.

Right of Way Requirements

- a. No right of way needed. Projects need only check no right of way.
- b. Right of way needed. A Right of Way Project Funding Estimate or True Cost Estimate, an approved Right of Way Plan, and a Relocation Plan (if required).

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

Utility Statement

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

Railroad Statement

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

Description of Utility Relocation or adjustments.

Indicate the agency responsible for any relocation and/or

Adjustments and Existing Major Structures Involved

- a. Existing utilities-type of utility, publicly or privately owned, and other pertinent information.
- b. Existing major structures – number, year built, overall length and conditions, roadway width, estimated or posted capacity, and proposed treatment of any substandard structures to remain in place.

Appendix 21.45

County Code and WSDOT Region Numbers

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

*Counties without urban areas since 1980.

Appendix 21.46

City Code Numbers

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

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

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

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

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

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

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

Appendix 21.48

Local Agency Federal Aid Project Prospectus



**Washington State
Department of Transportation**

Local Agency Federal Aid Project Prospectus

Prefix	Route	()	Date	
Federal Aid Project Number			DUNS Number	
Local Agency Project Number		(WSDOT Use Only)	Federal Employer Tax ID Number	
Agency	CA Agency <input type="checkbox"/> Yes <input type="checkbox"/> No	Federal Program Title <input type="checkbox"/> 20.205 <input type="checkbox"/> Other		
Project Title		Start Latitude N	Start Longitude W	
		End Latitude N	End Longitude W	
Project Termini From-To		Nearest City Name		Project Zip Code (+4)
Begin Mile Post	End Mile Post	Length of Project	Award Type <input type="checkbox"/> Local <input type="checkbox"/> Local Forces <input type="checkbox"/> State <input type="checkbox"/> Railroad	
Route ID	Begin Mile Point	End Mile Point	City Number	County Number County Name
WSDOT Region	Legislative District(s)		Congressional District(s)	Urban Area Number

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

Description of Existing Facility (Existing Design and Present Condition)

Roadway Width	Number of Lanes

Description of Proposed Work

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

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

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

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

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

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

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

Environmental Considerations

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

Right of Way

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

Utilities

No utility work required

All utility work will be completed prior to the start of the construction contract

All utility work will be completed in coordination with the construction contract

Railroad

No railroad work required

All railroad work will be completed prior to the start of the construction contract

All the railroad work will be completed in coordination with the construction contract

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

FAA Involvement

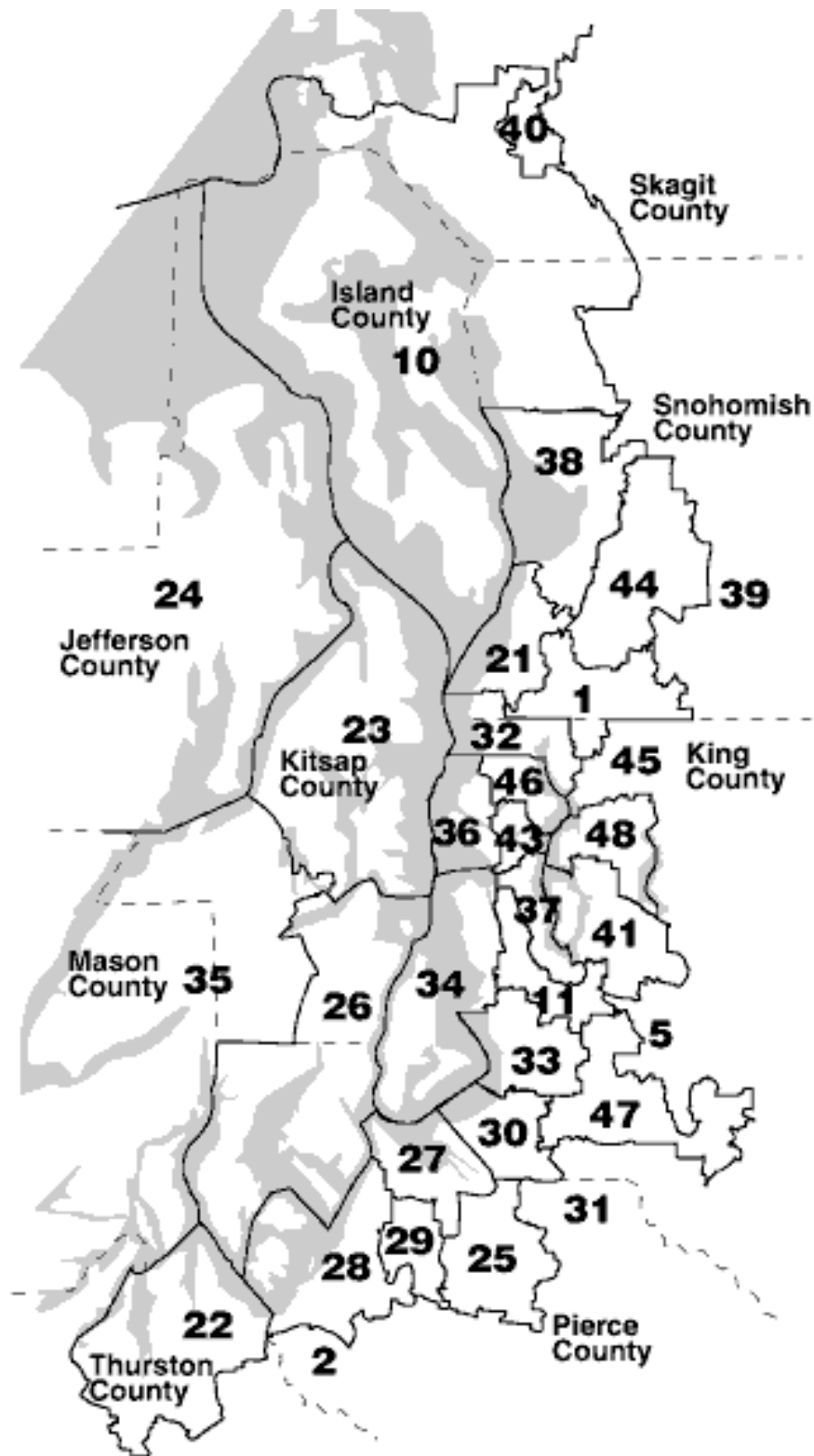
Is any airport located within 3.2 kilometers (2 miles) of the proposed project? Yes No

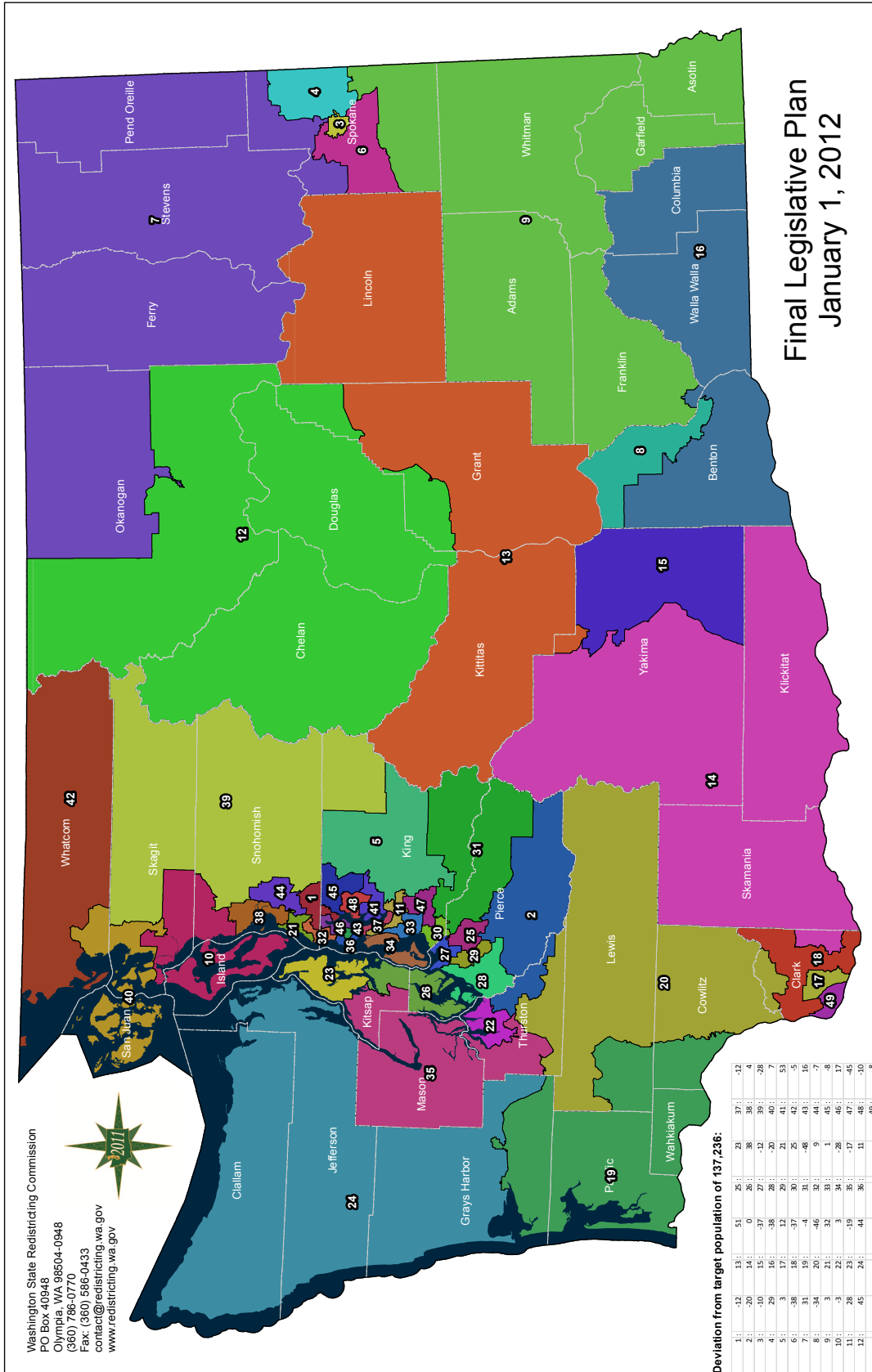
Remarks

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

Agency

Date By _____ Mayor/Chairperson





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. This authorization may include Advance Construction (AC), where FHWA provides federal authorization so that projects can move forward at their own cost prior to FHWA funding being available to reimburse the local agency for costs incurred. When FHWA funding becomes available, project funds will be converted so that the local agency can submit reimbursement for costs incurred from the date of authorization forward. To minimize the financial impact to local agencies, Local Programs expedites conversions soon after the beginning of each FFY.

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.

Also, Federal grant requirements nationwide have now been consolidated and detailed in [2 CFR 200](#), please refer to them for additional guidance and eligibility.

As part of the changes included in the CFR is specific to signature authority on reimbursement requests. Per [2 CFR 200.415\(a\)](#) – *To assure that expenditures are proper and in accordance with the terms and conditions of the Federal award and approved project budget, the annual and final fiscal reports or vouchers requesting payment under the agreements must include a certification, signed by an official who is authorized to legally bind the non-Federal entity.*

Effective December 1, 2016, all 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 hqpbillings@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
 - Signature of the official who is authorized to legally bind the local agency, on the progress billing, as the progress billing form includes the following certification statement:

*“By **signing this report**, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements, and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, **may subject me to criminal, civil, or administrative penalties for fraud, false statements, false claims, or otherwise.** (US Code Title 18, Section 1001 and Title 31. Sections 3729-3730 and 3801-3812)”*

Note: State funds only projects must include a different certification statement on the progress billing form, refer to [Appendix 23.72](#).

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.) and
- Local Agency’s documentation confirming the individual signing the reimbursement request is authorized to legally bind the agency (council/ commission resolution of delegation, etc). Therefore, to implement this requirement, will depend on the structure of your agency on who has this authority or has delegated this authority to another individual in the agency (e.g. Mayor (official) to the City Administrator, Public Works Director or Finance Director).

- For on-going projects, the first reimbursement package submitted after December 1, 2016, is required to include the agency's documentation confirming the individual signing the reimbursement request is authorized to legally bind the agency.

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. Progress billings claiming zero dollars will only be processed when marked as the final billing.

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

Appendix 23.71

Local Programs Progress Billing – Example

Agency Address
 Federal Tax ID No.
 Agency Use:

Local Programs Progress Billing

Federal Aid or State Project: _____
 Agreement Number: _____
 Last Supplement: _____
 Project Title: _____
 Project End Date: _____

Progress Bill No: _____
 Final Progress Bill? Yes / 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/State Funds Col 7 - Col 6
PE								
a - Agency				0.00		0.00		0.00
b - Consultant				0.00		0.00		0.00
c-d				0.00		0.00		0.00
<i>Total Preliminary Engineering</i>	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
<i>Total Right of Way</i>	0.00	0.00		0.00	0.00	0.00	0.00	0.00
CN								
k - Contract				0.00		0.00		0.00
l - Consultant				0.00		0.00		0.00
m				0.00		0.00		0.00
n				0.00		0.00		0.00
o - Agency				0.00		0.00		0.00
p				0.00		0.00		0.00
<i>Total Construction</i>	0.00	0.00		0.00	0.00	0.00	0.00	0.00
TOTAL PROJECT	0.00	0.00		0.00	0.00	0.00	0.00	0.00

By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements, and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil, or administrative penalties for fraud, false statements, false claims, or otherwise. (US Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812).

Submit to HQ Local Programs
 hqpbillings@wsdot.wa.gov
 WSDOT Local Programs
 PO BOX 47390
 Olympia, WA 98504-7390

 Signee

 Title

 Date

Revised 11/1/2016

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. *Note:* State funds only projects must use the State Aid Progress Billing form and submission statement.

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.

To ensure correct calculations, enter amounts in column 3 and column 7 from the local agency agreement prior to entering the other columns. *The progress billing form contains formulas that auto calculate the amounts for columns 4, 6, and 8, while the other columns must be manually entered and/or calculated.

- 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](#).

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: _____

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 05/07/15
 CN 02/15/16
Project End Date: 12/31/17

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
Total	0.00	0.00	0.00
CN			
Contract	1,543,033.01	871,054.36	671,978.65
Consultant	38,759.67	33,527.11	5,232.56
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	1,607,307.14	926,206.47	681,100.67
Project Total	1,865,255.01	1,136,101.47	729,153.54

By **signing this report**, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements, and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, **may subject me to criminal, civil, or administrative penalties for fraud, false statements, false claims, or otherwise.** (US Code Title 18, Section 1001 and Title 31. Sections 3729-3730 and 3801-3812).

Submit to HQ Local Programs with final bill

hqjpbillings@wsdot.wa.gov

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

 Signee

 Title

Local Programs

Appendix 23.76 Final Project Summary – Instructions

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

25.1 General Discussion

[Local Programs
ROW Services
website](#)

Neither the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) nor its implementing regulations at [49 CFR Part 24](#) allow the certification of right of way (ROW) to be sub-delegated to any agency or any agency with Certification Acceptance (CA) status. The Washington State Department of Transportation (WSDOT) has overall responsibility to the Federal Highway Administration (FHWA) for the acquisition of ROW on all FHWA funded transportation projects in the state.

[49 CFR 24.101\(b\)](#)
[49 CFR 24.101\(d\)](#)
[ROW Manual
Section 25.2](#)
[LPA-001](#)
[LPA-003](#)

If there is federal funding on ANY phase of the project (P.E., ROW, or construction), ROW must be acquired in accordance with the agency's Approved ROW Procedures, federal/state requirements, the guidelines outlined in this manual, as well as the policies and procedures in the *Right of Way Manual* in order for the project to be eligible for federal funding. ROW acquired prior to July 1, 1971, is exempt. In addition the local agency must comply with Title VI requirements identified in [Chapter 28](#).

The acquisition process is regulated by Public Law 91-646 "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, [49 CFR Part 24](#), [Chapter 8.26 RCW](#) and [WAC 468-100](#).

[23 CFR 710.201\(h\)](#)

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

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

[ROW Chapter 11](#)

It is essential that local agencies and WSDOT communicate freely and work closely together during the entire acquisition process to expedite projects and to assure that all federal and state requirements are met. Early notification to the Region Local Agency Coordinator is required for projects with right of way acquisition when there are federal funds in any phase of the project.

.11 Use of WSDOT Property – The Region Local Agency Coordinator (LAC) should be contacted immediately when it is determined that the local agency project requires the use of WSDOT's property. The LAC will advise the local agency of the process and timeline needed to acquire sufficient legal rights to construct and operate

on WSDOT property. Use of WSDOT property is considered an acquisition and your agency would need to work closely with the appropriate region Real Estate Services staff to acquire the necessary property rights. Whether temporary or permanent, ROW acquired from WSDOT for a federally funded local agency project is subject to certification requirements.

.12 WSDOT Services – At the earliest possible date, the local agency should notify the LAC of upcoming federal-aid projects that have ROW activities. In addition, the local agency should advise the LAC of the need for WSDOT assistance. WSDOT is committed to an ongoing program that will provide effective assistance and guidance to local acquiring agencies. To this end, WSDOT will designate an LAC to act as consulting expert to local governments who are acquiring right of way for federally funded transportation projects. The LAC provides oversight and guidance on the federal acquisition process to ensure local agencies are acquiring, managing and disposing of real property and real property interests consistent with state and federal regulations. ROW activities include title, appraisal, appraisal review, acquisition/negotiation, relocation, and property management activities (also collectively referred to as acquisition or acquisition process).

[Chapter 31](#)

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

The local agency should contact the Region Local Programs Engineer for assistance in preparing any contract for services to assure FHWA participation in the contract. FHWA has determined that the consultant agreements for ROW services must meet the consultant contracting requirements.

25.2 Approval of Right of Way Acquisition Procedures

[23 CFR 710.201\(a\)](#) When an agency intends to use federal funds in any phase of a project, the agency must assure their Approved ROW Procedures are current prior to initiating ROW activities, and must demonstrate at the time of certification that current staff is qualified and that their procedures meet LAG manual requirements. ROW procedures are normally considered current if they are less than three years old, and there have been no changes to staff approved to perform ROW activities within the agency.

[23 CFR 710.201\(h\)](#)

[LPA-001](#)

[LPA-003](#)

Acquisition procedures are submitted on local agency letterhead to the Region Local Programs Engineer for review prior to final execution by the local agency. Region Local Programs forwards the procedures through the LAC for approval. The local agency will be approved to acquire ROW based upon the submitted procedures.

The responsibilities and expectations for each of the agency ROW positions are defined in the Right of Way Procedures form. The level at which an agency will be approved will depend on the agency's staff qualifications. Qualifications should be specific to the right of way function for which the staff is listed. Local Program's notifies the local agency of the approval with a copy to the Region LAC. Periodic reviews of procedures will be conducted by the LAC for agencies acquiring ROW on federal aid projects. If through these periodic reviews it is determined that the local agency acquisition practices are not in full compliance, or the local agency no longer has staff qualified to perform a particular function, then WSDOT will determine what actions are required to achieve full compliance and the use of qualified staff.

