

AMENDATORY SECTION (Amending WSR 07-18-050, filed 8/30/07, effective 9/30/07)

WAC 479-05-020 Six-year transportation plan. Projects selected in the priority array must be included in the local agency's six-year transportation plan prior to receiving authorization to proceed on the project.

Small city preservation projects identified through pavement condition ratings are not required to appear in the local agency's six-year transportation plan.

AMENDATORY SECTION (Amending WSR 07-18-050, filed 8/30/07, effective 9/30/07)

WAC 479-05-030 A registered professional engineer must be in charge. All projects using ((~~UATA~~ or)) TIA funds will be supervised by a professional engineer registered in the state of Washington.

NEW SECTION

WAC 479-05-035 Qualifications for small city projects administered by another agency. A local agency that has a small city arterial program or small city preservation project may elect to have, or the executive director may require, the project administered by another city, a county, state department of transportation, or state transportation improvement board when:

(1) The local agency does not have certification acceptance from the state department of transportation per the Washington state department of transportation local agency guidelines manual, chapter 13; or

(2) The executive director determines that the local agency has no internal capacity to directly administer transportation projects.

AMENDATORY SECTION (Amending WSR 08-10-012, filed 4/24/08, effective 5/25/08)

WAC 479-05-040 Value engineering study (~~(requirements)~~) and reimbursable costs. A value engineering study is required for urban projects with total project costs exceeding (~~(two and one-half)~~) ten million dollars or (~~(when determined)~~) may be required by the executive director (~~(to be in the best interest of the project)~~) when the project has at least one of the following characteristics:

- (1) Significant project complexity;
- (2) Significant structures;
- (3) Significant right of way;
- (4) Multiple alignment options;
- (5) Environmentally sensitive areas;
- (6) Complex interagency involvement.

The value engineering study (~~(requirement)~~) is completed when the local agency submits the recommendation report to TIB. TIB may consider what recommendations are accepted or rejected when evaluating any funding increase or scope change request.

AMENDATORY SECTION (Amending WSR 07-18-050, filed 8/30/07, effective 9/30/07)

WAC 479-05-051 Project phases. Projects authorized by the board are divided into the following phases:

(1) Design phase - Documents that must be received prior to phase approval include:

(a) Signed funding status form confirming that the funding partners are fully committed;

(b) Page from the adopted six-year transportation plan which lists the project;

(c) Signed fuel tax agreement; (~~(and if applicable)~~)

(d) Consultant agreement (small city arterial and small city sidewalk programs only).

(2) Bid phase - Documents that must be received prior to phase approval include:

(a) Signed bid authorization form that contains:

(i) Plans and specification package;

(ii) Written confirmation of funding partners; and

(iii) Confirmation that full funding is available for the project;

(b) Signed confirmation that right of way is acquired or possession and use agreement is in place;

(c) Engineer's estimate is in final format; (~~(and if applicable:~~

~~(i))~~) (d) Consultant agreement (small city arterial and small city sidewalk programs only);

((~~iii~~)) (e) Certification that a cultural resource assessment was completed;

((~~iii~~)) (f) Traffic signal warrants.

(3) Construction phase - Documents that must be received prior to phase approval include:

(a) Updated cost estimate form signed by a local agency official and the project engineer;

(b) Bid tabulations; and

(c) Description of cost changes.

(4) Project closeout phase - Documents that must be received prior to phase approval include:

(a) Updated cost estimate form signed by a local agency official and the project engineer;

(b) Final summary of quantities; and

(c) Accounting history signed by a local agency official or the financial manager.

AMENDATORY SECTION (Amending WSR 07-18-050, filed 8/30/07, effective 9/30/07)

WAC 479-05-060 Methods of construction. All construction using ((~~DATA or~~)) TIA funds shall be advertised, competitively bid and contracted, except:

(1) Utility and railroad relocations and adjustments;

(2) Government force work;

(3) Work eligible from the small works roster; and

(4) Local agencies may be otherwise exempt from bidding requirements if so authorized by an applicable statute contained in chapter 36.77, 35.22, 35.23, or 35.27 RCW.

AMENDATORY SECTION (Amending WSR 07-18-050, filed 8/30/07, effective 9/30/07)

WAC 479-05-080 Standard specifications. The current edition of *the Standard Specifications for Road, Bridge, and Municipal Construction* or equivalent, will be used as the standard for design and construction of board funded projects.

