



**Washington State
Department of Transportation**

Public Transportation Grant Guidebook

Chapter 4: Requirements for capital construction projects

DRAFT

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Public Transportation Division

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Chapter 4: Requirements for capital construction projects

This chapter provides the basics of construction project management from project inception through closeout. It describes the numerous requirements, best practices, and general guidelines for carrying out a successful and compliant capital construction project. The guidance in this chapter is for grantees receiving state or FTA funds through WSDOT.

This chapter doesn't cover the full extent of your responsibilities for capital construction projects. While you must follow the guidelines in this chapter, you must also follow requirements from federal, state, and local agencies. You must also follow requirements in Chapter [1](#); and chapters [2](#) and [3](#), depending on the source of your funding.

WSDOT invests in a variety of capital construction and infrastructure projects involving transit-related facilities. Infrastructure is the underlying framework or structures that support a public transportation system. Facilities are a building or structure used in providing public transportation.

Capital construction projects include:

- Rehabilitation or expansion of existing facilities.
- Construction of new facilities, such as park-and-ride lots and bus-rapid-transit facilities.
- Infrastructure to support zero-emission vehicles.

The Public Transportation Division administers state- and FTA-funded (Section 5339) grant programs to support capital construction and infrastructure projects.

Source: [49 CFR 625.5](#)

4.1 All projects

This section applies to state and federally funded projects.

If your project has been awarded federal funding through the Public Transportation Division, you must also review [Section 4.3: Federally funded projects](#).

4.1.1 WSDOT's role in capital construction projects

WSDOT has an oversight responsibility for ensuring you use grant funds properly to meet program requirements and deliver on approved scopes of work and project intent.

For federally funded projects, refer to [Section 4.3.2: WSDOT's role in capital construction projects](#) for additional information.

4.1.2 Grantee's role in capital construction projects

The grantee is responsible for carrying out the project described in the grant agreement and complying with all relevant federal, state and local requirements including completing the environmental process and obtaining all necessary permits.

The scope, schedule and budget define the grant-funded project. Grant applications and grant agreements detail the project scope. Notify WSDOT of any changes to the scope, schedule or budget as they may require WSDOT approval, as outlined in Chapter 3, [Section X.X.X: Project change requests](#). In some cases, only part of the overall project scope may be eligible for grant reimbursement.

Your organization has the responsibility to complete all project elements. Some project elements require submittal to WSDOT, and some require approval from WSDOT or FTA (for federally funded projects). Other elements are the sole responsibility of your organization to complete and will not require approval from WSDOT or FTA.

Items below do not require submittal or approval¹ (this is not a comprehensive list):

- Interlocal agency agreements.
- Utility agreements and railroad agreements.
- Public hearings, findings and orders.
- Ensuring appropriate procurement processes for third-party contracts and lower-tier contracts,²
- Construction material testing and testing personnel.

The grantee is also responsible for reaching project-schedule milestones, as outlined in [Section 4.1.4: Project schedule milestones and associated submittals and approvals](#).

For federally funded projects, review [Section 4.3.3: Grantee's role in capital construction projects](#) for additional information.

4.1.3 Project phases

The major phases common to most construction projects are shown below.

¹ *Submittal* refers to the written documentation/information submitted by the grantee to WSDOT for review and/or record. It usually does not require approval from WSDOT/FTA. *Approval* refers to the written documentation/information provided by the grantee for review and approval. The grantee is required to obtain the necessary approvals before moving forward to the next step.

² A lower-tier contract is a subcontract that a person or organization has with the subcontractor to provide work, materials or equipment for that project.

Planning	Design	Design	Design	Construction
-	Preliminary engineering and environmental documentation	Real estate acquisition, final design, and permitting	Pre-construction	Commissioning and closure

Figure 1: Project phases

For federally funded projects, also review [Section 4.3.9: Project phases overview](#). [Section 4.3.10: Summary of major elements by phase](#) provides examples of major elements for different phases of federal projects. This section can also be useful for non-federal projects.

4.1.4 Project schedule milestones and associated submittals and approvals

You are responsible for maintaining progress to meet project schedule milestones and reporting on the status of those milestones in Grants Management Systems (GMS). The table below lists the milestones that you will be asked to report status on (this list is subject to change). If different milestones are more appropriate for your project, contact WSDOT to discuss options.

Keep in mind that some elements may need significant lead time, including but not limited to permit requirements, right-of-way acquisition and utility relocations.

Milestone
Initiate design
Design 30 percent complete
Design 60 percent complete
Design 90 percent complete
Environmental documentation complete (NEPA/SEPA)
Environmental permits received
Design 100 percent complete
Right-of-way certification
Utility work
Contract advertisement date
Contract award
Construction start date
Construction 25 percent complete
Construction 50 percent complete
Construction 75 percent complete
Operationally/substantially complete
Physically complete

Figure 2: Milestones shown in GMS

Some project milestones are accompanied by requirements for submittals to WSDOT:

- Upon initiation of design, submit to WSDOT high-level information describing the project concept, such as a vicinity map and graphics or schematics describing the major components of the project.
- For some projects, WSDOT may request the submittal of the final (100 percent) design plans, specifications and estimates (PS&E). PS&E approval from WSDOT is not necessary for state-funded projects but are required for federally funded projects (see [Appendix H](#) for required submittals and approvals for capital construction projects).
- When the facility becomes operationally/substantially³ complete, notify WSDOT by email.
- When the facility is physically⁴ complete, notify WSDOT by email.

4.1.5 Project term

Funding for state-funded projects is only available within the biennium in which the Legislature appropriated the funds. All state-funded project activities must be completed and billed for or accrued as appropriate within the same biennium in which the funding is available. In the case when project activities are delayed requiring the work to carry into the next biennium, a reappropriation request and justification must be provided to WSDOT. Refer to [Chapter 3](#) for additional information.

Note: Funding programmed for a specific state-funded project in future biennia is subject to legislative appropriation. The funds will remain in the projected category until appropriated by the Legislature in an enacted budget bill for a particular biennium. WSDOT cannot guarantee future funding, including reappropriation requests.

4.1.6 Project team and project manager

Capital construction projects involve numerous phases and steps from planning to design to construction. Real property acquisition, environmental documentation, permits and compliance requirements from multiple jurisdictions and regulatory agencies could be challenging. Successful completion of these steps requires individuals with varying specialty skills.

³ “Substantial completion” is defined as the level of completion when the contracting agency’s project engineer determines that the contracting agency has full and unrestricted use and benefit of the facilities, both from the operational and safety standpoint, all the initial plantings are completed and only minor incidental work, replacement of temporary substitute facilities, plant establishment periods, or correction or repair remains for the physical completion of the total contract. Substantial completion and *operational completion* are used in [Section 4.1](#) interchangeably.

⁴ “Physical completion” is defined as the level of completion when the contracting agency’s project engineer determines all of the work is physically completed on the project. All documentation required by the contract and required by law does not necessarily need to be furnished by the contractor by this date.

A project's execution is planned and controlled by the project manager. The project manager must have prior experience managing similar projects. If your organization cannot commit such an individual with adequate knowledge, time and resources, the organization is well advised to outsource project management services for the management of the project.

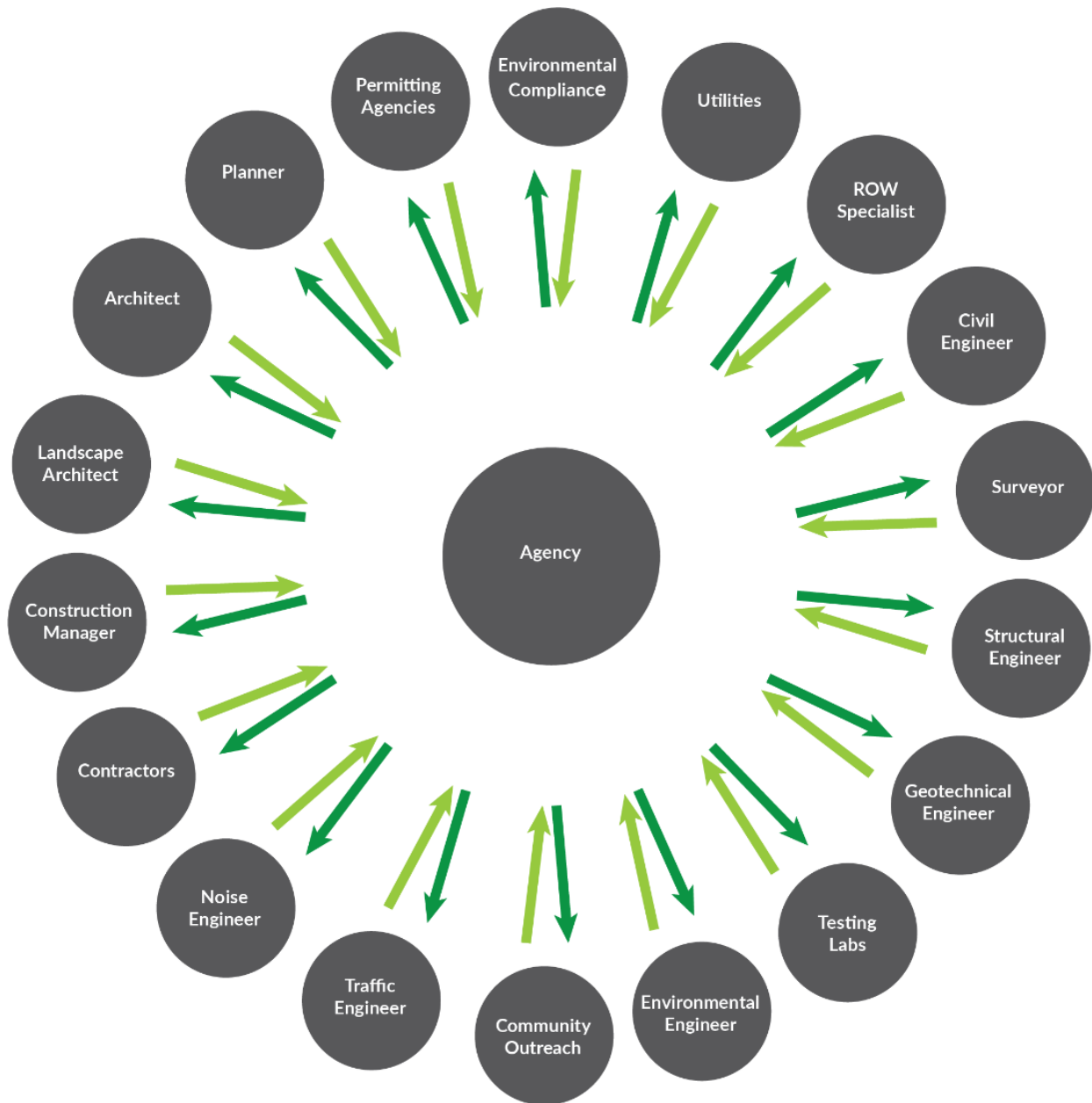


Figure 3: Project without a project manager

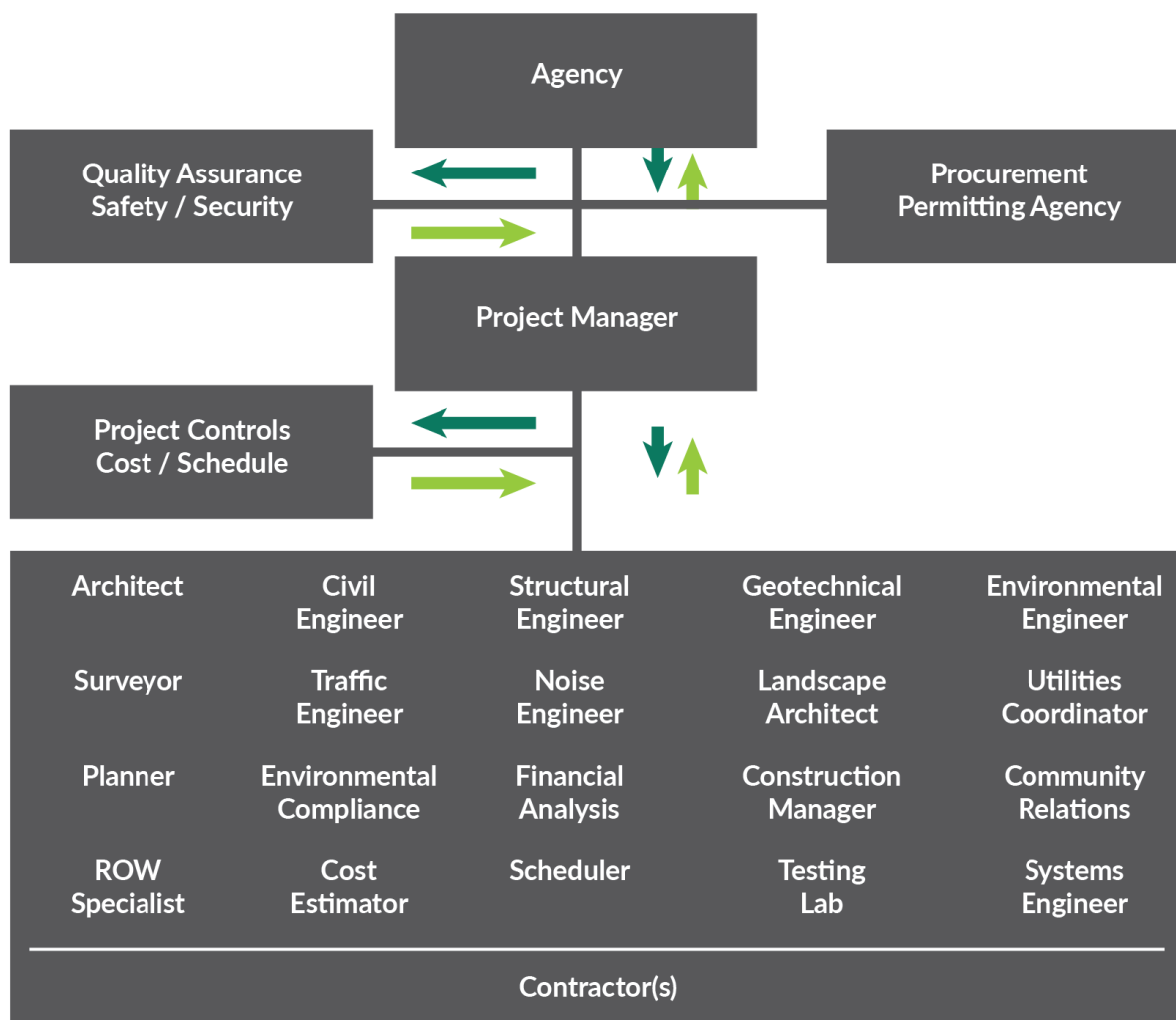


Figure 4: Project with a project manager

(Depending on the project, there may be a need for a professional not listed in the chart, such as an archeologist, etc.)

Figure 3 shows typical project activities without a project manager and the multiple interactions an organization faces without a project manager to manage the work activities involved in delivering a new capital asset. Figure 4 depicts a typical project organization with a project manager. It shows how a project management organization is structured with the assignment of a project manager to manage project work activities.

Each project should be outlined to identify the skill sets required and a determination should be made as to how the project will be organized. In the absence of adequate in-house specialists or expertise, the agency may need to hire multiple consultant teams including but not limited to planning consultants, design consultants, right-of-way consultants and construction management consultants. It is highly recommended to

start the Project Management Plan including the risk management plan earlier in the planning phase to minimize potential project risks. For state funded projects, depending on the project scope, WSDOT may request a copy of the Project Management Plan and Risk assessment.

For federally funded projects, refer to [Section 4.3.4: Project Management](#) for additional information regarding Project Management Plans.

4.1.7 Design criteria, specifications and other standards

State and federally funded capital construction projects administered by WSDOT must meet the requirements in the [Washington State Standard Specifications for Road, Bridge and Municipal Construction](#), as applicable. [WSDOT General Special Provisions](#) and [Local Agency General Special Provisions](#) can also be used. Federally funded construction projects must also meet the requirements included in the [Washington State Department of Transportation Construction Manual](#), as applicable.

Additionally, if your project is located on WSDOT right of way, the project design must comply with the current version of the [WSDOT Design Manual](#) and you must coordinate with your [WSDOT region development services office](#) for all necessary approvals.

Design deviations must be approved by your [WSDOT region Development Services office](#) for projects within WSDOT right of way and WSDOT Local Programs for major arterial and secondary arterial streets in municipalities according to [RCW 35.78.040](#).

Additionally, if your project is located on the interstate there are additional considerations. It is important that you coordinate with the WSDOT region office early.

If your project is within the boundaries of other jurisdictions, your project design may also need to comply with the design standards of those jurisdictions.

A licensed professional engineer must stamp all design plans.

4.1.8 ADA standards for capital construction

All public entities shall comply with the Americans with Disabilities Act of 1990 (ADA) regardless of funding sources.

If your project is located on WSDOT right of way, ADA design and documentation must align with the current version of the [WSDOT Design Manual](#).

If your project is not on WSDOT highway right of way, you're not required to follow [WSDOT Design Manual](#) guidelines. However, your project is still required to comply with ADA requirements.

If your project has a site used by the public (i.e., ferry terminal, transit facility, park and ride lot, light rail facility, or rest area), then ADA design for the site must comply with [2004 ADA Accessibility Guidelines \(ADAAG\)](#) as modified by the U.S. Department of Transportation (USDOT).

If your agency accepts federal funding from USDOT or has in the past (including pass-through funding through WSDOT), you are required to follow [Section 504 of the Rehabilitation Act of 1973](#). You must also follow the USDOT implementing regulations included in [49 CFR](#) Parts 27, 37, 38 and 39 for applicable facilities, vehicles, vessels and the guidance in [FTA Circular 4710.1](#).

Title II of the ADA requires that new and altered facilities are designed and constructed to be readily accessible to and usable by persons with disabilities.

Your organization is responsible for providing documentation detailing whether the project fully meets the accessibility criteria or meets the accessibility criteria to the maximum extent feasible.

During the design phase, your organization must submit documentation from the engineer of record of ADA compliance along with any appropriate backup to WSDOT. WSDOT will evaluate the compliance documentation for adequacy and any inadequacies must be addressed before the first claim for the construction phase will be reimbursed.

During the construction phase, your organization must provide documentation from the construction engineer that the constructed facilities have been field-verified to be ADA compliant, along with any appropriate backup to WSDOT. WSDOT will evaluate the compliance documentation for adequacy and any inadequacies must be addressed before the project can be closed. Once compliance documentation has been received, WSDOT may choose to perform independent field verifications. Field verifications (if applicable) will be performed once compliance documentation is deemed adequate, no later than between substantial/operational and physical completion. Submitting compliance documentation early will help with any scheduling that needs to be completed.

4.1.8.1 *New construction*

New construction is expected to fully meet the accessibility criteria when built, unless, in rare circumstances, it is structurally impracticable to achieve full compliance. Example of new construction: construction of a transportation facility, new roadway, interchange, etc., where none existed before.

4.1.8.2 *Alterations*

An alteration is a change that affects or could affect the usability of a facility or part of a facility. See the [WSDOT Design Manual](#) for examples of what types of projects are considered alterations and note that any change to an element used by pedestrians (e.g., curb ramp, clear space, pedestrian push button, etc.) constitutes an alteration that must be addressed for ADA compliance. 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. In this case, “feasible” is defined as being physically possible 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.

4.1.8.3 *Documentation for structural impracticability and Maximum Extent Feasible (MEF)*

The U.S. Access Board and the FHWA recommend documenting the application of structural impracticability, to the maximum extent feasible, so the organization can support its decisions if challenged at a later date. While careful documentation will not protect the organization against complaint, evidence of the considerations that led to the specific project solution may be persuasive in discussions with stakeholders or in court. For any deficient element that does not fully meet accessibility criteria, you must document the decision via a stamped and signed Maximum Extent Feasible (MEF) document. The MEF document needs to be reviewed and approved by the appropriate approval authority. The completed documentation should be contained in project files to document the organization's design efforts in complying with the ADA/Section 504 requirements.

4.1.8.4 *Monitoring and enforcement*

Responsibility for monitoring and enforcement of Section 504 rests with the state transportation agency (i.e., WSDOT) providing federal pass-through funds from USDOT (as delegated to state transportation agencies by USDOT). The Public Transportation Division monitors compliance through various means such as process and program reviews, PS&E reviews and construction inspections.

4.1.9 Environmental and regulatory permit requirements

Your organization is responsible for obtaining and ensuring your project's compliance with all applicable local, state and federal laws, regulations and permit requirements.

As part of this, all capital construction projects are subject to the requirements of the State Environmental Policy Act ([Chapter 43.21C RCW](#)) and must follow all appropriate procedures under the act.