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

Procedures shall include the following:

1. Agreement to comply with state and federal laws and FHWA regulations.
The agency should agree to follow this manual and the *Right of Way Manual* M 26-01 or the agency's own manual if they have a WSDOT/FHWA approved ROW manual.
2. Agreement will list agency's current staff and position(s) performing the separate functions of program administration, appraisal, appraisal review, acquisition, relocation, and property management. All agency staff who perform any of these separate functions should be listed. **Note:** Agency personnel such as administrators and members of the executive branch who might participate in the acquisition of ROW for federal aid projects need to be aware that their actions must conform to the Uniform Act and [49 CFR Part 24](#).
3. Resumes for all current staff, including their position(s) and a brief statement of their qualifications pertaining to the function they are performing.
4. Waiver Valuation procedures.
5. A procedure for handling administrative settlements including the approving authority(s) and process.

[LAG 25.51](#)

[LAG 25.6](#)

[LAG 25.91](#)

[LAG 25.52](#)

[LPA-003](#)

[49 CFR 24.10](#)

[RCW 8.26.085](#)

[WAC 468-100-010](#)

[ROW Section 12-5.5](#)

Local Agencies must have a relocation appeal procedure in place, prior to starting relocation activities for any projects involving relocation assistance, as required by federal regulations. The agency shall notify the LAC prior to starting relocation activities.

Note: Local Agencies need to submit FHWA Annual ROW Statistical Report for active federal aid projects by October 25 each year. The data provided is for ROW activities from October 1 through September 30.

.21 Determining Whether or Not Right of Way (Acquisition) is Needed

1. **ROW (acquisition) Needed** is defined as land or property rights or interests necessary for construction, operation and/or maintenance of the proposed project, or any prior (advanced/early) acquisition that was acquired specifically for the current project. This includes temporary rights required to complete the construction as shown on the Plan, Specification & Estimate (PS&E) (such as placing personnel, materials, equipment and machinery outside of existing ROW). If the property and/or property rights were acquired specifically for this project prior to the National Environmental Policy Act (NEPA) start date the agency may be required to demonstrate compliance with [23 CFR 710.501](#). The agency should contact their region LPE and Environmental Engineer to determine whether additional documentation is required. If the property was purchased for use on the current project (e.g. advanced/early acquisition), then the ROW must have been acquired in accordance with the requirements of this manual.

[Appendix 25.174](#)

[Appendix 25.175](#)

[LAG 25.43](#)

Advanced/early acquisition is defined as prior acquisition of property and/or property rights or interests that was completed specifically for the current project prior to NEPA approval. This does not include properties within the existing ROW that were purchased as part of a previous project. Regardless of the funding source, advanced/early ROW acquisition parcels must be included in the ROW Certificate. Contact the LAC if you have questions.

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

2. **No ROW (acquisition) Needed** means that the proposed project can be built entirely within the agency's existing ROW. Existing ROW is defined as land already incorporated into the roadway facility or land certified under a previous federal aid project. Leases, permits and easements for construction activities, slopes, drainage, etc., whether temporary or permanent, are considered ROW acquisition.

If it can be documented that the land or property rights/interests were purchased for a purpose other than the transportation related project being certified, and that the land/property rights are no longer required for the original purpose, then the Uniform Act and [49 CFR Part 24](#) requirements do not apply. This would be considered existing right of way.

[Appendix 25.174](#)[Appendix 25.175](#)[Appendix 25.176](#)[Appendix 43.62](#)

It is the responsibility of the agency to determine that "No ROW" is needed for a project at the time the Design Approval Documentation form is completed and prior to the obligation of funding. This can be accomplished by applying the Sufficient Property Rights Flowcharts. The agency will complete and sign the Design Approval Documentation form which acknowledges they have completed reviewing existing property rights. In the case of a non-CA agency, the agency will work with the Local Programs Engineer. The No ROW Needed Verification Checklist is a tool that can be used during the local agency's ROW determination process. Once the project has been fully designed and prior to advertising the project for construction, the agency shall verify that No ROW is needed for the project. The agency should retain appropriate documentation to support their No ROW determination in case the project is selected for a review. Local Agency staff must be qualified to sign acknowledging the ROW part of the Design Approval Documentation form and to perform the Program Administration function under their Approved ROW Procedures. Local Programs will provide training to local agency staff responsible for these functions. The training will focus on the importance of reviewing the PS&E to make sure it is consistent with the no ROW determination. Local Programs will maintain a list of CA agency reviewers who have completed the training. Non-CA agencies will need to work with WSDOT Local Programs staff to complete the verification process.

If ROW needs change, the agency will follow the current process of updating the design approval, project prospectus, and NEPA. It is also recommended that the agency provide an amendment to the Statewide Transportation Improvement Program (STIP).

No ROW Compliance Reviews (NRCR)

In order to be reasonably certain that local agencies are accurate in their statement to WSDOT that “No ROW” is required for their project in accordance with the Local Agency Guidelines; WSDOT will perform spot check reviews on a random sample of selected local agency projects that state they have “No ROW” needs. WSDOT will select projects authorized for construction between two certain dates and will likely focus on those projects involving the construction of street widening, trails, sidewalks, and bridges.

These NRCRs could be performed by any of the following: LPRM; Local and/or Assistant Local Programs Engineers; or the LAC. NRCR results will be provided to the local agency upon completion of the review. If it is found that the agency did not acquire sufficient property rights to construct, operate, and maintain their project, WSDOT’s response could include one or more of the following:

- Plan for corrective action.
- Limit or withhold the agency’s Approved ROW Procedures to the extent deemed necessary.
 1. Allow certification on future federal aid projects on a project-by-project basis.
 2. Direct WSDOT supervision for all URA compliant ROW projects.
- Loss of federal aid on future ROW projects.
- Loss of federal aid on the project reviewed. If this is the outcome of the review, FHWA will participate in the joint conference.

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

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

.23 Acquiring Sufficient Property Rights – A local agency must acquire real property interests that are adequate for the construction, operation, and maintenance of the project ([23 CFR 1.23](#) and [710.201\(e\)](#)). The preference is for local agencies to purchase fee rights or temporary and permanent easements. However, there are circumstances when other real property interests can be considered. The details of these circumstances should be discussed with the LAC prior to submitting the Right of Way Plan for approval.

If the local agency is considering acquiring something other than fee or permanent easement real property interests, then they must provide documentation establishing how the real property interests they are acquiring satisfy the requirement for sufficient property rights. FHWA must be assured that their investment in the project is in the

public interest and will last for a reasonable amount of time that is commensurate with the level of investment. There are no set guidelines that describe the appropriate term length, but 20 years is the absolute minimum term that should be considered. Longer terms may be required, and the higher the federal investment, the longer the term expected by FHWA. An analysis of the design life of the improvement must be done and the minimum term must equal the design life. Unless leases are with public agencies, leases should be considered only under rare and unusual circumstances since they typically have termination clauses that could require the removal of improvements with little notice, and possibly without cause. Things to consider include:

- Is the term of the real property interest at least as long as the life cycle of the improvement? When will major maintenance be required and does the property interest term extend to when the first major maintenance is expected?
- What is the likelihood for renewal of the term of the real property interest, or invocation of any provision for its termination?
- Can a rational explanation of why the project is a good investment for FHWA under such circumstances be provided?
- If the rights acquired are from a governmental agency, is there anything in their regulations that prevent them from granting the rights requested?

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

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

- DNR aquatic lands – DNR typically grants only term easements for uses of state-owned aquatic lands. The term of an easement will normally not exceed 30 years and is not renewable by policy. A new easement may be applied for one year in advance of the current easement agreement term expiration.
- BPA (Bonneville Power Administration) – BPA typically grants only revocable permits (Land Use Agreement Fee) for uses under their power lines.
- WSDOT – WSDOT typically grants only term leases and/or easements for uses of their property.
- BIA (Bureau of Indian Affairs) – BIA policy may vary by tribe as not all tribes are willing to grant permanent easements. Some tribes may grant only a non-permanent easement.

[Appendix 25.175](#) .24 **Determining Acquisition of Property and/or (Sufficient) Property Rights**

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

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

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

[LAG 25.23](#)

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

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

[49 CFR 24.101\(c\)\(2\)](#)

Permits – A permit or right of entry is not an interest in land. It only provides basic permission to enter upon property to a named entity for a specific purpose, usually for a specific period of time. It cannot be transferred and can be terminated or revoked by the owner at will. In most situations, permits are used when no other property rights are to be acquired from the same ownership as part of the same project, and are normally obtained without the payment of compensation (commonly referred to as mutual benefits) because the provisions of the Uniform Act do not apply in these situations. The term mutual benefit is not defined in federal regulations and is often misunderstood and incorrectly applied by agencies to federal aid transportation projects. The use of a permit is acceptable when your agency is solely performing work exclusively for the benefit of the property owner, would not create a compensable damage, and is not needed to construct your project. Permits can be used with other agencies to perform work on their property, such as tying into another roadway. Permits are generally not considered sufficient to construct, operate or maintain proposed projects. When considering the use of permits or other property rights such as leases, rights of entry, land use licenses, etc. consult with the LAC.

Flowcharts:

[Appendix 25.174](#)

[Appendix 25.175](#)

[Section 25.4–.41](#)

[ROW Section 6-5](#)

All rights acquired for the project, including advanced/early acquisitions must be shown on the right of way plan.

If you need temporary rights from another agency to construct your project (often referred to as a permit), then the “acquisition” of those rights does not have to follow URA requirements ([49 CFR 24](#)). However, the temporary property rights must be included on a ROW certificate to comply with [23 CFR 1.23](#) and [23 CFR 710.201\(e\)](#), and [23 CFR 635.309\(b\)](#).

Property Right vs Right to Enter:

Property Right:	Right to Enter (Permit):
Required/needed for the project	Not required/needed for the project
Element of project design	Not part of project design
Prior to offer	Post offer
Mitigation for compensable damage	Requested by owner
Show rights on ROW plan	Not shown on ROW plan
Valuation includes cost of item	No compensation paid
Temporary Construction Easement (TCE) obtained	Permit obtained
Transfers with ownership	Non-transferrable
Sufficient for construction	Not sufficient for construction

25.3 Preliminary ROW Activities

[23 CFR 710.203\(a\)\(3\)](#)

There are certain right of way activities that are eligible for preliminary engineering funds if those activities take place prior to NEPA approval or after NEPA approval but prior to the ROW being authorized. Those ROW activities that are eligible are identified in the table below:

Preliminary ROW Acquisition Activities Eligible for Preliminary Engineering Funds 23 CFR 710.203(a)(3)	Pre-NEPA or Post-NEPA & Pre ROW Authorization
Title Searches and Review	X
ROW Planning w/ROW Staff and/or Consultants	X
ROW Plan Preparation	X
ROW Design Development (determining ROW needs)	X
Public Meetings/Hearings (projects w/ROW)	X
ROW Estimates & Schedules (scoping)	X
PFE*/True Cost Estimate	X
Appraisals (including inspections) and AOS*	X
Right of Entry (testing, surveying, etc.)	X
Relocation Plan/Study (includes survey of occupants)*	X
WSDOT Technical Assistance/Review for activities listed above	X
LAC Review of ROW Activities (if required by Approved ROW Procedures)	X

*Completing an appraisal/PFE/Relocation Plan during the PE Phase is an agency risk decision. If a local agency chooses to complete an appraisal, project funding estimate (PFE), or relocation plan too early, it may require a subsequent update or a new one to be completed again. FHWA cannot pay for an activity twice if the need for the second payment was due to a local agency's business decision. However, if the update is needed due to an unexpected delay beyond the local agency's control, the incurrence of expenses for a second time should be eligible expenses.

Agencies cannot start activities that could be considered negotiations with property owners pre-NEPA for the project, unless they are acquiring under [23 CFR 710.501](#) (LPA funded early acquisition) or Section 710.503 (protective buying and hardship acquisition). Early contact of occupants cannot give the appearance of initiation of negotiations. In addition, if the agency plans to request to use the value of the acquired property as a match, they need to meet the requirements in [23 CFR 710.501](#).

Local Programs conducts billing reviews each year for selected construction projects that will address any non-compliance issues.

25.4 Right of Way Acquisition

[Appendix 25.178](#)

[LPA-011](#)

[LPA-012](#)

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

.41 ROW Funding Estimates – There are two types of estimates:

– **Project Funding Estimate (PFE)** is a detailed parcel-by-parcel estimate of total expected right of way acquisition costs and is used to obtain authorization and funding for the project. A PFE is **required** if any appraisals are planned to be waived, and the Agency intends to prepare waiver valuations for any of the parcels on the project. A PFE is based on market transactions (sales) that reflect the current real estate market. Ideally, it is completed by an appraiser, an appraisal reviewer, and a relocation expert. Other ROW staff with appropriate experience, including qualified consultants, may also prepare a PFE.

1. A Project Funding Estimate (PFE) is prepared for every project where right of way will be acquired, unless all properties to be acquired are to be appraised or donated.
2. As a minimum, the PFE contains the following information.
 - a. A parcel-by-parcel list of right of way costs with project summary totals reported on the Right of Way Project Estimate and Cost Breakdown.
 - b. A project data package including sales, sales map, neighborhood and project description, scope of sales search and, if applicable, damage studies, cost to cure documentation, and Assumptions and Limiting Conditions.

Note: The PFE Parcel Worksheet is included in the data package.

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

1. Inspect the project and becomes familiar with the engineering features of the plan.
2. View individual parcels to determine the effects of acquisition.
3. Prepares a Neighborhood and Project Description which defines existing uses, zoning, trends, transportation and utilities, economic influences, a synopsis of the project and its effect on parcels, and any changes in the aforementioned likely to be caused by the project.

LPA-210

LPA-210b

4. Gathers sufficient comparable land sales and listings for the various types of parcels and remainders within the project. All sales shall be inspected, photos taken and written up on Market Data Sheets. (If the sales are to be used exclusively on parcels where the Agency has determined to waive the appraisal, the sales must be confirmed. In all other cases, a reasonable effort shall be made to confirm all sales. Unconfirmed sales will contain an explanation of the confirmation effort including the parties' names and phone numbers where attempts to make contact were unsuccessful.)
5. Prepares project and sales vicinity map.
6. Prepares PFE Parcel Worksheet for each parcel on the project.
7. Includes any applicable damage studies.
8. Includes cost-to-cure documentation for estimates and/or bids.
9. Includes applicable Assumptions and Limiting Conditions if data Package will be referred to in the preparation of Abbreviated Appraisals.

Appendix 25.172

LPA-215

ROW Section 4-2

Note: *Right of Way Manual* Section 4-2. 42.1, paragraphs E, F, and G do not apply to local agencies.

LAG 25.52

- **True Cost Estimate** can be used only when all parcels are to be appraised or donated. The ROW PFE **must** be used if the agency wishes to make use of the waiver valuation procedure. A True Cost Estimate is a parcel-by-parcel estimate of total expected right of way acquisition costs drawn from the County Assessor's records, from replacement cost schedules for minor site improvements or estimates from local vendors, and is used to obtain authorization and funding for the project; therefore, in many cases the level of expertise required for its preparation may be less stringent than for a PFE. However, if damages to the remainder are severe, particularly in the case of a reduction in the highest and best use of a remainder property, a True Cost Estimate cannot be used as a legitimate measure of the total expected right of way costs. In such a case, a PFE will be necessary. Agencies are advised to contact their LAC when these types of situations arise.

A True Cost Estimate consists of three parts: a worksheet for each parcel to be acquired, a table summarizing all estimated acquisition costs and a project description.

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

Appendix 25.170

The Agency's ROW plan shall be considered approved upon seal and signature of a registered Professional Engineer or Professional Land Surveyor in accordance with RCW 18.43.070 and RCW 58.09. The ROW plan shall contain essential data needed for appraisal, negotiation, and right of way certification activities, and illustrate the following information:

- Survey line or centerline for the alignment, including sufficient ties to physically locate the alignment. Please contact the Local Agency Coordinator if other acceptable survey practices are proposed to establish the alignment.

- Sufficient information for preparation or verification of legal descriptions of the affected properties and types of property interests to be acquired.
- Width of the right of way (alignment), grade changes, and other design features/details of the construction.
- The property lines in their entirety and owner's names for each affected property, along with all contiguous parcels to the property being acquired and owned by the same owner, the parcel identification number; the calculated area(s) of the existing parcel(s); the areas to be acquired, including any easement areas; and the calculated area(s) of the remainder parcel(s).

It is recommended ROW plans illustrate the following additional information:

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

A draft of the ROW plan should be submitted to the LAC for review and comment prior to its approval by the Agency.

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

[Appendix 43.62](#)

- Local Agency Agreement Supplement.
- Funding estimate of probable ROW costs and expenses broken down by parcel.
- Approved ROW plan (part of Approved Design Documentation).
- WSDOT approved relocation plan (if relocation is required, contact the RWTS for assistance).

Once FHWA approval has been obtained for the obligation of funds for the ROW Phase, Local Programs will notify the local agency of authorization to proceed with ROW acquisition. No acquisition costs are eligible prior to this authorization, except those preliminary ROW costs that are allowable in the PE phase.

.44 ROW Phase With Local Agency Funds Only – If federal funds are to be used in any part of the project, or the property is later incorporated into a federally funded project, federal guidelines for acquisition of the ROW must be followed. The local agency must also follow the local agency's approved procedures, which typically requires the LAC to review all offers and supporting data before they are presented to the property owner. **The ROW plan and funding estimate package requirements also apply if federal funds are in any phase of the project.**

[LAG 25.41](#)

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

In order to minimize potential problems which may surface during the certification process, the local agency submits a copy of the ROW plan and Relocation Plan (if applicable) for review/approval before starting the acquisition process. A copy of the ROW plan must be made available at the time of certification.

23 CFR 710.501(a)
NEPA Categorical
Exclusions – A
Guidebook for Local
Agencies

.45 Early/Advance Acquisitions – *Early acquisition* is defined in federal regulations, as the “...acquisition of real property by State or local governments in advance of Federal authorization or agreement.” In practical use, early acquisition refers to the acquisition of real property prior to the final NEPA decision on a project: The Record of Decision, or ROD, for projects developed with an Environment Impact Statement (EIS); a Finding of No Significant Impact, or FONSI, for projects developed with an Environmental Assessment (EA); or, a Categorical Exclusion (DCE/ECS). WSDOT has two types of early acquisitions; those that occur prior to the initiation of NEPA and those that occur after the initiation of NEPA but prior to NEPA approval. Those acquisitions occurring after the initiation of NEPA but prior to NEPA approval are referred to as “concurrent early acquisitions”. *Advance acquisition*, as discussed in subsection 4 below, is a term that refers specifically to hardship acquisitions and protective buying.