AMENDATORY SECTION (Amending WSR 07-18-050, filed 8/30/07, effective 9/30/07)

WAC 479-05-100 Utility adjustments or relocations. Utility adjustments or relocations may be reimbursed using the following criteria:

- (1) If it is a direct cost for utility adjustments that are owned by the local government;
- (2) If the utility provider owns the property in fee title; or
- (3) If the utility franchise agreement requires the local agency to pay for those utility adjustments or relocations required by state or local government.

Upgrading of utilities is not eligible for reimbursement by ((UATA or)) TIA funds.

If the proposed work will cause a significant change in scope, the agency must seek board approval.

AMENDATORY SECTION (Amending WSR 07-18-050, filed 8/30/07, effective 9/30/07)

WAC 479-05-120 Street illumination and traffic control devices. Traffic control devices for an approved project may be purchased and installed under RCW 35.22.620(3), 35.23.352(1), and 36.77.065(3) by:

- (1) The contractor for the construction phase of the project;
- or
- (2) Local agency employees.

((UATA or)) TIA funds may be used in the costs to underground service connections for street illumination and traffic signal services within the approved project scope.

AMENDATORY SECTION (Amending WSR 07-18-050, filed 8/30/07, effective 9/30/07)

WAC 479-05-130 Project landscaping and aesthetic improvements. Cost of landscaping and aesthetic improvements is limited to ((three)) five percent of the total eligible ((authorized project costs)) construction contract amount.

- (1) Landscaping includes:
 - (a) Cost of trees, shrubs, sod, and other plant material.
 - (b) Top soil and bark.
 - (c) Irrigation and tree grates.
 - (d) Labor for installation.
- (2) Aesthetic improvement includes:

- (a) Ornamental lighting.
 - (b) The local agency share of the cost of undergrounding of utilities.
 - (c) Public art.
 - (d) Special surfacing treatments (stamped concrete, pavers).
 - (e) Labor for installation.
- (3) Items not considered landscaping or aesthetic improvements are:
- (a) Erosion control treatments.
 - (b) Wetland mitigation (plantings) required by federal or state regulations.
 - (c) Property restoration.

Requests for increases in landscaping and related costs are subject to WAC 479-05-201, 479-05-202, and 479-05-203. Landscaping costs in excess of the ((three)) five percent limit may be paid for by funding sources other than TIB funds.

AMENDATORY SECTION (Amending WSR 07-18-050, filed 8/30/07, effective 9/30/07)

WAC 479-05-131 Mitigation costs and limitations. Mitigation costs may include:

- (1) Sound walls/berms: Unless required by specific regulations, TIB will not participate in this cost.
 - (2) Superfund sites: TIB funds will not participate in the cost of cleanup.
 - (3) Bridges: Bridge designs exceeding the most cost effective are not eligible for participation.
 - (4) Wetlands: Mitigation in excess of what is required by federal or state requirements is not eligible to be reimbursed.
- ((UATA or)) TIA funds may not be used for excessive design, mitigation beyond federal or state requirements, or other unusual project features.

AMENDATORY SECTION (Amending WSR 07-18-050, filed 8/30/07, effective 9/30/07)

WAC 479-05-140 Acquisition of rights of way. Right of way for board funded projects shall be acquired in accordance with chapters 8.26 RCW and 468-100 WAC. Reimbursement of right of way acquisition costs are eligible within the design phase of the project.

At bid phase, right of way acquisitions should be completed and certified. If all right of way cannot be certified, the local

agency must have possession and use agreements for the remaining parcels.

If under any circumstances right of way purchased with board funds is subsequently sold or transferred to a nontransportation purpose, the proceeds of the sale or equivalent value shall be placed in the local agency's appropriate transportation fund and expended solely for street or road improvement purposes.

AMENDATORY SECTION (Amending WSR 07-18-050, filed 8/30/07, effective 9/30/07)

WAC 479-05-141 What is eligible for reimbursement of right of way costs. Only the square footage needed for the roadway is eligible to be reimbursed, unless:

- (1) It is deemed by TIB to be in the best interest of the project to purchase the entire parcel;
- (2) An entire parcel take is required by local resolution; or
- (3) An uneconomic remnant will remain.

If after the completion of the project, the uneconomic remnant is sold, transferred, or rezoned to make it an economic remnant, the proceeds of any sale will be placed back in the local agency's (~~((motor vehicle))~~) appropriate transportation fund to be used for street or road improvement purposes only.

In the event the project is not built, TIB funds expended for right of way may be requested to be refunded to the board.

