

15.1 General Discussion

Guidance cannot provide for all situations. The following is intended to assist but not substitute for competent and engaging oversight of State funded projects. This guidance is also not intended to limit any innovative efforts that could result in better quality, better cost savings, or both. It is the intent of this guidance to use as a reference with respect to assist local agencies to comply with all applicable laws.

Risk assessments are required prior to the beginning of a state funded projects. A risk assessment of each project will be performed by the region local programs to identify the project as a high or low risk.

- Low-risk projects still carry risk so proper oversight is still required to ensure compliance with regulations.
- High-risk projects will require additional engagement and oversight activities to ensure successful development and delivery.

It is the expectation that agencies will follow all applicable laws when developing and delivering state funded projects.

15.2 State Funding Programs

The state of Washington funds various funding programs which may change over time. Below are a few of the current programs and their descriptions.

- .21 **Safety Routes to Schools** – The purpose of the Safe Routes to Schools Program (SRTS) is to improve safety and mobility for children by enabling and encouraging them to walk and bicycle to school. Funding from this program is for projects within two-miles of primary, middle, and high schools (K-12).
- .22 **Pedestrian and Bicycle Programs (PBP)** – Programs goals include elimination of Pedestrian and Bicycle fatal and serious injuries, increasing the availability of connected pedestrian and bicycle facilities that provide low traffic stress an serve all ages and abilities and increasing the number of people that choose to walk and bike for transportation.
- .23 **Sandy Williams Connecting Communities Program** – The Sandy Williams Connecting Communities Program (SWCCP) was established to improve active transportation connectivity for people walking, biking, and rolling along and across current and former state highways. The program focuses on communities with high equity needs, which are those most affected by barriers to opportunity and environmental health disparities.

15.3 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.

- .31 Phases of Authorization** – If FHWA funds are authorized in any project phase, see LAG [Chapter 14](#). For projects utilizing state funding in all phases, the following requirements apply:

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

Phase Requirements When Utilizing State 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 – For state funds to be used in the PE phase of the project, the environmental documentation including SEPA and Governor Executive Order (GEO) 21-02 compliance, must be completed prior to advertising the project for construction. If the Agency anticipates Federal Funding in any phase of its project, the local agency must still follow federal environmental regulations (NEPA) and the Uniform Relocation Assistance and Real Property Acquisition Policies Act. See LAG [Chapter 14](#) for additional guidance.

- .32 Documentation Required for Authorization of Funds**

1. **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. In addition to federally funded transportation projects, regionally significant transportation projects funded with only state or local funding are required to be programmed in local¹, transit², MPO³, RTPO⁴, TIPS, and the STIP⁵.

State funding includes but is not limited to:

- Washington State Legislature Connecting WA transportation package.
- Move Ahead Washington transportation package.
- Transportation Improvement Board (TIB).
- County Road Administrative Board (CRAB).
- State legislative earmarks.
- Any state funding received from another source.

¹ RCW 35.77.010 and RCW 36.81.121

² RCW 35.58.2795

³ 23 USC 134 (j) and 23 CFR 450.326

⁴ WAC 468-86-160

⁵ 23 USC 135, 23 CFR 450 and 49 USC 5304

Regional significance⁶ is:

- Determined by MPO or RTPO.
- A transportation project that is on a facility that serves regional transportation needs
 - Such as access to and from the area outside the region
 - Major activity centers in the region
 - Major planned developments such as new retail malls, sports complexes, or employment centers
 - Transportation terminals
 - Included in the modeling of the transportation network.
 - Principal arterials and all fixed guideway transit facilities that offer an alternative to regional highway travel.

To determine if a project funded with only state and/or local funding is regionally significant, agencies need to check with their respective MPO or RTPO.

For more information on programming requirements, see [Chapter 12](#) of the LAG Manual.

2. 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, if Regionally Significant.
 - d. Documented cost estimate.
 - e. Updated Local Project Report, if required.
3. **Preliminary Engineering Funds** – When applying for preliminary engineering funds, the following documents are required:
 - a. State Funds Project Prospectus. DOT Form 140052 ([Chapter 21](#)) or State Funds Planning Prospectus – DOT Form 140053
 - b. Local Programs State Funding Agreement. DOT Form 140087 and Supplement – Local Programs State Funding Agreement – DOT Form 140087A. ([Chapter 22](#))
 - c. Typical sections, vicinity map
 - d. Evidence of STIP inclusion if Regionally Significant.
 - e. Documented cost estimate
 - f. Project funding letter(s)
 - g. Updated Local Project Report, if required.