In each case, federal guidelines must be followed in the acquisition process. The Agency should place copies of any documentation pertaining to early or advance acquisition approval in the parcel acquisition file if it is required as described below. In addition, note the date and actions pertaining to such approval in the parcel acquisition diary.

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

23 CFR 710.501

For all early acquisitions prior to the initiation of the NEPA process, the local agency must show that the early acquisition did not influence the project through the decision on need to construct the project, the consideration of alternatives, or the selection of the design or location of the proposed improvement and demonstrate compliance with [23 CFR 710.501](#). The agency should contact their region LPE and Environmental Engineer to determine whether additional documentation is required. If NEPA cannot be approved, then the agency cannot incorporate the parcel into the project. If the project cannot be built without the parcel, then the entire project may be ineligible for federal funding. Concurrent early acquisition parcels will be covered under the overall NEPA evaluation.

[23 CFR 710.501\(b\)](#) An agency may apply market value (or if donated, the current appraised value) toward their share of project costs, as long as they meet the requirements of [23 CFR 710.501\(b\)](#). The acquisition of early or advance ROW must not influence the environmental assessment for the project. Properties with a 4(f) Resource may not be purchased if the agency wants to apply the market value toward their share of project costs. The agency can only request match for the Just Compensation plus the administrative settlement, if applicable. The costs of the appraisal or any other documentation necessary to meet the requirements of [23 CFR 710.501\(b\)](#) are not eligible to be used as a match.

[Appendix 25.177](#) **Early and Advanced Acquisition Alternatives.** There are five alternative methods (item #4 has two methods) of early and advanced acquisition provided in federal statutes and regulations. Each alternative has distinct conditions which must be met, as described below. However, there are certain specific conditions that every alternative must meet:

- The property must be lawfully obtained.
- The acquisition must fully comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.
- Per [23 CFR 701.501\(c\)\(5\)](#) and [771.113\(d\)\(4\)](#) and [40 CFR 1506.1](#), these early acquisitions cannot have an adverse environmental impact or limit the choice of reasonable alternatives in the NEPA analysis for the project, or have an adverse environmental impact on the parcel. (e.g. If a building that would have been determined to be eligible for the National Register of Historic Places is acquired and demolished, this would be an adverse environmental impact on the parcel).
- Local agencies will not do early acquisition on properties that are protected under section 4(f) of the Department of Transportation Act of 1966, codified at 23 USC 138, and the regulations at [23 CFR 774](#).
- The acquisition must fully comply with Title VI of the Civil Rights Act of 1964.

Early Acquisition Options:

[23 CFR 710.501\(b\)](#) 1. **Agency-Funded, No Match or Reimbursement.** The agency may initiate acquisition of real property, using local funds, at any time it has legal authority to do so, based on program or project considerations prior to NEPA clearance. Pre-approval of the use of this option is not required from FHWA, and this option can be useful for corridor preservation, access management, or similar purposes. This option is used when the Agency will not be seeking either reimbursement or matching credit from FHWA. As noted above in the early acquisition alternatives, this alternative must fully comply with the Uniform Act and not have adverse environmental impacts or limits the choice of reasonable alternatives in the NEPA analysis for the project or the parcel.

[23 CFR 710.501\(c\)](#) 2. **Agency-Funded with Matching Credit.** In order for the Agency to use the acquisition costs of early acquisition as a credit toward the Agency's matching share of a federal-aid project, the FHWA must concur in a written determination provided by the Agency that the acquisition did not influence the environmental assessment for the project or the parcel, including:

- The decision on the need to construct the project.
- The consideration of alternatives.

- The selection of the design or location.
- A statement that the property will be incorporated into a Federal-aid project.
- The original project agreement covering the project was executed on or after June 9, 1998.

In determining the costs to apply to credit for the matching share of the project, the Agency will use the historic cost of the acquisition. This cost is limited to the amount that was paid to acquire the property at the time of its acquisition, and excludes appraisal fees, relocation costs, and any other costs incurred beyond the acquisition price itself. When the historic acquisition costs cannot be reasonably obtained, or such cost was not typical for the time due to extenuating circumstances, the Agency may use the current fair market value of the property.

[23 CFR 710.501\(d\)](#)

3. **Local-Funded with Reimbursement.** This option is not currently available in Washington State.

[23 CFR 710.501\(e\)](#)

4. **Federal-Funded Early Acquisition.** Consistent with federal legislation commonly referred to as MAP-21 (Moving Ahead for Progress in the 21st Century), a local agency may program an early acquisition project in the STIP (State Transportation Improvement Plan) and, after meeting the additional conditions listed below, request authorization to proceed with the acquisition and obtain federal funding participation. This early acquisition alternative is particularly useful for doing corridor preservation, as it does not require that the agency have a specific transportation project programmed or in development at the time the early acquisition, using federal funds is carried out. There are some specific conditions that apply to this alternative:

- The early acquisition project must be included in the STIP.
- A NEPA analysis must be performed for the scope of the early acquisition project, and must be approved by FHWA. In most cases, if the purpose and need for this project is simply to acquire property and hold it until needed for a transportation project, the NEPA clearance would be done with a DCE/ECS. For the purpose of the NEPA analysis, and consistent with the federal requirement, an early acquisition project under this alternative is considered to have independent utility.
- Although the agency must follow the Uniform Act, as required for all other early acquisition alternatives, early acquisition under this alternative may not be carried out under the threat of eminent domain. If an agreement cannot be negotiated with a property owner, the agency will have to wait until a specific transportation project requiring this property has been completed through the NEPA process and FHWA funding is authorized for such project.
- Real property interests acquired under this option may not be developed until a specific transportation project requiring this property has been completed through the NEPA process and FHWA funding is authorized for such project.
- If the real property acquired under this alternative is not incorporated within 20 years in a project eligible for FHWA funding, FHWA will offset the State's federal funding by the amount of federal funds used in this early acquisition project.

- [23 CFR 710.503\(a\)](#) 5. **Hardship Acquisition and Protective Buying (Advanced Acquisition Options).** In addition to the early acquisition options set out in 1 thru 4, federal regulations provide for doing advance acquisition under two options: Hardship and Protective Buying. (Unless otherwise stated elsewhere in this manual, the term “advance acquisition” will be understood to apply specifically to hardship and protective acquisition.) Normally, these two options will apply to a limited number of properties, whereas the early acquisition provisions of 1 thru 4 may apply to some or all properties on a project. Both options must meet these conditions:
- The project must be included in the currently approved STIP.
 - The state must have complied with the public involvement requirements addressed in federal regulations at [23 CFR parts 450 and 771](#).
 - If applicable, the Section 4(f) determination must have been made on these properties.
 - If applicable, the Section 106 requirements of the National Historic Preservation Act must have been completed on these properties.
 - All other required NEPA clearances must have been completed on these properties.
 - The conditions set out in Section 6-3.2 above also apply to hardship and protective buying.
 - For federally-funded projects, FHWA approval for doing a hardship or protective acquisition is required.
 - NEPA approval will be secured by following the 2015 Programmatic Categorical Exclusion Agreement.

- [23 CFR 710.503\(c\)](#) A. **Hardship Acquisition.** A hardship acquisition is initiated by a property owner, not the acquiring agency, when the property owner provides a written statement that:
- Supports the hardship on the basis of health, safety, or financial reasons, and that remaining in the property would pose an undue hardship compared to others.
 - Documents the inability to sell the property at fair market value, within a time period that is typical for properties not impacted by the impending project.
- Because hardship acquisitions are initiated by the property owner, this advance acquisition option is not practical as a part of WSDOT’s project schedule. Note, also, that the state is NOT required by federal regulation to agree to a hardship purchase request.

- [23 CFR 710.503\(b\)](#) B. **Protective Buying.** In order to do advance acquisition of a property under this option, the state must clearly demonstrate to FHWA (on federally-funded projects) that development of the property is imminent and such development would limit future transportation choices. A significant increase in cost may be considered as an element justifying a protective purchase.

Processing Early and Advanced Acquisitions. The decision whether to proceed with one of the early or advance acquisition options will be made by the Agency. In either case, if FHWA approval is required, as discussed in the earlier sections of this chapter, the request for FHWA approval will be processed through the Local Programs ROW section. It is important to remember that the standard acquisition process, as set out in

this chapter, applies to early and advance acquisitions. The main difference between standard acquisition and early or advance acquisitions is that the latter often require additional documentation, such as the approval by FHWA of a request to do an advance acquisition.

49 CFR 24.101(b)(1)
WAC 468-100-101(2)(a)
49 CFR 24
Appendix A

.46 Voluntary Acquisition – A process called “Voluntary Acquisition,” which differs from “Donations and Willing Seller Transactions,” may on rare occasion be appropriate for acquisition of property, but only if all of the following circumstances apply:

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

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

If these circumstances appear to apply to a project, the Voluntary Acquisition process may apply, but **must** be approved by the LAC with Headquarters Local Programs before any steps are taken to initiate the acquisition process. If approved, steps to follow for voluntary acquisition are governed by federal and state regulations and shall include:

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

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

RCW 8.25.020
LAG 25.96

Note: Real estate transactions using this process are subject to real estate excise tax. Also, the statutory evaluation allowance will not be reimbursable, as it is only required for acquisitions made under threat of eminent domain.

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

ROW Chapter 4
49 CFR 24.102(n)(3) **Negotiators cannot supervise appraisers, review appraisers, or waiver valuation preparers, unless FHWA approves a waiver of this requirement, and appraisers, review appraisers, or waiver valuation preparers shall not have any interest, direct or indirect, in the property being valued.**

49 CFR 24.103
WAC 468-100-102 **.51 Appraisal** – The requirements pertaining to the appraisal of property to be acquired and an explanation of requirements for an acceptable appraisal report are provided in *Right of Way Manual* M 26-01 Chapter 4. If desired, a listing of WSDOT approved fee appraisers and appraisal reviewers is available from the Region LAC or via a link on the WSDOT Real Estate Services website at www.wsdot.wa.gov/realestate.

49 CFR 24.103(d)
WAC 468-100-102(4) The appraiser shall be an experienced, qualified appraiser. At a minimum, an appraiser should have a college degree or four years of active experience in the real estate field leading to a basic knowledge of real property interest valuation, or any combination of such experience and college study to provide a total of four years beyond high school graduation. An appraiser who is qualified under WSDOT criteria and on WSDOT's approved appraiser list will be considered qualified for FHWA projects.

49 CFR 24.103(a)
WAC 468-100-102(1) The appraiser shall prepare an appraisal report which is a written document containing among other elements, the following:

49 CFR Appendix
24.103

LPA-217

LPA-218

1. The purpose of the appraisal which includes a statement of the estimated value and the rights or interests being appraised.
2. The estimate of just compensation for the acquisition. In the case of a partial acquisition, allocate the estimate of just compensation for the property to be acquired and for damages to remaining property in either the report or a separate statement.
3. The data and analyses (or reference to same) to explain, substantiate, and document the estimate of just compensation.
4. An adequate description of the physical characteristics of the property being appraised, including items identified as personal property. Local Programs created templates that are available for use but are not required if the agency has a similar form.

49 CFR 24.102(c)(1)

49 CFR 24.102(f)

RCW 8.26.180(2)

WAC 468-100-102

ROW Appendix 4-1

Part 1(A)(f)

Appraiser/Owner Contact – Property owners have the legal right to inspect the property with the appraiser. Every effort must be made to ensure that the property owner has been extended that opportunity for a joint inspection. The appraiser shall document in the appraisal report his or her attempts to contact the property owner, which shall include an attempt to contact the property owner either by phone or in person.

49 CFR 24.102(c)(2)(ii)
 RCW 8.26.180(2)
 WAC 468-100-102(1)

.52 Waiver Valuation (commonly referred to as Administrative Offer Summary (AOS)) – In accordance with federal regulations, an appraisal and appraisal review can be waived in certain cases. To qualify, the just compensation, based on the ROW Project Funding Estimate, must be no greater than the waiver valuation limit as defined in the agency’s approved ROW procedures (typically \$25,000), **AND** the acquisition **must be uncomplicated**, with the only damages being minor cost to cure items. The combined estimate of the just compensation plus the cost to cure(s) cannot exceed the agency’s approved waiver limits. The PFE must be based on confirmed comparable sales and must reflect the current market.

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

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

LPA-003

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

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

- If the AOS is \$10,000 or less, the offer must state that an administrative offer is being made and an appraisal has not been completed.
- If the AOS is \$10,001 or greater, the offer must state that an administrative offer is being made, that an appraisal has not been completed and an appraisal will be prepared if requested by the property owner.

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

Section 25.51

Under Condition B, if the owner requests an appraisal, the local agency **is required** to provide and pay for one that meets the standards.

25.6 Appraisal Review

49 CFR 24.104

WAC 468-100-103

ROW Chapter 5

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

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

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

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

LPA-214b

The reviewing appraiser shall place in the parcel file a signed and dated certification of value setting forth:

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

49 CFR 24.102(k)

RCW 8.26.180(9)

RCW 47.12.160

ROW Section 5-5.2

ROW Section 6-1.2.F

ROW Section 6-11.1

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

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

Detailed instructions regarding the review appraiser's responsibilities for reporting and documenting uneconomic remainders can be found in the ROW Manual.

25.7 Agency Concurrence for Setting Just Compensation

[49 CFR 24.102\(d\)](#)
[RCW 8.26.180\(3\)](#)
[ROW Section 6-1.2.B](#)
[LPA-214b](#)

It is the responsibility of the **agency** to set just compensation. This can be done by adding a line to the bottom of the review appraiser's certificate as shown on the Local Agency Certificate of Value, to the bottom of the Administrative Offer Summary (AOS), or by stating the same information in a separate memo. In any case, the statement must be signed and dated by an employee of the agency who has approving authority **prior** to the time the offer is made. When a right of way plan revision occurs, a new AOS, appraisal and/or Certificate of Value may be required.

Before initiating negotiations for the acquisition of real property interests, the **agency** shall establish the just compensation which **shall not** be less than the approved appraisal of the property and shall make a written offer to acquire in that amount. Appraisals are not required if an AOS has been prepared or if the owner has indicated a willingness to donate the ROW after being informed of their right to receive just compensation. If an waiver valuation was used to set just compensation, the negotiator must notify the property owner that they can request an appraisal be prepared in accordance with the agency's approved Waiver Valuation Procedure. (The threshold for offering an appraisal depends on the Agency's approved Waiver Valuation Procedure in place at the time of the offer). The local agency is responsible for providing and paying for this appraisal.

25.8 Title

[ROW Chapter 8](#)

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

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

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

1. Acquisition instruments signed by all parties with an interest in the fee title.
2. Releases from mortgages and deeds of trust. If the local agency determines that it wants to accept title subject to a monetary lien, the local agency should look to [Chapter 8](#) of the [ROW Manual](#) for guidance as to informing the owner of their potential risks.
3. Releases of encumbrances, such as easements, which adversely impact the rights being acquired.
4. Releases of priority liens, such as materialman's liens, judgments, state tax liens, and federal tax liens.

25.9 Negotiations

[ROW Chapter 6](#)

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

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

If a local agency uses a consultant fee negotiator, the consultant must meet the applicable state licensing requirements. At a minimum, this must be a current, valid real estate salesperson's license issued by the State of Washington. Consultant fee negotiators must also have qualifications and experience generally equivalent to those for local agency staff negotiators.

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

[49 CFR 24.102\(d\)](#)

[49 CFR 24.102\(e\)](#)

[RCW 8.26.180\(3\)](#)

[ROW Section 6-1.2.C](#)

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

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

5. The amount of just compensation for the real property to be acquired and any amount included for damages to remaining real property shall be separately stated. If the agency does not provide a copy of the AOS/Appraisal then items addressed in the valuation that will be handled during construction shall be explained in the offer and a construction memo signed.

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

[LPA-350](#)

The local agency should review their current approved Waiver Valuation Procedure to confirm that the correct language is being used in the offer letter.

[23 CFR 710.105\(b\)](#)

[23 CFR 710.305\(d\)](#)

[23 CFR 710.505](#)

[49 CFR 24.108](#)

[RCW 8.26.180\(10\)](#)

[WAC 468-100-106](#)

[ROW Section 6-1.2.J](#)

[LPA-383](#)

[LAG 25.21\(2\)](#)

.94 Donation (see Also Section 25.10 Donated Property) – A donation may be accepted only after the owner has been informed in writing and has waived, in writing, their right to just compensation and has released the local agency from its obligation to have the property appraised. This applies to individuals, businesses, corporations, and other private entities. Donations from government agencies are exempt from these requirements. If a donation is accepted in advance of NEPA clearance, it is considered an early acquisition.

.95 Dedication – ROW obtained through normal zoning, subdivision, or building permit procedures may be incorporated into a federal aid project without jeopardizing participation in other project costs, provided such dedication does not constitute an unconstitutional taking. Dedicated land incorporated into the roadway facility is considered part of the existing ROW. As such, dedicated land is not required to be included in a right of way certification.

[RCW 8.25.020](#)

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

[49 CFR 24.9](#)

[WAC 468-100-009](#)

[LAG 25.16](#)

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

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

1. The written agreement embodies all considerations agreed to by the negotiator and the property owner.

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

.98 Negotiations by Mail – If no relocation is involved, the local agency may conduct ROW negotiations as follows:

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

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

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

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

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

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

25.10 Donated Property

LPA-383

Transportation Needs
& You Brochure

23 CFR 710.105(b)

23 CFR 710.305(d)

23 CFR 710.505

49 CFR 24.108

RCW 8.26.180(10)

WAC 468-100-106

ROW Section 6-1.2.J

Donations of right of way can be accepted only after the owner has been fully informed by the local agency in writing of their rights to receive just compensation and has released (in writing) the local agency from its obligation to have the property appraised. A copy of the donation letter issued to the property owner informing them of their rights available and the donation letter acknowledgment signed by the owner must be included in each parcel file. The donation clause must be included in the conveyance instrument. Section 323 of 23 USC provides for using the value of donated lands as part of the match against an agency's contribution to the project. Certain conditions need be met:

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

25.11 Administrative Settlements

49 CFR 24.102(i)

ROW Section 6-12

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

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

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

Section 25.10

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

1. **Any administrative settlement which exceeds the fair market value must be documented, thoroughly justified, and the rationale set forth in writing in order to be eligible for federal aid funds.** The extent of written explanation is

a matter of judgment and should be consistent with the circumstances and the amount of money involved. If the local agency has any doubt as to eligibility, it should obtain prior approval from WSDOT through the Region LAC.

