



# Washington State Broadband Office Infrastructure Acceleration Grants Handbook 21-23

The Washington State Broadband Infrastructure Accelerated Grants Program (IAG)  
Funded by the Coronavirus State and Local Fiscal Recovery Fund (SLFRF)  
Final Rule adopted on January 6, 2022, [31 CFR Part 35](#).

**Coronavirus Capital Fund rules are subject to change based on the release of the final guidelines.**

*Please note that this is a living document and is updated frequently. Please only save a shortcut to the document and not a copy of the document, to ensure that you have the most updated copy at all times.*

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## **General**

The Washington State Broadband Office's mission is to enrich the lives of all Washington residents and businesses by ensuring they have access to affordable, reliable, redundant and scalable/future proof broadband technologies. This access ensures the economic viability of both urban and rural Washington today and into the future.

### **Disclaimer**

This handbook is a guide for recipients of funding from the Washington State Broadband Office (WSBO). The WSBO is the administrator of several grant programs. Please pay close attention for any notations within this document that refer to differing requirements according to the source of funding. Please further note that this handbook is provided as a helpful resource, but does not guarantee compliance with all state and federal requirements. Recipients are responsible for compliance with all the rules and guidelines as required by the WSBO and the various funding sources. The WSBO and Department of Commerce (Commerce) expressly disclaim any warranty related to the compliance with federal and state requirements and will accept no responsibility for any consequences arising from the use or reliance on this handbook.

The WSBO reserves the right to update these policies at any time. Updates will be published in this document and posted at <https://www.commerce.wa.gov/building-infrastructure/washington-statewide-broadband-act/>

# 1. Overview

## 1.1 Introduction

The Washington State Broadband Office (WSBO) is tasked with developing strategies and plans to promote broadband infrastructure deployment and greater broadband access to unserved and underserved areas of the state. It is authorized by state statute ([RCW 43.330.534](#)) to provide funding opportunities to local governments, tribes, public and private entities, nonprofit organizations, and consumer-owned and investor-owned utilities. These organizations are known as applicants until such time as they are Recipients of WSBO funding.

The Infrastructure Acceleration Grant program is a subaward of the state's allocation of federal American Rescue Plan Act (ARPA) stimulus funding of Coronavirus State and Local Fiscal Recovery Funds (SLFRF) and Capital Project Funds. Both funding sources come directly from the U.S. Department of the Treasury (US Treasury). All grants must adhere to any and all internal control compliance and reporting requirements for the use and expenditure of federal funding.

- ARPA funds have been issued a unique 5-digit federal assistance number. These numbers, found on [SAM.gov](#), are: Assistance Listing Number (ALN) **21.027** - SLFRF and **21.029** - Capital.

The WSBO may only fund technology-neutral broadband projects designed to expand access at the lowest cost to the most unserved or underserved residents. All projects awarded must deliver broadband service inclusive of these three (3) criteria ([SSB 1086\(1\)\(f\)](#)):

- Be a part of a contiguous network.
- Deliver minimum transmission speeds of 100 megabits per second download and 100 megabits per second upload (100/100 Mbps), unless impracticable due to *geography, topography, or financial cost*, in which case speeds of 100/20 Mbps are acceptable **only if** scalable to 100/100 Mbps. [31 CFR Part 35, 35.6](#).
- Is deployed in unserved areas.

*Unserved areas are those areas lacking access to reliable service (wireline connection) at speeds of at least 25/3 Mbps.*

Broadband is defined as the technologies that provide high-speed access and other advanced telecommunications services to end users.

The IAG encourages partnerships with Government to Government, Public to Incumbent ISP, etc.

Eligible broadband infrastructure project grants may include funding for related programs such as cybersecurity or digital literacy training and other programs that promote access to the Internet.

Each Recipient must identify if the project addresses one or more of the following funding priorities:

1. Delivers a physical wireline broadband connection to achieve last-mile connections to households and businesses.
2. Supports broadband networks owned, operated by, or affiliated with local governments, non-profits, and co-operatives—providers with less pressure to turn profits and with a commitment to serving entire communities.

3. Pursues fiber optic investments.

Funds may be used for cybersecurity modernization, including hardware, software and protection of critical infrastructure as part of the provision of government services. Funds used for cybersecurity modernization cannot exceed the amount of revenue lost due to the public health emergency.

Recipients must require service providers for a broadband project that provides service to households to either:

- Participate in the Federal Communications Commission’s Affordable Connectivity Program (ACP), or
- Provide access to a broad-based affordability program to low-income consumers in the project’s proposed service area that provides benefits commensurate with those provided under the ACP.

Under [RCW 43.330.536](#), it is the goal to have connections of:

- 25/3 megabits per second (Mbps) scalable by 2024.
- 1/1 gigabit per second (Gbps) all anchor institutions by 2026.
- 150/150 Mbps all residents and households by 2028.

**1.2 WSBO Program Administration**

The IAG is administered by the WSBO as outlined below.

Washington State Broadband Office PO Box 42525 Olympia, WA 98504-2525 E-mail: <a href="mailto:WSBO@commerce.wa.gov">WSBO@commerce.wa.gov</a>	
<b>Project Managers:</b>	
<b>Connie Rivera</b> Broadband Infrastructure Program Manager (360) 704-9535 <a href="mailto:Connie.Rivera@commerce.wa.gov">Connie.Rivera@commerce.wa.gov</a>	<b>Alden Andy</b> Broadband Infrastructure Team Supervisor (360) 791-2595 <a href="mailto:Alden.Andy@commerce.wa.gov">Alden.Andy@commerce.wa.gov</a>
<b>Tammy Mastro</b> Broadband Infrastructure Programs Senior Specialist (360) 791-2805 <a href="mailto:Tammy.Mastro@commerce.wa.gov">Tammy.Mastro@commerce.wa.gov</a>	<b>Chelsea Bagwell</b> Broadband Infrastructure Program Specialist (360) 485-3890 <a href="mailto:Chelsea.Bagwell@commerce.wa.gov">Chelsea.Bagwell@commerce.wa.gov</a>
<b>Jason Freeze</b> Broadband Infrastructure Program Specialist (564) 669-0958 <a href="mailto:Jason.Freeze@commerce.wa.gov">Jason.Freeze@commerce.wa.gov</a>	

WSBO staff is responsible for the application process including:

- Publishing program guidelines and application.

- Scoring and ranking applications.
- Conducting affordability index analysis, risk analysis and financial review.
- Determining project readiness and negotiating final scopes of work.
- Conducting the Governor’s Executive Order 21-02 Cultural Review Process.
- Preparing and executing grant contract documents.
- Providing contract management training.
- Monitoring compliance with contract requirements and progress.
- Reviewing and approving reimbursement requests.
- Amending contracts and the project completion process.
- Technical assistance.
- Managing contracts for completed projects.

### **1.3 State & Federal Requirements**

Numerous state and federal requirements must be followed when implementing a WSBO-funded project. These requirements are a part of the contract between the WSBO and the Recipient. Please see the Chapter 10 - Appendix for the list of Applicable State & Federal Requirements.

### **1.4 Site Control and Technology-Neutral Approach**

All projects must be held by the Recipient for a minimum of twenty-five (25) years from the date of final payment and be used for the same purpose expressed in the application and/or contract.

Recipients must demonstrate that the project site is under their control for a minimum of 25 years, either through ownership or a long-term lease. Recipients must commit to using the infrastructure funded by the grant for the purposes of providing broadband connectivity for a minimum of 25 years ([SSB 5651, Section 1041\(1\)\(d\)\(i-ii\)](#)).

The appropriations must be used for projects that use a technology-neutral approach in order to expand access at the lowest cost to the most unserved or underserved residents.

The WSBO must impose grant or contract conditions to help ensure that any project funded will result in an enduring public benefit, where feasible, for at least 25 years ([SSB 5651, Section 1041\(1\)\(h\)\(i\)](#)).

### **1.5 SAM.gov Requirements**

All Recipients must have an active registration with the [System for Award Management \(SAM\)](#) and maintain it through the period of the contract, as required by [2 CFR Part 25](#).

To register an account:

- [SAM.gov | Home](#)
- Select ok when dialogue box comes up
- Select Entity Registration

- Sign In: select Accept, enter work email address (from auto-populated list) and password, enter the security code given by 2-step authentication method (i.e. phone call to my work cell)
- Select Search, In Keywords box: enter Grantee name ( i.e. “City of South Bend”)

## **1.6 Procurement, Suspension, and Debarment Requirements**

Recipients are responsible for ensuring that any procurement using ARPA funds, or payments under procurement contracts using such funds, are consistent with the procurement standards set forth in the Uniform Guidance at [2 CFR § 200.317](#) through [2 CFR § 200.322](#), as applicable. The Uniform Guidance establishes that all procurement transactions for property or services must be conducted in a manner providing full and open competition consistent with standards outlined in 2 CFR § 200.320. Non-competitive procurements are allowed only in circumstances where at least one of the following conditions is true:

- The item is below the micro-purchase threshold.
- The item is only available from a single source.
- The public exigency or emergency will not permit a delay from publicizing a competitive solicitation.
- After solicitation of a number of sources, competition is determined inadequate.