Also, all capital construction and land acquisition projects must comply with the governor's [Executive Order](#) 21-02, which requires that state-funded capital improvement projects must consult with affected Indian tribes and the Department of Archeology and Historic Preservation (DAHP) to determine potential impacts to cultural resources. DAHP will document your compliance with the order in a letter. Based on the project scope, DAHP may also determine some projects exempt from EO 21-02 requirements. Submit documentation of compliance with the order or exemption before submitting claim reimbursements during the right-of-way or construction phases. It is your responsibility to schedule and budget the project to comply with the order, as well as coordinate with DAHP.

If you are using federal funds for your capital construction project, you must comply with [Section 106](#) of the National Historic Preservation Act of 1966 along with other environmental requirements. Compliance with Section 106 satisfies the requirements of the governor's Executive Order 21-02.

If the project affects WSDOT right of way or facilities, WSDOT may need to review and approve the design/plans and/or issue permits. Your organization should coordinate with your region's [WSDOT Development Services Office](#) to assess approval and permit needs. For more information, see [Development Services Guidance for coordination regarding construction plans](#).

For federally funded projects, also review [Section 4.3.12: National Environmental Policy Act \(NEPA\)](#) of this guidebook.

4.1.10 Changes to your project

The project scope/description must be consistent with the scope/description in the grant application and the grant agreement. Occasionally, changes to projects are necessary. If your organization intends to make changes to the scope/description, you must coordinate with the Public Transportation Division prior to executing the changes and may be asked to submit a written change request to WSDOT. Scope modifications or project refinements often require a grant agreement amendment and possibly environmental documentation updates. In many cases, written approval from WSDOT or the Legislature's concurrence for state-funded projects might be required before making the changes. All aspects of the grant agreement will remain in effect until WSDOT provides written approval for any change.

Review [Chapter 3](#), [Section X.X.X: Project Change Requests](#) of this guidebook for additional information.

For federally funded projects, review [Section 4.3.10.6.3: Changes orders and extra work](#) of this guidebook for additional information.

4.1.11 Project cost considerations

Estimating and managing project costs is a key project management responsibility that begins during project scoping and continues throughout design and construction. A key part of containing project costs is to control the project scope during the initial scoping and throughout the project design phase. The scope of work developed during project scoping must be achievable within the approved budget. The following table lists some of the costs that should be considered and refined throughout the design process:

Planning	Design	Construction	Throughout the life of the project
<ul style="list-style-type: none"> • Consultant support • Public outreach • Community involvement • Coordination with organizations 	<ul style="list-style-type: none"> • Consultant support • Surveys (topographical and boundary) • Critical area identification (e.g., wetland flagging) • Environmental documentation and permitting • Geotechnical investigation, including drilling and boring • Value Engineering • Permit requirements • Utility relocations and services to site • Owner-furnished equipment 	<ul style="list-style-type: none"> • Construction management • Consultant support • Construction surveying • Change orders • Cost of delays • Construction inspection 	<ul style="list-style-type: none"> • Agency project administration • Cost estimation and continual updating • Peer reviews • Effects of inflation • Unforeseen situations and price uncertainties • Legal support

Figure 5: Cost considerations

See [Section 4.3.10: Summary of major elements by phase](#) for activities that may result in additional project costs.

Note: WSDOT may need to provide some additional services for projects within WSDOT right of way or impacting WSDOT facilities (design review/approval, inspection, permit issuance, etc.), and costs associated with WSDOT project support should be considered during project cost estimation.

Additionally, all federally funded projects are required to comply with state and federal requirements (i.e., DBE documentation processing and approval, etc.). Certain direct and indirect costs incurred by WSDOT for the performance of the work or services need to be reimbursed by the grantee. Two percent of the total federal grant application budget or \$50,000 (whichever is less) needs to be allocated to WSDOT project support

costs for the discretionary FTA Grants for Buses and Bus Facilities Program and the Low or No Emission Grant Program.

Source: POL-545

4.1.12 Procurement requirements and third-party agreements

Competitive procurement processes are required to be used when using state funds. Additionally, procurement processes must adhere to the grantee's purchasing procedures and must follow all applicable state laws.⁵ All sole source requests for both state and federally funded projects must be approved by WSDOT prior to execution.

For federally funded projects, review:

- [Section 4.3.6: Third-party procurement – general](#)
- [Section 4.3.10.2.3: Third-party procurement during the planning or design phase](#)
- [Section 4.3.10.5.2: Third-party procurement during the pre-construction phase](#)

Also, review [Chapter 1](#): Requirements for all projects for additional information.

4.1.13 Match requirements

Your capital construction match must be in the form of cash. In-kind match will not qualify for capital construction grants. You may not derive your match from sources that place any restriction on the services you will provide at the constructed facility or that place a lien on the constructed facility.

For information on federal discretionary grant program match requirements, refer to Chapter 4.

For state funded grant programs, refer to [Appendix B](#) for additional information.

4.1.14 Quarterly status reports

Quarterly status reports are required for all construction projects. Reports are completed and approved in GMS. It is important to fill out the milestones and spending sections as completely as possible. Quarterly status reports are required to be submitted until the project reaches physical completion.

4.1.15 Reimbursement requests

The scope, schedule and budget in your original application and grant agreement define your project. In some cases, only part of your project's overall scope may be eligible for grant reimbursement.

⁵ [RCW 39.26.125\(2\)](#) excludes sole source contracts that comply with the provisions of [RCW 39.26.140](#) from this requirement.

Reimbursement requests (or claims) must be submitted at least quarterly through GMS for any eligible expenses incurred in that quarter. You are required to submit reimbursement requests until the grant funds are exhausted and match requirements are met.

WSDOT will reimburse your organization for the percentage shares identified in your agreement or the total funds awarded for the project, whichever is less. Additionally, if you're using federal funds for your capital construction project, common grant rules require that you make progress payments for construction contracts based on a percentage-of-completion method. Review [Section 4.3.16: Progress payment, prompt payment and return of retainage](#) for information regarding progress payment.

To receive reimbursement, submit a completed reimbursement request signed by your financial manager or another authorized representative to the Public Transportation Division in GMS.

While all reimbursements for grant-funded activities must occur within the grant agreement project period (contract term), state-funded project's expenses may be retroactively reimbursed back to the beginning of the state biennium (July 1). For Federally funded projects, FTA may approve pre-award authority⁶ for eligible costs from STIP publication date or NEPA approval date, whichever is later.

4.1.15.1 Supporting documents for construction claims

To be approved, your completed reimbursement request must have the following information or documents:

- Agency approved consultant invoices, construction project manager-approved invoices from contractors supplying material and/or labor for construction activities and services, contractor pay estimates, staffing dates and hours worked, mileage logs, equipment rentals, and any other documentation for charges made within the time period noted in claim request.
- Completed financial reports and progress reports as required. The reports must include information to allow WSDOT to determine that the activities are eligible for reimbursement under the applicable grant program.
- A summary sheet listing attached invoices and labor charges, clearly indicating the amount seeking reimbursement by grant funds and the amount to be applied to meeting the match requirement.

⁶ Pre-award authority is the authority given under specific and limited circumstances to incur costs for eligible projects before a grant is made without prejudice to possible federal participation in the cost of the projects(s). Applicants must comply with all federal requirements.

For Regional Mobility Grants (RMG) funded capital construction projects, your organization's Performance Measurement Plan (PMP)⁷ must be reviewed and approved before you submit your first claim.

For state-funded capital construction projects, documentation of compliance with [GEO 21-02](#) or Section 106 must be obtained prior to starting the right-of-way or construction phase and submitted to WSDOT prior to the first right-of-way or construction claim.

After submitting a claim for reimbursement, WSDOT may request that you send additional supporting documentation to verify certain expenditures.

4.1.15.2 Eligible direct expenses

An expense must be directly related to your project and reasonable in amount to be eligible for grant reimbursement. Examples of eligible direct expenses include, but are not limited to, costs associated with:

- Engineering design.
- Project level permitting.
- Environmental assessment and documentation.
- Property acquisition.
- Construction.
- Construction oversight.
- Purchase and installation of non-vehicle equipment specifically identified in the grant agreement, including software licensing use fees.

For federally funded projects, eligible expenses must comply with [Federal Cost Principles \(2 CFR Part 200\)](#) or [Federal Acquisition Regulation \(48 CFR Part 31\)](#). Some specific project development activities in advance of the construction or renovation may be eligible expenses.⁸ Project development activities may be funded only to the extent they are included in an approved agreement/award and found to be eligible and allowable by federal guidance.

4.1.15.3 Ineligible project expenses

The following project expenses constitute ineligible reimbursement for a construction project:

⁷ Performance Measurement Plan (PMP) is only required for projects funded under the Regional Mobility Grant (RMG) Program.

⁸ Review [87 CR 25362](#) and [FTA Construction and Management Guidelines, Section 2.1.1.1](#) for additional information.

- Initial scope, schedule, and budget development.
- Corridor planning.
- Alternatives analysis.
- Major investment studies.
- Corridor analysis.
- Extended warranty/guarantee for construction project with some exceptions.⁹

Additionally, storage charges, parking charges, late fees, fines, other fees, and taxes (other than applicable state sales or use taxes) are not eligible expenses for grant reimbursement.

Review [Section: X.X.X: Claim reimbursement](#) in Chapter 1 for additional information.

4.1.16 Capital construction records and retention

For all capital construction projects, you must file and maintain all data, documents, reports, records, contracts, procurement files and supporting materials during the term of the project and for at least six years after the project, or for six years beyond the useful life of the facility, as required.

Review Section: X.X.X: Records Retention in [Chapter 1](#) for additional information.

4.1.17 Managing your constructed facility

4.1.17.1 *Maintenance and use*

Once your facility is complete and has received final approval, you must use it for the purposes described in your grant agreement. You must also properly maintain facilities purchased and/or renovated with grant funds based on the contractor's recommendations and industry best practices for the useful life of the facility.

4.1.17.2 *Facility maintenance plan*

Submit a written facility maintenance plan for WSDOT's record, prior to the occupancy of the constructed facility. At a minimum, the plan must cover all elements of the facility purchased with federal or state grant funds. In establishing the plan, refer to any owner's manuals provided by your contractor for components installed at the facility (e.g., fueling pumps, vehicle lifts, heating, ventilation, air-conditioning units).

4.1.17.3 *Insuring the facility*

Insure facilities and equipment purchased with state grant funds in compliance with state law. WSDOT must be listed as the loss payee in the event of a total loss. If you are self-insured, provide WSDOT with a declaration of self-insurance, including a

⁹ POL-548

description of how you fund your self-insurance pool. For insurance requirements, refer to the loss or damage of project equipment section of your grant agreement.

4.1.17.4 *Reporting incidents and repairing damage*

You are responsible for repairing any damage to grant-funded facilities. Repair all damage as quickly as possible.

Notify WSDOT in writing within five business days if a facility sustains disabling damage that results in one or all the following:

- Total loss.
- Temporary closure of the facility (more than 10 business days).
- Significant hampering or reduction of service.

Your written notification to WSDOT must include the following:

- The nature of the incident.
- The level of damage to the facility.
- Whether the damage resulted in a total loss of the facility and, if so, your intentions regarding replacement of the facility.
- A copy of any accident or incident report on file with local law enforcement officials.
- A copy of any reports of investigations conducted or sponsored by your organization.

If the damage to the facility results in a total loss, your insurance carrier must pay proceeds directly to WSDOT. If you do not intend to replace the facility, you will receive a proportionate share of the insurance proceeds per the terms of the grant agreement as long as WSDOT finds that your organization is in compliance with the grant agreement. If you intend to replace the facility, replace it with a similar facility. Contact the WSDOT contact listed in your agreement to arrange for the distribution of the insurance proceeds.

For federally funded construction projects, grantee must notify WSDOT in writing within five business days for National Transit Database (NTD) reporting. NTD defines a reportable event as a safety or security event occurring on a transit right of way or infrastructure, in a transit revenue facility, in a transit maintenance facility (including parking lots), during a transit-related maintenance activity or involving a transit revenue vehicle by the NTD. Refer to the [FTA Safety and Security Reporting Policy Manual](#) for additional information.

Source: POL 539

4.1.18 Project closure

Your organization will carry out the following requirements to fulfill the requirements of the grant agreement and allow for grant agreement closure:

4.1.18.1 *Notice of substantial completion*

When the facility becomes operationally/substantially complete, notify WSDOT (by email), preferably no later than within 15 days of the contractor's substantial/operational completion of work. A copy of the completion letter sent to the contractor should accompany the request.

4.1.18.2 *Final inspection*

Once notification of substantial completion is received, WSDOT will evaluate final project inspection needs and may schedule a site visit. By this time, the construction engineer will have provided WSDOT with documentation that the new facility is in compliance with ADA requirements or meets the accessibility criteria to the maximum extent feasible. If the project features are not ADA compliant or justified with an approved Maximum Extent Feasible (MEF) document, WSDOT may not accept the project in accordance with grant requirements.

4.1.18.3 *Notice of physical completion*

Notify WSDOT by email when the construction work has been physically completed by the contractor.

4.1.18.4 *Project closure letter*

Upon reviewing the accounting, completing the final inspection and accepting the project by WSDOT, WSDOT will issue a project closure letter.

For federally funded projects, review [Section 4.3.10.6.5: Project closeout and final project documentation](#) and [Section 4.3.10.6.6: Contract termination](#).

4.1.19 Required submittals and approvals

See the submittals and approvals table in [Appendix H](#). Section 1 of the table lists the submittals and approvals mentioned throughout this chapter that are required for all projects. The table also identifies the section of this chapter that contains related guidance.

4.2 State-funded projects

Review [Section 4.1: All projects](#) for guidance pertaining to requirements for state-funded projects.

4.3 Federally funded projects

This section is only applicable to organizations that receive federal funds through the Public Transportation Division. This section explains the division's methods of

subrecipient¹⁰ monitoring for federally funded capital construction projects, along with guidelines based on state and federal rules, regulations, agency standards and common business practices. Throughout this section, the term “grantee” refers to the subrecipient.

4.3.1 FTA’s role in capital construction projects

FTA monitors grants and federally funded projects to confirm grantees’ legal, financial and technical capacity to carry out programs and projects and comply with federally mandated procedures. FTA also retains direct approval authority for several requirements, which include but are not limited to fund authorization, NEPA, Buy America waivers, etc.

4.3.2 WSDOT’s role in capital construction projects

WSDOT is responsible for ensuring that federal awards are used for authorized purposes, are in compliance with laws, regulations and agreements, and that agreed goals are achieved. WSDOT works with grantees to develop and execute grant agreements, provides limited technical assistance as needed and works with the grantees and subject matter experts to ensure required sub-recipient monitoring.

4.3.3 Grantee’s role in capital construction projects

The grantee is responsible for project management, including construction management, with consultation and oversight from WSDOT and FTA. The grantee is also responsible for monitoring and overseeing third-party contracts and sub-contracts to ensure compliance with all applicable federal, state, and local laws, regulations, and directives. Effective management and oversight increase the likelihood that grants will remain eligible and contribute to agreed goals and outcomes. The grantees’ role is the same for federally funded projects as described in [Section 4.1.2: Grantee’s role in capital construction projects](#), with the exception that there are many additional procedures, submittals, approvals, and reporting requirements that come with federal funding.

4.3.4 Project management

This section describes the project management plan and project risk assessments, which are crucial for successful project development and delivery with federal funding. Also see [Section 4.1.6: Project team and project manager](#) for additional information.

¹⁰ Per [2 CFR, Part 200](#), a recipient is a non-federal entity that receives a federal award directly from a federal awarding agency to carry out an activity under a federal program. A subrecipient is a non-federal entity that receives a sub-award from a pass-through entity to carry out part of a federal program but does not include an individual who is a beneficiary of such program. For this guidebook, in most cases the recipient is WSDOT and the subrecipient is the grantee (your organization).

4.3.4.1 *Project management plan*

The project management plan sets out how the project is to be managed, executed, monitored, controlled and closed through the phases of its life cycle. It is a living document and should be updated regularly. Project management plans are required to be developed and implemented for major capital projects¹¹, but they are highly beneficial for projects of any scale. You must also consider unique project requirements and develop an appropriate project management process for non-major capital projects.¹² Submit a copy of your project management plan to WSDOT if you have one. The requirements for a project management plan can be found in the most recent version of Project Management Oversight Rule on FTA's website at <http://fta.dot.gov>. Also, see [FTA C 5010](#) and [FTA Construction Project Management Handbook Chapter 3](#) for additional information.

4.3.4.2 *Managing risks*

During the design phase, the project manager is required to facilitate a risk assessment to determine whether there are events or circumstances that can occur that may have a direct impact on the project's schedule and associated costs. To develop the "risk register," you should coordinate with other key stakeholders (such as federal, state, and local regulatory authorities, local committees, public utilities and professional bodies, end users, customers, etc.) to identify project risk and impact. After identifying and ranking the project risks based on occurrence probability, associated cost and schedule implications, the project manager can prepare the risk management plan.¹³

The following are a few examples of risks that may impact the development of a project:

- **Budget risks:** Risk that budget elements will deviate from the estimate (e.g., deviations in unit prices, deviations in quantities).

¹¹ [CFR 49 § 633.5](#): Major capital project involves (1) the construction, expansion, rehabilitation, or modernization of a fixed guideway that has a total project cost of \$300 million or more and receives Federal funds of \$100 million or more; and is not exclusively for the acquisition, maintenance, or rehabilitation of vehicles or other rolling stock; or (2) the Administrator determines to be a major capital project because project management oversight under this part will benefit the Federal government or the recipient, and the project is not exclusively for the acquisition, maintenance, or rehabilitation of rolling stock or other vehicles. Typically, this means a project that: (i) Involves new technology; (ii) Is of a unique nature for the recipient; or (iii) Involves a recipient whose past record indicates the appropriateness of extending project management oversight under this part.

¹² Refer to 2.1.2 and chapter 3 of [FTA Project and Construction Management Guidelines](#) for additional information.

¹³ See [FTA Construction Project Management Handbook, Chapter V](#) and [3.5.5.4 of FTA Project and Construction Management Guidelines](#) for additional information.

- **Scope risks:** Risk of significant changes to project scope due to external pressures (e.g., community pressures for changes in bus shelter location or increase in maintenance facility size).
- **Schedule risks:** Risks of delay that impact project schedule or critical path.

The project manager and project team should also consider the following common sources of risk(s):

- Real estate acquisition
- Public and private utilities
- Politics
- Environmental impacts and approval processes
- Contract staging/ phasing of the work
- Community impacts and public perception
- Construction material and techniques
- Unexpected conditions

Note: You must identify significant project cost increases and delays (if any) during risk assessment and consult with WSDOT as soon as possible. You must submit a written justification to WSDOT if the projected cost increase or delay is 33 percent or more compared to the updated cost and schedule estimate provided during the fund obligation. Review [Chapter 2 of FTA Circular 5010](#) and [Chapter 3 of FTA Comprehensive Review Contractor's Manual](#) for additional information.

4.3.5 Civil rights

Many requirements and approvals come with federal funding associated with guaranteeing compliance with laws regarding civil rights, such as Disadvantaged Business Enterprise (DBE), Title VI, and The Americans with Disabilities Act (ADA) etc. In the following sections, you will find detailed information regarding some of those requirements. Additionally, review Chapter 2: Requirements for federal grants for additional guidance.

4.3.6 Third-party procurement general rules

Third-party procurement refers to a wide variety of activities such as from procuring the services of a consultant to perform a planning study, advertising for bids on a construction project or even hiring an experienced consultant team to handle construction management. The general rules and requirements that apply to any third-party procurement that is subject to federal funds reimbursement are discussed in this section, and additional requirements related to third-party procurement will be found in sections describing the phases the procurement is likely to occur in. If your organization

elects to retain a third-party contractor/consultant at your own cost, state law must be followed along with your organization's own policies.

See [Section 4.3.10.2.3: Third-party procurement during the planning or design phase](#), [Section 4.3.10.5.2: Third-party procurement during the pre-construction phase](#) for additional information.

4.3.7 Procurement requirements:

Your organization is responsible for ensuring applicable federal, state, and local requirements during third-party procurement have been followed. WSDOT may request to review the local contracting entity's procurement policy.

If your organization is using federal funds for your capital construction project, you must comply with the third-party contracting requirements identified in [FTA Circular 4220, 2 CFR Part 200](#) and all other applicable federal requirements.

These requirements include, but are not limited to:

- Engaging in full and open competition.
- Not using geographic preference in award (except for architectural and engineering services).
- Including in contracts all required federal provisions, certifications, reports, and forms^[2] required by the federal statute governing a procurement.
- Reviewing bids/proposals to ensure compliance with all federal, state, and local requirements and awarding responsive contractors.
- Complying with the Brooks Act ([enacted by public law 92-582](#)) for procurement of architectural and engineering (A&E) services which requires selection based on competency, qualifications, and experience rather than price.

Procurement requirements can vary based on procurement level. **See Chapter 1 of this guidebook** for information related to procurement levels and associated requirements.