⁶ 23 CFR 450.104

4. **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 or original Local Agency Agreement DOT Form 140-087A ([Chapter 22](#)).
 - b. Evidence of STIP inclusion, if Regionally significant.
 - c. Documented Cost Estimate.
 - d. Updated Local Project Report, if required.
5. **Construction Funds** – The following documents must be submitted to request construction funds:
 - a. Supplement to or original 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. Final approval of environmental documents ([Chapter 24](#)). (SEPA and Executive Order 21-02). Where the project is exempt from SEPA, per WAC 197-11-800, the agency shall provide a letter certifying the exemption.
 - c. Updated state project prospectus. To ensure utility and railroad work is adequately addressed () local agencies are required to provide an updated, signed state project prospectus at time of construction phase authorization.
 - d. Engineer's Estimate.
 - e. Evidence of assignment of Apprenticeship, as applicable.
 - f. Funding Letters
 - g. Where the project makes improvements on State Right of Way, the Construction Obligation packet shall include a fully executed agreement between the WSDOT and agency regarding the ongoing maintenance and operational requirements for the improvements on the state route.
 - h. Updated Local Project Report, if required.

.33 Contract Administration –

1. Preliminary Engineering Phase:
 - Projects within Interstate Right of Way must follow LAG 14.3.
 - Design documentation within State R/W to follow WSDOT *Design Manual*.
 - See LAG 15.5 for additional requirements.

2. Right of Way Phase:

For local agency projects that are not federalized (state-funded), Local Programs Right of Way does not provide oversight, review, or certification of the project. The local agency still needs to follow all applicable state and local laws that govern the acquisition and relocation of properties needed for the project. Local Programs Right of Way does recommend that local agencies establish a single process for its acquisitions and relocations, regardless of funding, that is URA compliant. This will allow the project to remain in full compliance if it becomes federalized. Any questions should be directed to the region's Local Agency Coordinator (LAC). See LAG 15.5 for additional requirements.

3. Construction Phase:
See Section 15.4 and 15.5 for additional requirements.

15.4 Submittal of Award Data

The local agency must submit the following information to the Region Local Programs Engineer:

1. Consultant Agreements – within 30 days of execution:
 - A signed copy of the Local Agency Consultant Agreement
 - Diversity Management & Compliance System (DMCS) contact information as follows,

| | |
|---------------|-------------------|
| Agency | Consultant |
| Name: | Name: |
| Title: | Title: |
| Phone: | Phone: |
| Email: | Email: |

Failure to submit the above listed information, before work begins, may result in delay of reimbursement of the billed cost, until the information is received.

2. Construction Contracts – within 30 days of award:
 - Certified Tabulation of bids.
 - Award letter to the contractor.
 - Diversity Management & Compliance System (DMCS) contact information as follows:

| | |
|---------------|-------------------|
| Agency | Contractor |
| Name: | Name: |
| Title: | Title: |
| Phone: | Phone: |
| Email: | Email: |

Failure to submit the above listed information, before construction begins, will result in a delay of reimbursement for the billed cost, until the information is received.

15.5 State Funded Responsibility Matrix

| Topic | | Responsibility RLP, HQ, or LA ¹ | | | Mandate/Best Practices | References |
|-------------|--------------------------------------|---|-----|----|---|---|
| | | O | R | A | | |
| General | Funding Agreement | LA | RLP | HQ | Local Agency to submit with vicinity map, prospectus, roadway sections, and project estimate along with State funding agreement when requesting allocation of funds. | State Funding Agreement: WSDOT Form 140-087 |
| | Invoicing | LA | HQ | HQ | Local Agency submits to HQLPBILLINGS@wsdot.wa.gov | State Billing Form: WSDOT Form 140-576 |
| Consultants | Consultant Services | | | LA | Public announcement of A&E services along a competitive solicitation is required. | RCW 39.80.101 RCE 39.26.120 |
| | Consultant Agreements | LA | LA | LA | Local Agency A&E Professional Services Costs Plus Fixed Fee or Negotiated Hourly Rate Consultant Agreements may be used but are not required. | RCW 39.80 |
| | ADA language in public Advertisement | | | | LA must provide USDOT Assurances in advertisements and agreements. | ADA Section 504 28 CFR Part 35 Title II 49 CFR Part 3 LAG Chapter 29 , PROWAG |
| | Sole Source Procurement | LA | LA | LA | Use processes described in RCW 39.80. | Use RCW 39.80 for procurement of A&E Services. State law does not have mechanism for procurement via sole source. |
| | Rosters | LA | LA | LA | Agency may create their own Agency roster or may use MRSC rosters if Federal Funding will not be sought in any phase. Agency should ensure roster process is in compliance RCW 39.80. | Municipal Research and Services Center Rosters. RCW 39.80. |