Recipients must have and use documented procurement procedures that are consistent with the standards outlined in [2 CFR 200.317](#) through [2 CFR 200.320](#). The Uniform Guidance requires an infrastructure for competitive bidding and contractor oversight, including maintaining written standards of conduct and prohibitions on dealing with suspended or debarred parties. Your organization must ensure adherence to all applicable local, state and federal procurement laws and regulations.

The Recipient’s procurement system should include, but not necessarily be limited to, the following:

- General procurement standards [2 CFR 200.318](#). A code or standard of conduct that shall govern the performance of its officers, employees or agents engaged in the awarding of contracts using federal funds.
- Competition [2 CFR 200.319](#). Procedures that ensure all procurement transactions shall be conducted in a manner providing full and open competition consistent with the standards of this section and [2 CFR 200.320](#).
- Methods of procurement to be followed [2 CFR 200.320](#).
- Contracting with small and minority businesses, women’s business enterprises, and labor surplus area firms [2 CFR 200.321](#).
- Domestic preferences for procurements [2 CFR § 200.322](#).

(a) As appropriate and to the extent consistent with law, the non-federal entity should, to the greatest extent practicable under a federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all sub-awards including all contracts and purchase orders for work or products under this award.

(b) For purposes of this section:

(1) “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

All Recipients, their prime contractor and subcontractors (including contracted administrators and engineers) must comply with all financial management and federal requirements, and document that they are not suspended, debarred or otherwise excluded prior to contract execution (no exclusions stated), [2 CFR 200.214](#). You need to check any business professional services or contractors, including subcontractors for [suspension and debarment](#) (select Exclusions Tab, Right click and select print). Be sure to print the results of your search and retain them for your contract files.

## **1.7 Other Federal Requirements**

### **Civil Rights Compliance**

All Recipients are required to meet legal requirements relating to nondiscrimination and nondiscriminatory use of federal funds. Those requirements include ensuring recipients of the IAG awards do not deny benefits or services, or otherwise discriminate on the basis of race, color, national origin (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity). Use of federal funds must be in accordance with the following authorities:

- [Title VI of the Civil Rights Act of 1964](#) (Title VI) Public Law 88-352, 42 U.S.C. 2000 d-1 et seq., and the Treasury's implementing regulations, [31 CFR Part 22](#)
- [Section 504 of the Rehabilitation Act of 1973](#) (Section 504), Public Law 93-112, as amended by Public Law 93-516, 29 U.S.C. 794
- [Title IX of the Education Amendments of 1972](#) (Title IX), 20 U.S.C. 1681 et seq., and the Department of Justice's implementing regulations, [31 CFR Part 28](#)
- [Age Discrimination Act of 1975](#), Public Law 94-135, 42 U.S.C. 6101 et seq., and the Treasury implementing regulations at [31 CFR Part 23](#)

Additional information to be collected and reviewed from Recipients will be provided as soon as additional guidance is received from the US Treasury.

### **Equipment and Real Property Management**

Any purchase of equipment or real property with ARPA funds must be consistent with the Uniform Guidance at [2 CFR Part 200, Subpart D](#). Equipment and real property acquired with SLFRF funds must be used for the originally authorized purpose. Consistent with [2 CFR § 200.311](#) and [2 CFR § 200.313](#), any equipment or real property acquired using SLFRF funds shall vest in the non-federal entity. Any acquisition and maintenance of equipment or real property must also be in compliance with relevant laws and regulations

## Relocation and Real Property Acquisition Requirements

The Uniform Relocation Assistance and Real Property Acquisition Act of 1970 ([42 USC §§ 4601-4655](#)) (URA) and implementing regulations are in [49 CFR Part 24](#), as published in the Federal Register on January 4, 2005. (See URA documents located on the [Electronic Code of Federal Regulations website](#))

### Acquisition

Most acquisitions are simple acquisitions requiring compliance with a minimal amount of regulations under the URA. The requirements of Subpart B do not apply to acquisitions that meet all of the following conditions ([49 CFR § 24.101b \(1\) \(i\)-\(iv\)](#)):

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

**NOTE: Contact your IAG Project Manager** if an acquisition does not meet **all** of the conditions as noted above. Compliance with all of Subpart B of the URA is required.

## 2. Contracts and Amendments

### 2.1 Overview

This Chapter outlines the contract development and contract amendments process followed by the WSBO infrastructure team through project completion.

### 2.2 Assignment of Project

All award Recipients will receive a letter from the WSBO specifying the amount of the award, any conditions on the award, and the name and contact information of the WSBO project manager assigned to the project.

Recipients are expected to work closely with the project managers during pre-contracting, project implementation, placed-in-service activities and award close-out.

### 2.3 Scope of Work-Recipient Approval within 2 months- WSBO Policy

The WSBO project manager will work with the Recipient to finalize the scope of work for the contract. The WSBO project manager reviews and edits the scope of work provided in the WSBO application. The revised scope of work will be emailed to the Recipient for review and approval. Recipients must return a scope of work approval within two months of receipt of a draft scope of work from WSBO project manager. *WSBO Director Approval 09/28/22.*

### 2.4 Contract

The WSBO contract is comprised of two parts: *Specific Terms and Conditions* and *General Terms and Conditions*. The Office of the Attorney General has pre-approved the boilerplate language for the WSBO contract and related legal documents. The General Terms and Conditions are not negotiable. Limited revisions to the Specific Terms and Conditions or other legal documents may be allowed, as noted below. Substitution or addition of non-WSBO documents is subject to the approval of the WSBO's Assistant Attorney General (AAG).

The approved contract boilerplate includes the scope of work and terms of the contract on the declaration page.

### 2.5 Contract Execution Deadline- WSBO Policy

Recipients awarded a contract must return an executed contract within six-months of receipt. Failure to do so could result in withdrawal of the award. Applicants who have their award withdrawn would be eligible to reapply in the next funding cycle. *WSBO Director Approval 09/28/2022.*

### 2.6 Time of Performance Requirements

The Recipient must demonstrate projects are progressing in a timely manner. The WSBO may terminate contracts when projects are not progressing on schedule.

ARPA Funds may only be used to cover eligible costs incurred during the period of **March 3, 2021 (SLFRF) or March 15, 2021 (Capital) thru December 31, 2024. All project costs are to be reimbursed by October 30, 2026, subject to re-appropriation by Legislature.**

[US Treasury's Guidance](#) requires all SLFRF funds be obligated in writing (such as: executed contracts with contractor or executed change orders that include increased budgets and subcontractors) by December 31, 2024. All projects must be completed and project costs reimbursed by October 30, 2026. However, Washington operates under a biennial (two-year) budget. Each appropriation in the 2021-2023 and 2023-2025 Capital Budget must, by law, lapse at the close of the biennium, June 30, 2025. If funds are not fully expended by the current biennium close date of June 30, 2025, then the contract may be extended subject to re-appropriation of remaining funds.

Since many projects take more than two years to complete, the WSBO automatically requests re-appropriation to extend projects with unspent funds. However, we cannot guarantee that the Legislature will agree to extend funding through to October 2026, nor can we legally obligate funds from one biennium to another.

Costs incurred for eligible projects planned or started prior to March 3, 2021 may be covered, provided the project costs covered were incurred after March 3, 2021 for SLFRF. For Capital funds, the cost incurred date is March 15, 2021.

The following section is included in your contract, defining the Period of Performance, Costs Incurred and Reimbursement:

1. **Period of Performance.** The initial period of performance for this award begins on the date hereof and ends on June 30, 2025. If unexpended funds under this Grant are re-appropriated, the period of performance (Contract End Date) will be extended to not later than October 30, 2026.
2. **Costs Incurred Period.** As set forth in Treasury's implementing regulations, the Recipient may use funds awarded under ARPA to cover eligible costs incurred during the period that begins on March 3, 2021 and ends on December 31, 2024. Pursuant to federal rules, a cost shall be considered to have been incurred if the Recipient has incurred an obligation with respect to such cost by December 31, 2024.
3. **Reimbursement Period.** All requests for reimbursement of eligible costs incurred between March 3, 2021 and December 31, 2024 payable from ARPA funds must be submitted to the WSBO by the earlier of October 30, 2026 or 30 days prior to the Contract End Date.