FTA-funded construction contracts require certain provisions, certifications, reports, and forms. Some of these requirements apply to all contracts, while others only apply to certain monetary thresholds or types of procurements. Additionally, some federal clauses require your consultants, contractors, vendors, or lower-tier contractors to certify compliance with federal terms, such as debarment and suspension, lobbying, and Buy America provisions. See [FTA circular 4220, Appendix D](#) and [FTA's Best Practices Procurement and Lessons Learned Manual](#), appendices A and B for additional information. These requirements are updated frequently. For the most up-to-date list of requirements, use [ProcurementPRO](#).

WSDOT will assess consultant and construction contracts to assign a DBE goal. See [Section 4.3.15: Disadvantaged Business Enterprises](#) for additional information related to DBE procedures for third party procurement.

4.3.7.1 Sole source

You may use a noncompetitive (sole source) proposal only if you can justify not soliciting additional competition in the manner explicitly defined in [FTA Circular 4220, Chapter 6](#). Sole source requests need to be approved by WSDOT. Review “Sole source (non-competitive procurement)” in [Chapter 1](#) for additional information.

4.3.7.2 Single bid

When only one proposal is received in response to a solicitation, a single bid analysis must be conducted to determine if there was adequate competition. A survey of the bidders should be conducted to identify their reasons for not bidding and a review of the specifications should be conducted to ensure they weren’t overly restrictive. The FTA allows moving forward with a single bid/award only if a determination can be made that there was adequate competition (see [FTA Circular 4220, Chapter 6](#)). In this case your organization must complete a sole source justification and submit it to WSDOT. All other requirements shall apply to the procurement, including but not limited to the completion of the cost analysis.

4.3.7.3 Protest procedure

Grantees must have written protest procedures to handle and resolve disputes relating to their procurements and disclose information regarding protests to WSDOT. WSDOT may notify FTA as required. All protest decisions must be in writing. A protester must exhaust all administrative remedies with the grantee before pursuing a protest with WSDOT and FTA. See [FTA Circular 4220, Chapter 7](#) and [BPPM Disputes](#) for additional information.

4.3.7.4 Force account

Force account is the use of a grantee’s own labor force to carry out work involved with a capital grant project. Force account work may consist of design, construction, refurbishment, inspection, and construction management activities, if eligible for reimbursement under the grant. Force account work does not include grant or project administration activities which are otherwise direct project costs. One of four conditions may warrant the use of a grantee’s own labor forces. These are: (1) cost savings, (2) exclusive expertise, (3) safety and efficiency of operations, and (4) union agreement. Your organization must notify WSDOT and provide a written justification for using force account labor when planning to use your own labor force.

In some cases, the force account plan and justification may need FTA pre-approval:

- When the total estimated cost of force account work to be performed under the grant is greater than \$10,000,000, FTA prior review of a force account plan and justification are required.

- When work to be performed is less than \$10,000,000 but over \$100,000, a force account plan is required to be in the grantee's file but does not require prior FTA approval.
- When work to be performed using force account is less than \$100,000, a detailed plan is not required.

See [FTA Circular 5010, Chapter 4](#) for additional information related to force account.

4.3.7.5 Subcontract

If you or your prime contractor (consultant or construction contractor) contracts out any portion of your grant-funded services or issue contracts for goods or services with your grant funds, there are certain provisions, certifications, reports, and forms that must be included in the third-party contract. The flow-down requirements for federally funded contracts are detailed in [FTA Circular 4220, Appendix D](#) and [appendices A and B of the FTA's Best Practices Procurement and Lessons Learned Manual](#). For the most up-to-date list of requirements, use ProcurementPro through the National Rural Transit Assistance website. You are responsible for monitoring and ensuring that the prime consultant or prime contractor is meeting those requirements.

Note: Some commonly asked questions related to third-party agreements are detailed in the [FTA Third Party Procurement FAQs](#).

4.3.8 Required steps prior to obligation of federal funds

Prior to obligation of FTA funds, you must ensure the following:

- The project is submitted to the [Statewide Transportation Improvement Plan](#) (STIP¹⁴) or included in the overall grant bucket entry in the STIP for the associated FTA funding program.
- The environmental impact analysis under the [National Environmental Policy Act](#) (NEPA) has been completed and approved by FTA.

If real property¹⁵ is acquired prior to the receipt of federal funds and is intended to be used for a federally funded capital construction project, you must also ensure:

¹⁴ The STIP is a calendar year document and is developed on an annual basis. The draft STIP is available for public review and comment in November. The final STIP is submitted to Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) in December and approved in January. STIP amendments are submitted to FHWA and FTA for approval January through October and are available for public review and comment concurrently for 10 calendar days (refer to the [WSDOT STIP](#) webpage for additional information).

¹⁵ Real property is defined in 49 C.F.R. § 18.3 as "land, including land improvements, structures, and appurtenances thereto, excluding movable machinery and equipment." The acquisition of easements and rights of way are also considered real estate acquisitions.

- The environmental impact analysis has been completed under [National Environmental Policy Act](#) (NEPA) and approved by FTA prior to finalizing site selection and property acquisition.¹⁶
- The [Title VI equity analysis](#) has been conducted during the planning stage and prior to finalizing the site selection for new fixed facility construction.
- Compliance with [Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations](#), through which a project sponsor must consider the effects of any acquisition on environmental justice populations (including homeless individuals).
- The real estate acquisition process is in compliance with [Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended \(the Uniform Act or URA\)](#).¹⁷

Additionally, if no real property acquisition is required, but final design is intended to be completed prior to receipt of federal funding, you must also ensure:

- The environmental impact analysis has been completed under [National Environmental Policy Act](#) (NEPA) and approved by FTA.
- Compliance with [Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations](#).
- [Title VI equity analysis](#) (for fixed facility new construction).

These requirements are shown as a list below:

Note: The process between official notification that you will be receiving a grant (award) and being able to start using the funds (obligation) depends on what will be involved in your project.

1. Award.
2. Prior to all obligation, all projects must have:
 - a. Been submitted to STIP.
 - b. NEPA approved.

¹⁶ If subrecipients anticipate FTA funding at any stage of the project, subrecipients must not acquire real property or complete final design before NEPA documentation is complete and approved by FTA, even if the subrecipient has not secured a federal grant.

¹⁷ When subrecipients use federal funds in any phase of the project, even when the land acquisition itself is not federally funded, they must follow the Uniform Act.

3. Projects that involve site selection and subsequent right-of-way acquisition¹⁸ must also:
 - a. Complete a Title VI equity analysis.
 - b. Follow the Uniform Act.
4. Projects that involve new construction¹⁹ of facilities²⁰ must also have completed a Title VI equity analysis (even for projects on your own property) by the time NEPA is approved.
5. Obligation.

4.3.9 Project phases overview

All capital construction projects go through the phases of planning, design, and construction, as outlined in [Section 4.1.3: Project phases](#). Additionally, FTA-funded projects are required to follow specific orders of activities. The following sections describe project phases along with specific activities that are associated with the phases.

Also note that grantees must receive WSDOT concurrence or approval for the following:

- Approval prior to initiating final design.
- Approval prior to beginning real estate acquisition/right-of-way.
- Approval of PS&E prior to construction contract advertisement.
- Concurrence prior to construction contract advertisement.
- Concurrence prior to contract award.

If any of these activities or phases are initiated before the grant agreement is executed, WSDOT approval is not required. However, your organization must complete all required documentation and obtain approval from the appropriate authority (e.g., FTA) prior to initiating subsequent phases.

4.3.10 Summary of major elements by phase

Table 2 below summarizes typical capital construction project phases along with various tasks associated with those phases. Depending on grant requirements and the nature of

¹⁸ If site selection or right-of-way acquisition occurred prior to award, for the property to be used on a federally funded project a Title VI equity analysis must have been completed prior to site selection and the Uniform Act must have been followed during right-of-way acquisition.

¹⁹ New construction does not include renovations of existing structures.

²⁰ Bus shelters are excluded as they are considered “amenities” and transit stations, power stations, etc. are excluded as they are evaluated during the NEPA process.

the project, some activities may not apply, and there may be additional activities for your project.

Planning	Design: Preliminary engineering and environmental documentation	Design: Real estate acquisition, final design, and permitting	Design: Pre-construction	Construction: Commissioning and closure
<ul style="list-style-type: none"> Need identification Jurisdiction, code and zoning research Alternatives analysis Hazardous materials studies Geotechnical studies Utility and third-party coordination Agency coordination Community outreach Demographic, economic, and equity research Title VI equity analysis Resulting projects on TIP/STIP 	<ul style="list-style-type: none"> Topographical, boundary, and utility surveys Geotechnical investigations Alternative layouts, including cost analysis Community outreach Architectural and engineering systems definition Preliminary staging plans Preliminary plans, specifications outline and preliminary estimate Preliminary construction schedule Noise abatement plan Traffic impact analysis (multimodal) Environmental investigations and discipline studies NEPA process Financial plan Third-party agreements 	<ul style="list-style-type: none"> Compliance with the uniform act Right-of-way plan Appraisals Negotiations Condemnation, if applicable Right-of-way acquisition complete Right-of-way certification DBE goal Final design calculations Final plans, specifications, and estimate Constructability reviews Permits complete Final construction schedule Federal, state, and local legal requirements accounted for 	<ul style="list-style-type: none"> Develop bid Advertise for bids Addendums Evaluate bids Award contract Execute contract Construction management team Pre-construction meeting 	<ul style="list-style-type: none"> Construction management Project scope and schedule monitored and on target Issues, errors, or cost overruns reported Monitor project changes that might affect environmental clearance or DBE compliance Project closeout: <ul style="list-style-type: none"> Administrative requirements complete Contractor and subcontractor compliance complete and all required payments made All liens or deeds of trust in place WSDOT site visit complete Project accepted by agency Maintenance plan/TAM plan in place

Figure 6: Project phases and major elements

4.3.10.1 Planning phase

The project development process begins with the identification of transportation needs. Federally funded projects must be on the Transportation Improvement Program (TIP) and the State Transportation Improvement Plan (STIP). Project level planning begins after project initiation and leads to preliminary engineering and environmental documentation. The major activities in the planning phase are shown in Table 2.

4.3.10.2 Preliminary engineering and environmental documentation phase

Project requirements are used to develop design criteria and evaluate alternatives. This analysis of alternatives is interrelated with the environmental process. At this stage,

there is also interaction with the upcoming real property acquisition and third-party coordination processes. This stage culminates with the completion of environmental documentation and complying with the [National Environmental Policy Act \(NEPA\)](#) of 1969²¹. The major activities in the preliminary engineering and documentation phase are shown in Table 2.

4.3.10.2.1 Design prior to the completion of NEPA

The alternatives analysis will lead to the identification of a preferred alternative, which will determine the initial "look and feel" of the project. Additionally, the project team will analyze alternative project site(s). The result of the preliminary engineering stage can include preliminary plans, elevations, landscaping plans, etc., showing site boundaries and based on topographic surveys. Depending on site complexity, the design may include other drawings. There should be an adequate level of engineering and design to understand performance results (for all modes) and all environmental impacts, including impacts to adjacent parcels. Preliminary engineering will also enable a detailed and accurate cost estimate with an adequate level of contingency to allow for changes due to design development.

4.3.10.2.2 Design concurrent with completion of NEPA before entry into final design

The project design matures from a conceptual design to a level of design (usually around 30 percent design) that supports the environmental documentation and defines all significant elements that will enable a more accurate estimate of the construction costs and impacts. The goal is that – when the project enters final design – there will be a minimum of design changes, disruptions, and delays.

Third-party agreements (e.g., utility agreements and railroad agreements) should be in place as early as possible. These agreements should be in place no later than during the final design phase. This will help make sure that the project will not encounter major delays or cost growth as the project matures.

It's also important to determine and obtain the appropriate level of insurance early in the process if the project location is in a special flood hazard area (100-year flood zone). [Section 102 of the Flood Disaster Protection Act of 1973 \(FDPA\)](#) prohibits the federal government from providing funds for the acquisition or construction of buildings located in a special flood hazard area unless the property owner has obtained flood insurance. Federal agencies may not provide any financial assistance for the acquisition, construction, reconstruction, repair, or improvement of a building unless the grantee has first acquired flood insurance under FDPA to cover the buildings constructed or repaired with federal funds.

²¹ Final design activities, property acquisition, purchase of construction materials, or project construction **must not** proceed until NEPA is complete and approved.

Flood hazards change over time. Your organization must have a process to monitor flood hazard locations and maintain an appropriate level of insurance for FTA-funded real properties. You must notify WSDOT if the project is located in a special flood hazard area and must confirm that your organization is obtaining the appropriate level of insurance.

See [FTA Circular 5010, Chapter 4](#) and [FTA FY2023 Comprehensive Review Contractors Manual SCC7](#) for additional information.

4.3.10.2.3 Third-party (consultant) procurement during the planning or design phase
Grantees often do not have the in-house expertise or resources necessary to deliver a design and construction project successfully and may need to procure professional consultants. This is especially true with federally funded projects.

To be eligible for the reimbursement of federal funds for payments to a consultant, consultant administrative costs need to be accounted for in the application and agreement. Your organization must also comply with state and federal requirements. If the organization elects to retain the consultant at its own cost, state law must be followed along with the organization's own policy.

Consultant selection and hiring process

The basic steps for entering into a consultant agreement are:

- A. Determine the need for services.
- B. Advertise the need for services.
- C. Evaluate the applicants' qualifications.
- D. Select the most qualified firm & document selection.
- E. Negotiate with the most qualified firm.
- F. Execute the contract.

The following section covers the above-mentioned steps for both 1.) Architecture and Engineering (A&E) services and 2.) Non-A&E professional services.

4.3.10.2.4 A&E services consultants

Architects, landscape architects, land surveying, and engineering services are outlined in [Chapter 39.80 RCW](#). The definitions of these four professions are described in [Chapter 18.08 RCW](#), [Chapter 18.43 RCW](#), and [Chapter 18.96 RCW](#). These will be referred to as architectural and engineering (A&E) services, or engineering services, in this chapter. These include:

- Professional services of an architectural or engineering nature that are required to be performed or approved by a person licensed, registered, or certified to provide the service needed.

- Professional services of an architectural or engineering nature performed by contract that are associated with research, planning, development, design, construction, alteration, or repair of real property.
- Professional services of an architectural or engineering nature, or incidental services, which members of the architectural and engineering profession perform services, including but not limited to studies, investigations, surveying and mapping, value engineering, construction phase services, soils engineering, and other related services.

Examples of A&E services include:

- Program management
- Construction management
- Feasibility studies
- Preliminary engineering
- Design
- Surveying
- Mapping
- Services that require a registered or licensed architect or engineer

When procuring A&E services, the grantee must use qualifications-based, competitive proposal procedures based on the Brooks Act. For A&E consultants, procurement price is excluded as an evaluation factor, and negotiations are conducted with the most qualified firm only. If an agreement cannot be reached on price with the most qualified firm, negotiations are formally terminated with that firm, thereby rejecting that firm's proposal. The grantee cannot return to this firm at a later date to resume negotiations. Negotiations are then conducted with the next most qualified firm. This process continues until a negotiated agreement is reached, which the grantee considers to be fair and reasonable.

The procurement process for A&E services for FTA-funded projects is multistep. For additional guidance, refer to the [WSDOT Consultant Services manual](#) and [FTA Best Practices Procurement & Lessons Learned Manual](#).

Source: [FTA Circular 4220](#)

4.3.10.2.4.1 A. Determine the need for A&E consultant services

Before your organization advertises for A&E consultant services, you must have a clear definition of the work that needs to be accomplished. This includes the identification of:

- The nature and scope of effort required.

- The technical requirements and qualifications of the consultant services needed.
- The level of funding resources available.
- The time frame for performing the work.
- The expected results and products to be received (deliverables).
- An independent cost estimate developed by your organization.
- The establishment of consultant contract DBE goal.

Your organization should develop selection guidelines. Guidelines on the selection criteria should enable you to identify and select the best-qualified consultant to meet the organization's needs. This will ensure that the selected consultant understands and provides services most cost-effectively.

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

Federally reimbursable consultant contracts must be evaluated for DBE goals. Agreements may be assigned a mandatory DBE participation goal in the form of an overall agreement percentage. The DBE goal will apply to all supplements and amendments to the original consultant agreement. See [Section 4.3.15: Disadvantaged Business Enterprises](#) for additional information.

4.3.10.2.4.2 B. Advertise the need for A&E consultant services

[Chapter 39.80 RCW](#) requires that you advertise your organization's requirement(s) for architectural services, land surveying services, or engineering services. You can comply with these requirements by publishing an announcement on each occasion when your organization requires A&E consultants.

The advertisement should contain the following information:

- A project title and estimated start and end date.
- The scope and nature of the project, including technical requirements for which services are required and the address of a representative of your organization who can provide further details.
- Solicitations of qualification statements, referred to as Requests for Qualifications (RFQ) from consultants, must incorporate a clear and accurate description of the technical requirements for the service to be procured, including any special conditions or certifications required.
- Solicitations should clearly indicate sufficient detail on how applicant qualifications will be evaluated. These may include, but are not limited to, key personnel, firm experience, ability to meet schedule, past performance, in-house expertise, familiarity with WSDOT/FTA standards, and DBE approach and commitment.

- Non-engineering service applicants must be asked to provide estimates for the man-hours and classifications needed to complete the project.
- All prospective consultants must be advised that federally funded projects will be held to federal EEO requirements.
- Consultants will be held to the ADA and civil rights language of your organization.
- Contracting agencies must notify all bidders in the advertisement that disadvantaged business enterprises will be afforded a full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.
- Response due date.
- Publication dates.

4.3.10.2.4.3 C. Evaluate the applicants' qualifications/A&E consultant evaluation and selection process

Your organization needs to establish guidelines for technical evaluation of the qualifications received, determination of finalists for the purpose of written or oral discussions, and selection for agreement award. Consultants will be selected based on the qualifications they present. For A&E-related services, fees for services cannot be considered during the selection process.

One of the following must be used as part of the consultant selection process:

- “Live” interviews and presentation of the RFQ by consultant individuals or teams: This provides interaction with your organization and showcases the consultant’s presentation skills. This approach is best for larger, more complex projects, but does increase travel time and costs to the applicant. Video presentation or teleconferencing may be considered as an alternative to reduce travel costs.
- Telephone interviews: This provides for interaction but eliminates travel time and cost. This approach is useful for smaller projects.

4.3.10.2.4.4 D. Select the most qualified firm and document selection

Following consultant selection, your organization should retain the following documentation in the project file:

- The names of a minimum of three consultants (when available) considered for the work.
- Consultant selected and reasons why this consultant was chosen over the others.
- Prior to executing an agreement, you must verify consultant status with the System for Award Management (SAM) at www.sam.gov to determine if the

consultant has been excluded from bidding on a federal-aid contract. SAM is the electronic version of the lists of parties excluded from federal procurement and non-procurement programs, which identifies parties that have been suspended, debarred, or otherwise excluded from bidding on federal procurement and non-procurement contracts. Consultant agreements awarded to firms listed on the excluded parties listing will not be eligible for federal-aid reimbursement.

4.3.10.2.4.5 E. Negotiate with the most qualified firm

Your organization should notify the consultant of their selection in writing; meet with the consultant to reach a complete and mutual understanding of the scope of the services; and begin negotiations on the terms of the agreement. You should include key people with appropriate technical expertise within the organization to ensure that their concerns are addressed.

After receiving the receipt of the consultant's proposal, you should compare the consultant's proposal with your organization's own independent estimate, examining the scope of work, work hours, and estimate of cost. You will use this independent estimate, along with estimates of non-salary costs, to negotiate the agreement with the consultant.²²

Negotiate an agreement with the selected consultant and retain a record of these negotiations. When unresolved differences exist between the consultant and your organization, you are required to notify WSDOT and submit documentation confirming that all the required procedures have been followed. You then should notify the consultant in writing that negotiations are terminated and proceed to the next highest ranked consultant to begin the negotiation process again. Negotiation steps and records need to be repeated with the alternate consultant selected.

4.3.10.2.4.6 F. Execute the contract

Required FTA standards, provisions, certifications, and contract clauses as required, must be included in consultant contracts in order to be eligible for federal reimbursement. [Appendix D of FTA Circular 4220](#) appendices [A](#) and [B](#) of the [FTA's Best Practices Procurement and Lessons Learned Manual](#) provide guidance for essential standards, provisions, certifications, and contract clauses. These requirements are updated frequently. For the most up-to-date list of requirements, we recommend using [Procurement Pro](#) through the National Rural Transit Assistance website. If you anticipate using pre-award authority for consultant work or are seeking federal grant reimbursement for consultant contracts that were executed prior to the FTA grant award, applicable federal procurement requirements must be followed. This includes applicable FTA provisions, certifications, reports, and forms.