2. The local agency shall document the following and make it available for review by WSDOT if it is not already part of the agency's approved procedures:
 - a. Identify the responsible official who has the authority to approve administrative settlements.
 - b. Describe the procedure for handling administrative settlements.
3. The designated local agency representative may approve an administrative settlement when it is determined that such action is in the public interest. In arriving at a determination to approve an administrative settlement, the designated official must give full consideration to all pertinent information. The settlement justification must include an analysis of the circumstances of each individual parcel that convince the agency that an administrative settlement is in the agency's and public's best interest. This documentation shall be completed and approved by the designated local agency official prior to payment(s) being made. The list below is a sample of items to be considered for an administrative settlement, and should not be used as a template.
 - The negotiator's recorded information, including parcel details, estimates, bids, research information, all available appraisals, including the owner's and the owner's rationale for increased compensation. This is the most important part of the justification.
 - Recent trends in court awards in cases involving similar acquisition and appraisal problems and the length of time it takes to get on the court's schedule.
 - A statement can be made that condemnation will take additional time and money, but do not attach a dollar amount to the statement since it would be speculative. You should include items such as updating the appraisal for trial, pretrial, conference, staking of right of way, attorney's expenses, and witness fees (appraisers, consultants, etc.) will be additional incurred costs. You should not speculate about increased project costs resulting from a delay. You could try to quantify your administrative costs resulting from condemnation proceedings such as additional staff time.
 - Describe the trial risks based on experience in the particular jurisdiction (e.g., county, city).

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

Administrative
Settlement
eLearning Course

For additional guidance, reference [Appendix 25.173](#) and the *Right of Way Manual* Section 6-12. Agency staff responsible for writing and approving Administrative Settlements should take the web based training on how to write an effective administrative settlement. The course can be accessed by clicking from our Local Programs ROW Services Webpage using the following link: www.wsdot.wa.gov/LocalPrograms/ROWServices/Training.htm

The course is estimated to take 1 to 2 hours to complete.

25.12 Relocation

[49 CFR 24 Subpart C](#)
[ROW Chapter 12](#) Those agencies that have trained staff and are approved by WSDOT through the procedures process to provide relocation services may do so. All other agencies should contact their Region LAC for advice on contracting with private consultants. WSDOT does not maintain a list of qualified relocation consultants.

[49 CFR 24.205\(a\)](#)
[RCW 8.26.065\(1\)](#)
[WAC 468-100-205\(1\)](#)
[ROW Section 12-4.2](#) If a project includes relocation, the local agency must submit a relocation plan to WSDOT for approval **prior** to starting ROW activities. If there are federal funds in the ROW Phase, the relocation plan must be approved before ROW funding can be authorized.

[LAG 25.43](#) To maintain a project's federal aid eligibility, a relocation plan needs to be submitted and approved prior to starting ROW activities, even if there are no federal funds in a ROW Phase. **This is also true in the case of early or advanced acquisition.**

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

25.13 Right of Way Certification

Prior to ROW certification, the local agency must ensure that the ROW plans were reviewed and approved as part of the design approval, and are consistent with the PS&E (see [Appendix 43.62](#)).

[23 CFR 635.309\(c\)\(3\)](#) After ROW acquisition has been completed and about two months before the federal aid project is to be advertised for contract, the ROW certification on agency letterhead must be submitted to the Region Local Programs Engineer. FHWA does not formally approve Certificates 1, 2, and time-based Certificate 3s. For these types of Certificates, the actual certification date for federal aid projects is the date on the WSDOT Certification Concurrence Letter sent to FHWA. WSDOT Concurrence is required prior to advertisement. For Excepted Parcel Certificate 3s, the actual certification date is the FHWA approval letter date. ROW certification is a requirement for construction authorization. Since local agencies are expected to go to ad within six weeks of construction authorization (See [Section 22.1](#)), ROW certification should not occur too far in advance of the anticipated ad date.

The certification provides the following information and assurances.

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

For specifics on certification types, definition, procedures, requirements, and examples, see [Right of Way Manual Chapter 17](#).

If additional property rights are needed after the certification of the project, any subsequent acquisition must be certified. Please note provisions should be made to ensure the contractor does not enter onto any property until the Agency has legal and physical possession, and the project has been re-certified.

25.14 ROW Certification vs URA Compliance Letter

Section 25.2

Right of Way Acquisition Procedures apply to all federal aid projects regardless of whether or not the project is to be certified. For example, if the condition of the agency's ROW Procedures requires the LAC to review parcel files prior to making first offers, your agency must comply.

2 CFR 200

Appendix 25.171

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

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

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

23 CFR 635.309(b)

23 CFR 635.309(c)

49 CFR 24.101

ROW Chapter 17

Per 23 CFR 635.309(b) and (c) the ROW certification procedure for federally-assisted highway projects identifies the acquisition status of necessary ROW for the purpose of advancing a project to construction. This regulation is specific to construction authorization only and is the only time that a ROW certification is issued by WSDOT/FHWA. Title 23 requires that acquiring agencies comply with 49 CFR Part 24. The requirements of 49 CFR 24.101 apply to any acquisition of real property for programs or projects where there is Federal financial assistance in any part of project costs. The phase program or project means any activity or series of activities undertaken by a Federal Agency or with Federal financial assistance received or anticipated in any phase of an undertaking in accordance with the Federal funding Agency guidelines. The certification process outlined in Chapter 17 of the ROW Manual must be followed if federal funds are planned in the Construction or ROW Phase of the project.

URA Compliance – Non-Construction Authorization

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

49 CFR 24.101

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

In addition to the URA, the local agency must adhere to additional ROW requirements listed in [23 CFR 710](#), environmental requirements, Buy America, and Title VI requirements.

WSDOT Oversight – Criteria and Process:

Criteria to be eligible for a URA Compliance Letter:

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

ROW Project Compliance Reviews (CR):

- In order to be reasonably certain that local agencies are administering FHWA funds in accordance with the Local Agency Guidelines; WSDOT will perform reviews on selected local agency projects that are locally funded but involve interstate, locally funded but federalized by NEPA, or federal funds are only in the PE phase. WSDOT will perform a CR on a random sample (not less than 25%) of the projects receiving URA Compliance Letters once the project has been advertised for construction. A 100% of the local agency led interstate projects will be reviewed by WSDOT.

These CRs will be:

- Performed by LPRM and will use the same oversight checklists as the certification reviews described in Chapter 15-17 of the ROW Manual.

CR Preparation – LPRM through the Region Local Programs Engineer will schedule a CR with the Agency and will request that the LAC and the agency staff person responsible for the Program Administration function under their Approved ROW Procedures participate in the review. The local agency should have all pertinent documentation ready for the scheduled review. All deficiencies will be identified for the agency at the time of the CR. Copies of documentation not available at the time of the review shall be submitted to Local Programs within 30 calendar days. After the 30-day period, the final CR letter will be sent to the agency.

CR Deficiencies – If no major deficiencies are found in the local agency's ROW 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 with 60 days. If the deficiencies include issues that cannot be fixed, WSDOT will issue a letter advising what action will be taken and next steps.

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

- No action against the agency if WSDOT determines the deficiencies to be minor.
- 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 Approved ROW Procedures to the extent deemed necessary.
 1. Allow certification on future federal aid projects on a project-by-project basis.
 2. Direct WSDOT supervision for all URA compliance ROW projects.
- Loss of federal aid on future ROW projects.
- Loss of federal aid on the project reviewed. If this is the outcome of the review, FHWA will participate in the joint conference.

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

25.15 Property Management

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

1. Property records showing:
 - a. An inventory of all improvements acquired as a part of the ROW.
 - b. An accounting of excess properties acquired with FHWA funding.
 - c. An accounting of the property management expenses and the rental payments received.
 - d. An accounting of the disposition of improvements and the recovery payments received.
2. Methods for accomplishing the clearing of ROW when such clearance is performed separately from the control for the physical construction of the project.
3. The methods for employing private firms or public agencies for the management of real property interests.
4. The methods for accomplishing the disposition of improvements through resale, salvage, owner retention, or other means.

[23 CFR 710.403\(d\)](#)
[ROW Chapter 11](#)

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

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

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

[23 CFR 710.409](#)

[LPA-407](#)

Should rights of way, including uneconomic remnants, acquired with FHWA funds become excess, they may be disposed of (sale, lease, easement, etc.) only with the approval of WSDOT. To request approval, the agency must complete and submit form [LPA-407](#). Once approved, the agency will receive a written notification from the Local Programs Right of Way Manager that they can move forward with their disposal process.

[23 CFR 710.403\(e\)](#)

If the disposal is to a private party, the agency must determine fair market value through the valuation process. FHWA will either be credited for its share of the net proceeds of the sale or lease payment, or the agency may use the federal share of the net proceeds for activities eligible for funding under Title 23 of the United States Code for transportation purposes. A disposal may be made to a governmental agency for a continued public highway use without charge, and no credit to FHWA is required; however, a reversionary clause is required in the deed per [23 CFR 710.403](#).

FHWA approval is required for disposal (sale, lease, easement, etc.) of any rights of way or uneconomic remnants sold at less than fair market value. The Agency will need to provide a written request showing the exception is in the overall public interest based on social, environmental, or economic benefits, or is for a non-proprietary governmental use. Upon approval, the Agency will include a reversion clause in the deed.

[23 CFR 710.105\(b\)](#)

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

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

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

25.16 Diaries

[49 CFR 24.9](#)

[WAC 468-100-009](#)

[ROW Chapters 3, 6, 8, 9, 12, and 13](#)

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

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

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

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

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

25.17 Oversight of Consultants Hired to Perform ROW Activities

[23 CFR 710.201\(a\)](#)

[23 CFR 710.201\(b\)](#)

[23 CFR 710.201\(h\)](#)

[LAG 25.2](#)

The Local Agency (typically the person approved to perform the “Program Administration” function on the Approved ROW Procedures) is responsible for overseeing the delivery of the ROW Program on federal aid roadway projects for their agency. The agency must ensure ROW activities are carried out in compliance with federal and state laws, regulations, policies and procedures, therefore the local agency must be involved in all conversations between WSDOT and the consultant. WSDOT’s obligation is to the project owner, not the consultant so any guidance provided will be to the local agency.

Oversight of ROW consultants includes, but may not be limited to:

- early involvement with LAC
- use of consultant contract template approved by WSDOT;
- management of scope of work;
- management of ROW contracts;
- management of and QA/QC deliverables (ROW plans, PFEs, relocation plans, administrative settlement justifications, recommendations/requests for payment, files, etc.);
- review and approval of actions and decisions recommended by consultants; and
- overall responsibility for decisions that are outside the purview of consultant functions.

25.18 Document Retention

[23 CFR 710.201\(f\)](#) To demonstrate compliance, the acquiring agency shall maintain all records of its ROW activities for at least three years after payment of the final voucher for the project, not per parcel.

25.19 Appendices

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

- 25.170 Right of Way Plan Checklist
- [25.171](#) ROW Certification vs URA Compliance Letter Case Studies
- [25.172](#) Sample Neighborhood Description
- [25.173](#) Vacant
- [25.174](#) Determining Whether or Not Land or Property Rights or Interest are Needed
- [25.175](#) Determining the Type of Property Rights Necessary
- [25.176](#) No ROW Needed Verification Checklist
- [25.177](#) FHWA Early/Advanced Acquisition Options and Requirements Chart
- [25.178](#) Federal Aid Requirement Checklist
- [25.179](#) Acquisition Process Flowchart
- [25.180](#) Vacant

25.20 Local Programs Right of Way Services Website

- [Right of Way Services Home](#)
 - Laws & Regulations
 - Manuals & Resources
 - Clarification & Guidance
 - ROW Training & Education
 - LPA Forms & Brochures

The following checklist is provided as an aid to completing a new right of way plan based on [Section 25.4](#) of the Local Agency Guidelines and [WAC 332-130](#).

- A vicinity map showing the project limits and total parcel details for parcels too large to show on the individual plan sheet.
- The survey line or centerline of the alignment.
- The old and new RW limits with sufficient ties to the survey line to allow a legal description to be written for all rights to be acquired.
- Show all rights to be acquired including fee simple acquisitions, permanent easements and temporary easements. Include advanced acquisition parcels.
- The total ownership boundaries of all parcels showing all rights to be acquired.
- The parcel identification number and owner name.
- Contiguous parcels owned by the same owner.
- Verify that the legal description of each parcel has been plotted correctly.
- The calculated area of the parcel(s) to be acquired.
- The calculated area of the remainder.
- Make sure the total, right of way and remainder areas add up correctly.
- Make sure the curve data is correct and matches the information and stationing on the plan.
- Any improvements within 100' of the existing RW line.
- Cross reference notes to existing RW plans, Records of Survey or other documentation.
- Label grade intersection stations.
- Provide necessary backup calculations and title reports.
- Seal and signature of register professional engineer or professional land surveyor in accordance with [RCW 18.43.070](#) and [RCW 58.09](#).
- Design features, width of the new highway (alignment), grade changes, and other detail of the construction.

Verify that the requirements of [WAC 332-130](#) have been met, including:

- Basis of Bearing
- North Arrow
- Text size
- No shading on the plan.
- Identification of corners used to control the alignment
- A description of all monuments shown

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**URA COMPLIANCE LETTER
CASE STUDIES**

Case Study #1

=====NEPA=====

<p>Project Federal Funds in PE Local Funds in ROW & CN</p>

Background information: This local agency has federal funds in the preliminary engineering (PE) phase and local funds support the rest of the project. The agency will not seek federal participation in ROW or Construction (CN) of the project.

Guidance: Since Local Programs is not administering funds for construction of this project, it would not require a Construction Authorization ROW Certificate. The acquisition of ROW on this project would however, need to follow the requirements set forth in the URA. It would be the expectation of the acquiring agency to make sure the requirements of the URA were followed on all real property interests acquired for the project. WSDOT Local Programs would issue a URA Compliance Letter. If the agency comes back later and seeks federal funds in ROW or CN phases, a ROW Certification will be required.

Note: Federal funds for the project are from a source other than FHWA and the federal funding is in ROW or Construction, the local agency would follow the normal Construction Authorization ROW Certificate process.

Case Study #2

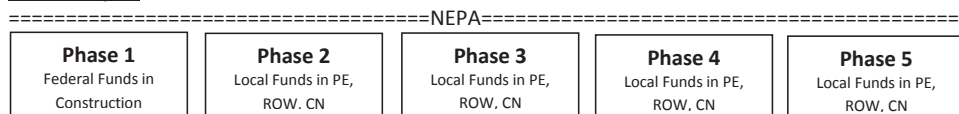
=====NEPA=====

<p>Project 1 (Phase 1) Federal Funds in CN</p>	<p>Project 2 (Phase 2) Federal Funds in ROW & CN</p>	<p>Project 3 (Phase 3) Federal Funds in CN</p>
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Background information: A project that has been split into three separate projects, but is covered by one NEPA document. NEPA covers each of the 3 separate projects, all projects (aka phases, stages, segments) have ROW acquisition, project 1 has federal funds in construction, project 2 has federal funds in ROW, and project 3 has federal funds in construction.

Guidance: Each of the 3 projects would require a ROW Certification when they are ready to have construction authorized. The process outlined in Chapter 17 of the ROW Manual – Construction Authorization ROW Certificate should be followed.

Case Study #3

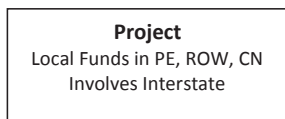


Background information: NEPA covers all 5 phases of the project, all phases have ROW acquisition, phase 1 is the only phase with federal financial assistance – the rest is being done with local funds.

Guidance: Since there is a \$1 of federal funding in this project the URA applies to all phases. In addition, the local agency must adhere to environmental requirements, Buy America, and Title VI requirements. The first phase has federal funds in construction so it will need to be certified using a Construction Authorization ROW Certificate. Phases 2 through 5 have only local funds so while they are required to follow the URA they do not require a Construction Authorization ROW Certificate. Since the entire project is covered by one NEPA document and one of the phases had federal funds, the entire project is considered to be federalized. Since Local Programs is not administering any federal funds for phases 2 through 5 of this project, it would not require a Construction Authorization ROW Certificate. The acquisition of ROW on this project would however, need to follow the requirements set forth in the URA. It would be the expectation of the acquiring agency to make sure the requirements of the URA were followed on all real property interests acquired for the project. WSDOT Local Programs would issue a URA Compliance Letter. Note: Local Programs has no direct involvement in locally funded projects. However, because the project has been federalized, Phase 1 of the project could be as risk if the agency fails to comply with the URA on phases 2 – 5.

Case Study #4

=====SEPA=====



Background information: The local agency is using local funds for the entire project, PE, ROW, and CN. A portion of the project involves changes to interstate right of way, including limited access.

Guidance: Since changes to interstate limited access require approval of FHWA, NEPA will be required which creates a federal nexus (federalized) requiring the agency to comply with the URA. In addition, the local agency must adhere to environmental requirements, Buy America, and Title VI requirements. A URA Compliance Letter will be issued.