## **2.7 Contract Amendments Overview**

Changes to the contract scope of work, budget activities or timing to carry out contract activities require a contract amendment. The Recipient MUST contact their WSBO program manager to initiate amendments to contracts.

## **2.8 Scope of Work Amendment**

Scope of work revisions must be requested in writing by the Recipient to their designated WSBO project manager.

Scope of work amendments may require additional environmental and/or cultural resources reviews under Governor's Executive Order (GEO) 21-02, especially where the revisions:

- Add/delete elements to the project scope of work
- Increase or change the project location / Area of Potential Effect

- Excavate at a deeper depth or different location

No work can proceed, nor reimbursement of any elements related to the proposed revised scope, until the WSBO determines the scope change is allowable and contract amendments are fully executed. The WSBO Director approves all scope changes to WSBO contracts.

### **2.9 Requesting Project Completion Date Extensions (only eligible if the US Treasury extends beyond 2026)**

For the WSBO to consider a project extension request, the Recipient must request extensions to the Project Completion Date at least 90 days before the Completion Date referenced on the Declarations page of their contract. The Recipient must request Project Completion extensions in writing to their WSBO project manager. Written requests must state the reason(s) for the delay and list the revised timeline for completion of the activities.

### **2.10 Requesting Jurisdiction Name Change**

When the legal name of the Recipient changes, the Recipient shall send the official document showing approval of the change to their WSBO project manager for the contract file.

### **2.11 Requesting Contract Termination**

A Recipient terminating their contract must notify the WSBO Broadband Infrastructure Programs Manager in writing indicating the request to rescind all obligations and provisions contained in the contract. All qualifying invoices for reimbursement must be received within 30 days of the date of the official termination notification.

# 3. Administrative and Program Requirements

## 3.1 Overview

The Recipient must be able to document compliance with all state and federal (if applicable) laws and regulations. Good record keeping and reporting systems are essential to document compliance. These records must be accessible to Commerce, Washington State Auditor, US Treasury, Treasury’s Office of Inspector General, Government Accountability Office (GAO), and the Pandemic Relief Accountability Committee (PRAC). This Chapter provides a summary to help set up a WSBO record keeping system and a summary of reports that will be requested during the management of the contract.

Recipients of IAG funds must have a contract management system in place to ensure contractors perform in accordance with contract terms, conditions, specifications, and applicable state and federal requirements. This system must:

- Ensure prevailing wage requirements are included in bid documents and contracts.
- Verify the selected contractor and subcontractor are not excluded from receiving federal funds.
- Review contractor and subcontractor compliance with prevailing wage laws, on-site inspections, review of change order requests, project closeout, release of retainage and record keeping.

## 3.2 Uniform Administrative Requirements

ARPA sub-awards are generally subject to the requirements set forth in the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, [2 CFR Part 200](#) (the “Uniform Guidance”). In all instances, your organization should review the Uniform Guidance requirements applicable to your organization’s use of SLFRF funds and ARPA-funded project(s). Recipients are advised to carefully review the Uniform Guidance requirements and any additional regulatory and statutory requirements, as applicable.

All Recipients are responsible for the effective administration of this ARPA sub-award of federal funds and expected to:

- Utilize sound management practices in a manner consistent with the ARPA program objectives and terms and conditions of the award.
- Implement robust internal controls and effective monitoring to ensure compliance with all state and federal regulatory and statutory requirements.

## 3.3 Standards of Conduct

**General procurement standards [2 CFR § 200.318](#).** Recipients and any sub-recipient are to maintain a standard code of conduct governing the performance of their employees engaged in the award and administration of federally-funded contracts. No employee, officer or agent of the grantee or any sub-recipient shall participate in the selection or in the administration of a contract supported by federal funds if there is a conflict of interest. See Attachment 3-A for sample standards of conduct.

## 3.4 Establishing a Filing System

The Recipient must maintain accurate and current files. It is best to keep all WSBO files in one central location. Files need to be accessible to all project funders.

### **3.5 Security**

Files should be kept in a secure place, but accessible to the public.

### **3.6 Maintaining Records**

All records and files pertaining to the WSBO application, engineering and construction of the project must be stored for the life of the grant plus six years. Records of operating and maintenance costs do not have to be saved for the purposes of the WSBO grant.

### **3.7 Organizing a Filing System**

A good filing system can be a very effective management tool. It will ensure the Recipient has all necessary documentation to meet compliance requirements. The following is suggested as a basic guide for WSBO record keeping. It is recommended that the Recipient keep separate files for each WSBO/IAG project.

The system includes major headings for administration, financial management and compliance (as applicable):

- |                                 |                                     |
|---------------------------------|-------------------------------------|
| 1 – Application                 | 6 – Environmental / Cultural Review |
| 2 – Grant Contract & Amendments | 7 – Prime Contractor Contracts      |
| 3 – Financial Management        | 8 – Labor Construction & Standards  |
| 4 – Non-Construction Contracts  | 9 – Required Reports                |
| 5 – Procurement / Bonding       |                                     |

### 3.8 Contract Implementation Checklist – Documents to be Submitted

The following checklist is a general guide for implementing an IAG project and includes the required documents that need to be submitted to your Project Manager.

Row	Task-Documents to be Submitted	Handbook Chapter	YES	N/A
1	Grantees must have an active registration with the System for Award Management (SAM) and maintain through the period of contract.	1.5		
2	Scheduled Single Audit following \$750,000 or more in expenditures (all federal sources of funds) in Grantee’s Fiscal year. Submit to <a href="mailto:auditreview@commerce.wa.gov">auditreview@commerce.wa.gov</a>	4.3		
3	If, the Recipient did not expend \$750,000 in their fiscal year, <b>no audit is required</b> . The Recipient needs to fill out the Audit Certification Form and submit to <a href="mailto:auditreview@commerce.wa.gov">auditreview@commerce.wa.gov</a> .	4.3, 4-A		
4	MTDC calculation and MTDC form, if applicable.	4-F and 4-G		
5	Conduct a competitive process to procure professional services (engineer, architect, or project management).	5		
6	Professional Service OMWBE solicitation, submit copy of the posted advertisement to your Project Manager.	5.4		
7	Recipients must provide the Project Manager with Consultant eligibility documentation showing the date eligibility was verified on <a href="http://SAM.gov">SAM.gov</a> .	5.5		
8	Must conduct a competitive construction procurement. Send the draft bid advertisement to your Project Manager for review and approval.	6.10		
9	Construction bid OMWBE solicitation, submit copy of the posted advertisement	6.11		
10	Contact your Project Manager if less than two bids received.	6.12		
11	Recipients must provide the Project Manager with Contractor and all lower tier sub-contractors eligibility documentation showing the date of <a href="http://SAM.gov">SAM.gov</a> verification	6.14		
12	Submit Small Works Roster documentation.	6.20		
13	Submit Construction Procurement Documentation	6.21		
14	If applicable, submit approval of the Labor Standards Packet or 21-Day Labor package approval by CDBG, DWSRF or other Federal Funding Project Manager	7.6		
15	Submit Project Completion Report with your last A19 reimbursement request.	7.10		
16	Submit Sub-recipient documentation, if applicable	8		
17	GEO 21-02 cultural resources review completed.	9.1		
18	NEPA Checklist (only applicable to ARPA Capital funding)	9.1, 9-C		

# Attachment 3-A: Standards of Conduct

*SAMPLE*

*[Name of town/city/county]*

## STANDARDS OF CONDUCT

### Purpose

The purpose of the Standards of Conduct is to ensure the efficient, fair and professional administration of federal grant funds in compliance with [2 CFR § 200.318](#) and other applicable federal and state standards, regulations, and laws.

### Application

Standards of Conduct applies to all elected officials, employees or agents of *[name of town/city/county]* engaged in the selection, award or administration of contracts supported by federal grant funds.

### Requirements

No elected official, employee or agent of *[name of town/city/county]* shall participate in the selection, award or administration of a contract supported by federal grant funds, if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- the employee, elected official, or agent;
- any member of his/her immediate family;
- his/her partner; or
- an organization which employs, or is about to employ any of the above, has a financial or other interest in or tangible personal benefit from, the firm considered for contract.

The *[name of town/city/county]* elected officials, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors or subcontractors.

### Remedies

To the extent permitted by federal, state or local laws or regulations, violation of these standards may cause penalties, sanctions or other disciplinary actions to be taken against *[name of town/city/county]* elected officials, employees or agents, or the contractors, potential contractors, subcontractors or their agents.

*[Name of town/city/county]*, WASHINGTON

---

Chairman

---

Commissioner/Council

---

Commissioner/Council

Attest:

---

Clerk Signature and Date

## 4. Financial Management

### 4.1 Overview

This chapter is designed to help the Recipient understand and implement financial management systems that comply with WSBO program requirements.