²² [2 CFR §200.323](#)(a) requires that the Independent Cost Estimate be done "before receiving bids or proposals." FTA Circular [4220](#) Ch VI (6).

4.3.10.2.4.7 Consultant post award data

Your organization must submit the following information to the Public Transportation Division project manager within 30 days of agreement execution:

- Executed consultant agreement along with consultant solicitation compliance documentation.
- Diversity Management and Compliance System (DMCS) contact information. Include:
 - Agency name, name, title, phone number, and email.
 - Consultant name, name, title, phone number, and email.

The agreement completion date establishes the last possible date the consultant may work, and be paid for that work, using federal funds. Any work performed after the completion date of the agreement will be considered non-federally participating. It is important for your organization to monitor the project's completion date and push the completion date if needed. Pushing the completion date out must be done before reaching the completion date.²³

A written agreement needs to be supplemented when work that falls outside the scope of the original agreement is requested, when supplemental language to the consultant agreement is desired, or when there is a need for a time extension or wage adjustment.

4.3.10.2.5 Non-A&E professional services consultants

Professions outside the fields described in [Chapter 39.80 RCW](#) may provide consulting services such as long-range planning and studies, economic analyses, and real estate activities. These consulting services are provided through professional services agreements ([Chapter 39.26 RCW](#)). The basic difference between professional services and A&E consultants is that consultant fees may be considered in selecting professional services consultants but cannot be considered in selecting A&E services consultants. Real estate consulting activities include acquisition, relocation, appraisal, appraisal review, and property management and can be contracted under a non-A&E professional services agreement under the authority of [Chapter 39.26 RCW](#).

Examples of professional services typically include, but are not limited to:

- Material testing (as long as the consultant is delivering test results only, not performing an analysis or producing a discipline report).
- Financial and economic analyses.

²³ Per [FTA Circular 4220](#), a time extension to a service contract that was awarded for a certain term would be a "new procurement" action and will require a sole source justification. also see the [FTA website](#) for additional information.

- Environmental planning—as opposed to environmental engineering.
- Legal services.
- Management consulting not related to A&E projects.
- Media and public involvement; marketing services.
- Research.
- Scientific studies.
- Appraisal services not related to A&E projects.
- Real estate activities including acquisition, relocation, appraisal, appraisal review, and property management.
- Expert witness services for litigation.

4.3.10.2.5.1 A. Determine the need for Non-A&E Professional Services Consultant

A similar approach should be considered to determine the need for professional services as described in [A. Determine the need for A&E Consultant Services](#).

4.3.10.2.5.2 B. Advertise the need for Professional Services Consultants

[Chapter 39.26 RCW](#) requires that you must competitively solicit your organization's requirement for professional services. Your organization can comply with these requirements by using a competitive solicitation process that provides an equal and open opportunity to qualified parties. The advertisement should contain the same information listed in the section above for advertisement content for A&E consultants.

4.3.10.2.5.3 C. Evaluate the applicant's qualification/Professional Services Consultant evaluation and selection process

Your organization should establish guidelines for the technical evaluation of the qualifications received, determination of finalists for the purpose of written or oral discussions, and selection for agreement award. Consultants will be selected based upon the qualifications they present. Fees may be considered as an evaluation factor in the professional services selection process, but it is not a low-bid consultant selection where the low bidder wins the contract automatically.

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

- Written response only to the Request for Qualifications (RFQ): This approach is best for smaller, clearly defined projects, or projects which are heavily reliant upon their written presentation such as environmental reports.
- Live interviews and presentation of the RFQ by consultant individuals or teams: Provides for interaction with your organization and showcases the consultant's presentation skills. This approach is best for larger, more complex projects but

does increase travel time and costs to the applicant. Video presentation or teleconferencing may be considered as an alternative to reduce travel costs.

- Telephone interviews: Provide for interaction but eliminate travel time and cost. This approach is useful for smaller projects.

4.3.10.2.5.4 D. Select the most qualified firm and documentation of selection

Following consultant selection, your organization shall retain similar documentation in the project file as described [in the A&E Consultant selection section](#).

4.3.10.2.5.5 E. Negotiate with the most qualified firm

A similar approach should be considered to determine the need for professional services as described in “Negotiate with the most qualified firm” [in the A&E Consultant selection section](#).

4.3.10.2.5.6 F. Execute the contract

A similar approach should be considered to determine the need for professional services as described in “Execute the contract” [in the A&E Consultant selection section](#).

4.3.10.2.6 Indirect cost rate for consultant services

Your organization must use a consultant’s Indirect Cost Rate (ICR) that is compliant with the [Federal Acquisition Regulation](#) (FAR). Indirect cost rates for the one-year applicable accounting periods must be established by a cognizant Federal or State government agency if those rates are not currently under dispute. You are responsible for ensuring that prime consultant and sub-consultants comply with FAR requirements and submit a copy of the indirect cost rate approval documentation prior to executing an agreement with the prime consultant.

Source: [Chapter 6, FTA circular 4220](#)

4.3.10.2.7 Required submittals and approvals

See the Submittals and Approvals Table in [Appendix H](#). Section 2b of the table lists the submittals and approvals required for the preliminary engineering phase.

4.3.10.3 Real estate acquisition (Right of Way) phase

Capital projects often require the acquisition of property to accommodate the constructed improvement. Property acquisition can be a very time-intensive process and should be carefully incorporated in a project schedule. The acquisition process can take anywhere from six to 18 months or longer, depending on the project. If relocation is involved, it can take at least six months after negotiations are completed. If any properties are condemned, rather than settled amicably, additional time will also be required.

A right-of-way plan is an important element of real estate acquisition process. A right-of-way plan is a drawing showing a combination of real property data, survey data, and design engineering related to property that must be acquired in order to complete the

project. Right-of-way plans are the basis for determining all property damages that may be involved in the construction of the project. Right-of-way plans are also the legal record indicating the location, the extent, and the character of any acquisition of property. A right-of-way plan is generally initiated during preliminary engineering and finalized at the beginning of final design.

Acquisition of real estate for projects with federal funding must be carried out in accordance with provisions of the [Uniform Relocation Assistance and Real Property Acquisition Policies Act](#) (URA) of 1970 ([42 U.S.C. 4601](#)) and regulations [49 CFR Part 24](#) and [FTA Circular 5010.1F](#).

It is important to remember that WSDOT approval is required prior to initiating the right-of-way phase. WSDOT approval will only be granted after the project is on the STIP, NEPA is complete, and a Title VI Equity Analysis (if required) has been completed. If the right-of-way phase has initiated before grant agreement execution, WSDOT pre-approval before phase initiation is not required. However, the grantee must complete all required documentation and obtain approval from the appropriate authority (such as FTA) as needed.

Also see [Section 5.1.3.18: Real Estate Acquisition and the Uniform Act \(URA\)](#) for additional information.

4.3.10.3.1 Required submittals and approvals

See the Submittals and Approvals Table in [Appendix H](#). Section 2c of the table lists the submittals and approvals required for the right-of-way phase.

4.3.10.4 *Final design phase*

During this phase, construction plans, construction specifications, cost estimate, and project schedule are refined and finalized. The construction bid package is developed that will be used during the pre-construction phase to solicit and obtain construction contract bids. Appropriate permits are obtained, and associated conditions from other agencies and any coordination of work with or by third parties (e.g., utility companies) are completed. Federal law requires that final design cannot begin prior to NEPA completion as denoted by an FTA [Record of Decision \(ROD\)](#), [Finding of No Significant Impact \(FONSI\)](#), or a [Categorical Exclusion \(CE\)](#) determination.

4.3.10.4.1 Documents requiring professional engineer's stamps

The following documents require a Professional Engineer (PE) stamp upon completion. The PE with responsible charge of the project will assure that appropriate engineering reports and documents are stamped in accordance with [RCW 18.43.070](#). If a particular engineering report or document is not listed here, it is not necessarily exempt from the requirement.

The list includes:

- Design documents

- Right-of-way plans
- Type, size, and location report
- Plans, specifications (with appropriate approvals from WSDOT), and estimates, including all plan sheets.
- Special provisions
- Temporary erosion and sediment control plan
- Plans for falsework and forms, normally the contractor's responsibility
- Bridge design report
- Bridge load ratings
- As-built plans
- Technical change orders
- Value engineering study report
- Standards deviation request
- Emergency contracts that contain the equivalent of plans, specifications, and estimates (PS&E) documents

4.3.10.4.2 Commitment file

Your organization must maintain a commitment file when applicable. This must contain a summary of all commitments made during the development of the project. The file should be reviewed to ensure that the commitments that apply to the contractor are incorporated in the PS&E. This file must also include commitments your organization is responsible for completing, such as reporting requirements to resource agencies. It is your responsibility to ensure this file is updated to show when these commitments were completed. Commitments typically involve right of way, maintenance, and/or environmental considerations.

4.3.10.4.3 Required submittals and approvals

See the *Submittals and Approvals Table* in [Appendix H](#). Section 2d of the table lists the submittals and approvals required for the final design phase.

4.3.10.5 *Pre-construction phase including final PS&E and bid packet*

Pre-construction includes finalization of the bid packet and formal solicitation process, resulting in the award of the construction contract.

4.3.10.5.1 Final plans, specifications, and estimates (PS&E), contract plans, and bid packet

4.3.10.5.1.1 Final plans, specifications, and estimates

These documents are used to award and administer a construction contract. A professional engineer licensed in the state of Washington must seal and date the plans and specifications.

4.3.10.5.1.2 Contract plans

For local ad and award projects, there are no federal or state requirements for plan sheet size or guidelines for preparing contract plans.

4.3.10.5.1.3 Specifications

WSDOT publishes [Standard Specifications](#) (published yearly), and [General Special Provisions](#). All projects that are FTA funded and awarded through the Public Transportation Division will be constructed in conformance with the current [Standard Specifications for Road, Bridge, and Municipal Construction M 41-10](#), and applicable approved mandatory Division 1 General Special Provisions ([WSDOT GSPs](#) or [Local Agency General Special Provisions](#)) that modify these specifications.

Special Provisions are project-specific specifications governing elements particular to an individual project; they're not covered in the Standard Specifications. Their use should be held to a minimum and applicable Standard Specifications should be used instead. Special provisions shall not alter or negate state or federal laws.

4.3.10.5.1.4 Specifications: brand names

The use of brand²⁴ names for products or processes in specifications and on plans should be avoided. Instead, specifications should be formulated to assure full opportunity for competition among equivalent materials, equipment, and methods. Grantees are permitted to use brand names in specifications only when it is impractical or uneconomical to provide a clear and accurate description of the technical requirements of the property being acquired. In those instances, one of the following processes must be followed.

- Specify brand names and allow for approved equals: Where brand names are included in the specifications, FTA requires that an “or equal” provision be included as well. In these instances, the specifications must also include the

²⁴ Brand name means a name of a product or service that is limited to the product or service produced or controlled by one private entity or by a closed group of private entities. Brand names may include trademarks, manufacturer names, or model names or numbers that are associated with only one manufacturer. TA prohibits specifying only a “brand name” product without allowing offers of “an equal” product or allowing “an equal” product without listing the salient characteristics that the “equal” product must meet to be acceptable for award. () [See FTA Circular 4220.1F, Chapter VI, Page 3 and FTA Best Practices Procurement & Lessons Learned Manual, Section 2: Planning # 2.5.1 for FTA guidance.](#)

salient²⁵ characteristics of each named brand that offerors must provide. See [Chapter 6, paragraph 2.a. \(3\) of FTA Circular 4220.1F](#) and [Chapter 7, #700.01 \(6\) of the WSDOT Plan Preparation Manual](#) for guidance about specifying brand names and equal while maintaining competitive bidding environment.

- Specifying brand names without allowing approved equals: There are situations when an agency is locked into a specific named brand product, and, therefore, not able to accept “an equal” substitute.

In instances where the naming of brand products results in a restraint on competition, your organization must process the procurement as a sole source (non-competitive) procurement action. Sole source documentation needs to clearly provide the justification for identifying “brand name” without “equal.” This is accomplished by describing any cost-effectiveness and efficiency to be realized. A benefit-cost analysis should be completed to support the sole source documentation. The supporting documentation and your organization's decision must be maintained in the project file. Sole source documentation must be approved by WSDOT.

See sole source in [Section 5.1.3.6: Third Party Procurement general rules](#).

4.3.10.5.1.5 Estimates

The engineer's estimate of a proposed project's cost includes the estimated quantity and estimated unit price for each proposed work item. The estimate must separately list the costs of nonparticipating (i.e., nonfederal fund reimbursable bid items) items. Separate cost groups needs to be summarized and totaled on the first sheet of the estimate.

4.3.10.5.1.6 Project proposal

For the preparation of the project proposal, see [WSDOT Standard Specifications](#), [WSDOT GSP](#), and [Local Agency GSP Section 1.02.6](#), as applicable.

4.3.10.5.1.7 PS&E approval

A copy of the 90-100 percent PS&E must be submitted to the WSDOT for approval prior to advertisement. Key PS&E elements that must be included in a PS&E for an FTA funded project are listed below:

Note: that the list below is subject to change, if needed. Contact the WSDOT project manager listed on your agreement for assistance with the most updated list of required GSPs.

²⁵ Salient characteristics means those qualities of an item that are essential to ensure that the intended use of the item can be satisfactorily realized. The term is mainly used in connection with a brand-name-or-equal description, which should set forth those salient physical, functional, or other characteristics of the referenced product that an equal product must have in order to meet the recipient's needs.

4.3.10.5.1.7.1 Americans with Disabilities Act

The plans and specifications must contain appropriate detail to allow confirmation that all ADA facilities meet requirements.

4.3.10.5.1.7.2 Wage rates

State and federal wage rates must be included for all Federal Transit Administration (FTA) projects. If both rates are applicable, payment needs to be at the higher rate. For more on wage rates, see [Section 5.1.3.20: Wage rates: Federal Davis Bacon and state prevailing wage rates](#).

4.3.10.5.1.7.3 FTA provisions, certifications, reports, and forms

Each set of contract documents must include FTA articles for construction contracts. [FTA Circular 4220, Appendix D](#) and [FTA's Best Practices Procurement and Lessons Learned Manual](#), appendices A and B provide guidance regarding essential standards, provisions, certifications and contract causes. For most up-to-date list of requirements, we recommend using [ProcurementPRO](#) through the National Rural Transit Assistance website.

4.3.10.5.1.7.4 Disadvantaged Business Enterprises

The grantee must include WSDOT DBE specifications (GSPs), as appropriate. Approved DBE GSPs are available in sections 1-02.6, 1-02.9, 1-03.3 and 1-07.11 on [WSDOT](#) and [Local Agency GSP](#) websites. For more on DBE, see [Section 4.3.15: Disadvantaged Business Enterprises](#).

4.3.10.5.1.7.5 Build America, Buy America (BABA) Act

Construction materials used in FTA-funded projects are subject to the domestic preference requirement of the [Build America, Buy America Act](#) and [2 CFR Part 184](#), as implemented by the U.S. Office of Management and Budget, the U.S. Department of Transportation and FTA. Steel, iron and manufactured products are subject to the FTA's Build America, Buy America requirements in [49 CFR Part 661](#) and [49 U.S.C. Section 5323\(j\)](#). The grantee must include WSDOT BABA GSP for FTA-funded capital construction projects as available on the [WSDOT GSP](#) website. For more on BABA, see [Section 4.3.13: Build America, Buy America \(BABA\)](#).

4.3.10.5.1.7.6 Protest procedure

[49 CFR Part 18.36](#) requires the grantee and subgrantee to have a written procedure to handle and resolve conflict relating to this procurement. Your organization must include [WSDOT general special provision, Section 1-02](#) or similar agency-specific protest procedure GSP. For more information on protest procedure, see [Section 4.3.7.3](#).

4.3.10.5.1.7.7 Retainage

Per [RCW 60.28.011](#), your organization (contracting agency) is prohibited from reserving a contract retainage for public improvement contracts receiving federal funding in part or in whole. You must rely on a contract bond in lieu of retainage. There is no prohibition against a prime contractor's requiring retainage from the subcontractor.

[WSDOT general special provision, Section 1-09.9](#) or similar agency specific specifications must be included in the specification to implement this requirement. For more information on retainage, see [Section 4.3.16.2: Progress payment, prompt payment, and return of retainage](#).

4.3.10.5.1.7.8 Agency supplied material

FTA does not restrict you (contracting agency) from purchasing materials and furnishing them in order to save money and reduce costs, such as state sales taxes, contractor overhead and profit, etc., as long as these purchases comply with [FTA Circular 4220.1F](#) and are in compliance with Build America, Buy America Act (BABA) requirements (see [FTA Owner Furnished Material](#)). In that case, your organization must notify WSDOT about conformity with BABA and assume responsibility for the suitability of the materials as well as the timeliness of their delivery to the contractor. Failure in either of these responsibilities may entitle the contractor to a price adjustment for owner caused delays. Contract provisions should identify those materials and provide information regarding BABA compliance.

4.3.10.5.1.7.9 Warranty/guarantee

- Extended warranties or paid warranties for construction elements other than equipment are not eligible for federal fund capital reimbursement. Project warranty/maintenance provisions may be included in a project if a nonparticipating bid item and special provision is included in the contract. Warranties cannot increase the cost of the federal contract or be reimbursed with federal funds and must have a separate bid item for payment included in the contract.

4.3.10.5.1.7.10 Liquidated damage

FTA allows using liquidated damage clauses in the contract when there is a reasonable expectation of damages from late completion. [WSDOT](#) or [Local Agency](#) GSP Section 1-08.9, liquidated damage, or similar agency-specific GSP, can be used. Liquidated damage funds may need to be credited back to FTA (see [FTA Master Agreement, Section 39](#)). You must notify WSDOT if liquidated damage is assessed.

4.3.10.5.2 Third-party procurement during the pre-construction phase

4.3.10.5.2.1 Construction contract procurement, advertisement and award

For procuring contractor services, the most common procurement method is by sealed bid (i.e., invitation for bid). You must procure contractor services in a manner that conforms to:

- The requirements of [FTA Circular 4220](#) for the procurement method used along with all other applicable federal requirements.
- Applicable state and local law.

4.3.10.5.2.1.1 *Advertisement concurrence*

Your organization must request WSDOT concurrence prior to the construction contract advertisement. No project can be advertised until the following items have been completed:

- NEPA has been approved by FTA.
- Federal funds have been obligated.
- The project's right of way has been certified by the grantee as conforming to the Uniform Act and submitted to WSDOT (if applicable).
- Project has been assessed for Condition of Award (COA) DBE goal and goal has been established by WSDOT.
- PS&E has been approved by WSDOT.
- Sole Source request (if any) has been approved by WSDOT.
- WSDOT construction agreement, if needed. May be required from the WSDOT Region Office if the project impacts facilities under WSDOT's jurisdiction.²⁶
- Public Transportation Division has concurred with advertising the project.

4.3.10.5.2.1.2 *Advertisement*

WSDOT grantees must follow the state and local jurisdiction's requirements and should use best judgment to establish a reasonable period of time that will allow interested bidders sufficient time to prepare bids or proposals. A minimum of three weeks is usually the industry norm for the majority of procurements, but more complex projects may require more time.

Your organization is required to notify bidders through a statement in the solicitations for bids that it will affirmatively ensure in any contract entered into, pursuant to the advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color or national origin in consideration for an award.

If an addendum is necessary during the advertising period to correct minor issues, concurrence from WSDOT is not required. But for a major addendum, which can significantly affect the FTA-funded project cost, modify scope of the work or alter federal requirements, WSDOT must be consulted with and it must provide concurrence prior to issuing the addendum.

²⁶ In addition, any project with work on WSDOT right of way or within limited access for the interstate system will be required to follow WSDOT region approval processes prior to advertisement.

4.3.10.5.2.1.3 Bid opening

All bids received in accordance with the terms of the advertisement must be publicly open and announced, either item by item or by total amount. If any bid received is not read, the name of the bidder and the reason for not reading the bid must be publicly announced at the bid opening. Negotiation with contractors during the period following the opening of bids and before the award of the contract is not permitted. Adequate justification for rejecting any bids must be documented by your organization (refer [WSDOT Construction manual, Section 1-03, Award and Execution of Contract](#)).

4.3.10.5.2.1.3.1 Evaluation of bids for award: Lowest responsive and responsible bid determination

The common sequence for bid evaluation is to first identify the lowest bid, then find the lowest responsive bid, and then find the lowest responsive and responsible bidder.²⁷ Your organization must verify that all required bid documents have been properly submitted and executed by all bidders. All bids are then reviewed for accuracy, unbalancing of bid items, etc., and tabulations checked, confirmed, and certified. Corrections to the bid tabulations must be made in accordance with [WSDOT Standard specifications sections 1-02 and 1-03](#). You must notify WSDOT that bids were assessed to verify responsive and responsible bidders.