**SAMPLE
NEIGHBORHOOD DESCRIPTION
FOR PROJECT: YAKIMA COUNTY: SUNSET HILL ROAD WIDENING No. 311**

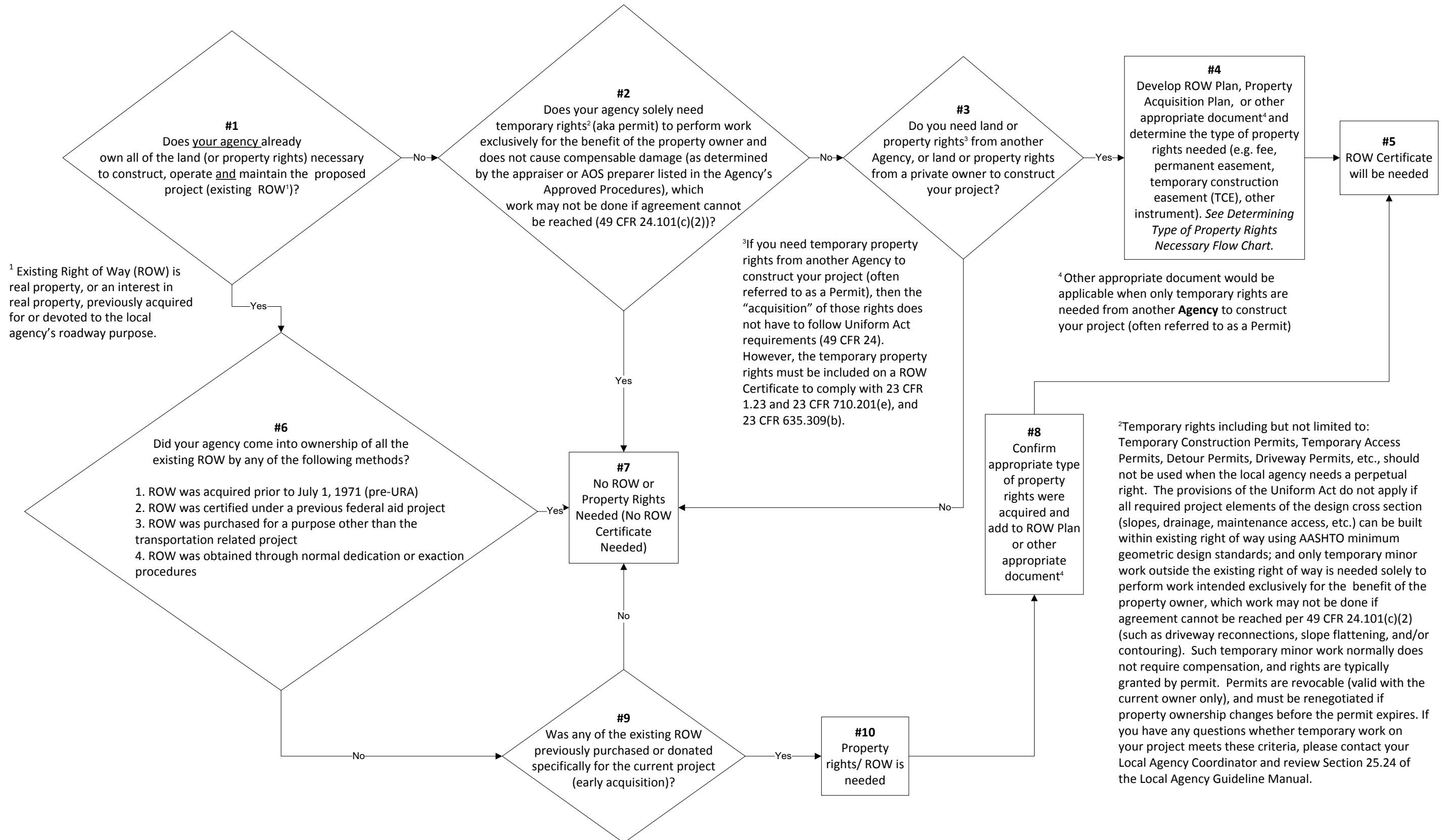
Date: October 21, 1986

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

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

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

3/23/15



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

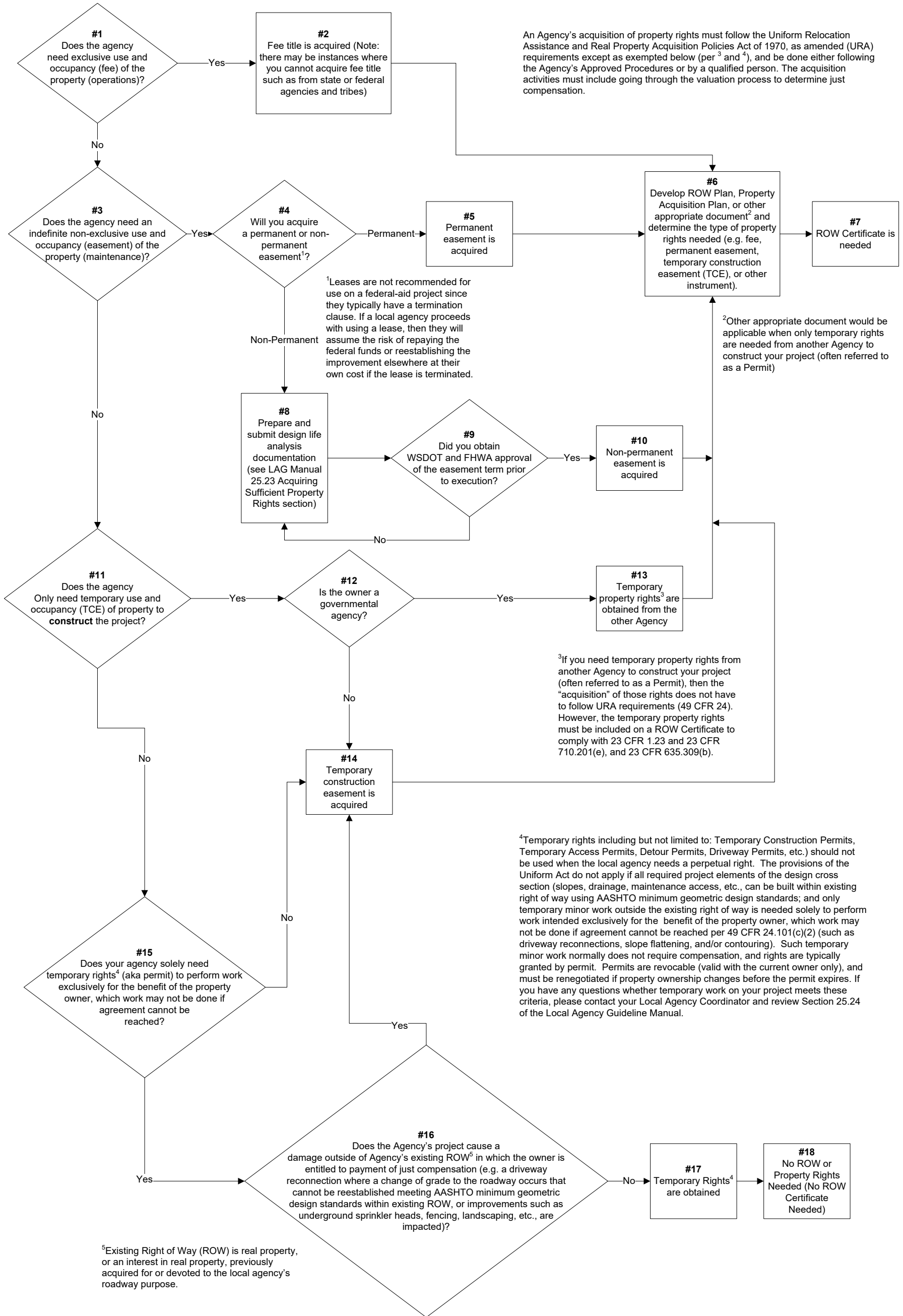
³If you need temporary property rights from another Agency to construct your project (often referred to as a Permit), then the "acquisition" of those rights does not have to follow Uniform Act requirements (49 CFR 24). However, the temporary property rights must be included on a ROW Certificate to comply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

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

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

3/23/15

You may have a parcel or multiple parcels that fits more than one of these situations.



Appendix 25.176 No ROW Needed Verification Checklist

This verification checklist is a tool to be used during the completion of the Design Approval Documentation process ([Chapter 43](#)) to aid in determining if **ROW/PR** is needed for your project. Please complete both Sections A and B to determine if your project has ROW/PR needs. Refer to Sufficient Property Rights Flowcharts [Appendix 25.174](#) and [Appendix 25.175](#) for additional guidance.

Section A: Existing ROW/PR	YES	NO
Does your agency already own ALL of the land and/or property rights necessary to construct, operate and maintain the proposed project? If the answer is "Yes", move to the next question below. If the answer is "No", move to Section B.		
Did your agency come into ownership of the existing ROW by any of the following methods?		
1. ROW acquisition occurred prior to July 1, 1971/the Uniform Act ;		
2. ROW was certified under a previous federal aid project ;		
3. ROW was purchased for a purpose other than this project , and is no longer needed for its original purpose; and/or		
4. ROW was obtained through normal dedication or exaction procedures (there was no unconstitutional taking).		
<p>If you checked "Yes" to the initial question and "Yes" to any of the four subsequent questions above in Section A you have confirmed your agency owns the existing ROW and your project will not need to be certified. You are finished and do not need to complete the remainder of the form.</p> <p>If you checked "Yes" to the initial question and "No" to all of the four subsequent questions above you do have ROW/PR needs and a ROW certificate is needed.</p> <p>Continue to Sections B and C.</p>		
Section B: Temporary Rights (aka Mutual Benefit Permits)	YES	NO
Does your agency solely need temporary rights to perform work exclusively for the benefit of the property owner and does not cause compensable damage , which work may not be done if agreement cannot be reached?		
<p>If you checked "Yes" to the question above in Section B you have confirmed your agency solely needs temporary rights to perform work exclusively for the benefit of the property owner so those property rights will not need to be certified. If you checked "No" then your agency will need to acquire temporary easement and a ROW certificate is needed. Continue to Section C.</p>		
Section C: Other ROW/PR Considerations	YES	NO
Early acquisition – Did your agency purchase land and/or property rights early - prior to NEPA approval - specifically for this project after July 1, 1971 (post-URA)?		
Does your agency plan to purchase land and/or property rights early – prior to NEPA approval - specifically for this project ?		
Environmental Mitigation – Will the project use land your agency previously purchased for wetland banking, natural habitat, or other environmental related purposes?		
Are there any environmental mitigation commitments required for your project that involves property the agency doesn't currently own?		

Section C: Other ROW/PR Considerations	YES	NO
Donation – Did a property owner donate land and/or property rights specifically for this project ?		
Do you anticipate a property owner donating land and/or property rights specifically for this project ?		
Rights from Private Property Owners – Does your agency need to obtain any interest in, or possession of, real property (including temporary uses: easements, access rights, air rights and/or airspace) to construct, operate, and maintain the proposed project ?		
Rights from Another Agency – Does your agency need land and/or property rights, including access and temporary permits from another Agency to construct, operate, or maintain your project ?		
Encroachments – Are real property improvements encroaching into the existing ROW and/or airspace ?		
If you checked “Yes” to any of the above questions/situations in Section C, the property rights will need a ROW certificate. Please consult with your LPE and/or LAC for guidance. If you checked “No” to ALL of the above, you do not have ROW/PR needs for your project for the situations addressed in this section. Continue to Final ROW Determination.		
Final ROW Determination: If the answer in sections is “No”, your agency does not own the existing ROW, and the answers to Sections B is “Yes”, and Section C are all “No”, you have confirmed your project has no ROW/PR needs and does not require ROW certification; otherwise, please consult with your LPE and/or LAC for guidance. Please keep a copy of this checklist in your project file.		

Right of Way and Property Rights Definitions:

Access rights mean the right of ingress to and egress from a property that abuts a street or highway.

Acquiring agency means a State agency, other entity, or person acquiring real property for title 23 of the United States Code purposes.

Acquisition means activities to obtain an interest in, and possession of, real property.

Air rights mean real property interests defined by agreement, and conveyed by deed, lease, or permit for the use of airspace.

Airspace means that space located above and/or below a highway or other transportation facility’s established grade line, lying within the horizontal limits of the approved right-of-way or project boundaries.

Damages means the loss in value attributable to remainder property due to severance or consequential damages, as limited by State law, that arise when only part of an owner’s property is acquired.

Donation means the voluntary transfer of privately owned real property for the benefit of a public transportation project without compensation or with compensation at less than fair market value.

Early acquisition means acquisition of real property by State or local governments in advance of Federal authorization or agreement.

Easement means an interest in real property that conveys a right to use a portion of an owner's property or a portion of an owner's rights in the property.

Environmental Mitigation means work required as part of an agency's project to take care of environmental impacts caused by the project.

Program or project means any activity or series of activities undertaken by a Federal Agency or with Federal financial assistance received or anticipated in any phase of an undertaking in accordance with the Federal Funding Agency guidelines.

Property Right means possession of or an interest in land of another, whether temporary or permanent.

Real property means land and any improvements thereto, including but not limited to, fee interests, easements, air or access rights, and the rights to control use, leasehold, and leased fee interests.

Right-of-way means real property and rights therein used for the construction, operation, or maintenance of a transportation or related facility funded under title 23 of the United States Code.

Uniform Act means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Public Law 91-646, 84 Stat. 1894), and the implementing regulations at [49 CFR part 24](#)

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Early Acquisition (EA) Options & Requirements
(23 CFR 710.501)

Acquiring ROW Options	Require NEPA Decision	Allow 4F Properties	Start Acquisition	Request Reimbursement/ Credits	Comply w/ Federal Law*	Subject to Condemnation	Requirements
1) State-funded early Acquisition without Federal Credit or Reimbursement 23 CFR 710.501(b) 23 USC 108(c)(1)	NO	No, if the State wishes to maintain Federal eligibility for future Federal assistance on any part of the transportation project.	When legally permissible by State Law.	N/A	Yes, if the project maintains Federal eligibility.	YES, if State law allows	A State may carry out early acquisition entirely at its expense. However, a State may maintain eligibility for future Federal assistance on a project. To maintain eligibility, early acquisition must comply with the following requirements of 23 CFR 710.501(c)(1)-(5): <ul style="list-style-type: none"> • Property lawfully obtained by the State agency; • Not 4F property; • Acquisitions and relocations comply with the Uniform Act; • State agency complies with Title VI of the Civil Rights Act; • FHWA concurs with the State that the Early Acquisition did not influence the NEPA decision for the proposed project including: <ul style="list-style-type: none"> – The need to construct, – The consideration of alternatives, or – The selection of design or location.
2) State-funded Early acquisition eligible for future credit 23 CFR 710.501(c)	NO	NO	When legally permissible by State law.	Request credit for the portion of the property after incorporated in the Federal-aid project	YES	YES, if State law allows	<ul style="list-style-type: none"> • Property lawfully obtained by the State agency; • Not 4F property; • Acquisitions and relocations comply with the Uniform Act; • State agency complies with Title VI of the Civil Rights Act; • FHWA concurs with the State that the Early Acquisition did not influence the NEPA decision for the proposed project including: <ul style="list-style-type: none"> – The need to construct, – The consideration of alternatives, or – The selection of design or location; • Property is incorporated in the project to which the credit will be applied; and • The amount of the credit may be current fair market value or historic acquisition cost to acquire; however, this credit must be applied consistently within the project. 23 U.S.C. 323(b)(2).
3) State-funded Early Acquisition Eligible for future reimbursement 23 CFR 710.501(d) 23 USC 108(c)	NO	NO	When legally permissible by State law.	After NEPA is completed and real property interests are incorporated in a Title 23 project and all applicable requirements are met.	YES	YES, if State law allows	<ul style="list-style-type: none"> • Property lawfully obtained by the State agency; • Not 4F property; • Acquisitions and relocations comply with the Uniform Act; • State agency complies with Title VI of the Civil Rights Act; • FHWA concurs with the State that the Early Acquisition did not influence NEPA for the proposed project including: <ul style="list-style-type: none"> – The need to construct, – The consideration of alternatives, – The selection of design or location; • State has a mandatory, comprehensive, and coordinated land use, environmental, and transportation planning process under State law, and the Governor has determined in advance that the acquisition is consistent with the State transportation planning process; • The State actually selects the alternative for which the real property interest is acquired pursuant to NEPA; • Prior to approval for Federal participation, NEPA is completed; and • Reimbursement is based on the usual costs to acquire—23 CFR 710.203(b)(1).

Early Acquisition (EA) Options & Requirements
(23 CFR 710.501)

Acquiring ROW Options	Require NEPA Decision	Allow 4F Properties	Start Acquisition	Request Reimbursement/ Credits	Comply w/ Federal Law*	Subject to Condemnation	Requirements
<p>4) Federally funded Early Acquisition (Stand-alone project) 23 CFR 710.501(e) 23 USC 108(d)</p>	<p>YES, NEPA decision required for the early acquisition, stand- alone project only (not the transportation project). (Usually a CE)</p>	NO	After NEPA is complete for the Early Acquisition Project	This is a reimbursable, stand- alone, Federal-aid Project based on FHWA authorization to proceed with acquisition	YES	NO	<ul style="list-style-type: none"> State certifies and FHWA concurs that the following requirements have been met: <ul style="list-style-type: none"> State has authority to acquire under State law; Is for a Title 23 eligible transportation project and does not involve 4F properties; Will not cause significant adverse environmental impacts as a result of the EA project or from cumulative effects of multiple EA projects; Will not limit the choice or otherwise influence the NEPA decision of FHWA; Will not prevent the lead agency from making an impartial decision as to alternatives; Is consistent with the State transportation planning process under 23 U.S.C. 135; Complies with other applicable Federal laws (including regulations); Will be acquired through negotiation, without the threat or use of condemnation. Will not reduce or eliminate relocation benefits under the Uniform Act and Title VI of the Civil Rights Act; The Early Acquisition project is in the Transportation Improvement Plan; and NEPA for the Early Acquisition project is complete and approved by FHWA. Real property interests acquired cannot be developed in anticipation of the transportation project until a NEPA decision for that transportation project has been completed. No development activity related to demolition, site preparation, or construction that is not necessary to protect health or safety may be undertaken. If reimbursement is made and the real property interests are not incorporated in a project within 20 years, FHWA must offset the amount against Federal-aid funds apportioned to the State. Eligibility for Relocation Assistance—a person is considered displaced when required to move from the real property as a direct result of a binding written agreement for the purchase of the real property interest. Options to purchase and similar agreements do not create an immediate commitment and do not create eligibility. <p>Note: The “Option” to purchase the property at a later day allows the property to remain occupied limiting the risk of blight in the neighborhood due to vacant buildings.</p>

Advance Acquisition (AA) Options & Requirements
(23 CFR 710.503)

Acquiring ROW Options	Require NEPA Decision	Allow 4F Properties	Start Acquisition	Request Reimbursement/ Credits	Comply w/ Federal Law*	Subject to Condemnation	Requirements
<p>1) Protective Buying 23 CFR 710.503</p>	<p>**Yes typically a CE. See 23 CFR 771.117(d)(12)</p>	Yes, if consultation is completed on 4F.	Usually during the NEPA process.	After property is incorporated in the Federal-aid project.	YES	YES, if State law allows	Development of the property is imminent.
<p>2) Hardship Acquisition 23 CFR 710.503</p>	<p>**Yes typically a CE. See 23 CFR 771.117(d)(12)</p>	Yes, if consultation is completed on 4F.	Usually during the NEPA process.	After property is incorporated in the Federal-aid project.	YES	YES, if State law allows. See comment	<p>A request for hardship acquisition based on a property owner’s written submission.</p> <p>Note: While the agency may condemn if a settlement cannot be reached on a hardship acquisition, great care should be taken to ensure that the decision is warranted both for the property owner and the agency.</p>

* Relevant Federal Law includes the Uniform Act, Title VI Civil Rights Act, and Federal Regulations (primarily, 23 CFR Part 710).

**Note: Protective Buying and Hardship Acquisitions usually occur during the transportation project’s NEPA phase. However, prior to approving an AA, NEPA clearance is necessary for the AA parcels. This requires the AA parcels to be carved out from the overall project so that NEPA clearance provided on those parcels, typically in the form of a CE.