| Topic | Responsibility RLP, HQ, or LA ¹ | | | Mandate/Best Practices | References |
|-------------------------------------|---|-----|-----|---|---|
| | O | R | A | | |
| ROW funding estimate | N/A | N/A | N/A | This is not required on State funded projects. The Local Agency may choose to complete this task as a best practice. | None |
| Funding Supplement | LA | RLP | HQ | Update LA Agreement after R/W estimate is completed. | Supplement: WSDOT Form 140-087a |
| ROW acquisition & relocation | LA | LA | LA | It is recommended that agencies adhere to a single process (that is URA compliant) for acquisitions and relocations in case the project becomes federalized for CN. | All state laws need to be followed including but not limited to: RCW 8.25.020 RCW 8.26.065 RCW 8.26.085 RCW 8.26.180 RCW 18.85.081 RCW 18.85.151 RCW 18.85.011 RCW 47.12.160 WAC 468-100-009 WAC 468-100-010 WAC 468-100-101 to WAC 468.100-103 WAC 468-100-106 WAC 468-100-205 |
| ROW relocation plan (if applicable) | LA | LA | LA | | RCW 8.26.065 WAC 468-100-205 |
| R/W Certification | LA | LA | LA | It is recommended that agencies adhere to a single process (that is URA compliant) for acquisitions and relocations in case the project becomes federalized for CN. | LAG Chapter 25 |

Right of Way

| Topic | Responsibility RLP, HQ, or LA ¹ | | | Mandate/Best Practices | References |
|---|---|------------|-----------|---|---|
| | O | R | A | | |
| Scope Changes | LA | | | Review/Approval of scope changes will be subject to the funding program. Contact the funding program manager. | |
| Environmental Clearances - SEPA | LA | LA | LA | NEPA documents may be used to satisfy SEPA requirements per WAC 197-11-610 | WAC 197-11, |
| Archeological & Cultural Resources | LA | LA/ RLP | LA/ HQ | LP can apply Section 106 PA exemptions. If not exempt, local agency consults per GEO 21-02, | GEO 21-02, Section 106 Programmatic Agreement See NEPA CE Guidebook for additional information. |
| Environmental Clearances - NEPA | N/A | N/A | N/A | If Federal CN Funds are being sought, the Agency should pursue NEPA, otherwise see Environmental Clearances – SEPA. | |
| Environmental Permits | LA | LA | LA | In-water or wetland work requiring a Corps permit will need NEPA through the Corps. | |
| Design Documentation | LA | LA | LA | CA or non-CA agency to follow established Agency practices. Best Practice to follow AASHTO Geometric Design of Highways and Streets.. | City/County Design Standards established in accordance with RCW 35.78/RCW 43.42. |
| Design Deviations | LA | RLP | HQ | | RCW 35.78.040 |
| ADA – Design/ Construction | LA | LA | LA | LA to provide USDOT Assurances in contracts. Design of features in conformance with current Prowag. | ADA Section 504 WAC 468-100.008 28 CFR Part 35 Title II 49 CFR Part 3 LAG Chapter 29 , PROWAG (36 CFR 1190) |
| ADA – Maximum Extent Feasible (MEF)/Transition Plan | LA | NA | LA | ADA features not meeting PROWAG should be documented with MEF and listed on Agency Transition Plan. | PROWAG 36 CFR 1190 |