In order for a bid to be considered responsive, a deposit of at least 5 percent of the total bid proposal must accompany each bid. In accordance with [WSDOT Standard specifications, Section 1-02.7](#), the proposal bond shall not be conditioned in any way to modify the minimum 5 percent required.

When there is a specified DBE goal for the project, the successful bidder will be selected on the basis of having submitted:

- The lowest responsive bid, which has met the DBE goal;
- OR**
- When the DBE participation is less than the specified goal, responsiveness will be determined on the basis of good faith efforts to attain the goal.

See [Section 4.3.15: Disadvantaged Business Enterprises](#) for more information on DBE program requirements.

The grantee is required to prepare a tabulation of bids showing the item details for all acceptable bids and identifying the three lowest responsive and responsible bids.

²⁷ A bid is considered responsive if it indicates compliance without material deviation from the requirements of the solicitation and the terms and conditions of the proposed contract. A responsible bidder is one who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity, and experience to satisfactorily perform the contract. [RCW 39.04.350](#) identifies bidder responsibility criteria for Public Works.

On projects where the lowest responsible bid exceeds the engineer's estimate, it is your organization's decision whether or not to award the project.

Reasons for justifying a lowest responsive and responsible bid which exceeds the engineer's estimate can be:

- There was adequate competition for the project location and/or type of work.
- The project is essential to the public interest (safety, emergency repair, etc.).
- There was a significant error in the engineer's estimate.
- Advertising again would likely result in higher bids.

If your organization determines that the lowest bidder is not qualified or deemed non-responsive, you must document those findings prior to awarding the bid to the next lowest responsive bidder.

4.3.10.5.2.1.4 *Award of contract*

After bids have been tabulated and evaluated in accordance with the procedures described above, the construction contract may be awarded to the responsible bidder with the lowest responsive bid. Projects with assigned mandatory DBE goals must receive WSDOT concurrence prior to award. Prior to award, you must verify contractor and subcontractors status with the [System for Award Management](#) (SAM),²⁸ to determine if a contractor or supplier has been excluded from bidding on a federal-aid contract. The results of that search must be documented in your organization's project file. Construction contracts awarded to firms listed on the Excluded Parties Listing will not be eligible for federal-aid reimbursement. After receiving a reward by your organization, the contractor must be advised of the award in writing. For an example of an award letter with a zero DBE goal and an award letter for a contract that has a DBE goal, see the [WSDOT LAG manual](#), Appendix 46.43 and 46.44.

4.3.10.5.2.1.5 *Execution of contract*

You must not execute a contract with any contractor who is not registered or licensed in accordance with state laws. Your organization prepares the necessary documents and forwards them for execution by the successful bidder and the proper officials of the organization.

4.3.10.5.2.1.6 *Submittal of construction post award data*

You must submit the following information to the Public Transportation Division project manager within 30 days of award:

²⁸ SAM is the electronic version of the lists of parties excluded from Federal Procurement and Non-procurement Programs (Lists), which identifies those parties that have been suspended, debarred, or otherwise excluded from bidding on federal procurement and non-procurement contracts.

- Certified tabulation of bids.
- Engineer's estimate.
- A copy of the executed contract along with construction contract procurement compliance documentation.
- DBE Utilization Certification, [DOT Form 272-056](#) (if applicable).
- DBE Written Confirmation Document, [DOT Form 422-031](#) (if applicable).
- DBE Bid Item Breakdown, [DOT Form 272-054](#) (if applicable).
- Bidders Questionnaire, [DOT Form 272-022](#).
- Award letter to the contractor.
- Diversity Management & Compliance System (DMCS) contact information as follows:
 - Agency name, name, title, phone number, and email
 - Consultant name, name, title, phone number, and email

Note: Regardless of funding source, you must also comply with all applicable state laws.

When the DBE participation goal is included in the contract provisions, meeting the goal is part of the bidding requirements, as explained in [Section 4.3.15: Disadvantaged Business Enterprises](#).

For all FTA projects, bidding opportunities, on a nondiscriminatory basis, shall be afforded to all qualified bidders regardless of race, color, or national origin.

FTA-funded projects must exclude geographical preference in the selection of construction contracts.

4.3.10.5.2.2 Construction management (CM) consultant procurement

The Construction Management (CM) team plays a vital role in contract administration and overall project management through the construction phase. Your organization may need to hire a consultant team for successful construction administration. See [Section 4.3.10.2.3: Third-party procurement during the planning or design phase](#) for guidance related to consultant hiring process.

4.3.10.5.3 Required submittals and approvals

See the *Submittals and Approvals Table* in [Appendix H](#). Section 2e of the table lists the submittals and approvals required for the pre-construction phase.

4.3.10.6 Construction phase

In the construction phase, construction contractors procured by your organization, along with the organization's own forces and separate specialty contractors, construct the project's facilities and fabricate and install equipment. Work is executed in accordance with the plans and specifications developed during the design phase. Following construction, the facilities and equipment are put into operation.

4.3.10.6.1 Construction administration and the construction management team

Construction administration activities begin upon issuance of the notice of contract award and a notice to proceed from your organization to the construction contractor to extend through contract closeout. Elements of a good construction administration system include, but are not limited to, the following elements:

- Pre-construction meeting and coordination.
- Clearly established lines of communication.
- Reporting and monitoring requirements.
- DBE reporting and monitoring.
- Davis-Bacon monitoring.
- Quality control and construction inspection.
- Project scheduling.
- Progress payment requirements.
- Controlling project configuration and changes.
- Change orders.
- Construction progress meetings.
- Procurement and contracts.
- Dispute resolution.
- Maintenance plans.
- Final reports and documentation.
- Contract closeout.

4.3.10.6.2 Pre-construction meeting

After a contract is awarded, you should arrange a conference with the contractor. Your organization shall notify WSDOT of the time and place of the conference. The meeting shall be documented and reviewed by the project manager. Copies of the minutes

should be transmitted to WSDOT and each agency, organization, and firm that has involvement or interest in the project.

4.3.10.6.3 Change orders and extra work

Prior to beginning work on a contract, your organization should have a written policy for the approval of change orders to ensure that appropriate procedures are followed. Change orders can take several forms: no cost schedule changes, cost changes that do not impact the schedule, and changes that impact both the project schedule and costs.

Regardless of the nature of the change order, there is a common process that must be followed and documented when dealing with change orders. Any additional work contained in a change order must be within the general scope of the primary construction contract. In addition, the cost of the change order must be analyzed and found to be fair and reasonable.

It is important to distinguish between actual changes to the contract work and normal overruns and underruns that may occur. No change order work shall be done prior to approval being given by the appropriate authority (i.e. your agency, WSDOT etc.). An initial informal approval requires written documentation including a description of work that adequately describes the extent of the change. Initial approval must be followed by a written change order. No contract payment should be made prior to having the written change order approved by the appropriate authority.

Upon receiving notification of a potential change order, the first order of business should be to make a determination if the nature of the change order is within the scope of the current project and that all work involved in the change order is not already covered by the scope of the contract. If the requested change is for an extension of time to complete the project, the initial determination should be based on whether any delays in the project were beyond the contractor's control.

When the changes in the work will alter the scope of an approved project, WSDOT concurrence is required prior to making any final decision and commencement of the physical work. If the changes do not alter approved project scope, WSDOT concurrence is not required with the exception of changes affecting DBE firms (Condition of Award or non-Condition of Award).

Changes to Condition of Award (COA) amounts shall be handled in accordance with [DBE GSP 1-07.11](#). Changes affecting DBE firms (COA or non-COA) must be handled through a formal change order process, minor change orders cannot be applied to DBE firms. Any changes to reduce the COA DBE's scope or commitment amount is considered a partial DBE termination and must follow the appropriate change procedures. Change orders shall include the affected DBE contractors in the negotiation and approval of the change order. All change orders affecting the work of DBEs shall be submitted to the Public Transportation Division for WSDOT's Office of Equity and Civil Rights (OECR) approval on the DBE changes prior to executing the change order. If the request for termination is approved, the Contractor is required to substitute with another

DBE to perform at least the same amount of work as the DBE that was terminated (or provide good faith effort documentation.) Notification and processing should begin promptly to allow enough time to find a substitute DBE.

Change order documentation is composed of two parts:

1. The approved change order signed by your organization, the contractor, and the DBE subcontractor (when applicable).
2. The backup documentation shall include an explanation in sufficient detail so that everyone involved will understand the need for the change, and how the change will affect the overall contract. The explanation shall include a detailed justification of the cost and/or any adjustment to working days associated with the change. The detailed cost justification shall be documented independent of the contractor's proposal to substantiate the change.

You can use available [WSDOT forms](#) or something similar for change order.

4.3.10.6.4 Documentation review during construction phase

In order to ensure that grantees are in compliance with FTA requirements and regulations along with WSDOT guidelines, WSDOT will perform a documentation review at least once in the construction phase. This timing is meant to allow your organization to make corrections or adjustments in the administration of the construction contract in a way that will achieve reasonable compliance. Documentation reviews may be conducted either in person or by electronic methods. A checklist will be shared with you in advance to the documentation review. During the documentation review, WSDOT will randomly select records/ documentation to review based on the checklist. A copy of the results and recommendations from any documentation review will be provided to you.

4.3.10.6.5 Project closeout and final project documentation

The construction contract documents set forth the process for project closeout. It should mandate that all contractor requirements be accomplished in compliance with contract specifications and include items such as, but not limited to:

- Operation and maintenance documentation (manuals) and training.
- Completion of punch list items.
- Final inspection.
- Warranties and guarantees.
- Record plans or as-built drawings.

The project file for a completed construction project should at least include the following items:

- **Final estimate.**

- **Comparison of preliminary and final quantities.**
- **Certified final bill for utility agreement, if applicable.**
- **Final records:** Documentation usually consists of field books, inspector's record of field tests, project engineer's and inspector's diaries, all invoices, weigh bills, truck measurements, quantity tickets, receiving reports, field office ledgers, mass diagrams, cross-sections, computer listings and work profiles. Photographs or videotapes before, during and after construction could be useful, especially if care is taken to show any unusual conditions, equipment or procedures.
- **Record of material:** Samples and tests.
- **Materials certification:** The intent of the materials certification is to assure that the quality of all materials incorporated into the project are in conformance with the plans and specifications and, thus, ensure a service life equivalent to the design life. [WSDOT Form 140-574: Material Certification](#) or a similar form can be used. For federally funded projects, materials certification will be completed in accordance with [WSDOT Construction Manual Section 9-1.5](#) or [Section 52.3 of the WSDOT Local Agency Guideline](#). Your organization is required to submit a copy of material certification to WSDOT.
- **Prevailing wages and affidavit of wages paid for public works project:** All [public works projects](#)²⁹ require a Statement of Intent to Pay Prevailing Wages (Intent) and Affidavit of Wages Paid (Affidavit) form. All affidavits must be approved by [Labor and Industries \(L&I\)](#) prior to contract completion. In the event a subcontractor or lower-tier subcontractor cannot or will not provide a completed affidavit, the contractor should consult with [L&I](#) to seek assistance in filing an affidavit "on behalf of" these subcontractors.
- **Release for the protection of property owner and general contractor:** Your organization is required to use the [L&I website](#) to verify that the prime contractor and all subcontractors on the project have paid the required industrial insurance and medical-aid premiums. The printed verification statements must be on file with your organization before the project bond or the retained percentage can be released.
- **WSDOT Diversity Management and Compliance System (DMCS) reporting:** For all federal-aid projects, the prime contractor shall enter the amounts into the [WSDOT Diversity Management and Compliance System \(DMCS\)](#) paid to all firms involved with the contract (zero payments shall be marked accordingly). Each month the prime contractor shall enter the payments amount into DMCS received from you and your

²⁹ [Per RCW 39.04.010](#), "Public work" means all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the state or of any municipality, or which is by law a lien or charge on any property therein.

organization shall each month confirm the entries in the DMCS. Payment information shall be entered monthly and include the actual date of the payment.

- **Project acceptance:** Your organization's approval of the final estimate will be considered as your acceptance of the project.

Prior to contract closure, all required documentation as explained in [Section 4.1: All projects](#) must be submitted to WSDOT. General documentation required for project closure are: DBE documentation including final utilization plan report (WSDOT Form [272-055](#)), confirmation of DMCS reporting completion, final monthly retainage report (WSDOT form [272-065](#)), confirmation of final payment, ADA conformity documentation, project acceptance based on WSDOT site visit, justification for 33 percent or more delay/cost increase (if any), real property inventory documents, maintenance plan. WSDOT may request for additional documentation, if needed. The closeout letter from WSDOT, as explained in [Section 4.1.18: Project closure](#), needs to be obtained. review [Section 4.1.18: Project closure](#) of this guidebook and Section 5.2.13 of the [FTA Project and Construction Management Guidelines](#).

4.3.10.6.6 Contract termination

[WSDOT Standard Specifications](#) Section 1-08.10 contains procedures and criteria for termination of a contract. Prior to termination action against a contractor, your organization must notify WSDOT Public Transportation Division, with the exception of DBE contractor or subcontractor. You must obtain WSDOT concurrence prior to terminating any DBE contractor or subcontractor.

4.3.10.6.7 Required submittals

Required submittals – Appendix E summarizes the submittals and approvals for the Construction phase.

4.3.11 Title VI Equity Analysis

Per [FTA circular 4702.1B Chapter III -11](#) point 13, a Title VI equity analysis must be considered for any new fixed facility construction and during land acquisitions.

[49 CFR Section 21.5\(b\)\(3\)](#) states, "In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding persons from, denying them the benefits of, or subjecting them to discrimination under any program to which this regulation applies, on the grounds of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this part." [Title 49 CFR part 21](#), Appendix C, Section (3)(iv) provides, "The location of projects requiring land acquisition and the displacement of persons from their residences and businesses may not be determined on the basis of race, color, or national origin."

For purposes of this requirement, "facilities" do not include bus shelters, as these are transit amenities and are covered in [FTA circular 4702.1B Chapter IV](#), nor do they include transit stations, power substations, etc., as those are evaluated during project

development and the NEPA process. Facilities included in this provision include, but are not limited to, storage facilities, maintenance facilities, operations centers, etc. In order to comply with the regulations:

- Your organization shall complete a Title VI equity analysis during the planning stage with regard to where a project is located or sited to ensure the location is selected without regard to race, color, or national origin.
- Your organization must engage in outreach to persons potentially impacted by the siting of facilities. The Title VI equity analysis must compare the equity impacts of various siting alternatives, and the analysis must occur before the selection of the preferred site.
- When evaluating locations of facilities, you should give attention to other facilities with similar impacts in the area to determine if any cumulative adverse impacts might result. Analysis should be done at the Census tract or block group where appropriate to ensure that proper perspective is given to localized impacts.
- If your organization determines that the location of the project will result in a disparate impact on the basis of race, color, or national origin, you may only locate the project in that location if there is a substantial legitimate justification for locating the project there, and where there are no alternative locations that would have a less disparate impact on the basis of race, color, or national origin.
- Your organization must show how both tests are met; it is important to understand that in order to make this showing, you must consider and analyze alternatives to determine whether those alternatives would have less of a disparate impact on the basis of race, color, or national origin, and then implement the least discriminatory alternative.

submit a copy of your Title VI equity analysis to WSDOT, once prepared.

4.3.12 National Environmental Policy Act (NEPA)

The National Environmental Policy Act (NEPA):

- Is the primary law governing the environmental review process for all federal agencies.
- Requires a process to consider environmental, social, and economic impacts before carrying out a federal action.
- Requires agencies to document the effects of actions likely to have significant environmental impacts.

4.3.12.1 When does NEPA apply?

NEPA applies whenever a proposed activity or action has a federal nexus:

- Is proposed on federal lands or requires passage across federal lands;

- Is to be funded – either entirely or in part – by the federal government; or
- Requires federal permit or affects the air or water quality that is regulated by federal law.

Many projects require early coordination with a range of federal, state, local, and tribal governments to minimize delays in permitting and construction. When multiple federal lead agencies are involved, early coordination between those agencies is crucial to ensure that all agencies' NEPA requirements are met (different agencies may have different NEPA requirements and processes).

Note that approval of NEPA, in particular the final signature on the Categorical Exclusion (CE) documentation form, does not signify approval of the State Environmental Policy Act (SEPA) nor any applicable local, state, and federal permits. Your organization must work with other agencies, as appropriate, to provide the required analysis to complete their responsibilities under SEPA and other local, state, and federal permit and process requirements.

4.3.12.2 NEPA classifications

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

- Categorical Exclusions (CE): Project actions are not likely to cause significant adverse environmental impacts.
- Environmental Assessment (EA): A project's impact on the environment is not clearly understood, requiring preparation of an Environmental Assessment (EA).
- Environmental Impact Statement (EIS): A project is likely to have significant adverse environmental impacts, requiring preparation of an Environmental Impact Statement (EIS).

4.3.12.2.1 Categorical Exclusions

A category of actions that normally do not have significant environmental impacts per NEPA rules ([40 CFR 1508.4](#), [23 CFR 771.118](#)) based on past experience with similar actions. Approximately 95 percent of FTA-funded transit projects are processed as CEs. Categorical Exclusions³⁰ projects typically meet the following criteria:

- Do not induce significant impacts on planned growth or land use.
- Do not require the relocation of significant numbers of people.
- Do not have a significant impact on any natural, cultural, recreational, historic, or other resource.

³⁰ Review [23 CFR 771.118](#) and [Guidance for Implementation of FTA's Categorical Exclusions](#) for NEPA CE categories and FTA guidance.

- Do not involve significant air, noise, or water quality impacts.
- Do not have significant impacts on travel patterns.
- Do not otherwise, either individually or cumulatively, have any significant environmental impacts.

NEPA CE Classification: CEs are classified into two categories:

- C-List – [23 CFR 771.118\(c\)](#)
- D-List – [23 CFR 771.118\(d\)](#)

4.3.12.2.2 Environmental Assessment (EA)

Actions that have potential for significant environmental impacts ([23 CFR 771.119](#)). An EA may support a NEPA Finding of No Significant Impact (FONSI) ([23 CFR 771.121](#)) or indicate that an EIS is warranted.³¹

4.3.12.2.3 Environmental Impact Statement (EIS)

Actions that are likely to have significant impact on the quality of the human and natural environment ([23 CFR 771.123](#) and [23 CFR 771.125](#)). The [EIS process](#) begins with a notice of intent (NOI), followed by a draft EIS ([23 CFR 771.123](#)). FTA will prepare a combined final environmental impact statement/record of decision (FEIS/ROD) ([23 CFR 771.124](#)) to the maximum extent practicable. If a combined FEIS/ROD is not feasible, the traditional approach of separate FEIS ([23 CFR 771.125](#)) followed by ROD ([23 CFR 771.127](#)) will be utilized.³²

4.3.12.3 When should NEPA be re-evaluated?

There are a few instances when NEPA must be reevaluated on a project that has previously received NEPA approval.³³ The most common reasons for a project to update NEPA are:

- Change to the project scope.
- Passage of significant time – more than three years since federal agency action.
- Passage of a new law or regulation.

³¹ See FTA's standard operating procedure (SOP) No. 9: [Review and Distribution of Environmental Assessments](#), FTA's SOP No. 13: [Findings of No Significant Impact](#), and [SOP landing page](#) for additional guidance regarding EA procedure and documentation.

³² See FTA's SOP No. 10: [Managing Content, Review, and Distribution of Environmental Impact Statements](#), FTA's SOP No. 6: [Notice of Intent](#), FTA's SOP No. 14: [Record of Decision](#), and [SOP page](#) for additional guidance related to EIS process.

³³ See FTA's SOP No 17: [Re-Evaluations and Supplemental Documents](#) for additional information related to NEPA re-evaluation.

- New ESA species or critical habitat listing.
- Change in the project area.

4.3.12.4 *Reviews/analysis considered during NEPA*

NEPA process combines different environmental analyses and reviews into a single process. The requirements vary depending on project scope, location and complexity.

All required documentation/ reviews/ analysis must be prepared by your organization's qualified staff or consultant. If NEPA approval process starts after your grant agreement execution, you must prepare and submit the required documentation to FTA through WSDOT. If NEPA approval process starts prior to grant agreement execution, you can directly coordinate with WSDOT for NEPA approval or request WSDOT to be the liaison between your organization and FTA.

Some of the key reviews/processes combined within NEPA are:

4.3.12.4.1 [Section 106 of the National Historic Preservation Act](#) (36 CFR 800)

Section 106³⁴ is part of the [National Historic Prevention Act of 1966](#). Under Section 106, federal agencies are required to consult with affected Indian tribes, the State Historic Preservation Officer (SHPO) and any other interested parties to consider the effect of proposed project on historic properties. Historic properties are cultural resources that are either listed, or are eligible for listing, on the National Register of Historic Places.

During this process, the project's footprint and adjacent properties that may experience indirect impacts (i.e., Area of Potential Effects, aka APE) are typically considered.