### 4.2 Internal Controls

Recipients must maintain effective control and accountability for the IAG funds by complying with financial management standards found in [2 CFR § 200.303](#). The Recipient should designate one person as the fiscal coordinator for the IAG(s). Only one signature is required to request reimbursement of expenditures from Commerce. However, in the absence of a fiscal coordinator, or in other circumstances, a second person should be authorized to sign the reimbursement request form.

The Recipient **MUST** maintain effective internal controls and accountability for WSBO funds by complying with the financial management standards and general accepted accounting principles. Methods for maintaining internal control include establishing policies and practices for approval of expenditures, bonding of staff handling cash, clearly defining grant and project management roles and responsibilities, and maintaining segregation of duties in handling and accounting for expenditures and receipting of funds.

### 4.3 Single Audit Requirements

Recipients that expend more than \$750,000 in federal awards (from all sources in a calendar year of the jurisdiction audit year) during their fiscal year will be subject to an audit under the Single Audit Act and its implementing regulation at [2 CFR Part 200, Subpart F](#) regarding audit requirements.

Each Recipient is responsible for arranging required federal audits. All federal audits must be conducted by an independent public accountant. For local governments in Washington State, that is the function of the State Auditor's Office. Audits of non-profit organizations are to be conducted by a certified public accountant procured in accordance with the implementing regulations.

Upon completion of each audit, the Recipient shall:

- Submit to Commerce the reporting package specified in [2 CFR § 200.501](#), reports required by the program-specific audit guide (if applicable) and a copy of any management letters issued by the auditor.
- Submit to Commerce follow-up and developed corrective action plans for all audit findings.

If the Recipient expends less than \$750,000 in federal awards from any and/or all sources in any fiscal year, the Recipient shall notify Commerce they did not meet the single audit requirement.

The Recipient shall send all single audit documentation to [auditreview@commerce.wa.gov](mailto:auditreview@commerce.wa.gov).

Commerce tracks audit report submission quarterly. Our Audit Review Manager may contact Recipients if required audit(s) were not submitted; or to coordinate submission of an Audit Verification Form to certify that a federal audit was not required, see Attachment 3-A for [Audit Certification Form](#). Email the form to [auditreview@commerce.wa.gov](mailto:auditreview@commerce.wa.gov).

Recipients may also refer to the provisions in the contract with Commerce, Office of Management and Budget (OMB) Compliance Supplements for audits of federal funds and related guidance and the [Federal Audit Clearinghouse](#) for additional guidance and to see examples and single audit submissions.

**In addition, the Recipient’s audit is required to be submitted to the Federal Audit Clearing House, as required by [2 CFR 200, Subpart F](#).**

Recipients that expend \$750,000 in federal awards from any and/or all sources in any fiscal year, the Recipient must complete an audit report and submit to the [Federal Audit Clearing House](#).

#### **4.4 Requesting Reimbursement**

Once contracts are executed, the Recipient may request reimbursements for eligible and directly related costs for projects incurred since March 3, 2021 but not paid for by any other state or federal fund. Funds will only be distributed as reimbursement for incurred costs, and there will be no advance payments under *any* circumstances.

Cost Incurred Period	Funds Obligation By	Reimbursement Request Due	Last Day for Reimbursement
March 3, 2021 thru June 30, 2023	June 30, 2023	June 2, 2023	June 30, 2023
July 1, 2022 thru December 31, 2025*	December 31, 2024	October 30, 2026	December 31, 2026

\*Funds are subject to re-appropriation by the Legislature to extend funding past June 30, 2023.

All projects must be completed and project costs incurred, expended and reimbursed by October 30, 2026.

Commerce utilizes an electronic vouchering method through the Contracts Management System (CMS) Online A-19 Portal. Request for reimbursement (A-19) must be completed through this system by an authorized individual of the Recipient’s organization. Online electronic vouchering provides receipt of reimbursements as quickly as possible. Recipients with barriers to using the online A-19 portal may request an A-19 form from their Project Manager.

To setup your Commerce CMS account you need to:

- Register for a [Secure Access Washington](#) (SAW) account, if you do not already have one.
- Once logged into SAW, add the Department of Commerce to your “services” and submit a CMS Access Request form (PDF) to your Project Manager.
- Upon approval, you will receive an email from [CMS-noreply@commerce.wa.gov](mailto:CMS-noreply@commerce.wa.gov) with a registration code, how-to guide and instructions for log in.

For additional support on this program, refer to the [Commerce Online A-19 Webpage for External Users](#), which includes SAW resources and the CMS User Manual.

To submit an online A-19 and project status report, Recipients will enter voucher details in the A-19 invoice screen through the CMS Portal.

Each A-19 Invoice Reimbursement Voucher must be accompanied by:

- Documentation of Expenses
- Project Status Report (Attachment 4-C) and Unified Business Identifier (UBI) Expenditure report.
- Reportable Expenses

Incomplete or improperly prepared submissions may result in payment delays. WSBO project managers will not release payments for any reimbursement requests received until the A-19 invoice, supporting documentation and Project Status Reports are received. After approving the A-19 invoice and Project Status Report, WSBO project managers shall promptly remit reimbursement to the Recipient. After receipt and acceptance of a fully completed A-19 voucher submittal, Recipients can expect electronic reimbursement within 7-10 days.

After contract execution, you will receive additional instructions on how to submit online requests for reimbursement.

Commerce initiated a Diverse Spend reporting process to assess how it supports diverse businesses through its pass-through funds. A Recipient requesting reimbursements must submit a Unified Business Identifier (UBI) expenditure reports to collect payment data on each contractor and subcontractor by their name, contract relationship and UBI number. Commerce will provide a fillable excel spreadsheet to submit the UBI expenditure report, including instructions. This data also may be directly entered into the CMS Online A-19 Portal.

The WSBO does not directly pay the Recipient's prime contractors, sub-contractors or any other vendors.

#### **Final Reimbursement Request**

Once the Recipient has successfully completed all contractual tasks, activities and conditions, the Recipient shall submit a project completion report (Attachment 4-E) to their WSBO project manager. Upon the WSBO's acceptance of the project completion report, the Recipient may request final reimbursements.

#### **Retainage**

Ten percent (10%) of WSBO contract funding will be withheld until the WSBO funded project's scope of work is completed and a completion report is submitted to, and approved by, the WSBO project manager.

### **4.5 Cost Eligibility**

All costs must be directly related to the scope of work of the project being funded. Recipients must determine if costs are reasonable and allowable based on [2 CFR Part 200](#).

#### **Eligible project activities and costs include:**

- Archeological/historical review.
- Building permits/fees.
- Capitalized equipment.
- Construction labor and materials.
- Construction or project management.

- Demolition/site preparation.
- Equipment rental/lease as allowed under [2 CFR § 200.465](#), except [covered communications equipment or services](#) as defined in section 9 of the Secure and Trusted Communications Networks Act of 2019 (47 U.S.C. 1608).
  - If equipment rental/lease cost exceeds the cost to purchase, contact your WSBO project manager for approval to purchase the equipment as allowed under [2 CFR § 200.439](#).
- Design, architectural, and engineering work.
- Indirect Rate: federal approved indirect rate or 10 percent of the modified total direct costs, if applicable per Recipient’s ARPA identified in application or project data sheet.
- Landscaping.
- Real property when purchased specifically for the project, and associated costs. \*
- Salaries and benefit expenses.\*\*

**\*Costs directly associated with property acquisition include:** appraisal fees, title opinions, surveying fees, real estate fees, title transfer taxes, easements of record, and legal expenses.

**\*\*Costs for salaries and benefits can only include:** the portion of payroll and benefits of employees corresponding to time spent managing ARPA Infrastructure Project.

If the eligibility of a certain cost is not clear, contact your project manager for guidance.

Expenditures must be supported with source documentation. Examples of documentation include invoices, purchase orders and timesheets. Documentation supporting each payment is to be kept on file and retained six (6) years after closeout to verify all ARPA expenditures. Payments by the Recipient to prime contractors, consultants and/or sub recipients should not be made without an invoice and supporting documentation.

For administrative costs, all Recipient employees, paid in whole or in part with ARPA funds, must prepare a time sheet that indicates the hours worked on the ARPA funded Infrastructure Project for each pay period. The amount to be distributed as ARPA Infrastructure Project payroll charges during a particular period will be based on the time and the hourly payroll cost of the employee. The applicant may submit a labor cost report (without overhead cost) or a timesheet that has been signed by the employee and supervisor.

The Recipient must submit the indirect rate approval letter from the federal cognizant agency or the “Certification of Indirect Costs” attached to the rate proposal that was submitted for their review per 2 CFR 200. If no such rate exists, a de Minimis indirect cost rate of 10% of [modified total direct costs \(MTDC\)](#) may be used if the recipient requested in the application or the project data sheet or included in application submittal.