AMENDATORY SECTION (Amending WSR 07-18-050, filed 8/30/07, effective 9/30/07)

WAC 479-05-170 Reimbursement of engineering costs. Design and construction engineering costs eligible for reimbursement are limited to (~~((twenty-five))~~) thirty percent, or twenty percent if funded as construction ready, of the approved contract bid amount, (~~((excluding special studies or right of way))~~) plus costs designated as construction other.

Surveying and materials testing costs, even if they are part of the contract costs, are considered part of construction engineering and are subject to the (~~((twenty-five))~~) thirty percent limit or twenty percent limit if funded as construction ready. Exceptions to the (~~((twenty-five))~~) thirty percent engineering limit, or twenty percent engineering limit if funded as construction ready, may be considered for small city projects when an unforeseen issue arises that is beyond the control of the local agency. The local agency may request an increase through WAC 479-05-202

processes.

AMENDATORY SECTION (Amending WSR 07-18-050, filed 8/30/07, effective 9/30/07)

WAC 479-05-171 Reimbursement of cultural resource assessment costs for TIB funded projects. If a cultural resource assessment is required by the state department of archaeology and historical preservation, ~~((TIB will reimburse the normal costs required for the assessment. The assessment is considered part of design engineering, is not a special study, and not included in the twenty-five percent limitation in WAC 479-05-170))~~ the assessment will be eligible for reimbursement.

AMENDATORY SECTION (Amending WSR 09-09-002, filed 4/1/09, effective 5/2/09)

WAC 479-05-211 When a project is considered delayed. Projects are considered delayed when one of the following occurs:

- (1) Urban ~~((corridor))~~ program projects do not reach construction phase within ~~((five))~~ four years and six months.
- (2) ~~((Urban arterial program projects do not reach construction phase within four years and six months.~~
- ~~(3))~~ Projects awarded funding as "construction ~~((only))~~ ready" will be considered delayed if construction does not begin within one year of funding becoming available.
- ~~((4))~~ (3) All other programs must reach construction phase within two years and six months.

The award date or date funding is made available to the local agency by TIB, whichever is earlier, is the starting point in calculating the delay date.

AMENDATORY SECTION (Amending WSR 07-18-050, filed 8/30/07, effective 9/30/07)

WAC 479-05-212 The stages of delayed projects. For TIB funded projects, there are ~~((three))~~ two stages of delay:

- (1) Stage 1 delay - If the project does not meet the project target date per WAC 479-05-211.
- (2) ~~((Stage 2 delay - if the project does not meet the revised~~

~~bid date as agreed in Stage 1 delay under WAC 479-05-213(1), or one year after Stage 1 delay.~~

~~(3)) Stage ((3)) 2 delay - If the project does not meet the revised bid date as agreed to under Stage ((2)) 1 delay under WAC 479-05-213((+2)) (1), or one year after ((Stage 2 delay)) being designated as a Stage 1 delayed project.~~

~~((The executive director has discretion when moving projects from one stage of delay to the next and may consider pending bid dates or other indications or impending progress.))~~

AMENDATORY SECTION (Amending WSR 07-18-050, filed 8/30/07, effective 9/30/07)

WAC 479-05-213 Review and consequences of delay. Delayed projects will be reviewed as follows:

(1) Stage 1 - ~~((agency plan letter))~~ Delayed project. The TIB staff report the delayed project to the board at a regularly scheduled board meeting. The executive director requests a letter from the local agency ~~((to respond with a progress plan to get back on schedule.~~

~~(2) Stage 2 - explanation and commitment. The local agency provides TIB staff with an explanation of))~~ explaining why the project continues to be delayed and a commitment date which is acceptable to the executive director or board.

~~((3)) (2) Stage ((3 - hearing)) 2 - Contingency project.~~ If the agency misses the agreed upon date(s) or deadlines set in the Stage ((2)) 1 review, the ~~((agency will be provided a hearing in front of the board at the next regularly scheduled meeting. The result of the hearing will include an absolute date for resolution which is agreed to by the board.~~

~~If the local agency does not meet the absolute date for resolution as agreed to by the board in the Stage 3 hearing, the project may be suspended or the agency may be requested to withdraw the project and reapply for funding in a later application cycle))~~ project will be designated a contingency project. The board must restore a contingency project to active status before approval to access additional TIB funds may be authorized by the executive director.

A project remaining on the contingency list for twelve months will have the grant funds terminated. The agency may reapply for funding in a later grant application cycle.

The executive director has discretion when moving projects from one stage of delay to the next and may consider pending bid dates or other indications of impending progress.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 479-05-013

Urban project transfer for completion.

WAC 479-05-041

When a value engineering study may be waived.