Federal Aid Requirement Checklist

Informational Only

Agency: [Click here to enter text.](#) Region: [Click here to enter text.](#) Date: [Click here to enter text.](#)

Project Federal Aid Number: [Click here to enter text.](#)

Project Name: [Click here to enter text.](#)

Federal Funds Will Be Used For:

PE: [Click here to enter text.](#) R/W: [Click here to enter text.](#) CONST.: [Click here to enter text.](#)

Persons Will Be Displaced: Yes No

Right of Way Acquired for This Project: Yes No

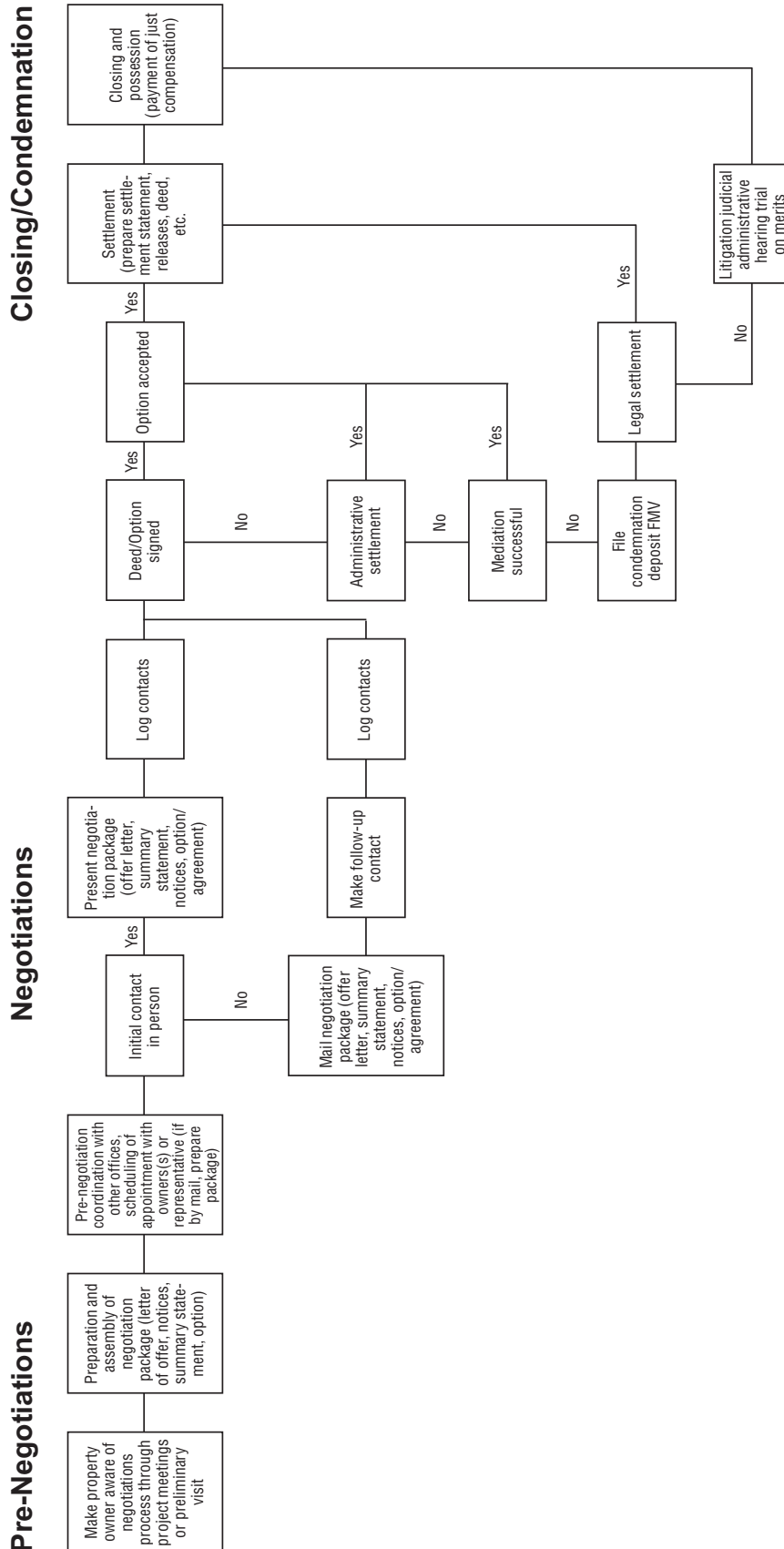
Reminders	Comments
1. Real property must be appraised before initiation of negotiations with the owner, per 49 CFR 24.102(c) and 24.108.	Click here to enter text.
2. Owners must be given an opportunity to accompany each appraiser during his inspection of the property, per 49 CFR 24.102(c).	Click here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

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

Prepared by: Click here to enter text.

Title: Click here to enter text.

Acquisition Process



26.1 General Discussion

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

A local agency, when participating in programs funded in whole or in part with federal funds made available by the Washington State Department of Transportation (WSDOT), must adhere to WSDOT's DBE Participation Plan.

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

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

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

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

26.2 Procedures

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

2. **DBE Firm(s) Certification** – The Washington State Office of Minority and Women’s Business Enterprise (OMWBE) is the sole authority in the State of Washington to perform certification of all minority business enterprises, women business enterprises, and socially and economically disadvantaged business enterprises for programs administered by any State, local, or Federal agency. This statutory authorization extends to and binds all USDOT DBE Program recipients in the State of Washington. In order to count DBE participation, only DBE firms that are currently certified by OMWBE may be used by prospective bidders on federally funded projects. Firms listed on the OMWBE’s Suspension List cannot count towards DBE participation on new contracts. A directory of certified DBE firms is maintained and published by OMWBE. The directory and suspension list can be accessed via OMWBE’s website at www.omwbe.wa.gov/directory-of-certified-firms or by calling 360-664-9770 or toll free (866) 208-1064.
3. **Establishment of Project DBE Goals** – The Local Programs Project Development Engineer will review each construction project or consultant agreement to determine if it involves work or scope elements that are conducive to DBE participation. To initiate this review, the local agency must submit an engineer’s estimate for a construction project or a detailed scope and estimate for a consultant agreement with their suggested DBE goal to the Region Local Programs Engineer when the contract work or consultant agreement scope is determined. The estimate must show the item quantities or scoping costs of the project. No construction funding will be obligated prior to the project review for DBE goals. PE costs will be obligated but the Local Agency cannot advertise for consultant Services until a DBE goal has been evaluated for the scope of work to be advertised.

For alternate construction contracting delivery (such as Design-Build), Local Agencies shall request approval from Region Local Programs Engineer.

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

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

- Mandatory Goal
- Zero Goal

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

A. Elements

- a. Geographical location of the project.
- b. Type(s) of work included in the project, i.e., structure, roadway, new construction.
- c. Availability of DBEs to perform the type(s) of work.

- d. Potential subcontractable items of the work.
- e. Total dollar value of the contract.

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

B. Goal Setting Process

- a. Review the department's overall DBE goal and the means to meet the goal.
- b. If the contract includes federal funds, a DBE goal is considered.
- c. If the contract or agreement amount is under \$100,000.00 then no goal is set.
- d. Review the bid items and determine which scopes of work that the prime contractor / consultant is likely to perform (i.e., the prime contractor/consultant is required to perform at least 30% of the project total). Typically, this work is not considered when evaluating for DBE goal calculation.
- e. Evaluate the remaining bid items and determine which items are typically grouped for subcontracting (e.g. traffic control, electrical, guardrail, etc.).
- f. Of these items, determine which ones lend themselves to DBE participation.
 - i. Mobilization is not an item that is considered when determining which items a prime contractor will subcontract to another contractor. This is not to say that subcontractors (DBE or non-DBE) do not include mobilization costs in their quotes, or that they are not paid for mobilization – only that mobilization is not considered a subcontract item when determining a DBE goal.
 - ii. Availability of ready, willing and able DBE's to perform the type(s) of subcontract work as identified in the DBE Directory (by description of work).
 - iii. Force Account work will be considered at 50%
- g. No DBE goal shall be set at less than 2%.

4. DBE Provisions in the Plans, Specifications, and Estimates (PS&E) –

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

To complete the DBE requirements in the PS&E, when a mandatory goal is established, [DOT Form 272-056](#), Disadvantaged Business Enterprise Utilization Certification ([Appendix 26.52](#)), and [DOT Form 422-031](#), DBE Written Confirmation Document will be included. This form shall be in the proposal given to each bidder. This form is available from the Region Local Programs Engineer. When a zero goal is established the DBE Utilization Certification and the DBE Written Confirmation Document forms are not required.

26.3 Contract Procedures

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

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

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

3. **Selection of the Successful Bidder**

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

- a. The successful bidder shall be selected on the basis of having submitted the lowest responsive bid and, in order to be responsive, making good faith efforts to meet the DBE goal. The bidder can meet this requirement in either of two ways:
 1. The bidder can meet the established DBE goal, documenting they have obtained enough commitments for participation by DBE firms to meet the goal; or
 2. Document that the bidder made adequate Good Faith Efforts (GFE) to meet the established DBE goal. A bidder is required to submit GFE documentation with their proposal only in the event that the bidder’s efforts to solicit sufficient DBE participation were unsuccessful.

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

- b. Should the low and otherwise responsive bidder fail to attain the goal and not provide adequate GFE documentation in the bid submittal, its bid will

be determined to be nonresponsive, and the next low responsive bid will be reviewed for acceptance.

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

- c. If the apparent low bidder submits GFE documentation with the bid, the Local Agency will submit the documentation to Local Programs for approval action prior to awarding the project. GFE documentation must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract.
- B. **After Award** – The Local Agency will request that the apparent low bidder submit a description of the specific items of the work each DBE subcontractor named in the DBE Utilization Certification will perform, within five (5) working days following the award. This description, dollar amount, and name of the DBE firm is identified in the award letter and made Condition of the Award (COA) of the contract.
- C. **Administrative Reconsideration** – If Local Programs determines that the apparent successful bidder, failed to meet the DBE goal, the bidder will have the right to reconsideration but only for the purpose of reassessing the GFE documentation that was originally submitted with their bid, and determined to be inadequate. The Local Agency will, before awarding the contract to the next successful bidder, notify the bidder that they have five (5) working days (from the date of notification) to request reconsideration or forfeit the right for reconsideration.
- a. WSDOT's decision on reconsideration shall be made by an official who did not take part in the original determination that the bidder failed to meet the goal (as described above).
 - b. The bidder shall have the opportunity to meet in person with said official to discuss their good faith effort package. The bidder's position must be based on its bid submittal. The bidder may provide further explanation/clarification of the information and materials in the bid submittal, but no new material or information will be considered by the official in reaching a decision on reconsideration.
 - c. WSDOT shall send the bidder a written decision on reconsideration, explaining the basis for their findings.
 - d. The result of the reconsideration process is not administratively appealable to the USDOT.

4. **Condition of Award Letter** – The condition of award letter carries the same contractual obligation as the contract specifications and is only required when a mandatory goal is established for a project. An example of a zero goal award letter appears in [Appendix 46.43](#) and an example of a mandatory goal award letter appears as [Appendix 46.44](#). The information contained in the body of these examples must be included in the local agency award letter. If a portion of an item is sublet to a DBE and the remainder is done by the contractor or another subcontractor, the DBE’s work must be shown in detail. Also, any DBE suppliers and manufacturers shall be shown.

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

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

5. **Between Award and Execution** – The contractor shall provide all of the information described in the GSPs including a bidders’ list for all categories (zero and mandatory goals). The list shall include all firms (names and addresses) that bid on prime contracts or bid or quote subcontracts (successful and unsuccessful) on USDOT-assisted projects, including both DBEs and non-DBEs. The local agency shall immediately notify the Region Local Programs Engineer by email with the name and address of the successful contractor for forwarding to the OEO’s contract compliance officer.
6. **Monitoring DBEs During Construction** – The local agency must place special emphasis on the DBE requirements at the preconstruction conference. Changes to the work of a Condition of Award DBE shall be handled in accordance with the GSP (Changes in the Quantity of Work). All change orders affecting the work of DBEs shall be submitted to the Region Local Programs Engineer for concurrence prior to executing the change order.

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

In order to receive credit for DBE participation (count towards the contract goal) a DBE firm must be performing a Commercially Useful Function (CUF) on that contract. See GSPs for additional information on CUF.

Hence, in addition to the project diary, the local agency must document that each DBE working on the project is performing a Commercially Useful Function (CUF). The form “DBE On-Site Review” shall be used by the local agency for purposes of documenting CUF for each DBE contractor/consultant. See [Appendix 26.54](#) for the DBE On-Site form (and instructions) for Construction Subcontractors/Regular Dealers/Manufacturers; and [Appendix 26.55](#) for the DBE On-Site review form for Architect & Engineering/Professional Services Firms. DBE On-site reviews must be conducted:

- At the start of work, and/or

- At the peak period of work, and
- Whenever changes in the performance of the work warrants its completion.

The review should be completed per on-site observations, documentation review, and interviews of contractor's personnel. If there is evidence that a DBE firm may not be performing a CUF, immediately contact your Region Local Programs Engineer.

This completed form becomes a part of the local agency's project records. Additional forms are available from your Region Local Programs Engineer.

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

WSDOT's Office of Equal Opportunity (OEO) may also perform in-depth CUF's on DBE firms performing work on Federal-aid local agency projects (as OEO determines necessary/appropriate).

7. **Prompt Payment (Progress and Return of Retainage)** – Local agencies must comply with State and Federal prompt payment laws. In addition, local agencies are expected to monitor and enforce the prompt payment requirements under State Law (as well as [49 CFR Part 26.29](#)), as regards their contracts with prime contractors. Monitoring prompt payment requires the contracting agency to verify that payments are being made to subcontractors within the allowed timeframe. State law requires payment to subcontractor within ten days of receipt by the prime contractor. Refer to 2016 *Standard Specifications* Section 1-08, Prosecution and Progress along with [RCW 39.04.250](#), [RCW 39.76.011](#), [RCW 39.76.020](#), and [RCW 39.76.040](#) for more detailed "Prompt Payment" requirements.
8. **During Construction and Upon Completion** – For all federal aid projects, the contractor shall submit Local Agency Monthly Report of Amounts Credited as DBE Participation, DOT Form 422-103 ([Appendix 26.51](#)), to the local agency. On this form, the contractor shows the actual amount paid to the DBE firm for the contact work and the date payment was made. The local agency shall forward a copy to the Region Local Programs Engineer. This completed form is required monthly and a final at the completion of the project must be submitted to the Local Programs Project Development Engineer as specified on the form.

In addition, for each contract, local agencies must document (in the form of a Written Certification) that it has reviewed the contracting records and monitored the work site and determined that work committed to the DBEs at contract award (and subsequently) was actually performed by said DBEs – See [Appendix 26.56](#).
9. **Records and Reports** – The local agency will maintain such records and provide such reports as necessary to ensure full compliance with WSDOT's DBE Participation Plan.

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

26.4 Consultant Agreement Procedures

The consultant agreement procedures for the DBE administration differ somewhat from the construction contract approval process outlined above, as the agreement is negotiated after selection of the most qualified firm to perform the scope of work.

1. **Selection of the most qualified Firm** – After selection of the most qualified firm and before the negotiations with the most qualified firm can begin, the Local Agency must submit the DBE Plan and Good Faith Effort (GFE) documentation, if applicable, that was submitted by the successful firm to the Region Local Programs Engineer for concurrence. During this review, Local Programs will review the plan and GFE documentation to see if proposed DBE firms are certified to perform the scope of work and any GFE documentation that was submitted as part of the DBE Plan before concurrence to execute the agreement is given to the Local Agency.
2. **Monitoring the DBE's during the life of the Agreement** – The Local Agency must place a special emphasis on the approved DBE Plan during the life of the agreement. The consultant shall report monthly (to the local agency) on its progress towards achieving the commitments outlined in the DBE Plan. The agency must inquire and monitor the plan to make sure the consultant is on track to meet the planned goal and if any changes are needed to the plan to ensure that the approved goal is met. If changes are needed to the original DBE plan the local agency must submit them to the Region Local Programs office for concurrence prior to documenting that approval with an executed supplement to the consultant agreement.

In order to receive credit for DBE participation (count towards the contract goal) a DBE firm must be performing a Commercially Useful Function (CUF) on that contract. Local agency must document that each DBE working on the project is performing a Commercially Useful Function (CUF). The form “DBE On-Site Review” shall be used by the local agency for purposes of documenting CUF for each DBE consultant. See Appendix 26.55 for the DBE On-Site review form for Architect & Engineering/Professional Services Firms. DBE On-site reviews must be conducted:

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

If there is evidence that a DBE firm may not be performing a CUF, immediately contact your Region Local Programs Engineer.

This completed form becomes a part of the local agency's project records. Additional forms are available from your Region Local Programs Engineer.

The WSDOT Local Agency Consultant Agreements and Disadvantaged Business Enterprise Participation Plan shall be followed to ensure compliance with the DBE Program requirements.

WSDOT's Office of Equal Opportunity (OEO) may also perform in-depth CUF's on DBE firms performing work on Federal-aid local agency projects (as OEO determines necessary/appropriate).

3. **Prompt Payment (Progress Payment)** – Local agencies must comply with State and Federal prompt payment laws. In addition, local agencies are expected to monitor and enforce the prompt payment requirements under State Law (as well as 49 CFR Part 26.29), as regards their contracts with prime consultants. Monitoring prompt payment requires the contracting agency to verify that payments are being made to subconsultants within the allowed timeframe. State law requires payment to subconsultant(s) within ten days of receipt by the prime consultant. Refer to RCW 39.04.250, RCW 39.76.011, RCW 39.76.020, and RCW 39.76.040 for more detailed “Prompt Payment” requirements.
4. **During Contracting Period and Upon Completion** – For all federal aid projects, the prime consultant shall submit Local Agency Monthly Report of Amounts Credited as DBE Participation, DOT Form 422-103 (Appendix 26.51), to the local agency. On this form, the consultant shows the actual amount paid to the DBE firm for the contract work and the date payment was made. The local agency shall forward a copy to the Region Local Programs Engineer. This completed form is required monthly and a final at the completion of the project must be submitted to the Local Programs Project Development Engineer as specified on the form.

In addition, for each contract, local agencies must document (in the form of a Written Certification, see Appendix 26.56) that it has reviewed the contracting records and monitored the work site and determined that work committed to the DBEs at contract award (and subsequently) was actually performed by said DBEs – See Appendix 26.56.
5. **Records and Reports** – The local agency will maintain such records and provide such reports as necessary to ensure full compliance with WSDOT’s DBE Participation Plan.

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

26.5 Appendices

- 26.51 Local Agency Monthly Report of Amounts Credited as DBE Participation
- 26.52 Disadvantaged Business Enterprise Utilization Certification
- 26.53 DBE Written Confirmation Document
- 26.54 DBE On-Site Review for Construction Subcontractors/Regular Dealers/Manufactures
- 26.55 Project Office DBE On-Site Review for Architect & Engineers/Professional Service Firms
- 26.56 Written Certification

Local Agency Monthly Report of Appendix 26.51 Amounts Credited as DBE Participation



**Washington State
Department of Transportation**

Local Agency Monthly Report of Amounts Credited as DBE Participation

Check appropriate reporting period and enter reporting year. <input type="checkbox"/> Final		Federal Aid Number	
Reporting Month _____ Reporting Year _____		Local Agency Project Number	
Contractor		Agency	
DBE Participant Name and Federal Employer I.D. Number		Contract Type	Date of Payment
<p>Contract Type: P = Prime A = Agent V = Service Provider S = Subcontractor R = Regular Dealer J = Joint Venture M = Manufacturer</p>			
<p>I, the undersigned, do hereby certify that in connection with all work on the project for which this statement is submitted, each DBE participant contracted by me has been paid on the dates shown. *Further, I certify that the amounts shown under "Dollar Credit Amount" are in accordance with the "DBE Eligibility" portion of the DBE Special Provision.</p>			
Signature		Title	

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

DOT Form 422-103
Revised 08/2016



Washington State Department of Transportation

Disadvantaged Business Enterprise (DBE) Written Confirmation Document

See Contract Provisions: DBE Document Submittal Requirements Disadvantaged Business Enterprise Condition of Award Participation

THIS FORM SHALL ONLY BE SUBMITTED TO A DBE THAT IS LISTED ON THE CONTRACTOR'S DISADVANTAGED BUSINESS ENTERPRISE UTILIZATION CERTIFICATION.