| Topic | Responsibility RLP, HQ, or LA ¹ | | | Mandate/Best Practices | References | |
|----------------------|---|-----|----|------------------------|---|---|
| | O | R | A | | | |
| Special Provisions | Division 1 Specials | LA | NA | LA | Include specials for Title IV and Nondiscrimination. | 1-07.11.opt1.GR1, Standard Spec 1-07.11. |
| | Apprenticeship Utilization Specification | LA | LA | LA | Contract specs must contain 15% of labor hours and an incentive and penalty payment item. | See RCW 39.04. APWA Specification, DES Sample Contract Language; MRSC |
| | Buy America / BABA | NA | NA | NA | Made in America requirements to not apply to State funded contracts. | |
| | Liquidated Damages | LA | LA | LA | May not be specified when retainage is withheld. | RCW 62A.2-718 when used. |
| | Minority, Small, Veteran, Women's Goals | NA | NA | NA | | Goals do not apply. |
| | LS Traffic Control | LA | NA | LA | Agency can select LS traffic control. Best practice to use on projects with straight forward Traffic Control. | Current adopted edition of MUTCD with WA state modification. (WAC 468-95) |
| Pre-Construction | Agency Purchase of Materials | LA | LA | LA | Use of State DES Contracts are allowed. | RCW 39.34. |
| | Utilities – relocation | | | | Utilities are responsible for funding and relocating utilities within agency right of way unless they have a property right. | The 18th Amendment to the WA state constitution restricts expenditure of gas tax and vehicle fees for “highway purposes”. (State ex rel. O’Connell v. Slavin, Washington Supreme Court - 1969). |
| Construction/Closure | Apprenticeship Monitor/Report | LA | LA | LA | 15% Apprenticeship required beginning July 1, 2024, for projects estimated over \$2million. | RCW 39.04.320 Apprentice Registration and Tracking System (ARTS) WA Department of Labor and Industries PWIA system |
| | Diversity Management Compliance System (DMCS) | NA | NA | LA | Reporting required for State/Local Projects over 500K for Connecting WA, Bike/Ped Program, Safe Routes to School. Submit Award Data per LAG 15.?. | Funding authorization letter from Local Programs. |
| | Wage Rates | | LA | LA | State Wage Rates are required. | RCW 49.46. |
| | Change Orders | LA | LA | LA | | |
| | Final Inspection | RLP | NA | RLP | Local Agency State funding agreement requires inspection. | WSDOT Form 140-500 |
| | Project Closure | LA | NA | HQ | Agency requests closure within 90 days of completion. Submits final billing and final project summary | LP State Final Project Summary WSDOT form – 140-575 |

Submittals requiring LP review or approval to be submitted to the Region Local Programs Engineer.

LP Review or approval applies to NHS routes only.

O - Originate, R - Review, A - Approve

1 RLP - Region Local Programs, HQ - Headquarters Local Programs, LA - Local Agency

15.6 Billings

General Discussion

All progress billings shall be submitted monthly to WSDOT Headquarter Local Programs by the local agency in accordance with the terms of the Local Agency State Agreement. 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 Local Agency Agreement, when completed, establishes a work order account which permits billing to the project.

Once written authorization is provided, the Agency agrees to show continuous progress through monthly billings. Failure to show continuous progress may result in the project becoming inactive. The department shall review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded funds but does not report activity on the project within nine months of the grant award must be reviewed by the department to determine whether the grant should be terminated. The department shall promptly close out grants when projects have been completed and identify where unused grant funds remain because actual project costs were lower than estimated in the grant award.

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

Indirect Cost Rates

Agencies may use indirect cost rates on state funded projects. All local governments and units of local governments that claim indirect costs under state awards must follow the federal regulations as outlined in the LAG Manual Section 23.5.

For billing procedures please refer to LAG Manual Section 23.2 and 23.4.

The state billing form can be found in the LAG Manual Appendix 23.8 Forms. Instructions on how to fill out the billing form can be found in [Appendix 23.71](#).

15.7 Closures General Discussion

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

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

All Local Agency Agreements are required to have a Project Agreement End Date. Any costs incurred after the Project Agreement End Date are NOT eligible for reimbursement. All eligible costs incurred prior to the Project Agreement End Date must be properly submitted for reimbursement within 60 days after the Project Agreement End Date or they become ineligible for reimbursement.

Please refer to LAG Manual Chapter 53.2.21 WSDOT Project Review, 53.2.22 Final Billing, 53.2.23 Project closure and 53.4 Financial and Compliance Audit for further requirements of the agreement.

15.8 Forms

- 140-052 State Funds Project Prospectus
- 140-053 State Funds Planning Prospectus
- 140-087 LP State Funding Agreement
- 140-087A Supplement - LP State Funding Agreement