“[Modified Total Direct Costs \(MTDC\)](#)” means all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first \$25,000 of each sub-award (regardless of the period of performance of the sub-award under the award). MTDC excludes equipment, capital expenditures and rental costs. If applicable see attachment 4-F example MTDC calculation and attachment 4-G- MTDC form.

#### **4.6 Ineligible Costs**

The ARPA funding is to construct broadband infrastructure. Therefore, the following costs are not eligible for reimbursement and also do not qualify for use as matching funds:

- No funds shall be utilized to either directly or indirectly offset a reduction in the net tax resulting from a change in law, regulation or administrative interpretation during the covered period that reduces any tax (by providing for a reduction in a rate, a rebate, a deduction, a credit, or otherwise) or delays the imposition of any tax or tax increase.
- No funds may be used for deposits into any pension fund.
- Funds may not be used as non-federal match where prohibited. This includes prohibitions in utilizing these funds as a state match in the authorizing statutes and regulations of the CWSRF and DWSRF.
- Funds may not be used directly to service debt, satisfy a legal settlement or judgement, or contribute to a “rainy day” fund or financial reserve.
- Further, general infrastructure spending is not covered as an eligible use outside of water, sewer and broadband investments, or above the amount allocated under the revenue loss provision.

#### **4.7 - Office of Financial Management (OFM)- Capital Budget Instructions Ineligible Uses**

Further not allowed expenses per the [OFM Capital guidelines](#):

- Internal administrative activities
- Project management
- Fundraising
- Feasibility studies
- Computers or office equipment
- Rolling stock (e.g., vehicles)
- Lease payments or rental of equipment or facilities
- Mortgage and property leases (including long-term leases)
- Moving of equipment, furniture and the like between facilities
- Regular maintenance costs

#### **4.8 Grant Match Requirements**

The Recipient’s match amount is identified in the contract as cash match.

The Recipient must provide proper documentation to support match. Without documentation demonstrating that the match requirement has been met, the Recipient will not be fully reimbursed for expenditures. If the match is properly documented and meets the applicable eligibility criteria, expenditures may be reimbursed according to the agreement.

All eligible costs used for match are to be reported and incurred within the effective dates of the agreement with each A-19 invoice.

##### **Supporting Documentation**

All match must be supported by documentation acceptable to the WSBO and be verifiable from Recipient records, see Attachment 4-B: Match Submittal Form for a sample. Examples include (but are not limited to):

- Itemized receipts

- Detailed invoices from Recipient, contractors, sub-contractors, etc.
- Vendor invoices

### Contributions Not Eligible for Match

- Costs used as match on another project. No expenditures or in-kind contributions used as match on one project may be used as match on another project.
- Costs paid by the same funding source. Funds that come from the same funding source as the grant or loan, even if it passes through another party to the Recipient, cannot be used as match.
- Costs financed by penalties and/or fines. The Recipient cannot use income associated with penalties and/or fines for a match.

## 4.9 Reporting Requirements

### Project Status and Expenditure Reports

Each A-19 Reimbursement Voucher (A-19) request must be accompanied by a Project Status Report (Attachment 4-C), which describes the progress made on the project since the last A-19 was submitted. The WSBO project manager will not release payment for any reimbursement request submitted until the Project Status Report is received. After approving the A-19 and the Project Status Report, Commerce shall promptly remit a warrant to the Recipient.

In order to receive reimbursement for eligible expenses incurred, each A-19 must include:

- Source documentation of expenses such as copies of invoices/receipts, payroll reports, consultant invoices and contractor pay requests.
- The Project Status and Expenditure Report forms will be emailed after execution of the contract. These must be included in all A-19 submissions.
- Reportable Expenses form for any A-19 voucher request over \$1,000. The Recipient can also enter this information manually into the CMS Portal. Commerce provides the Data Reporting Requirements, including a template and instructions. Contact your WSBO project Manager for further guidance.

### Quarterly Projection Reports

Quarterly projections and expenditure reports are required. We request an estimate and the timing of when you are planning on submitting an A19 reimbursement request over a period of time. This information is used for program budgeting purpose only and **is not binding**.

### Quarterly Progress Report

Project Quarterly Progress Reports are required, including if no funds have been reimbursed in the quarter (Attachment 4-D). The WSBO project manager will email the Recipient the report to fill out. All costs must be directly related to the scope of work of the project being funded.

### Reporting Requirements (EEO-1)

On or before September 30 of each year, a contractor subject to Title VII of the Civil Rights Act of 1964, as amended, that has 100 or more employees, must file an “Employer Information Report EEO-1” with the EEOC or its delegate. Instructions on how to file are on the [EEOC](#) website. The contractor shall retain a copy of the most recent report filed.

#### **4.10 Project Completion**

To complete the closeout process, the Recipient must submit a Project Completion Report form, Attachment 4-E, to their WSBO project manager.

# Attachment 4-A: Audit Certification Form

## AUDIT CERTIFICATION FORM

As a pass-through agency of federal grant funds, the Washington State Department of Commerce is required by the Office of Management and Budget (OMB) 2 CFR 200 to monitor activities of sub-recipients to ensure federal awards are used for authorized purposes and that sub-recipients have met the OMB [2 CFR 200 Subpart F](#) - Audit Requirements. Your entity is a sub-recipient subject to such monitoring by Commerce because it is a non-federal entity that expends federal grant funds received from Commerce as a pass-through entity to carry out a federal program.

A non-federal entity expending \$750,000 or more in any fiscal year in federal funds from all sources, direct and indirect, are required to have an audit conducted in accordance with 2 CFR 200.501 – Audit Requirements.

Please complete the information below, provide additional documents as applicable and return via email from an authorized official's email address within the next 15 days to [auditreview@commerce.wa.gov](mailto:auditreview@commerce.wa.gov).

**Organization Name:**

**Organization Name as reported to the Federal Audit Clearinghouse:**

**For Organization's Fiscal Year Ending On (FY MM/DD/YYYY):**

**Statewide Vendor No. (SWV#):**

1.  **We are not subject to the audit requirements of the Federal Audit Clearinghouse because:**
  - We did not expend \$750,000 or more of total federal awards from any source during the last fiscal year.
  - We are exempt for other reasons – explain: [Click or tap here to enter text.](#)
2.  **We are subject to the requirement of the Federal Audit Requirements**
  - We completed our last federally compliant audit and have attached the audit report.
  - Our completed federally compliant audit will be available on [Click or tap here to enter text.](#)

Send this form and federally compliant audit (if required) to [auditreview@commerce.wa.gov](mailto:auditreview@commerce.wa.gov).

**Authorized Official Name and Title (print):**

**Authorized Official Signature:**

**Date:**

**Email Address:**

**Phone Number:**

# Attachment 4-B: Match Submittal Form

WSBO Grantee:							
WSBO Project Title:							
Report Period: _____ to _____				Funding Sources			
				* Local ( __%)			WSBO ( __%)
Available Funds (contract amount)							
Previously Expended Funds							
Invoices/Activities	Amounts						
		<i>Expended funds</i>	<i>\$0.00</i>				<i>\$0.00</i>
A19 Reimbursement # _____		<b>Available Funds</b>	<b>\$0.00</b>				<b>\$0.00</b>

WSBO funds are disbursed on reimbursement basis-only for eligible costs within the approved project’s scope of work. **WSBO funds will be reimbursed and the identified match funds will paid out, in concert at the same percentages as the total project cost split, until WSBO funds or matching funds are exhausted.**

*\*Or, the recipient can submit actual match amount, via invoices to the period of expenses have incurred.*

# Attachment 4-C: Project Status Report Form

## PROJECT STATUS REPORT

Submitted By: \_\_\_\_\_

Reporting Period: \_\_\_\_\_

**This form must accompany each A19 voucher request for reimbursement.**

<b>Grantee:</b>	
<b>Grant Agreement Number:</b>	
<b>Project Name:</b>	
<b>Scheduled Project Completion Date:</b>	<b>6/30/2025 (subject to re-appropriation)</b>

### Project Progress

Describe the progress made to date on the project's scope of work (see Declarations page in Grant Agreement).

--

Approximately, what percentage of the project is complete?		%
--	--	---

When do you expect the project to be completed (month/day/year)?

\_\_\_/\_\_\_/\_\_\_

If the scheduled completion date is different from the one above, what factors led to the change?

--

# Attachment 4-D: Quarterly Progress Report Form

## Quarterly Progress Report

(Due, if no A19-Invoices have been submitted during this time.)