If the project requires a Section 106 supporting memo, it must be prepared/reviewed by a Secretary of Interior (SOI)- qualified archaeologist.

The FTA Regional office is responsible for making Section 106 findings and determinations, including conducting government-to-government consultation with federally recognized Indian tribes and signing agreement documents, when applicable ([36 CFR § 800.2\(a\)](#)).

4.3.12.4.2 [Section 4\(f\) of the Department of Transportation Act](#) (23 CFR 774)

Section 4(f)³⁵ of the Department of Transportation Act of 1966 prohibits FTA from approving the use of land from a significant publicly owned park, recreation area, or wildlife and water refuge, or any significant historic site, unless a determination is made that both of the following conditions are met:

³⁴ [Section 106 Process Standard Operating Procedures | FTA \(dot.gov\)](#)

³⁵ Review [FTA Section 106 process standard procedures](#) and [FTA Section 4\(f\) Evaluation](#) for details about standard process, documentation need.

- There is no feasible and prudent alternative to using the property.
- The proposed action includes all possible planning to minimize harm resulting to the property from such use.

FTA is solely responsible for making section 4(f) determination.

4.3.12.4.3 [Section 7 of the Endangered Species Act](#) (50 CFR 402)

Section 7³⁶ of the endangered species Act (ESA) requires all federal agencies to ensure that any action authorized, funded, or carried out by a federal agency is not likely to jeopardize the continued existence of any endangered, threatened, or proposed species. The analysis of the project's effects on listed and proposed species is normally documented in Biological Assessment (BA). The BA is used to initiate consultation with the National Marine Fisheries (NMFS) and US Fish and Wildlife Services (USFWS).

The ESA memo must be prepared/reviewed by a professional biologist, regardless of the recommended effects finding. The ESA memo should clearly state that the memo has been prepared/ reviewed by a professional biologist

4.3.12.4.4 [Section 404 of the Clean Water Act](#)

[Section 404 of the Clean Water Act](#)³⁷ (CWA) establishes a program to regulate the discharge of [dredged](#) or [fill](#) material into [waters of the United States](#), including wetlands. Coordination with agencies with jurisdiction over water resources should be done early in the environmental review process to consider location and ways to avoid or minimize impacts to wetlands or waterways.

4.3.12.4.5 [Section 176\(c\) of the Clean Air Act](#)

Public transportation projects proposed for federal funding must meet the requirements of the Clean Air Act³⁸ ([42 USC § 85](#)) in addition to NEPA. The purpose of the Clean Air Act is to protect and enhance air quality to promote public health and welfare of the nation. To accomplish this, the Act addresses criteria air pollutants that are regulated through the [National Ambient Air Quality Standards](#).

4.3.12.4.6 [Hazardous Materials Environmental Site Assessment review](#) (ASTM International standards)

Usually, federally funded project that includes the purchase of new right of way, excavation, and/or structure demolition or modification requires at least an initial site assessment to determine if there is any known or potential hazardous waste within the proposed project limits. The proper due diligence procedures should be followed in

³⁶ Review [FTA Endangered Species](#) for details about standard process, documentation need.

³⁷ Review FTA [SOP 22 Water Resources](#) for detailed information.

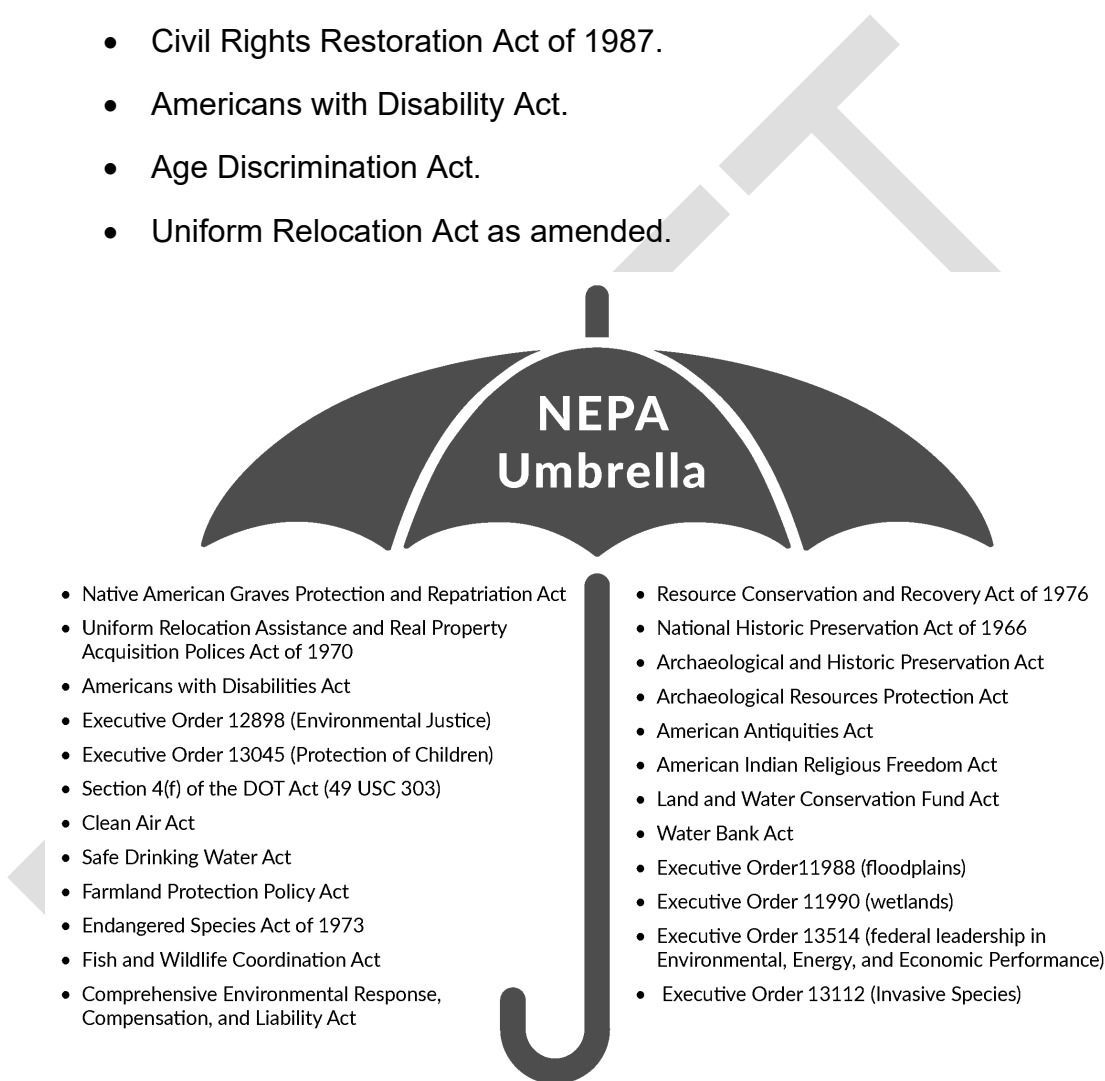
³⁸ Review [FTA Air Quality Conformity](#) for detailed information.

order to limit liability. Due diligence involves conducting a Phase I environmental site assessment in accordance with [US](#).³⁹

4.3.12.4.7 [Environmental Justice](#) (FTA Circular 4703.1)

Regulations that require federal agencies to identify and, where possible, avoid adverse effects on communities and protected populations include:

- EPA, Title VI of the Civil Rights Act of 1964.
- Civil Rights Restoration Act of 1987.
- Americans with Disability Act.
- Age Discrimination Act.
- Uniform Relocation Act as amended.



Source: FTA early property acquisition, NEPA and the Uniform act (page 6) <https://www.transit.dot.gov/sites/fta.dot.gov/files/2024-01/Early-Acquisition-NEPA-URA-Presentation.pdf>

Figure 7: NEPA Umbrella

³⁹ Review [FTA Hazardous Materials & Brownfields](#) for additional information. [WSDOT Hazardous Material webpage](#) has additional information on addressing hazardous materials issues associated with transportation projects. [The Department of Ecology's website](#) is helpful in locating known or potentially contaminated sites.

4.3.12.4.8 Key information to remember about reviews/analysis under NEPA

- Environmental Coordination with FTA usually starts with submitting NEPA CE checklist and required supporting documents. See [Appendix F](#) for Region 10 NEPA CE and [Appendix G](#) for the NEPA reevaluation checklist.
- All required environmental documentation for NEPA such as Section 106 Memo, ESA memo, etc., must be submitted to and approved by FTA during the NEPA approval process. FTA does not approve NEPA without approving the required supporting environmental documentation.

4.3.12.5 Real estate acquisition and the Uniform Act

Real estate needs to construct, operate, and/or maintain a federally funded transit project, or facility vary based on project scope and can be classified as:

- Acquisition of fee title (buying the land), fee title subject to a life estate, leasing where the lease term, including options for extension, is 50 years or more, permanent easements (landowner still owns the property, but the project owner has easement rights) and temporary construction easements (temporarily using the land just during the time of construction).
- Easements include acquisition of surface and subsurface rights.

Source: [49 CFR 24.101](#) and [WSDOT Right of Way manual Appendix 6.3](#) (for property right category) <https://www.ecfr.gov/current/title-49/subtitle-A/part-24/subpart-B/section-24.101>

4.3.12.6 Uniform Act

[Federal Public Law 91-646](#), the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, commonly called the [Uniform Act](#), is the primary federal law for right-of-way and property acquisition and relocation activities on federally assisted projects. The Uniform Act is implemented in federal regulations by [Code of Federal Regulations 49, Part 24 \(49 CFR 24\)](#). All FTA funded construction projects are subject to the provisions of [FTA circular 5010](#), which provides additional guidance on implementing the requirements.

Generally, the purpose of the Uniform Act is three-fold:

- To ensure that owners of real property to be acquired for a federally assisted project are treated fairly and consistently, to encourage the acquisition of real property by agreement to relieve congestion in the courts, and to promote public confidence in federally assisted land acquisition programs.
- To ensure that persons displaced as a direct result of a federally assisted project are treated fairly, consistently, and equitably so that displaced persons will not suffer disproportionate injury due to projects designed to benefit the public as a whole.

- To ensure agencies implement the regulations in an efficient and cost-effective manner ([49 CFR 24.1](#)).

4.3.12.6.1 Where and why does the Uniform Act apply

If federal funds are or will be used in any part of a construction or renovation project that involves the acquisition of land or the displacement of any persons, firms, or business because of acquisition, demolition, or rehabilitation:

- Federal agencies and acquiring agency must comply with the Uniform Act, when acquiring any real property.
- The rules of the Uniform Act apply, even when the land acquisition itself is not federally funded.

The provisions of the Uniform Act apply to the acquisition of fee title, fee title subject to a life estate, leasing, permanent easements, and temporary construction easements (Source: [49 CFR 24.101](#)). Your organization must follow the Uniform Act if the land is acquired for a potentially FTA-funded project. Failure to comply with the Uniform Act will cause non-compliance with FTA requirements and inability to use the land for FTA-funded projects.

4.3.12.7 *How does NEPA impact the right-of-acquisition process*

Final design activities, property acquisition, purchase of construction materials, or project construction must not proceed until FTA has:

- Classified the project as a Categorical Exclusion; or
- Issued a Finding of No Significant Impact; or
- Issued a combined final Environmental Impact Statement (EIS)/Record of Decision (ROD) or a final EIS and ROD.

If real property is to be acquired for an FTA-funded transit project, the project's NEPA documentation should contain the following:

- A description of the property (the land, structures, location, etc.),
- the type of acquisition, and
- any relevant site assessment reports.

If FTA funding is anticipated at any stage of the project, DO NOT acquire real property or initiate final design before NEPA documentation is complete and approved by FTA, even if the federal grant is not secured at that time.

4.3.12.8 *Allowable preliminary acquisition activities during NEPA processing*

Project sponsors may engage in preliminary acquisition activities during the NEPA process provided the activities do not limit the consideration of NEPA alternatives or violate the requirements of the Uniform Act. Examples of allowable activities are

relocation planning and preliminary discussions with property owners that do not result in binding agreements. Any preliminary negotiations should be documented and include a statement for the property owner's signature indicating that the owner understands the discussions to be preliminary and non-binding as to price and other considerations ([See FTA Circular 5010](#)).

Allowable preliminary acquisition activities prior to NEPA approval	Prohibited acquisition activities prior to NEPA approval
Title searches	Any offer to purchase
Right-of-way acquisition cost estimates	Any negotiation to purchase
Right-of-way relocation cost estimates or relocation plans	Any discussion on price
Right-of-way plans, exhibits, or legal descriptions	Any commitment to purchase or establishing any conditions of purchase
Public meetings or hearings	Any commitment to proceed to settlement
Environmental site assessments (ESAs)	-
Appraisals (see considerations in FTA Real Estate and NEPA FAQ Q8 and Q10)	-

Figure 8: Example of allowable and prohibited activities prior to approval of NEPA

4.3.12.9 *Ground disturbance during site selection and project-level NEPA approval vs. activity-level NEPA approval*

Generally, during the NEPA process, overall project impacts are considered through various analyses resulting in NEPA approval for the overall project. During site selection or early design phase, some analyses, such as geotechnical investigation, wetland delineation, cultural resource assessment, etc., may need to be conducted, which can cause ground disturbance. These ground-disturbing activities often need to be conducted significantly before the design has evolved to the point that project-level NEPA approval can be sought as the analysis is needed to inform site selection or the overall project design. These early ground-disturbing activities may very likely require a separate, early NEPA approval specifically for the ground-disturbing activities that support the early analysis. In this case the environmental impacts of those specific activities are considered rather than overall project impacts. It is also important to remember that this activity-level NEPA approval is only applicable for a specific activity; a project-level NEPA approval must be obtained prior to the right of acquisition or final design of the overall project (Source: [23CFR 771.118\(c\)16](#)).

4.3.12.10 *Exceptions for advanced or early right-of-way acquisition*

Property acquisition in most instances can only be undertaken after appropriate environmental clearance. However, there are a couple options available for acquiring property earlier in the project development process to ensure corridor or property preservation, access management, or other critical purposes. The use of these processes is considered “exceptions” and requires careful consideration and close coordination with the FTA. Failure to comply with FTA process will jeopardize the eligibility for FTA funding. Advance acquisition is not permitted for the sole purpose of

reducing the cost of property for a proposed project. Advanced acquisition also does not limit the evaluation of alternatives, which may be required in the NEPA process. Besides, it is also important to remember that any acquisition undertaken under these exceptions must comply with NEPA and applicable Uniform Act requirements.

Available options for advanced or early acquisitions are:

4.3.12.10.1 Hardship or protective acquisition

Hardship and protective buying are permitted only for a particular parcel or a limited number of parcels. No project development on such land may proceed until the NEPA process has been completed.

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

Examples of hardship acquisition:

- The property owner's job has been transferred elsewhere, but the owner can't sell because public documents identify the property as needed for a transit project.
- An elderly owner must sell and move into an assisted living facility.

Protective acquisition is done to prevent the imminent development of a parcel, which may be needed for a proposed transportation corridor or site. Documentation must clearly demonstrate that the development of the land would preclude future transportation use and that such development is imminent. A "for sale" property listing is not sufficient to meet the protective acquisition threshold.

Example of protective acquisition: Imminent threat of development and development would be inconsistent with planned transit use (e.g., available developer plans, application for building permit, zoning exception).

Source: [23 CFR 771.118\(d\)\(3\)](#)

4.3.12.10.2 Acquisition of Right of Way

Right-of-way property may be acquired for a transit project prior to the completion of NEPA review under certain circumstances and at the project sponsor's risk. This exception is usually utilized for corridor preservation or linear projects. No project development on the acquired right-of-way may proceed until the NEPA process for such project development, including the consideration of alternatives, has been completed.

An example of acquisition of right of way is acquisition of property adjacent to an existing light rail station for future light rail expansion projects.

Source: [FTA Corridor Preservation Guidance](#) and [23 CFR 771.118 \(d\) \(4\)](#)

4.3.12.10.3 Acquisition or transfer of interest in real property

Acquisition or transfer of real property interest can be permissible where the acquired property remains essentially unchanged from its previous use. The property cannot be within or adjacent to recognized environmentally sensitive areas. This property purchase must not result in a substantial change in the functional use of the property or substantial displacements or limit the evaluation of alternatives for future FTA-assisted projects.

Examples of acquisition or transfer of interest in real property are:

- Acquisition of a parking facility and maintaining the functional use as a parking facility, or;
- Acquisition of a private sidewalk to provide better access to a transit station.

Source: [23 CFR 771.118\(c\) \(6\)](#)

4.3.12.11 Key Information to remember about NEPA

4.3.12.11.1 Environmental site assessment

Performing an environmental site assessment is a critical function that should be performed as early as possible after the selection of a preferred site location for a new facility. The environmental site assessment will determine if there are any existing environmental impacts that could affect the intended use of the property and expose any environmental liability in connection with property ownership. An environmental site assessment is normally performed in two phases. Phase I study will include historic use of the site as well as any past environmental findings recorded in federal or state records. In addition, this phase should include a physical inspection of the site for any signs of pollution, such as soil contamination from fuel spills. As a result of the information collected, a recommendation will be made whether it would be necessary to perform a Phase II assessment.

Findings based on Phase 1 assessment must be submitted for FTA review and approval during the NEPA approval process. A Phase II environmental site assessment will be performed if the Phase I assessment indicates the potential presence of environmental issues that may require cleanups or other mitigating actions. Results of the Phase II assessment are used to determine if the property is eligible for selection for the facility and if mitigation actions will be needed in connection with the use of the property. This information should contribute to the establishment of the fair market value and updating the project budget.

4.3.12.11.2 Appraisal and review appraisal

The FTA requires an appraisal as well as a review appraisal report that is prepared by a second firm. For FTA-funded projects, an appraiser must be certified or licensed with the State Appraisal Board, as required by [49 CFR. and 24.103\(d\)\(2\)](#), [Circular FTA C](#)

[5010](#), and listed on [WSDOT's approved appraiser list](#) to be considered eligible. The reviewing appraiser must be either on the [WSDOT Approved Consultant List](#) or an employee of the acquiring local agency (your organization) who is qualified and authorized to review appraisals. You must submit a confirmation to WSDOT that the appraiser and the reviewing appraiser are certified as required. Appraisals and review appraisals must be less than six months old ([See FTA C 5010 , Chapter IV](#)). Appraisals over six months old should be updated in an active real estate market before fair market value is determined and be submitted to the FTA regional office for review and concurrence when required. If the documents are not updated, the letter of transmittal to FTA shall supply adequate justification explaining why the appraisal was not updated.

4.3.12.11.3 Acquiring the property

Property acquisition activities need to be conducted in compliance with the requirements of the Uniform Act requirements ([49 CFR part 24](#)). Every effort should be made to acquire real property by negotiation based on the approved just compensation amount that the acquiring agency has determined and considering the requirements of fair market value, making offer, uneconomic remnant, condemnation, and administrative settlement as required by [49 CFR part 24](#) and FTA Circular [5010 Chapter IV](#). An offer to purchase must be in writing and presented to the property owner. It is recommended that legal counsel be retained to prepare the offer to purchase. All negotiations should be documented. You must obtain prior approval from funding agencies if it is determined that a value greater than fair market value should be paid.

4.3.12.11.4 FTA approval requirements

FTA oversees the Uniform Act implementation compliance. One of the means FTA uses to oversee its program is to require prior concurrence in certain transactions. Unless alternative concurrence levels are requested and granted, an acquiring agency (your organization) must receive FTA's concurrence for the following scenarios:

- For intended parcel acquisition and disposition, the valuation is greater than \$1,000,000; ([Circular 5010, Chapter IV](#)).
- For non-federal contribution, whether in cash or in-kind contributions, and land exchange of any value ([Circular 5010, Chapter IV](#)).
- For property condemnations exceeding \$1,000,000, prior to filing condemnation ([Circular 5010, Chapter IV](#)).
- Prior concurrence for administrative settlements exceeding the higher of \$50,000 or 15 percent of the current fair market appraised value ([Circular 5010, Chapter IV](#)).

FTA should be contacted through WSDOT for further guidance when any one of the following special situations occurs:

- The owner is donating the property, (reference [49 CFR §§ 24.108, 24.102\(c\)\(2\)](#)) and ([Circular 5010, Chapter IV](#));
- The property qualifies as a voluntary acquisition as described in [49 CFR § 24.101\(b\)\(1\)](#); or
- The valuation is uncomplicated, and the fair market value is estimated at \$15,000 or less, based on a review of available data, using the waiver valuation provision found at 49 CFR §§ [24.102\(c\)\(2\)](#) and [24.2\(a\)](#) Waiver valuation.

4.3.12.11.5 Right-of-way certification

If an FTA-funded project requires right-of-way acquisition and temporary and/or permanent easement, the right-of-way acquiring agency (your organization) must issue a right-of-way certification and submit it to WSDOT prior to advertisement for physical construction of the project.