THE CONTRACTOR SHALL COMPLETE PART A PRIOR TO SENDING TO THE DBE.

PART A: To be completed by the bidder

The entries below shall be consistent with what is shown on the Bidder's Disadvantaged Business Enterprise Utilization Certification. Failure to do so will result in Bid rejection.

Contract Title: _____

Bidder's Business Name: _____

DBE's Business Name: _____

Description of DBE's Work: _____

Amount to be Applied Towards DBE Goal: _____

Amount to be Subcontracted to DBE*: _____

*Optional Field

PART B: To be completed by the Disadvantaged Business Enterprise

As an authorized representative of the Disadvantaged Business Enterprise, I confirm that we have been contacted by the Bidder with regard to the referenced project for the purpose of performing the Work described above. 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.

Name (printed): _____

Signature: _____

Title: _____

Address: _____

Date: _____

DBE On-Site Review for Construction

Appendix 26.54 Subcontractors/Regular Dealers/Manufacturers



**Washington State
Department of Transportation**

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

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

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

WSDOT/Local Agency will perform DBE Onsite Reviews on DBE construction subcontractors. Project owner staff is required to perform a minimum of one review for each DBE firm for each project, for each construction season, and for each primary scope of work.

Note: If the DBE firm is a Regular Dealer/Manufacturer and is not located on the project site or is out of state, then this review needs to be accomplished by telephone.

1. Prime Contractor:			2. Federal Aid Number:	
3. DBE Subcontractor/Regular Dealer/Manufacturer:			4. Contract Number:	
5. Project Engineer:			6. Region/Local Agency:	
7. Project Title:				
SECTION #1 - SUBCONTRACTORS				
8. Bid Item Number	9. Bid Item Approximate % Complete	10. Actual Work Being Performed (Note partial items)	11. Force Account	12. DBE Dollar Amount
			<input type="checkbox"/> Yes <input type="checkbox"/> No	
			<input type="checkbox"/> Yes <input type="checkbox"/> No	
			<input type="checkbox"/> Yes <input type="checkbox"/> No	
			<input type="checkbox"/> Yes <input type="checkbox"/> No	
13. Have you checked the Office of Minority & Women's Business Enterprises Website (www.omwbe.wa.gov) to ensure firm is certified in the above work? If no, please explain:				<input type="checkbox"/> Yes <input type="checkbox"/> No
14. DBE Subcontractor's Start Date		15. Contract Percent Complete		16. DBE Anticipated Completion Date
DBE INTERVIEWEE QUESTIONS				
17a. First Name		17b. Last Name		17c. Phone Number
18. Who does the DBE's Site Supervisor report to within his/her organization? Name: _____ Title: _____				
19. Is the DBE Interviewee exclusively employed by the DBE? If no, please explain				<input type="checkbox"/> Yes <input type="checkbox"/> No

DOT Form 272-052
Revised 05/2015

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

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

Name	Craft

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

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

Make/Model/Year	Owned/Leased	Condition	Logo Markings
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No

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

PERFORMANCE

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

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

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

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

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

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

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Revised 05/2015

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

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

Material Name	Material Quantity	Material Costs

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

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

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

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

TRUCKING COMPANIES ONLY

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

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

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

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

Name: _____ Firm: _____

40. Additional comments/observations

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

41. Review Conducted By (Print Name) _____ 42. Title (Print) _____

43. Signature _____ 44. Date of This Review _____

45. Date Project Engineer approved Request to Sublet: _____

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

Project Office DBE On-Site Review for Architect Appendix 26.55 & Engineering/Professional Services Firms



**Washington State
Department of Transportation**

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

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

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

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

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

1. Prime Contractor/Consultant:		2. Federal Aid Number:	
3. DBE Firm:		4. Contract Agreement Number:	
5. WSDOT Project Engineer:		6. WSDOT Region/Local Agency:	
7. Project Title:			
INDICATE THE DBE WORK OBSERVED THIS DATE			
8. Scope of Work	9. Approximate % Complete	10. Actual work being performed. <i>If more lines are needed use a continuation sheet</i>	11. DBE Dollar Amount
12. Have you checked the Office of Minority & Women's Business Enterprises Website (www.omwbe.wa.gov) to ensure firm is certified in the above work? If no, please explain:			<input type="checkbox"/> Yes <input type="checkbox"/> No
13. DBE Firms' State Date:	14. WSDOT Contract Percent Complete:	15. DBE Anticipated Completion Date:	
DBE PROJECT MANAGER/SUPERVISOR			
16. First Name:		17. Last Name:	18. Phone Number:
19. Is the DBE Project Manager/Site Supervisor exclusively employed by the DBE? If no, please explain:			<input type="checkbox"/> Yes <input type="checkbox"/> No
20. Is the DBE Project Manager/Site Supervisor shown on the monthly invoice of Certificate Payroll:			<input type="checkbox"/> Yes <input type="checkbox"/> No
21. Is the DBE Project Manger/Site Supervisor shown on any other firms' invoice? If yes, please explain:			<input type="checkbox"/> Yes <input type="checkbox"/> No
22. Who does the DBE's Project Manager/Site Supervisor report to within his/her organization?			
Name:		Title:	

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Revised 05/2015

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

DOT Form 272-051
Revised 05/2015



Final DBE Utilization Plan Report

Project Number	Federal-Aid Project Number	Region/Agency
----------------	----------------------------	---------------

Contract Title

Agency's Certification

I certify that the contracting records and on-site performance of the Disadvantaged Business Enterprises have been Monitored.

X _____
Project Manager or Engineer Signature Required

Printed Signature Name

Business Phone Number

Date of Signature

A final report of DBE Contract Payment Reports must be attached in order to certify that the contracting records and on-site performance of the Disadvantaged Business Enterprises has been monitored in compliance with 49 CFR 26.37.

WSDOT Contract Original to:
 Temporary Final Project Records

Copies to:
 OEO Project Engineer File

Local Agency Original to:
 Project Record

Copies to:
 WSDOT Local Programs Project Manager or Project Engineer

DBE Written Certification

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 the operating administrations under it (Federal Highway Administration, Federal Transit Administration, Federal Railroad Administration, Federal Aviation Administration, Research and Special Programs Administration, National Highway Traffic Safety Administration, or the U.S. Coast Guard).

Section 504 extends to the entire operations of a recipient or subrecipient, regardless of the specific funding source of a particular operation. Section 504 Regulations ([49 CFR Part 27.5](#)) define a recipient as any public entity that receives Federal financial assistance from the USDOT or its operating administrations either directly or through another recipient. An example of a recipient is WSDOT an example of a subrecipient is a local agency receiving USDOT funds through WSDOT, for projects/programs/activities administered by the local agency.

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.

The respective Federal funding agency (FHWA) and WSDOT will ensure that local agencies comply with 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/ADA

Local agency public works staff should also refer to Chapter 42 of the Local Agency Guidelines (LAG) for technical information specific to public right-of-way facilities.

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 regardless of the number of employees shall 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. This information is required to be posted in areas likely to be viewed by employees and the general public (such as the agency's Web page, etc.).
- Each agency regardless of the number of employees shall 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. This information is required to be posted in areas likely to be viewed by employees and the general public (such as the agency's Web page). An example of grievance procedures can be found on WSDOT Local Program's ADA/Section 504 website: www.wsdot.wa.gov/LocalPrograms/ADA

- 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. Information placed on the agency's Web page counts as posting externally. An example of a public notice can be found on WSDOT Local Program's ADA/Section 504 website: www.wsdot.wa.gov/LocalPrograms/ADA
- 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. See Appendix 29.11. Each agency shall provide an opportunity for interested parties (i.e., persons with disabilities/advocacy groups) to participate in the process. Resources to identify disabled users of the public right of way can be found on WSDOT Local Program's ADA/Section 504 website: www.wsdot.wa.gov/LocalPrograms/ADA
- 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 program access plan. See Section 29.4 for the requirements of these plans.

An agency's self-evaluation and transition plan must cover all of the agency's programs (including facilities), services, and activities. The information contained in this chapter is intended to provide local agency transportation departments (i.e., public works) with guidance/expectations for addressing ADA accessibility requirements associated with public right-of-way facilities.

29.4 Transition Plan, Program Access Plan, and Accessible Pedestrian Signal and Pushbutton Policy

Each agency shall provide an opportunity for interested parties (i.e., persons with disabilities/advocacy groups) to participate in the process to develop a transition plan or program access plan. A list of potential interest groups can be found on WSDOT Local Program's ADA/Section 504 website: www.wsdot.wa.gov/LocalPrograms/ADA

FHWA considers transition plans and program access plans to be living documents. The applicable 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 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 plan be updated annually until all planned modifications have been completed.

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. FHWA recommends that an agency include the estimated cost of each modification as part of the schedule, to assist in the budget and/or Transportation Improvement Program (TIP) preparation.
- Identify the official responsible for implementation of the plan. This is typically the agency's Executive, or the agency's designated ADA/504 Coordinator who has the authority to act on behalf of the agency's Executive.

For examples of transition plans, see the ADA/Section 504 website: www.wsdot.wa.gov/LocalPrograms/ADA

Program Access Plan

As stated in [Section 29.3](#), agencies with fewer than 50 employees and a recipient of Federal financial assistance are required to develop a program access plan. 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.
- While the following ADA/Section 504 website does not contain an example entitled "Program Access Plan", it does contain examples of transition plans, which are similar: www.wsdot.wa.gov/LocalPrograms/ADA

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, program access plan, or a stand-alone document if a transition plan or program access plan has not yet been completed. FHWA and WSDOT will work with local agencies to ensure that all new and altered pedestrian signal and pushbutton installations are usable by persons with visual disabilities.

29.5 Requirements for New Construction and Alterations 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 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 be planned, designed, and constructed so that the required accessibility improvements occur at the same time as the alteration. If a project involves resurfacing the street, connections between the sidewalk and street crossings (i.e., curb ramps) are considered to be within the scope of the alteration project. Any accessibility issues shall be addressed in conjunction with the resurfacing project, either prior to or at the same time as the resurfacing project. For the requirements for curb ramps during resurfacing projects, see USDOJ-USDOT's Joint Technical Assistance document, dated July 8, 2013 and the Supplement to this document, dated December 1, 2015; and a FHWA recorded webinar from FHWA, dated March 1, 2016. All documents are available on WSDOT Local Program's ADA/Section 504 website: www.wsdot.wa.gov/LocalPrograms/ADA

Safe Harbor for Alterations

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.

If an agency receives Federal financial assistance from USDOT – either directly or through another USDOT recipient (such as WSDOT), the agency is subject to the 2004 ADA Accessibility Guidelines (2004 ADAAG).

This became effective in 2006 when the USDOT adopted the 2004 ADA Accessibility Guideline (2004 ADAAG) into its Section 504 regulations. This document is known as the 2004 ADA Standards. The 2004 Standards have a “safe harbor” provision for curb ramps. The provision is that if a curb ramp was constructed or altered prior to November 29, 2006, and complies with either the 1991 ADA Standards for Accessible Design (1991 ADA Accessibility Guidelines) or the Uniform Federal Accessibility Standards (UFAS), it does not need to be modified as part of a roadway resurfacing project. If this is not the case, or if the curb ramp is in disrepair then the curb ramp and its detectable warnings (truncated domes) must shall be brought into compliance with the 2004 Standards) at the time of an alternation. 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) applies. 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 Standards or the 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 abutting ramps are altered, they shall be reconstructed to meet the 2010 Standards. For additional curb ramp design guidance, see LAG manual Chapter 42.

Documentation for Structural Impracticability and Maximum Extent Feasible

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 discussions with stakeholders or in court.

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/Section 504 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). 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 requires WSDOT 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. 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 existing Federal funding or refuse to grant future 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 Section 504 Regulatory References

Appendix 29.11

ADA Title II and Section 504 Regulatory References

ADA Title II and Rehabilitation Act Section 504 Regulatory References	Requirements for agencies with less than 50 employees	Requirements for agencies with 50 or more employees
Programs, Services, and Activities: Ensure that programs, services, and activities are accessible to persons with disabilities. (28 CFR Part 35.150(a) and (c))	✓	✓
ADA/504 Coordinator: 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))	✓	✓
Complaint/Grievance Procedures: Adopt and publish complaint/grievance procedures. (28 CFR Part 35.107(b) and 49 CFR Part 27.13(b))	✓	✓
Notice of ADA Provisions: Provide a public notice of how the agency will address ADA accessibility in its employment, communications, policies, and resolution of complaints. (28 CFR 35.106)	✓	✓
Self-evaluation²: Evaluate all services, policies, and practices for barriers that 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))	✓	✓
Self-evaluation²: 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):	✓	✓
Transition Plan²/Program Access Plan: Develop a transition plan or program access plan 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))	✓ program access plan	✓ transition plan (post it on the agency's website)
Accessible Pedestrian Signal and Pushbutton (APS) Policy²: 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))	✓	✓

Notes:

¹Employees include paid permanent, temporary, and contract employees regardless of whether the employees are full or part time.

²Complete self-evaluations, and develop transition plans, program access plan 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)).

32.1 General Discussion

The purpose of this program is to reduce the number of fatalities and injuries at public highway-rail grade crossings through the elimination of hazards and/or the installation/upgrade of protective devices at crossings.

The program focus is on adding protection to crossing projects that demonstrate a need for safety and efficiency.

Funding for this program is discussed in [Chapter 12](#).

ROW Requirements for Railroads are discussed in [Chapter 25](#).

The first alternative to be investigated for improving a grade crossing is closure and/or consolidation with nearby grade crossing. Consolidation will reduce train-vehicle accident potential and maintenance costs. It is also possible that important accessibility may be reduced and unacceptable rerouting of vehicular traffic will result. Nevertheless, when improvement alternatives are considered, these factors should not preclude the consideration of crossing consolidation and the resulting benefits. Removal of crossing surfaces, erection of barriers, and other costs associated with closing a crossing are eligible under this program.

It is the position of the Federal Highway Administration that funding on railroad-highway grade separation projects will only be approved where closure of associated at-grade crossing(s) is imminent. When the grade separation project is opened, the at grade crossing must be closed.

The standards contained in this chapter are to be considered minimum standards for projects. They may be inadequate if extraordinarily hazardous conditions exist. In these cases, higher levels of protection should be provided.

32.2 Selection of Appropriate Warning Devices

References:

Manual on Uniform Traffic Control Devices

Design Manual M 22-01

FHWA Railroad-Highway Grade

Crossing Handbook

.21 Passive Protection – These devices include signing and pavement markings. The crossbuck sign is the responsibility of the railroad. All other signs and pavement markings are the responsibility of the local agency and are eligible for reimbursement.

.22 Design Standards for Active Protection – Active grade crossing traffic control devices include all signals, bells, and gates or other devices or methods that inform motorists and pedestrians of the approach or presence of trains, locomotives, or railroad cars on at grade intersections. The majority of the devices are automatically activated by the train. Active protection may be appropriate for those locations which have an exposure factor (trains per day times vehicle ADT) greater than 1,500 or are located on railroad main lines. However, a site specific evaluation of train and vehicle traffic volumes and speeds, rural or urban location, potential danger to a large number of people, sight distance and accident history should be completed before making a decision. The basic active protection device consists of post-mounted flashing lights. Gates should be added when any one of the conditions listed in

[Appendix 32.43](#) exist. Additional cantilevered flashing lights should be provided if any one of the conditions listed in [Appendix 32.43](#) apply. Unless special circumstances exist, all cantilevered installations should include gates. Signal lenses shall be 12 inches in diameter. The design standards are illustrated in [Appendix 32.41](#) and [32.42](#) and are in addition to those found in the *Manual on Uniform Traffic Control Devices* (MUTCD). MUTCD design standards also apply.

a. **Post-Mounted Signals** – These flashing light signals are normally placed to the right of approaching highway traffic on all roadway approaches to a crossing. The design standards included as appendices to this division show the minimum dimensions for the following cases:

[Appendix 32.41](#) – Shoulder Section

[Appendix 32.42](#) – Curb Section

b. **Automatic Gates** – Automatic gates should be added to post-mounted signals when any one of the following conditions is present:

- Multiple main line railroad tracks.
- Multiple tracks at or in the vicinity of the crossing which may be occupied by a train or locomotive so as to obscure the visibility of another train approaching the crossing.
- High-speed train operation combined with limited sight distance at either single or multiple track crossings (see [Appendix 32.43](#)).
- A combination of high speeds and moderately high volumes of highway and railroad traffic.
- Either a high volume of vehicular traffic, high number of train movements, school buses, or trucks carrying hazardous materials, unusually restricted sight distance, continuing accident occurrences, or any combination of these conditions.

When utilizing gates, the departure side of the crossing is usually left open to allow highway traffic to escape from the crossing.

- c. **Cantilevered Signals** – Cantilevered flashing light signals should be added to post-mounted signals and gates when any one of the following conditions is present:
- There are considerable distractions near or beyond the crossing which would compete for the driver’s attention.
 - Traffic or parking conditions are such that the view of a post-mounted flashing light signal could be blocked.
 - The angle of approach to the crossing is acute and post-mounted signals could go undetected.
 - The highway has two or more lanes in each direction.
 - The highway carries high-speed and high-volume traffic.

Unless special circumstances exist, all cantilevered installations should include gates. The design standards included as appendices to this division show the minimum dimensions for the following cases:

[Appendix 32.41](#) – Shoulder Section

[Appendix 32.42](#) – Curb Section

All crossing sites will be reviewed and recommendations made by a diagnostic team consisting of representatives of the Federal Highway Administration (FHWA), railroad, WUTC, local agency, and the Washington State Department of Transportation (WSDOT)

- d. **Traffic Signals at or Near Grade Crossings** – When highway intersection traffic control signals are within 200 feet of a grade crossing, control of the traffic flow should be designed to provide the vehicle operators using the crossing a measure of safety at least equal to that which existed prior to the installation of such signal. Accordingly, design, installation, and operation should be based upon a total systems approach in order that all relevant features may be considered (see [MUTCD](#) Section 8C-6).

.23 Traffic Barriers – A railroad signal may be a point hazard warranting the use of a traffic barrier or crash cushion. Traffic barrier and crash cushion guidelines are shown in Section 710 of the *Design Manual* M 22-01. A guardrail should be installed if the speed limit is greater than 35 mph.