Project Information	Reporting Period
WSBO Contract Number:  Applicant Name:  Completed by:  Phone:  Date of Submittal:	<input type="checkbox"/> July 1 – September 30 <input type="checkbox"/> October 1 – December 31 <input type="checkbox"/> January 1 – March 31 <input type="checkbox"/> April 1 – June 30  Year: _____

1. Review the contract scope of work, describe the progress made to date and percentage of completion.
2. Describe any significant problem(s) or unforeseen costs that have or will affect the project's timeline or successful completion of the project, (i.e. any delays or changes to the project as described in the contract scope of work).
3. Are any contract amendments needed?  Yes  No  
If yes, please explain:
4. Please provide copies of any press releases or news articles related to the project that were released or published during this reporting period.
5. Provide notice of ground breakings, ribbon cutting ceremonies, etc.

# Attachment 4-E: Project Completion Report Form

## Infrastructure Acceleration Grant (IAG) - PROJECT COMPLETION REPORT

This form must be completed and submitted, along with electronic photos of the completed project, with your final A-19 reimbursement request.

<b>WSBO Recipient:</b>	
<b>Contract Number:</b>	
<b>Project Name:</b>	
<b>Initiation of Operations Date:</b>	
<b>Total Project Funds Expended (include all funds)</b>	
<b>Source</b>	<b>Amount</b>
WSBO Expenditures to Date	
Amount of Final Reimbursement	
<b>Total WSBO Funds Used</b>	
Please identify other funding sources below:	
<b>TOTAL PROJECT FUNDING:</b> <i>(Include all sources and the WSBO grant amount used.)</i>	
<b>Briefly summarize the results of your Project:</b>	

Number of Passings (Please list the passings by connection speed pre-project and post-project)												
	25/5 Mbps		50/10 Mbps		100/20 Mbps		100/100 Mbps		300/700 Mbps		1G/1G	
	Pre	Post	Pre	Post	Pre	Post	Pre	Post	Pre	Post	Pre	Post
Households												
Businesses												
Anchor Institutions												
<b>TOTAL</b>												

Business definitions: all business types including farms, home-based businesses, and work-at-home/telecommuter use of broadband.

Community Anchor Institutions definitions: includes facilities such as libraries, township halls, fire and police stations, city halls, county buildings, state facilities, public safety locations, hospitals and nursing homes, and educational institutions.

**Please email high resolution digital photographs of the completed project with this report.**

By providing images, Recipient hereby consents to and authorizes the use and reproduction in print or electronic format by Commerce or anyone authorized by Commerce, of any and all photographs which have been provided to Commerce without compensation.

**Certification of Final Report Accuracy:**

I hereby certify that the information entered above and any attachments hereto are true and correct to the best of my knowledge and belief. Further, I certify that the infrastructure project was completed as described in the WSBO application and WSBO contract scope of work.

\_\_\_\_\_  
Signature of Authorized Official

\_\_\_\_\_  
Title

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date of Signature

## Attachment 4-F: Calculating Indirect Expense

### Step 1: Calculate the MTDC.

Line Item	Approved Budget	MTDC Eligible Amount
Direct Salaries	\$ 120,000.00	\$ 120,000.00
Fringe Benefits	\$ 35,000.00	\$ 35,000.00
Travel	\$ 10,000.00	\$ 10,000.00
Consumable Supplies	\$ 10,000.00	\$ 10,000.00
<b>Services:</b>		
Contract Services -A:	\$ 25,000.00	\$ 25,000.00
Contract Services -B:	\$ 25,000.00	\$ 25,000.00
Contract Services -C:	\$ 50,000.00	\$ 25,000.00
<b>Total Direct Costs</b>	<b>\$ 275,000.00</b>	<b>\$ 250,000.00</b>

### Step 2: Apply 10% De Minimis to the MTDC.

Line Item	Approved Budget	MTDC Eligible Amount
<b>Total</b>	<del>\$ 275,000.00</del>	\$ 250,000.00
Indirect Cost Rate	<del>10 %</del>	10 %
<b>Total Indirect Costs</b>	<del>\$ 27,500.00</del>	<b>\$ 25,000.00</b>

# Attachment 4-G: 10% of the Modified Total Direct Costs (MTDC) Verification Form

**Grantee Name:** Click or tap here to enter text.

Any non-Federal entity that has never received a negotiated indirect cost rate may elect to charge a de minimis rate of 10% of modified total direct costs (MTDC) which may be used indefinitely. If chosen, this methodology must be used consistently for all Federal awards. Costs must be consistently charged as either direct or indirect costs. [§ 200.414 \(5\) \(f\) Indirect \(F&A\) costs.](#)

The intent of this verification is to assure that calculation of MTDC is done with the necessary accounting expertise to comply with the costs rules in 2 CFR, Part 200 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal awards.

<b>TOTAL DIRECT COSTS AMOUNT</b> <i>Salaries + Benefits + Travel + Supplies + Contracted Services</i>	Approved Budget
• Direct Salaries	
• Direct Fringe Benefits	
• Travel	
• Consumable Supplies	
• Contract Services (contract amount)*:	
• Contract Services (contract amount)*:	
• Contract Services (contract amount)*:	
• Subtract the amount of the <i>Contracted Services</i> line item that is over \$25,000*	
<b>Total = MTDC base amount (add the above the rows "a-g", subtract row "h")</b>	
<b>10% of the Base Amount = MTDC Indirect Total</b>	

[§ 200.68 Modified Total Direct Cost \(MTDC\).](#) Modified Total Direct Cost is defined as: *All direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel and sub-awards and subcontracts up to the first \$25,000 of each sub-award or subcontract (regardless of the period of performance of the sub-awards and subcontracts under the award). MTDC excludes equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs and the portion of each sub-award and subcontract in excess of \$25,000. Other items may only be excluded when necessary to avoid a serious inequity in the distribution of indirect costs, and with the approval of the cognizant agency for indirect costs.*

# 5. Procuring Professional Services

## 5.1 Overview

A Recipient already under contract with an engineering, architectural or project management consultant may continue to use that consultant for their project if they were originally hired through a competitive process.

**Recipients must verify immediately** that their current consultant and the owner or president is not excluded from receiving federal funds by using the [System for Award Management \(2 CFR 200.214\)](#).

If they are disbarred or have exclusions, the Recipient will need to conduct a new procurement process for professional service.

Alternatively, a Recipient that needs to hire engineering, architectural or project management consultants is required to use a competitive selection process. The Recipient can demonstrate compliance with this requirement using the following Procurement Methods to secure professional services.

Recipients must comply with both state and federal competitive procurement requirements, using the most stringent standards of the two. All local governments in Washington must follow the uniform requirements of chapter [39.80 RCW](#) when procuring professional architecture and engineering services. When using IAG funds for professional services, Recipients must also incorporate federal provisions from [2 CFR 200 Subpart D](#).

## 5.2 Implement Standards of Conduct

The Recipient and any sub-recipient are to maintain a standard code of conduct governing the performance of their employees engaged in the award and administration of IAG-funded contracts. No employee, officer or agent of the Recipient shall participate in the selection or in the award or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved. A sample of a Standards of Conduct is located in Attachment 3-A.

## 5.3 Advertise

To demonstrate a competitive selection process was used by advertising, publish the request for professional services in a newspaper of general circulation. The advertisement must be publicized at a minimum of once a week for two weeks. At least 14-calendar days from the last publication date must be allowed for respondents to prepare and submit their proposals. The announcement should state the general scope and nature of the project or work and how to contact the Recipient for additional information.

### Evaluation of Proposals and Statement of Qualifications

The Recipient must have a documented system for reviewing proposals and statements of qualifications submitted in response to the published and distributed advertisement. The system must include the use of selection criteria established prior to solicitation, evaluation of cost and rates, and be thorough, uniform and well documented.

### Select Firm Most Advantageous to the Project

The Recipient needs to document why they selected the chosen firm and indicate why the chosen firm is the most qualified for the job. Select the firm (under the Request for Proposals method) whose proposal is most advantageous to the project considering all factors, or the most qualified (under Request for Statement of

Qualifications method). In the case of the latter method, contract negotiations must then be conducted to determine the fair and reasonable price of services.

The Recipient should negotiate a contract with the most qualified firm for architectural and engineering services at a price they determine to be fair and reasonable. In making a determination, the Recipient should take into account the estimated value of the services to be performed, as well as the scope and complexity of the project. If the Recipient is unable to negotiate a satisfactory contract with the firm selected at a price the Recipient determines to be fair and reasonable, negotiations with that firm shall be formally terminated and the Recipient shall select other firms in accordance with [RCW 39.80.040](#).