Right-of-way certification should include statements certifying that:

- All right of way is clear (including encroachments).
- Relocation has been completed or necessary arrangements have been made for it to be undertaken and completed as required for proper coordination with the physical construction schedule.
- Right to remove, salvage, or demolish improvements has been obtained.
- Appropriate rights were acquired for construction, operation, and maintenance within the right of way.
- Certifies that Uniform Act requirements have been met.

4.3.12.11.6 Real property inventory documentation:

If real property or right of way acquisition is required for the project, submit to WSDOT a copy of real property inventory documentation as soon as available. Documentation should include property location/physical address, use and condition of the property, summary of conditions on the title, brief description of improvements, expansions, and retrofits, corresponding useful life for the assets, date placed in service, original acquisition cost, sources of funding Federal and non-Federal participation ratios, Federal award identification number, appraised value and date, anticipated disposition or action proposed, date of disposal and sale price of the property.

Sources: [FTA contractor's manual](#)

4.3.12.11.7 Leasing a real property or facility

If your organization is considering leasing real property and facilities, or equipment (except for rolling stock or related equipment), rather than outright purchase of the same, and such lease is a capital not an operating lease, then you must comply with [49 CFR part 639](#) "Capital Leases" except for provisions pertaining to cost effectiveness.

4.3.12.11.8 Incidental use or disposal of FTA-funded real property

If you are anticipating incidental use or disposal of FTA-funded real property, review section [5.1.3.23](#): Property Management Plan and Continuing Control of this guidebook.

Sources: [FTA Circular 5010, Chapter IV](#); [49 CFR Part 24](#); [FTA Real Property Acquisition and NEPA FAQ](#); [Figure 4-4 Acquisition Process of FTA Construction Management Handbook](#)

4.3.13 Build America and Buy America (BABA)⁴⁰

An article, material, or supply will be classified in one of three categories: 1) Steel and Iron, 2) Manufactured Product, or 3) Construction Material.

Construction materials used in FTA-funded projects are subject to the domestic preference requirement of the [Build America, Buy America Act, Pub. L. 117-58, div. G, tit. IX, §§ 70911 – 70927 \(2021\)](#) and [2 CFR 184](#) as implemented by the U.S. Office of Management and Budget, the U.S. Department of Transportation, and FTA. Steel, iron and manufactured products are subject to the Federal Transit Administration's (FTA's) Buy America requirements in [49 C.F.R. Part 661](#) and [49 U.S.C. 5323\(j\)](#).

The Buy America requirements apply to construction contracts or item procurements valued at more than \$150,000. Subcontracts under that amount are subject to Buy America. You must inform WSDOT whether or not the [\\$150,000 threshold](#) applies to your project.

4.3.13.1 USDOT Public interest waiver

[Per USDOT public interest waiver](#) issued on Aug. 16, 2023, BABA's domestic preferences for iron and steel, manufactured products, and construction materials used in infrastructure projects has been waived for de minimis costs and small grants. This waiver is applicable to a single financial assistance award for which:

1. The total value of the non-compliant products is no more than the lesser of \$1 million or 5 percent of total applicable costs for the project; or
2. The total amount of federal financial assistance applied to the project, through awards or subawards, is below \$500,000.

These waivers are subject to review. review the [FTA Buy America](#) webpage for the current waiver status.

⁴⁰ Review [FTA Buy America FAQ](#) for generally asked questions and responses and [FTA Buy America webpage](#) for updated information. Also review Appendix C: FTA Buy America Certification, Buy America and BABA Specification (WSDOT), and Forms.

Buy America and BABA specification (WSDOT) must be included in all FTA funded and WSDOT awarded contracts.

You must notify WSDOT of intent to apply the waiver to your project along in writing with the justification for use (either #1 or #2 above applies).

4.3.13.2 Requirements and monitoring

A bidder/proposer must submit to the contracting agency (your organization) the appropriate Buy America certification (See [Appendix H or I](#)) with all bids/proposals on FTA-funded contracts, except those subject to a general waiver. A bid/proposal that is not accompanied by a completed Buy America certification must be rejected as non-responsive. You must inform WSDOT that BABA certification was included with the winning bid prior to award. This requirement does not apply to lower-tier subcontractors.

A certification of materials origin will be required for all items comprised of, or containing, steel or iron construction materials prior to such items being incorporated into the permanent work. The construction contractor will not receive payment until the certification is received by your record of engineer. The certification shall be on WSDOT Form 350-109A and Form 350-111A ([Appendix H or I](#)), or other such form the construction contractor, provided it contains the same information as WSDOT Forms.

You are responsible for monitoring and approving Buy America certification and certification of materials origin. WSDOT will review certifications of materials origin (CMO) for selected items during the documentation review.

You are also responsible for monitoring and tracking costs of foreign iron and steel, manufactured products, and construction materials to ensure that costs are not more than the lesser of \$1,000,000 or 5 percent of the total applicable material costs. WSDOT will review your tracking system during the documentation review.

4.3.14 Wage rates: Federal Davis Bacon and State Prevailing Wage rates

The Federal Davis-Bacon Act requires that wages paid to workers on publicly funded construction projects exceeding \$2,000 must comply with prevailing rates for the locality of the project. This data is received from the US Department of Labor (USDOL) in a document entitled “General Wage Determinations Issued Under the Davis-Bacon and Related Acts.” Modifications are issued weekly by the USDOL. The effective date for federal wage rates is the date of notice in the Federal Register or the date on which written notice is received by WSDOT, whichever occurs first. All modifications on projects to which the determination applies are effective if published before contract award. The effective date for determining federal prevailing wage rates shall be 10 days prior to bid opening (or less if the engineer determines addenda can be issued prior to bid opening). For contracts awarded more than 90 days after the bid opening date, the effective date for determining the wage rates shall be the award date. (Source [29 CFR1.6\(c\)\(3\)\(i\)](#))

[Chapter 39.12 RCW](#) requires local government contractors and subcontractors to pay prevailing wages to all workers for all public works and maintenance contracts,

regardless of the dollar value of the contract.⁴¹ The Washington State Department of Labor and Industries (L&I) will use the date that bids are due as the effective date for determining prevailing wages provided that the contract is awarded within 60 days after bids are due. If the contract is not awarded within 60 days after bids are due, L&I will determine the prevailing wage on the date the contract is awarded. For contracts awarded more than six months after the bid opening date, the effective date for determining the wage rates shall be the award date. ([Source: The Washington State Prevailing Wage Law](#))

Public Works contracts with federal funding need to consider both federal and state prevailing wage rates. If both rates are applicable, payment must be at the higher rate. You can contact [L&I](#) for further guidance. The wage rates used will reflect the latest rates approved by L&I and USDOL ([29 CFR Part 30](#), [RCW 39.12](#), [RCW 49.28](#)).

Projects with federal funds require certification, submission, and review of certified payrolls. Your organization must review the certified payrolls. Collection and verification of certified payrolls fulfills the federal prevailing wage law requirements ensuring workers are paid timely and at the appropriate wage.

The prime construction contractor is ultimately responsible for compliance with the requirements of prevailing wage laws. Contracting agency (your organization) also have a responsibility for properly applying and enforcing prevailing wage rate requirements. Tracking mechanisms are necessary and should be used in conjunction with prime contractor supplied information to ensure all certified payroll are received. In addition to that, you must advise the contractor and subcontractors that it is their responsibility to work directly with L&I for approval of the Statement of Intent to Pay Prevailing Wages (SOI) and Affidavit of Wages Paid (AWP). On all federal-aid contracts, your organization must remind the contractor that the work falls under the guidance of Davis-Bacon and Related Acts and the Contract Work Hours and Safety Standards Acts. As indicated in Section SS 1-07.9(1), the USDOL may conduct investigations to ensure compliance with these acts.

The Federal Davis Bacon Rates and State Prevailing Wage Rate are available in the following links:

- [WSDOT wage rates](#)
- [Washington State Labor and Industries prevailing wage rates for public works contracts](#)

⁴¹ Per [RCW 39.04.010](#), "Public work" means all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the state or of any municipality, or which is by law a lien or charge on any property therein.

4.3.15 Disadvantaged Business Enterprises

Grantees, when participating in programs funded in whole or in part with federal funds made available by WSDOT, must adhere to WSDOT's DBE Program Plan. While WSDOT's Office of Equity and Civil Rights (OECR) has the overall responsibility for administration and implementation of WSDOT's DBE Program, grantees also have an important role to ensure that federally assisted contracts are administered in accordance with [49 CFR Part 26](#) and the state's approved DBE Program Plan. All FTA-funded capital construction projects and related consultant contracts are subject to DBE requirements. WSDOT's OECR, in coordination with Public Transportation Division, will conduct compliance reviews of the DBE Plan administration. A finding of noncompliance will result from the failure to comply with the requirements of WSDOT's DBE Program Plan.

For all federally assisted advertisements, agreements, contracts, and subcontracts, the contractor, subrecipient, or subcontractor shall not discriminate on the grounds of race, color, or national origin. Failure by the contractor to carry out these requirements must be considered as a material breach of the contract or may require implementing other remedy as the grantee 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.

4.3.15.1 *DBE information reporting*

The contracting agency (i.e., your organization) must report on DBE payment information quarterly during quarterly status report submission through GMS. You are also responsible for monitoring accuracy of DMCS reporting as explained in [Section 4.3.16: Progress payment, prompt payment, and return of retainage](#).

4.3.15.2 *Contracting agency's DBE liaison officer*

The contracting agency (i.e., your organization) is responsible for ensuring program compliance and monitoring its contractors' and/or consultants' DBE activities. To accomplish this, you must appoint a DBE liaison officer who 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 WSDOT's DBE Program Plan by your organization and by its contractors/consultants.

4.3.15.3 *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 as DBE participation by prospective bidders on federally funded projects, firms must be currently certified by OMWBE. The directory of currently certified DBE firms can be accessed via [OMWBE's](#)

[website](#) or by calling 360-664-9770 or toll free (866) 208-1064. Firms not listed in the OMWBE's database will not count toward DBE participation on new contracts.

4.3.15.4 *Establishment of project DBE goal*

WSDOT OECR, in accordance with Public Transportation Division, will review construction and consultant contracts to determine if it involves work or scope elements that are conducive to DBE participation. To initiate this review for a federally funded project, the grantee must submit an engineer's estimate for a construction project or a detailed scope and cost estimate for a consultant agreement to WSDOT when the contract work or consultant agreement scope is determined. The estimate must show the item quantities or scoping costs of the project.

If consultant services are to be used for any project activity and reimbursed with federal funds, a DBE goal determination must be conducted prior to advertisement.

Construction contract advertisement and award CANNOT be approved before the project review and determination of DBE goals.

The elements considered by WSDOT in determining construction contracts or consultant goals are available on the [WSDOT OECR web page](#).

4.3.15.5 *Required inclusion of DBE goals in the Request for proposal (RFP) for consultant services and advertisement of construction contract:*

- Consultant agreement: If DBE goals are assigned for a consultant contract, the goals must be included in the advertisement or request for proposal (RFP).
- Construction contract: After the DBE goals are determined, DBE goals must be included in the advertisement. Applicable WSDOT General Special Provision (GSP), for the type of goal set, shall also be included in the PS&E. When a DBE goal is established, [DBE Utilization Certification Form 272-056](#), [DBE Written Confirmation Form 422-031](#), [DBE Trucking Credit Form 272-058](#), [DBE Bid Item Breakdown Form 272-054](#) and Bidders [Questionnaire Form 272-022](#) must be included in the proposal for the construction contract given to each bidder.

4.3.15.6 *Selection of prime consultant and construction contractor:*

4.3.15.6.1 Selection of the most qualified consultant firm

The consultant agreement procedures for DBE administration differ somewhat from the construction contract approval process outlined below, as the consultant agreement is negotiated after selection of the most qualified firm to perform the scope of work. After selection and negotiations with the most qualified firm and before contract execution, you must submit the following "Consultant Pre Award Data" for WSDOT concurrence.

- Draft consultant agreement.
- DBE Participation Plan (i.e., DBE Participation, Prime Consultant Cost Computations, Sub-consultant Cost Computations).

- Good Faith Effort (GFE) documentation if applicable, that was submitted by the successful firm to the WSDOT for concurrence.
- Indirect cost rate approval.

During this review, WSDOT 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 Participation Plan before concurrence to execute the agreement is given to the grantee. The Grantee must not execute an agreement with the consultant until the DBE plan is approved. During this review WSDOT will also verify inclusion of required FTA clauses and indirect cost rate approval.

4.3.15.6.2 Bid opening and selection of successful bidder for construction contract

4.3.15.6.2.1 Bid opening

For a contract with DBE goals, each proposal shall contain the following documents, per [Construction Specifications \(1-07.11\)](#):

- [DBE Utilization Certification Form 272-056](#).
- [DBE Written Confirmation Form 422-031](#).
- [DBE Trucking Credit Form 272-058](#) (if applicable).
- [DBE Bid Item Breakdown Form 272-054](#).
- [Bidders Questionnaire form 272-022](#).
- If the prime is proposing to use a DBE broker, they must also submit the broker agreement as part of the bid package.

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

In order to be counted towards the contract's DBE goal, the DBE firm named by the contractor in the bid proposal shall be certified by OMWBE, in the scope of work listed on the [DBE Utilization Certification form](#) and [in the Bid Item Breakdown](#). The firm must be shown in the DMCS to be eligible for work on an FTA funded project. To determine whether a firm is certified as a DBE and eligible to perform work on an FTA funded project, the contracting agency (your organization) must verify the firm's certification status in OMWBE's Directory of Certified Firms available at www.omwbe.diversitycompliance.com. Document your efforts in the project file. Suspended DBE Firms are not shown in DMCS. Firms that are suspended (and thus not shown) cannot be used to meet the condition of award goal nor be counted as DBE participation on any new contracts issued subsequent to the date of suspension. 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 DBE goals assigned to a project, firms that are not certified or certified firms that are under suspension at the time of bid opening

cannot be accepted/counted by the your organization for participation, as a Condition of Award (COA) Contractor/ Subcontractor on the project.

4.3.15.6.2.2 Selection of the successful bidder

4.3.15.6.2.2.1 Selection of successful bidder when a DBE goal has been assigned to a Federal-aid project

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. Documenting that it has obtained enough DBE participation (commitments) to meet the goal or,
2. Documenting that it has 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 was 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.

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 lowest responsive bid will be reviewed for acceptance.

Agencies that have projects with mandatory DBE goals shall submit the following "Construction Bid Documentation" for **all** apparent low bidders, to Public Transportation Division to obtain concurrence to award from WSDOT OECR, before the contract is officially awarded to the apparent responsive low bidder.

- The corrected and certified bid tabs.
- [DBE Utilization Certification Form 272-056.](#)
- [DBE Written Confirmation Form 422-031.](#)
- DBE Trucking Credit Form 272-058 (if applicable).
- [DBE Bid Item Breakdown Form 272-054.](#)
- [Bidders Questionnaire form 272-022](#)
- All broker agreements (as applicable).

Failure to gain WSDOT concurrence prior to award on every project with DBE goals or the subsequent award of a contract to a nonresponsive bidder will jeopardize the federal funding of the project.

If the apparent low bidder identifies that they want GFE consideration and submits GFE documentation with the bid, the contracting Agency (your organization) will submit that documentation for WSDOT OECR approval prior to awarding the project. GFE documentation must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when it selects a non-DBE subcontractor over a DBE for work on the contract.

4.3.15.6.2.2.2 Administrative reconsideration of GFE documentation

A Bidder has the right to request reconsideration if the GFE documentation submitted with their Bid was determined to be inadequate.

- The Bidder must request reconsideration within 48 hours of notification of being nonresponsive or forfeit the right to reconsideration.
- An OECR official who did not take part in the original GFE determination will be assigned to review the reconsideration of the GFE documentation and provide a final decision on the validity of the documentation.
- Only original GFE documentation as submitted at the time of bid or as supplement to the Bid shall be considered. The Bidder shall not introduce new documentation at the reconsideration hearing.
- The bidder shall have the opportunity to meet with the OECR official assigned during the reconsideration hearing for the purpose of setting forth the Bidder's position as to why the GFE documentation demonstrates a sufficient effort. The bidder may provide further explanation or clarification about the information and materials included in the original GFE package during the hearing.
- The OECR official shall provide the Bidder with a written decision on reconsideration within five working days of the hearing explaining the basis for their finding.
- The result of the reconsideration process is final and not administratively appealable to the USDOT.

4.3.15.6.2.2.3 Brokering

If the apparent low bidder selects an DBE Broker (or a service provider for providing a bona fide service) to meet part of the established DBE goal, a DBE Broker Agreement is required to be submitted as part of the Proposal or as a Supplement to the Bid. To be considered responsive, the Broker Agreement shall document the fees or commissions charged. The fee/ commission shall not exceed 5 percent of the cost of the service being provided by the DBE broker.

4.3.15.6.2.2.4 *Trucking*

When a DBE Trucking firm is used to meet the established DBE goal, the DBE Trucking Credit Form [272-0258](#) is required to be submitted as part of the Proposal or as a Supplement to the Bid. The Form shall identify the items to be hauled, the type of trucks to be used, and the number of trucks currently owned by the DBE firm.

4.3.15.7 *Condition of award letter for construction contract*

For construction contracts, the condition of award letter carries the same contractual obligation as the contract specifications. Examples of DBE goal award letters are included in the [WSDOT LAG manual](#), Appendix 46.43 and 46.44. The information contained in the body of these examples must be included in the contracting agency (your organization) award letter. The award letter shall be on the contracting agency's letterhead (award letters submitted on consultant letterhead will be returned for correction). Attach a copy of the letter to the contract papers sent to the contractor for signature.

4.3.15.8 *Award through execution*

For consultant services, after consultant agreement execution, you are required to submit the "Consultant Post Award Data" as described in [Section 4.3.10.2: Preliminary engineering and environmental documentation phase](#), part F. WSDOT will provide DMCS (wsdot.diversitycompliance.com) access to you (grantee) and the consultant agency for reporting payment information.

Similarly, for construction contracts, you are required to submit the "Construction Post Award data" as described in [Section 4.3.10.5.2 Construction contract procurement, advertisement and award](#). WSDOT will provide DMCS (wsdot.diversitycompliance.com) access to you (grantee) and the prime contractor for reporting payment information.

4.3.15.9 *Monitoring DBEs: Consultants and construction work*

Monitoring the work of DBE consultants and contractors is extremely important, and necessary to determine appropriate credit towards contract goals. You must ensure that the work commitments were actually performed by the firm(s) to which the work was committed. In order to receive credit for DBE participation a DBE firm must be performing a Commercially Useful Function (CUF) on that contract. See DBE [GSPs](#) for additional information on CUF.

4.3.15.9.1 *Consultant agreement*

You must place a special emphasis on the approved DBE Participation Plan during the life of the agreement. The consultant shall report monthly to the grantee (your organization) on its progress towards achieving the commitments outlined in the DBE Participation Plan. Your organization must monitor the plan and inquire as needed to make sure the consultant is on track to meet the planned goal and if any changes to the plan are needed to ensure that the approved goal is met. If changes to the original DBE Participation plan are needed, you must submit them to the WSDOT for concurrence

prior to documenting that approval with an executed supplement to the consultant agreement.

4.3.15.9.2 Construction contract

You 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. All change orders affecting the work of DBEs shall be submitted to WSDOT for WSDOT OECR 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 addition to the project diary, your organization must document that each DBE working on the project is performing a Commercially Useful Function (CUF).

4.3.15.10 Commercially Useful Function (CUF) on-site reviews

The Contracting Agencies will perform a CUF On-Site Review on every DBE Consultant, Contractor, Subcontractor, Regular Dealer, Supplier and Manufacturer performing work or supplying materials on the project. The reviews are required anytime a DBE consultant or contractor works on a project, regardless of whether or not they have Condition of Award commitments. If a CUF has not been performed, participation credit for the firm's work cannot be applied towards the contract goal nor the project's overall goal.

Conducting DBE CUF reviews is a two-step process, whereby your organization (grantee) completes the first step and the OECR compliance specialist completes the second step. Contracts funded with Federal funds shall utilize the following forms for purposes of documenting CUF for each DBE contractor/ consultant, as applicable:

- Local Agency DBE/FSBE CUF On Site Review Form for Contractors/ Subcontractors ([Form 272-052A](#))
- Local Agency DBE/FSBE CUF On Site Review Form for Regular Dealer/ Manufacturers ([Form 272-064A](#))
- Local Agency DBE/FSBE CUF On Site Review Form for Architect & Engineering/Professional Services (Form [272-051A](#))

Once the On-Site Reviews are completed, the OECR Compliance Specialist will upload the CUF forms into DMCS.