.24 Approaches – Funding to improve road approaches for safety purposes may be considered as a part of signalization projects on a case-by-case basis. Approach work for safety improvement includes profile corrections to reduce approach grades at main line locations.

.25 Crossing Surfaces – Funding to improve crossing surfaces may be considered as a part of signalization projects on a case-by-case basis. The street or highway must have an ADT of at least 7,500 in order to be considered.

.26 Illumination – Railroad grade crossings may be considered for illumination where a nighttime accident pattern is known to exist or is likely to occur. These projects will be considered on a case-by-case basis.

32.3 Project Development Process

.31 Project Application Package – A local agency wishing to develop a project to provide protection at a railroad/highway crossing must follow the application process outlined in [Chapter 21](#), including all support information listed in [Appendix 21.41](#).

The railroad should be contacted during the project development process to provide notification of the proposed project and to obtain relevant data on train movements. Nearly all rail trackage in Washington State is operated by the Union Pacific or Burlington Northern Santa Fe. The contact person for these railroads are listed below:

Terrel A. Anderson	Richard W. Wagner
Manager Industry & Public Projects	BNSF Railway Mgr. Public Projects for WA.
9451 Atkinson Street	2454 Occidental Avenue South Ste 2D
Roseville, CA 95747	Seattle, WA 98134
Office: 916-789-5134	Office: 206-625-6152

A list of Short Line Railroad contacts is located on the website located at www.utc.wa.gov/regulatedIndustries/transportation/rail/Pages/RailroadCompanies.aspx

The Region Local Programs Engineer will assist in determining the owner of the trackage and the appropriate contact person if necessary. In completing the Project Application Package, sufficient preliminary engineering funds should be requested to cover the agency's PE costs as well as an additional \$3,000 to \$5,000 to cover the railroad's costs. The additional dollars for PE work done by the railroad should be shown under "other" on the Local Agency Agreement.

If existing devices are to be removed, the agency will notify the Local Programs Operations Engineer who will determine the salvage rights and values, and determine the railroad's credit to the FHWA, if they are federal property.

.32 Preparation of Project Data – When preliminary engineering funding has been approved, the agency should submit the necessary project data to the railroad along with a notice to proceed. [Appendix 32.44](#) shows a Railroad Project Data Form which provides a railroad with data to prepare an estimate of cost. The data required by the railroad is traffic lane widths, shoulder widths, curbs and sidewalks, angle at which the highway crosses the tracks, and the legal description of the crossing location. The location of any underground and overhead utilities in the area which will be excavated for the signal foundation should also be included.

.33 Railroad Agreement and Petition – Upon completion of the signal layout and design, the local agency will prepare the standard agreement shown in [Appendix 32.46](#) and a petition to the Washington State Utilities and Transportation Commission for installation of the crossing protection as required by [RCW 81.53.261](#). At this time, the railroad will also request construction authorization and the local agency should proceed with the construction authorization process as per [Section 32.34](#). The drawing shall form part of the agreement.

The petition and the agreement will be forwarded to the railroad for execution and returned to the local agency. The local agency will file the petition with the WUTC. The WUTC will review the petition and, if appropriate, issue an order directing installation of the crossing protection.

.34 Construction Administration and Project Closure – Upon receipt of construction authorization, the railroad will order material and proceed with construction. Approximately five to eight months are required to obtain the signal material. The railroad will attempt to coordinate construction with other projects in the area to more effectively utilize crews.

The local agency is responsible for all work associated with a railroad agreement, from date of authorization for the railroad to proceed with the work through final completion of the work, subsequent closing of the agreement, and completion of the final audit.

The local agency is required to document the work performed by the railroad to ensure that the railroad's billing can be verified, thereby leaving an audit trail. This documentation may be performed by random oversight which is defined as on-site reviews two or three times a week while the railroad is working.

The documentation should be a record in the form of a diary and supplemental reports of the work performed by the railroad. This record shall be sufficiently complete to establish a record of the following:

- Number and general type of labor and supervision and number of hours chargeable to the agreement work.
- Number and type of major items of equipment used and number of hours chargeable to the agreement work.
- Description of work accomplished.
- Major items of material installed.
- Major items of material removed and disposition, i.e., salvage, scrap, junk.
- Details concerning any changes or extra work or other conditions affecting the work.

Within 30 days of project completion, the railroad will notify the local agency by letter that construction is completed. The local agency requests final billing from the railroad.

The local agency and the WUTC will be notified when the signals are completed and in operation. The agency should notify the Region Local Programs Engineer when the project is completed and submit any railroad and agency billings.

WSDOT will perform the final inspection and send a 90 day closure letter to the local agency (see [Chapter 53](#)).

32.4 Appendices

- 32.41 Signal Design – Shoulder Section
- 32.42 Signal Design – Curb Section
- 32.43 Railroad/Highway Grade Crossing Protection Sight Distance Diagram and Gate Warrant Form
- 32.44 Railroad Project Data Form
- 32.45 Type 3 Party Agreement – Example
- 32.46 Local Agency Railway Agreement

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 <i>Design Manual</i>	WSDOT/FHWA	WSDOT/FHWA
ITS Over \$1,000,000	WSDOT <i>Design Manual</i>	WSDOT HQ	WSDOT HQ
All Other	WSDOT <i>Design Manual</i>	WSDOT HQ	WSDOT Region
National Highway System (NHS)			
State Highways outside of incorporated cities, or on a limited access highway	WSDOT <i>Design Manual</i>	WSDOT HQ	WSDOT Region
State Highways within incorporated cities between back of curb to back of curb	WSDOT <i>Design Manual</i>	WSDOT HQ	WSDOT Region
State Highways within incorporated cities beyond curb line	*City and County Design Standards See Chapter 42	WSDOT 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 <i>Design Manual</i>	WSDOT HQ	WSDOT Region
State Highways within incorporated cities between back of curb to back of curb	WSDOT <i>Design Manual</i>	WSDOT HQ	WSDOT Region
State Highways within incorporated cities beyond curb line	*City and County Design Standards See Chapter 42	WSDOT 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](#) and [Subpart K: Temporary Traffic Control Devices](#). 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). A TMP is a set of strategies for managing the corridor-wide work zone impacts of a project.

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 have the potential to 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 on Local Programs' [Adaptive Signal Control Technology](#) Web page.

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 and to find the following documents, see Local Programs’ [Adaptive Signal Control Technology](#) 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



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.

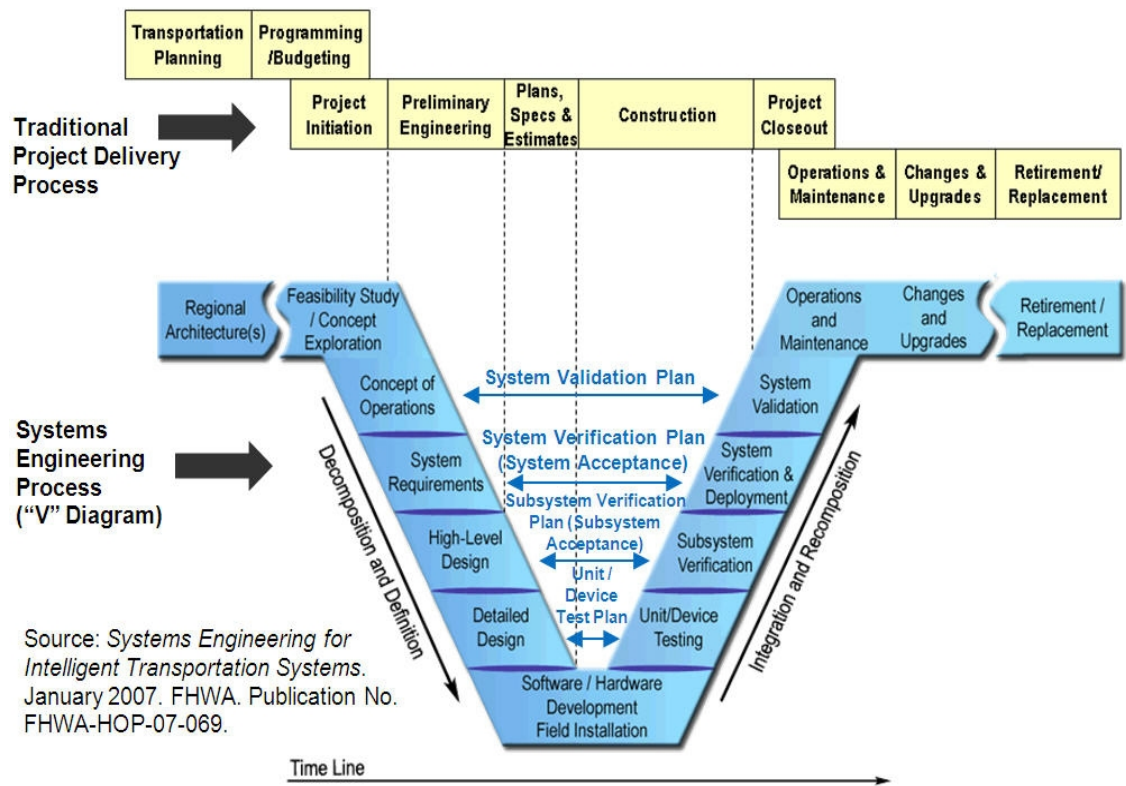
I have examined this deviation request and believe it to be in the best public interest that it be granted.

Local Agency Engineer

Date

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.



Source: *Systems Engineering for Intelligent Transportation Systems*. January 2007. FHWA. Publication No. FHWA-HOP-07-069.

Systems Engineering Process (“V” Diagram)

Intelligent Transportation Systems (ITS) Appendix 41.53 Systems Engineering Analysis Worksheet



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 worksheet, these documents must be submitted to the WSDOT Local Programs Engineer for review, who in turn will send them to the FHWA ITS/Operations Engineer for review, prior to submitting a construction authorization request. The documents must be kept in the project file for the entire document retention period of the project.

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. Select which of the following items, if any, apply to this project:
 - The project implements an existing adaptive signal control technology (ASCT) system for the first time. Or the project expands on an existing ASCT system involving jurisdictions the agency has not worked with previously. Please explain why you selected or did not select this item.
[Click here to enter text.](#)
 - 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. 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.](#)

6. If you selected any of the items in question 5, FHWA and WSDOT consider the project to be high risk. Use this table for additional requirements:

Total project cost for high risk ITS projects		
Adaptive signal control technology (ASCT) projects	Other types of ITS projects	
	Greater than or equal to \$1,000,000 ²	Less than \$1,000,000 ²
Additional systems engineering documents (Concept of Operations, System Requirements, Verification Plan, and Validation Plan) ¹ are required.	Additional systems engineering documents (Concept of Operations, System Requirements, Verification Plan, and Validation Plan) ¹ are required.	Additional systems engineering documents (Concept of Operations, System Requirements, Verification Plan, and Validation Plan) ¹ are recommended. This decision requires FHWA concurrence through the WSDOT Local Programs Engineer prior to submitting a construction authorization request.
Notes: 1. See definitions in Section 41.3. 2. Use the amount from question 4.		

7. 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.](#)

8. 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 which agency 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 6), this answer can be a simple reference to that document.

[Click here to enter text.](#)

9. 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 6), this answer can be a simple reference to that document.

[Click here to enter text.](#)

10. 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.](#)

11. 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, 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.

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12. 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.

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13. 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.

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FHWA Washington Division ITS Project Appendix 41.54 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 not construction and often done by agency personnel.	<ul style="list-style-type: none"> • 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.	<ul style="list-style-type: none"> • 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.	<ul style="list-style-type: none"> • 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.	<ul style="list-style-type: none"> • 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.	<ul style="list-style-type: none"> • 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)	<ul style="list-style-type: none"> • Operating costs for traffic monitoring, management, control systems (e.g., rent, communications, labor, utilities) • Preventative maintenance

43.1 General Discussion

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

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

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

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

43.2 Requirements for Design Approval

All items on the appropriate design matrix are required to be addressed (see [Chapter 42](#), Table 1.1, 1.2, and 1.3 and [Appendix 42.101](#) and [43.62](#). In addition, items listed below are also required to be addressed (some of these are included in the Project Prospectus).

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

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

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

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

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

.25 Right of Way – Local agencies must ensure that the R/W plans were reviewed and approved and that they are consistent with the PS&E.

43.3 Bridge Design Approval

.31 Policy

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

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

.33 Submittal of Data – Refer to [Section 34.5](#).

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

43.4 Value Engineering

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

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

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

Reducing the scope of a project, compromising the performance of an element, or simply substituting cheaper materials is not VE. VE is not just “good engineering.” It simply answers the question, “What else will accomplish the purpose of the product, service, or process we are studying?” All costs are taken into account over the entire life of the project.

.42 Why VE is Needed – The costs of highway needs far exceed the funds available for improvements. As the cost of highway construction increases, more emphasis is being placed on the maintenance and rehabilitation of existing facilities to maximize these available funds.

VE is a tool that can counteract these growing problems by providing (1) cost reduction, (2) product or process improvement, and (3) alternative means and materials for highway construction and maintenance.

.43 VE Application (General) – VE may be applied at any point in highway development, operation, and maintenance. For maximum effectiveness, however, VE should be undertaken as early as possible (during the first 30 percent of design) when decisions on life-cycle costs are being made and valid project development recommendations can be implemented. When a complex, costly project is selected as a candidate for potential cost reductions, investigations should start as soon as a preliminary estimate is in hand.

VE should be employed when the ratio of potential savings to the cost of the VE study is significant. VE can also be used in evaluating standard details that are used repetitively on many projects. The cost of VE studies in preconstruction activities may be allocated to the preliminary engineering cost of the related project.

Local agencies are also encouraged to include a VE incentive clause in their construction specifications; such clauses encourage contractors to propose changes to the contract that fulfill a project's functional requirements at less cost.

When VE is not mandatory and the local agency staff is considering a VE, it is recommended that the local agency staff prepare a "VE Assessment Report" ([Appendix 43.61](#)). The report will address the project characteristics, cost per mile, potential savings of high cost items, and other considerations unique to the project. From this assessment, a recommendation can be developed as to whether a VE study is needed. Use the references listed in Section 43.45 when a mandatory VE study is performed.

.44 VE Study Team – The VE Study Team will be headed by a qualified facilitator. The duties and responsibilities of the facilitator will include, but are not limited to, the following:

1. Acts as chairperson at meetings of the VE Team.
2. Presents the findings and recommendations of the VE study to the local agency management and other interested agencies.
3. Provides the final VE Study Report to the local agency and WSDOT Local Programs.

The VE Team will be comprised of a minimum of five members including the facilitator. One team member should have a background in bridge design (if a bridge is part of the project) or construction. If environmental factors are part of the study process, then the team should also include a member who has expertise on environmental issues.

The VE Team will formally present their study results to local agency representatives, WSDOT Local Programs, and all other interested persons. Team findings and recommendations will then be documented in a formal report and should be provided to all interested parties soon as possible. Courtesy copies are sent to other appropriate agencies and individuals.

The local agency will evaluate the VE Team recommendations. Should their preferred alternative differ from the prospectus or if no project prospectus has been approved, the local agency submits a new or revised prospectus for their preferred alternative to the Region Local Programs Engineer. A summary of the VE study results shall be included in this transmittal as reference material. The project then proceeds as defined in this manual.

.45 Reference Materials

- *Value Engineering Guide for Cities and Counties*, Kempter-Rossman International.
- *Operating Tip — Value Engineering*, NWT2 Center, October 1985.
- *Value Engineering Contract Provisions on Federal Aid Highway Construction Projects*, Report No. 7584217, FHWA, December 1984.
- *Pavement and Shoulder Maintenance Performance Guide*, Report No. TS-84-208, FHWA, August 1984 (Developed in conjunction with Arkansas, Colorado, Iowa, New Mexico, North Dakota, South Dakota, Utah, and Washington).
- *Value Engineering for Highways*, prepared for FHWA by Kempler-Rossman International, revised October 1983.
- *Value Engineering Conference Summary Report*, Report No. TS-80-246, FHWA, August 7, 1980.
- *Value Engineering — A Systematic Approach*, Arthur E. Mudge, McGraw-Hill, New York, 1971.
- *Value Engineering in the Construction Industry*, Alphonse J. Dell'isola, Construction Publishing Co., Inc., New York, 1974.
- *Guidelines for Value Engineering (VE)*, subcommittee on New Highway Materials, AASHTO-AGC-ARTBA Joint Cooperative Committee. Reprinted by USDOT/ FHWA February 1983.
- WSDOT *Design Manual* M 22-01 Value Engineering (VE) section.

43.5 Additional Data Required for Special Projects

.51 Traffic Signal Projects – The local agency shall provide warrants for signalization in accordance with Part 4c of the Manual on Uniform Traffic Control Devices (MUTCD). Designs for signalization at intersections with state routes require review by WSDOT. A signal permit is required for all traffic signals on state routes. An early application to the WSDOT Region Administrator is advisable.

.52 Projects Involving State Routes – Designs for all projects involving state routes shall be submitted to WSDOT for approval. All work at intersections with state routes requires submittal of an intersection plan to WSDOT for approval. Prints of existing intersection plans are available from WSDOT. Revisions should be shown on these prints.

43.6 Appendices

- 43.61 VE Assessment Report
- 43.62 Example of Design Approval Documentation



VE Assessment Report

Agency: Click here to enter text.

Date: Click here to enter text.

Project Title: Click here to enter text.

Project Number: Click here to enter text.

Reviewing Team: Click here to enter text.

Project Characteristics

Length: Click here to enter text. Cost: Click here to enter text. Cost/Unit Length: Click here to enter text.

Major structure Yes No

Extensive R/W Yes No

Complex project Yes No

Includes Items that appear too costly Yes No

Includes Critical or Expensive Materials Yes No

Includes items that have questionable, complex, or costly function Yes No

Includes items difficult to construct Yes No

Complicated or costly traffic control or detours Yes No

Horizontal Alignment: Click here to enter text.

Vertical Alignment: Click here to enter text.

Materials Source: Click here to enter text.

Design Concept: Click here to enter text.

Other Considerations: Click here to enter text.

Other Alternatives Considered: Click here to enter text.

Major High Cost Items and Potential Cost Saving Ideas	Cost	Potential Savings
1. Click here to enter text.	\$	\$
2. Click here to enter text.	\$	\$
3. Click here to enter text.	\$	\$

Conclusions and Recommendations: Click here to enter text.

Approving Authority Recommendations: Click here to enter text.

Design Approval Documentation

[Agency Name]

[Project Title]

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

- Traffic Data
- Pavement Design Criteria
- NEPA
- Right of Way (check applicable situation)
 - No ROW Needed - PS&E is consistent with no ROW determination
 - ROW Needed – PS&E consistent with ROW Plan

A Cost Estimate has also been prepared.

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

Name
Title
Agency

Date