## 5.4 Encourage MBE, WBE, Local and Small Business Participation

Take affirmative steps to solicit statements of qualifications and proposals from local businesses and minority- and women-business owners. To comply with affirmative action requirements, Recipients must, at a minimum:

- Post the RFQ/RFP notification on the [State Office of Minority and Women’s Business Enterprises](#) (OMWBE) website, select “Bids & Opportunities” and then click on the “OMWBE WebAdmin” link. Jurisdictions utilizing MRSC Rosters must document posting of the MRSC Rosters- Small Works and Consultant Rosters Legal Notice (routinely displayed year round) on the OMWBE website,  
OR
- Develop a list of minority- and women-owned businesses and send the RFQ/RFP notification to five consultants from the list. You can use the directory on the OMWBE website or develop your own local list.

Document the posted advertisement or the email from the OMWBE website showing date posted or provide documentation that the advertisement was sent to MWBE consultants.

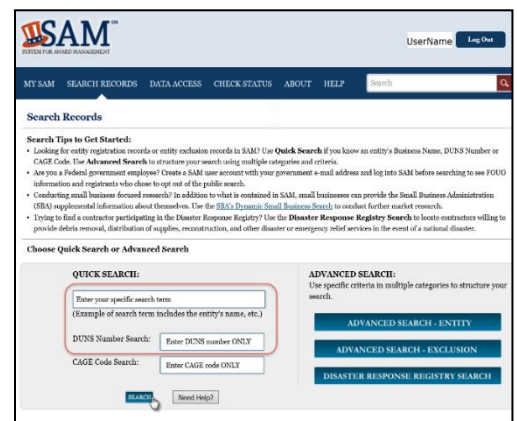
Post the invitation to bid advertisement on the [State Office of Minority and Women’s Business Enterprises](#) (OMWBE), select the Bids & Opportunities button and follow the instructions. Submit documentation OMWBE posting to your Project Manager.

## 5.5 Professional Service Check for Eligibility

Before awarding a contract, Recipients must verify that the selected firm and the owner or president is not excluded from receiving federal funds using the [System for Award Management](#) (SAM) ([2 CFR § 200.214](#)).

For additional guidance, see [Is your contractor banned from receiving federal funds? Don’t wait to find out. – Office of the Washington State Auditor](#).

Recipients must provide the Project Manager with Consultant eligibility documentation showing the date eligibility was verified. Recipients are also responsible for ensuring that all lower-tier sub-consultants associated with the project are not excluded.



## **5.6 Prepare the Contract**

Prepare the contract agreement. The contract should include the following provisions:

- Effective date of contract.
- Detailed descriptions of the extent and character of the work to be performed.
- Time for performance and completion of contract services, including project milestones.
- Specifications of deliverables or other services to be provided by both parties.
- Conditions and terms under which the agreement can be terminated by either party, or remedies for violation/breach of contract.
- Authority and source of funds, and provisions for compensation of services.
- Maximum amount payable under the contract with fee and payment schedules, if appropriate.
- Errors and Omissions (engineering firms only)
  - Engineering firms must be licensed to do business at Washington State, be in compliance with the Board of Professional Registration requirements, and insured with proper errors and omissions insurance and/or bonding.
- Conflict of interest provisions.
- Access to records and records retention clauses.
- Scope of Services
  - Detailed description of the extent and character of work to be performed.
  - Time of performance and completion of contract services, including milestones, if any.
  - Specifications of materials or other services to be provided by both parties.
- Method of Compensation
  - Provisions for compensation for services.
  - Maximum amount payable under the contract.
  - Fee and payment schedules, if appropriate.

## **5.7 Contract and Amendments**

Funds need to be obligated in writing with executed contracts and amendments with consultants that include increased budgets by December 30, 2024.

## **5.8 Monitor Performance**

The Recipient should establish a system to monitor performance of retained engineers, architects or consultants. At a minimum, the system should provide for reconciling the bills against applicable documentation and receiving, at the minimum, a monthly update on the project status, problems, etc. The scope of work provides the basis for monitoring and evaluating the performance of the engineer, architect or consultant by specifically identifying performance measures.

## **5.9 Record Keeping and Reporting**

The Recipient is required to maintain records which identify:

- The procurement method used and why it was selected.
- The rationale used for selecting the contract type.
- Reasons for selecting and rejecting bidders/qualified firms.
- The basis for the contract cost or price.

The Recipient is also required to keep a copy of the legal notice or affidavit of publication and outreach efforts to minority-owned, women-owned and local business.

The Recipient must maintain documentation of the procurement process in project files for six years after all funds have been expended AND project closeout, whichever is longer.

# 6. Procuring Construction Contracts

## 6.1 Overview

When procuring construction contracts, the Recipient must follow the procurement standards in [2 CFR §§ 200.318 through 200.327](#). Construction projects expected to exceed \$50,000, must be bid competitively through a sealed bid process.

This Chapter guides you through the process for procuring construction contractors.

**It is the responsibility of the Recipient to understand their local procedures and policies and assure that the most stringent of the federal and state requirements are adhered to.**

Information in this Chapter outlines a competitive bid process applicable to construction projects where the construction project must be competitively bid through a sealed bid process or small purchase procedure.

Construction contracts are normally procured by sending an Invitation for Bid (IFB) to interested contractors. The IFB contains all the information the contract will need to bid on a project. Once completed and submitted by the bidder, the IFB, if the lowest responsible bid, becomes the basis for the contract between the contractor and the Recipient.

## 6.2 Implement Written Standards of Conduct

Recipients are to maintain written standards of conduct governing the performance of their employees engaged in the award and administration of contracts supported with federal funds ([2 CFR 200.318\(c\)](#)). No employee, officer or agent of the Recipient shall participate in the selection or in the award or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved. A sample of a Standards of Conduct, see Attachment 3-A.

## 6.3 Develop the Bid Documents with Scope of Work

The bid documents contain all the information the contractor will need to bid on a project. Bid documents are composed of the components of the construction contract including, but not limited to, the proposal form, contract provisions, contract plans and addenda.

The proposal submitted by the lowest, responsive and responsible bidder becomes the basis for the construction contract.

## 6.4. Public Works Bidder Responsibility Criteria

The Washington Legislature adopted amended [RCW 39.04.350](#). It adds an additional criterion to the list of mandatory bidder responsibility criteria that the Recipient must verify and document before awarding any public works project, regardless of cost. This means that the Recipient must ensure that the required sworn statement is obtained prior to award of the public works project.

## 6.5 What is a Responsible Bidder?

Responsible Bidders, as defined in [RCW 39.04.010](#) and [39.04.350](#), must meet a number of mandatory criteria. The bidder must:

- Be a registered contractor.

- Have a current Unified Business Identifier (UBI) number.
- Have industrial insurance/workers' comp coverage, which means they normally cannot be sued for damages if a work-related injury or illness occurs. For more details, see L&I's publication [Employers' Guide to Workers' Compensation Insurance in Washington State](#).
- Have an Employment Security Department (ESD) account.
- Have a state excise tax registration number.
- Not be disqualified from bidding under [RCW 39.06.010](#) or [39.12.065\(3\)](#).
- Not have any apprenticeship violations, if applicable.
- Certify through a sworn statement or an unsworn declaration under penalty of perjury that they are not a willful violator of labor laws in reference to [RCW 49.48.082](#) within the past three years. MRSC has developed a [model statement](#) (.docx) to satisfy this requirement.
- **Effective July 1, 2019:** Have received training, provided by the Washington State Department of Labor and Industries (L&I) or by a provider whose curriculum has been approved by L&I, on the requirements related to public works and prevailing wages. However, bidders that have completed three or more public works projects and maintained a valid business license in Washington for at least three years are exempt from this requirement.

## **6.6 Labor Agreements**

Recipients are required to describe how they will use strong labor standards to promote effective and efficient delivery of high-quality infrastructure projects while supporting economic recovery through strong employment opportunities for workers. Providing the Recipients doesn't want to sign the certification in the WSBO contract. Recipients must also report whether any of the following practices are being utilized:

- Prioritization of local hires
- A Community Benefit Agreement, with a description of any such agreement

All projects over \$10 million are also required to meet the following additional requirements:

- A Recipient may provide Davis Bacon certification. If the Recipient does not provide such certification, the Recipient must provide following information:
  - Number of employees of contractors and sub-contractors working on the project (number)
  - Number of employees on the project hired directly (number)
  - Number of employees on the project hired through a third party (number)
  - Wages and benefits of workers on the project by classification (rich text field)
  - Are any of the wages at rates less than those prevailing? (Y/N)
- A Recipient may provide a certification (as provided in the WSBO contract) that a project includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with section 8(f) of the National Labor Relations Act (29 U.S.C. § 158(f)). If the Recipient does not provide such certification, the Recipient must provide a project workforce continuity plan, detailing:

- How the Recipient will ensure the project has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality construction throughout the life of the project.
- How the Recipient will minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the project.
- How the Recipient will provide a safe and healthy workplace that avoids delays and costs associated with workplace illnesses, injuries and fatalities.
- Whether workers on the project will receive wages and benefits that will secure an appropriately skilled workforce in the context of the local or regional labor market.
- Whether the project has completed a project labor agreement.