DBE On-Site forms and instructions: DBE On-site reviews must be conducted at least once per construction season,

- At the start of work (for short duration work only), 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 contractor or consultant firm may not be performing a CUF, immediately notify your WSDOT contact. Your organization shall submit the CUF review form to WSDOT within 15 calendar days of the completion of the agency's section (your organization). If DBE trucking firms are utilized, in order to receive credit for DBE participation, the local agencies shall follow guidance in the [WSDOT Construction Manual](#) to ensure compliance with DBE Program requirements. The WSDOT GSPs, and the Construction Manual shall be followed to ensure compliance with DBE Program requirements. WSDOT's Office of Equity and Civil Rights (OECR) may also perform an investigation into CUF matters if the outcome of a CUF review reflects questionable activity of the DBE firms performing work. Additionally, for construction contracts, your organization shall track work that DBE sub-contractors sublet to lower tier sub-contractors, as credit can only be received if the lower tier sub-contractors are certified as a DBE contractor to perform the specific type of work. If the lower tier subcontractor(s) is not a DBE or not certified to perform the work, the value of this work cannot be counted toward the contract goal (e.g., be deducted from the DBE amount to be credited to the project).

Upon Completion: In addition, for each contract, grantee must document (by submitting a [Written Certification Form](#), See [WSDOT form 272-055](#)) 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.

Records and Reports – The grantee will maintain such records and provide such reports as necessary to ensure full compliance with WSDOT's DBE Program Plan. Upon request from the OMWBE, WSDOT, or the USDOT operating administrations (e.g., FTA), the grantee shall submit the records deemed necessary for inspection, auditing, and review purposes.

Note: Federal-aid contracts cannot be closed until all Federal contract requirements are satisfied. This includes DBE, prompt payment requirements (pertaining to progress payments and return of retainage).

4.3.16 Progress payment, prompt payment, and return of retainage⁴²

4.3.16.1 *Progress estimates*

Progress payments should be prepared on a pre-selected date each month and payment made to the contractor. Measurement and payment for all acceptably completed bid items of work will be in accordance with [WSDOT Standard Specifications](#). Source documents used to support payments must be complete, standalone documents that fully support the payment being made. Documentation to

⁴² [WSDOT Standard Specification 1-08.1\(7\)B Prompt Payment and 1-08.1\(7\)C Subcontractor Retainage](#) for additional guidance.

support payment shall be in accordance with [WSDOT Construction Manual](#) or [Local agency General Special Provisions](#), as appropriate. Agencies that have integrated computer programs for Inspector Daily Reports and payment source documents shall include all the information shown on the WSDOT forms used for those purposes. Progress estimates should be prepared promptly and may be forwarded to the contractor for review and signature. Progress payments must be based on measurements of work performed (recorded on [WSDOT 422-635, 422-636, 422-637](#), or similar agency form) so that the contractor can be fairly compensated and so that public funds will not be expended on work that has not yet been done. (Inspector daily reports should not be used in place of a Field Note Records)

4.3.16.2 Prompt payment (progress and return of retainage)

As the Grantee, your organization must comply with State and Federal prompt payment laws. In addition, you are expected to monitor and enforce prompt payment requirements under State Law (as well as [49 CFR Part 26.29](#)), as regards your contracts with prime consultants and contractors. Monitoring and enforcing prompt payment (associated with progress payments and return of retainage) requires the grantee to verify (in DMCS) that payments to subconsultants and subcontractors are commensurate with the subconsultants' and subcontractors' work scope and are processed/issued within the allowed timeframe.

Washington state laws mandate a public entity must pay the prime contractor within 30 days after receipt of invoice or receipt of services, whichever is later, unless funded by grant or federal money not yet received by public body. Within 10 days of payment from the owner, prime contractors are then required to pay their subcontractors and suppliers. Refer to the most current version of the [WSDOT 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.

Prompt payment violations on Federal-aid contracts are a breach of contract. When violations are found to exist, your organization must enforce the terms of the contract by taking appropriate enforcement action.

4.3.16.3 Retainage and monthly retainage report

Retainage is withholding a certain percentage of payment that the grantee owes the prime (or the prime owes the subcontractor), typically until all the work of the prime construction contractor (or subcontractor) has been satisfactorily completed. Per [RCW 60.28.011](#), the grantee is prohibited from reserving a contract retainage for public improvement contracts receiving federal funding in part or in whole. There is no prohibition against a prime contractor's requiring retainage from the sub-contractor.

DBE regulations require prime construction contractors to return retainage to subcontractors upon satisfactory completion of the subcontractors' work. A subcontractor's work is deemed satisfactorily completed when the contract owner has

made payment to the prime construction contractor that covers the work having been performed by the subcontractor.

The prompt payment and return of retainage requirements apply to **all** subcontractors: DBEs and non-DBEs. Your organization (contracting agency) and construction contractors cannot waive or contract out of prompt payment or return of retainage requirements.

The Prime construction contractor must maintain an up-to-date accounting of any retainage withheld from subcontractors or lower tier subcontractor during the project. Per SS 1-08.1 (1) of [WSDOT Construction Manual](#) Monthly Retainage Reports must be submitted to the Contracting Agency within 15 calendar days after the Prime construction contractor receives their monthly progress payment. The Prime shall submit the current retainage withheld on the [Monthly Retainage Report Form 272-065](#). The submittal of the Monthly Retainage Report is required for every month between award and final acceptance by Contracting Agency or until the release of all retainages for every Subcontractor and lower tier Subcontractor. Grantee is required to submit final monthly retainage report to WSDOT during closure process.

4.3.16.4 DMCS payment reporting for consultant agreement and construction contract

4.3.16.4.1 Payment reporting:

Per [WSDOT Specification 1-08.1\(7\)A](#), The prime consultant and contractor are required to enter all payment information into the WSDOT DMCS (wsdot.diversitycompliance.com) each month for all federal-aid projects during the contracting period. The prime contractor shall enter the amounts received from your organization (contracting agency) and the amounts paid to all firms involved with the contract (Zero payments shall be marked accordingly). Similarly, the prime consultant shall enter the amounts received from the contracting agency and the amounts paid to all firms involved with the contract (Zero payments shall be marked accordingly). All firms shall confirm the payment amounts received from the prime consultant and prime contractor (as applicable) each month.

4.3.16.4.2 Monitoring DMCS payments:

Your organization (contracting agency) must confirm the accuracy of the date that the prime consultant and construction contractor received payment. In addition, you must verify that the prime consultant and construction contractor are entering payments at least once a month for all subconsultants and subcontractors having performed work on the project. When deviations or discrepancies are identified in the payment reporting, you must notify the prime construction contractor immediately. All payment information shall be entered monthly and include the actual date of the payment. Violations of this contract requirement are considered a breach of contract and must be enforced by your organization accordingly.

4.3.16.4.3 Upon completion

The prime consultant and construction contractor will record in DMCS, when the final payment is made to each subconsultant and subcontractor firm and when the final payment for the project is received from your organization. Similar to progress payments, subconsultant firms and subcontractors must confirm the receipt of the final payment. Your organization must make notification of final project payment to the WSDOT at the completion of the project.

4.3.17 Property management plan and continuing control

WSDOT maintains control over FTA-funded real property, facilities, and equipment. You are required to ensure the usage of real property acquired with federal funds is compatible with the approved purpose. In other words, continuing control of the use of federally assisted property and constructed improvements must be maintained and consistent with FTA requirements for the duration of the useful life of the property or facility.

4.3.17.1 *Incidental use of real property*

Incidental use is defined as the authorized use of real property and equipment acquired with FTA funds for purposes of transit, but which also has limited non-transit purposes due to transit operating circumstances. Use must be compatible with the approved purposes of the project and not interfere with intended public transportation uses of project assets. FTA encourages your organization to make incidental use of real property when it can raise additional revenues for the transit system or, at a reasonable cost, enhance system ridership. FTA approval is required for incidental use of real property. The property must continue to be needed and used for an FTA project or program, and the incidental use cannot compromise safety or continuing control over the property. see [FTA C 5010](#) for additional information.

4.3.17.2 *Real property reporting requirement and disposal*

You must prepare and keep up to date the real property inventory for all property that is no longer needed to carry out any transit purpose. Land, buildings, or facilities that are purchased, constructed, or improved using federal funds may only be used for the originally authorized purpose. Such property shall not be transferred to another party, disposed of, its title encumbered, or have other liens or claims imposed, without having a prior discussion with WSDOT. When property funded with federal funds is no longer needed for the originally authorized purpose, disposition requirements in Chapter IV, of Circular [FTA Circular 5010](#) are required to be followed and the subrecipient must contact WSDOT prior to taking any action. The transfer or disposition of facilities or real property will be reviewed on a case-by-case basis in accordance with FTA regulations and Regional FTA guidance.

4.3.17.3 *Facility maintenance*

Public transit requires a considerable investment in buildings, equipment, and machinery. Proper maintenance of facilities, machinery, and equipment is the key to protecting the federal investment and prolonging the useful life of the asset. The grantee

must have an effective maintenance plan that ensures that FTA's investment in facilities and equipment is protected adequately.

DRAFT

English

Title VI Notice to Public

It is the Washington State Department of Transportation's (WSDOT) policy to assure that no person shall, on the grounds of race, color, national origin, as provided by Title VI of the Civil Rights Act of 1964, be excluded from participation in, be denied the benefits of, or be otherwise discriminated against under any of its programs and activities. Any person who believes his/her Title VI protection has been violated, may file a complaint with WSDOT's Office of Equity and Civil Rights (OECR). For additional information regarding Title VI complaint procedures and/or information regarding our non-discrimination obligations, please contact OECR's Title VI Coordinator at (360) 705-7090.

Americans with Disabilities Act (ADA) Information

This material can be made available in an alternate format by emailing the Office of Equity and Civil Rights at wsdotada@wsdot.wa.gov or by calling toll free, 855-362-4ADA(4232). Persons who are deaf or hard of hearing may make a request by calling the Washington State Relay at 711.

Español

Notificación de Título VI al Público

La política del Departamento de Transporte del Estado de Washington (Washington State Department of Transportation, WSDOT) es garantizar que ninguna persona, por motivos de raza, color u origen nacional, según lo dispuesto en el Título VI de la Ley de Derechos Civiles de 1964, sea excluida de la participación, se le nieguen los beneficios o se le discrimine de otro modo en cualquiera de sus programas y actividades. Cualquier persona que considere que se ha violado su protección del Título VI puede presentar una queja ante la Oficina de Equidad y Derechos Civiles (Office of Equity and Civil Rights, OECR) del WSDOT. Para obtener más información sobre los procedimientos de queja del Título VI o información sobre nuestras obligaciones contra la discriminación, comuníquese con el coordinador del Título VI de la OECR al (360) 705-7090.

Información de la Ley sobre Estadounidenses con Discapacidades (ADA, por sus siglas en inglés)

Este material puede estar disponible en un formato alternativo al enviar un correo electrónico a la Oficina de Equidad y Derechos Civiles a wsdotada@wsdot.wa.gov o llamando a la línea sin cargo 855-362-4ADA(4232). Personas sordas o con discapacidad auditiva pueden solicitar la misma información llamando al Washington State Relay al 711.

한국어-Korean

제6조 관련 공지사항

워싱턴 주 교통부(WSDOT)는 1964년 민권법 타이틀 VI 규정에 따라, 누구도 인종, 피부색 또는 출신 국가를 근거로 본 부서의 모든 프로그램 및 활동에 대한 참여가 배제되거나 혜택이 거부되거나, 또는 달리 차별받지 않도록 하는 것을 정책으로 하고 있습니다. 타이틀 VI에 따른 그/그녀에 대한 보호 조항이 위반되었다고 생각된다면 누구든지 WSDOT의 평등 및 민권 사무국(OECR)에 민원을 제기할 수 있습니다. 타이틀 VI에 따른 민원 처리 절차에 관한 보다 자세한 정보 및/또는 본 부서의 차별금지 의무에 관한 정보를 원하신다면, (360) 705-7090으로 OECR의 타이틀 VI 담당자에게 연락해주시고.

미국 장애인법(ADA) 정보

본 자료는 또한 평등 및 민권 사무국에 이메일 wsdotada@wsdot.wa.gov 을 보내시거나 무료 전화 855-362-4ADA(4232)로 연락하셔서 대체 형식으로 받아보실 수 있습니다. 청각장애인은 워싱턴주 중계 711로 전화하여 요청하실 수 있습니다.

русский-Russian

Раздел VI Общественное заявление

Политика Департамента транспорта штата Вашингтон (WSDOT) заключается в том, чтобы исключить любые случаи дискриминации по признаку расы, цвета кожи или национального происхождения, как это предусмотрено Разделом VI Закона о гражданских правах 1964 года, а также случаи недопущения участия, лишения льгот или другие формы дискриминации в рамках любой из своих программ и мероприятий. Любое лицо, которое считает, что его

средства защиты в рамках раздела VI были нарушены, может подать жалобу в Ведомство по вопросам равенства и гражданских прав WSDOT (OECR). Для дополнительной информации о процедуре подачи жалобы на несоблюдение требований раздела VI, а также получения информации о наших обязательствах по борьбе с дискриминацией, пожалуйста, свяжитесь с координатором OECR по разделу VI по телефону (360) 705-7090.

Закон США о защите прав граждан с ограниченными возможностями (ADA)

Эту информацию можно получить в альтернативном формате, отправив электронное письмо в Ведомство по вопросам равенства и гражданских прав по адресу wsdotada@wsdot.wa.gov или позвонив по бесплатному телефону 855-362-4ADA(4232). Глухие и слабослышащие лица могут сделать запрос, позвонив в специальную диспетчерскую службу штата Вашингтон по номеру 711.

tiếng Việt-Vietnamese

Thông báo Khoản VI dành cho công chúng

Chính sách của Sở Giao Thông Vận Tải Tiểu Bang Washington (WSDOT) là bảo đảm không để cho ai bị loại khỏi sự tham gia, bị từ khước quyền lợi, hoặc bị kỳ thị trong bất cứ chương trình hay hoạt động nào vì lý do chủng tộc, màu da, hoặc nguồn gốc quốc gia, theo như quy định trong Mục VI của Đạo Luật Dân Quyền năm 1964. Bất cứ ai tin rằng quyền bảo vệ trong Mục VI của họ bị vi phạm, đều có thể nộp đơn khiếu nại cho Văn Phòng Bảo Vệ Dân Quyền và Bình Đẳng (OECR) của WSDOT. Muốn biết thêm chi tiết liên quan đến thủ tục khiếu nại Mục VI và/hoặc chi tiết liên quan đến trách nhiệm không kỳ thị của chúng tôi, xin liên lạc với Phái Trí Viên Mục VI của OECR số (360) 705-7090.

Thông tin về Đạo luật Người Mỹ tàn tật (Americans with Disabilities Act, ADA)

Tài liệu này có thể thực hiện bằng một hình thức khác bằng cách email cho Văn Phòng Bảo Vệ Dân Quyền và Bình Đẳng wsdotada@wsdot.wa.gov hoặc gọi điện thoại miễn phí số, 855-362- 4ADA(4232). Người điếc hoặc khiếm thính có thể yêu cầu bằng cách gọi cho Dịch vụ Tiếp âm Tiểu bang Washington theo số 711.

العربية - Arabic

في ضمان عدم استبعاد أي شخص، على أساس العرق أو اللون أو الأصل القومي من المشاركة في أي من (WSDOT) إشعار للجمهور تتمثل سياسة وزارة النقل في الولاية واشنطن 6 العنوان ويمكن إلى شخص 1964. برامجها وأنشطتها أو الحرمان من الفوائد المتاحة بموجبها أو التعرض للتمييز فيها بخلاف ذلك، كما هو منصوص عليه في الباب السادس من قانون الحقوق المدنية لعام للحصول على معلومات إضافية بشأن إجراءات. التابع لوزارة النقل في الولاية واشنطن (OECR) يعتقد أنه تم انتهاك حقوقه التي يكفلها الباب السادس تقديم شكوى إلى مكتب المساواة والحقوق المدنية أو بشأن التزاماتنا بعدم التمييز بموجب الباب السادس، يرجى الاتصال بمندوب الباب/الشكاوى و السادس في مكتب المساواة والحقوق المدنية على الرقم (360) 705-7090.

معلومات قانون الأمريكيين ذوي الإعاقة (ADA)

:أو عن طريق الاتصال بالرقم المجاني wsdotada@wsdot.wa.gov يمكن توفير هذه المواد في تنسيق بديل عن طريق إرسال رسالة بريد إلكتروني إلى مكتب المساواة والحقوق المدنية على يمكن للأشخاص (4232) 855-362-4ADA على الرقم Washington State Relay الصم أو ضعاف السمع تقديم طلب عن طريق الاتصال بخدمة 711.

中文 – Chinese

《权利法案》Title VI公告

<華盛頓州交通部(WSDOT)政策規定，按照《1964 年民權法案》第六篇規定，確保無人因種族、膚色或國籍而被排除在WSDOT任何計畫和活動之外，被剝奪相關權益或以其他方式遭到歧視。如任何人認為其第六篇保護權益遭到侵犯，則可向WSDOT的公平和民權辦公室(OECR)提交投訴。如需關於第六篇投訴程式的更多資訊和/或關於我們非歧視義務的資訊，請聯絡OECR的第六篇協調員，電話 (360) 705-7090。

《美国残疾人法案》(ADA)信息

可向公平和民權辦公室發送電子郵件 wsdotada@wsdot.wa.gov 或撥打免費電話

855-362-4ADA(4232)，以其他格式獲取此資料。听力丧失或听觉障碍人士可拨打711联系Washington州转接站。

Af-soomaaliga – Somali

Ciwaanka VI Ogeysiiska Dadweynaha

Waa siyaasada Waaxda Gaadiidka Gobolka Washington (WSDOT) in la xaqiijiyo in aan qofna, ayadoo la cuskanaayo sababo la xariira isir, midab, ama wadanku kasoo jeedo, sida ku qoran Title VI (Qodobka VI) ee Sharciga Xaquuqda Madaniga ah ah oo soo baxay 1964, laga saarin ka qaybgalka, loo diidin faa'iidooyinka, ama si kale loogu takoorin barnaamijyadeeda iyo shaqooyinkeeda. Qof kasta oo aaminsan in difaaciisa Title VI la jebiyay, ayaa cabasho u gudbin kara Xafiiska Sinaanta iyo Xaquuqda Madaniga ah (OECR) ee WSDOT. Si aad u hesho xog dheeraad ah oo ku saabsan hanaannada cabashada Title VI iyo/ama xogta la xariirta waajibbaadkeena ka caagan takoorka, fadlan la xariir Iskuduwaha Title VI ee OECR oo aad ka wacayso (360) 705-7090.

Macluumaadka Xeerka Naafada Marykanka (ADA)

Agabkaan ayaad ku heli kartaa qaab kale adoo iimeel u diraya Xafiiska Sinaanta iyo Xaquuqda Madaniga ah oo aad ka helayso wsdotada@wsdot.wa.gov ama adoo wacaaya laynka bilaashka ah, 855-362-4ADA(4232). Dadka naafada maqalka ama maqalku ku adag yahay waxay ku codsan karaan wicitaanka Adeega Gudbinta Gobolka Washington 711.

Translation Services

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Español - Spanish

Servicios de traducción

Aviso a personas con dominio limitado del idioma inglés: Si usted tiene alguna dificultad en entender el idioma inglés, puede, sin costo alguno, solicitar asistencia lingüística con respecto a esta información llamando al 360-705-7921, o envíe un mensaje de correo electrónico a: PubTrans@wsdot.wa.gov

tiếng Việt-Vietnamese

các dịch vụ dịch thuật

Nếu quý vị không hiểu tiếng Anh, quý vị có thể yêu cầu dịch vụ trợ giúp ngôn ngữ, miễn phí, bằng cách gọi số 360-705-7921 hoặc email cho chúng tôi tại: PubTrans@wsdot.wa.gov

한국어-Korean

번역 서비스

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русский-Russian

Услуги перевода

Если вам трудно понимать английский язык, вы можете запросить бесплатные языковые услуги, позвонив по телефону 360-705-7921 или написав нам на электронную почту: PubTrans@wsdot.wa.gov

العربية - Arabic

الترجمة خدمات

عن اللغوية المساعدة خدمات طلباً ما فيمكنك، الإنجليزية اللغة فهم في صعوبة تجد كنت إذا

الإلكتروني البريد عبر مراسلتنا أو 7921-705-360 بالرقم الاتصال بق طر: PubTrans@wsdot.wa.gov

Af-soomaaliga - Somali

Adeegyada Turjumaada

Haddii ay kugu adag tahay inaad fahamtid Ingiriisida, waxaad, bilaash, ku codsan kartaa adeegyada caawimada luuqada adoo wacaaya 360-705-7921 ama iimayl noogu soo dir: PubTrans@wsdot.wa.gov

中文 – Chinese

翻译服务

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