## **6.7 Labor Standards / Prevailing Wages**

**All projects are required to pay state prevailing wages**, as applicable. All projects are required to pay all laborers and mechanics employed by contractors and subcontractors in the performance of such projects Washington state prevailing wages per [RCW 39.12](#). State prevailing wages are determined and enforced by the Washington State Department of Labor and Industries (L&I) based on collective bargaining agreements or – if collective bargaining agreements are not available – wage surveys or other methods.

The state prevailing wage law is modeled after the federal Davis-Bacon Act, enacted to protect employees of contractors performing public works construction from substandard earnings, and preserve local wage standards. State prevailing wage is triggered when construction projects use public funds to build schools, roads and other projects. Recipient contractors and subcontractors are required to pay prevailing wages to all workers for public works and maintenance contracts regardless of the dollar value of the contracts. During construction, Recipients are responsible for enforcing prevailing wage requirements.

L&I offers a number of publications, tools and resources to assist in complying with these requirements, including:

- [LNI.wa.gov](http://LNI.wa.gov)
- [Awarding Agencies](#) web page
- [The Washington State Prevailing Wage Law publication](#)

*Additional Resources:*

- [MRSC - Public Works Contracts](#)
- [MRSC - Prevailing Wages](#)
- [Prevailing Wage in Public Works \(Chapter 39.12 RCW\)](#)

The Davis-Bacon Act requirements (prevailing wage rates) do not apply to projects funded solely with award funds from the ARPA program.

**Recipients may be otherwise subject to the requirements of the Davis Bacon Act, when ARPA award funds are used on a construction project in conjunction with funds from another federal program (such as CDBG, DWSRF or other federal funding) that requires enforcement of the Davis-Bacon Act.**

## **6.8 License, Bonding, and Insurance for Contractors**

The contractor must be licensed, bonded and insured in Washington State. Contractors are not required to have payment or performance bonds, which exceed normal bonding requirements. However, this type of bonding can reduce the Recipient’s exposure to risk by ensuring liability is covered. We encourage you to have payment or performance bonds for loan agreements over \$100,000. A performance bond guarantees that the Recipient will complete the contract according to its terms, including price and time. In case of default, the owner receives the amount of the bond, which is usually the amount of the construction contract. A payment bond guarantees that subcontractors and suppliers receive the money they are due from the principal contractor, which reduces the possibility of liens against the project. We recommend that Recipient ensure that the bonding company and the insurance company recognize them and the Department of Commerce-ARPA Program as interested parties to be notified if the contractor terminates the bond or insurance.

It is important for the contract to specify that the contractor will notify the Recipient if it terminates the bond. Recipients must notify their Project Manager if payment or performance bonds are terminated for any reason.

## **6.9 Domestic Preferences for Procurements (2 CFR § 200.322)**

As appropriate and to the extent consistent with law, the Recipient should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all awards including all contracts and purchase orders for work or products under this award.

For purposes of this section:

- “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
- “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

## **6.10 Advertise for Bids**

The Recipient is ready to advertise after all of the provisions and requirements are incorporated in the bid documents. Bids must be solicited by public advertising. The advertisement must be published once a week for two weeks in a major newspaper of general circulation. A **minimum of 14 calendar days must be allowed from the second publication date and the bid opening date**. The advertisement must be posted in a public place.

Prior to advertising, send a copy of the draft bid advertisement to your Project Manager for review and approval.

At a minimum, a bid advertisement should include the following information:

- Project owner (Recipient).
- Title of project.
- Description of work.

- Where the bid documents may be obtained.
- Bid opening date, time and location.
- Contact person and phone number.
- Specify that a five percent (5%) bid guarantee is required in form of a cashier’s check, money order, or surety bond (Code cities, second class cities, and towns: [RCW 35.23.352](#)) or (Counties [RCW 35.23.352](#)) or (Port Districts [RCW 53.08.130](#)) or (Water/sewer Districts [RCW 57.08.050](#)).
- Basis for rejecting bids.
- Statement that all contractors must be licensed in the State of Washington to conduct business.
- List of the funding sources for the project, including the ARPA funds (see statement below).
- Requirement that state prevailing wages must be paid.\*
- **The following statements must be included in the advertisement for bids:**
  - “All work performed on this project will be subject to the higher of the prevailing state or federal wage rates (if applicable due to other federal funds are in the project).”
  - “The (Town/City/County) of \_\_\_\_\_ is an Equal Opportunity and Affirmative Action Employer.”
- “This project is (funded/partially funded), by federal award number SLRFP0002 (ARPA SLFRF) or CPPFN0145 (ARPA Capital) awarded to Washington State Broad Band Office by the U.S. Department of the Treasury.”
  - “Small, Minority- and Women-owned firms are encouraged to submit bids.”

### **6.11 Take Affirmative Steps to Attract MBE and WBE Bidders**

Take affirmative steps to solicit bids from local businesses, and minority and women owned businesses. To comply with affirmative action requirements, Recipients must, at a minimum:

Post the invitation to bid advertisement on the [State Office of Minority and Women’s Business Enterprises](#) (OMWBE), select the Bids & Opportunities button and follow the instructions. Submit documentation OMWBE posting to your Project Manager.

Include documentation from OMWBE that confirms posting of the bid advertisement to the *OMWBE Bids & Contracting Opportunities* webpage in the project’s file.

### **6.12 Conduct Bid Opening**

Recipients must open bids in public at the time and place stated in the advertisement. **A successful bid opening is when two or more responsible bidders have submitted bids.** You can delay the bid opening, but you must notify all bidders in advance. If you delay a bid opening, all bidders should have the opportunity to withdraw their bids or resubmit them before the new bid opening date and time (cost of equipment or materials could increase). You should conduct the public bid opening in a business-like manner. You must read each bid aloud during the meeting and determine the apparent low bidder. You must maintain a description of the bid review and tabulation process in your project files.

If you receive no bids, or the received bids are too costly, re-advertise the bid ad in a wider geographic area. We encourage borrowers to maintain a list of reputable general contractors that have done good work for them in the past or have bid previous projects in order to alert them of the bid request.

Contact your Project Manager when fewer than two bids are received.

### **6.13 Select the Lowest Responsible Bidder**

The bids received should show in detail the estimated total cost of the work, a unit price for each component of the project, its overall individual cost, and the estimated completion schedule for each phase. The lowest responsible bidder must:

- Be licensed to work in the State of Washington.
- Have the ability, capacity and skill to perform the work described in the contract scope of work, and comply with requirements within the indicated timeframes.
- Have good character, integrity, reputation, judgment, experience and efficiency.
- Be able to perform within the time specified.
- Demonstrate successful performance of previous construction contracts or services, and demonstrate compliance with laws relating to the loan contract or services.

### **6.14 Additional Funding Need for Project- WSBO Policy**

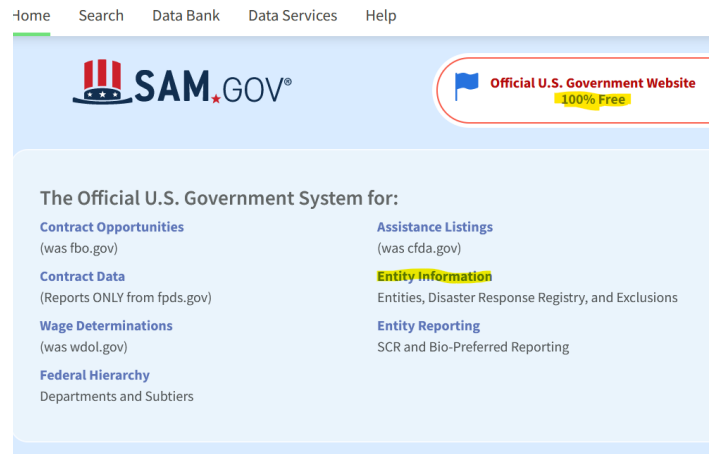
The WSBO established a Bid Set-Aside Account that allows additional funds to be awarded to existing WSBO recipients for construction completion, when bids come in higher than planned. Currently there are \$27.8 million in funds in the set aside for this purpose, with a \$1,000,000 maximum award per contract. The State Broadband Director may, on a case by case basis, authorize a greater award. The funding is available until the funds are exhausted, on a first come first served basis. Below is the process for recipients to qualify for this additional funding:

- Maintain the scope of work as agreed to in the original contract. The project must remain the same.
- Provide construction bid tabs, supplier estimates for materials, or other documentation as approved by the WSBO.
- Identify the construction contractor and provide the final negotiated construction contract amount.
- Provide an explanation of why the bids exceeded the estimate contained within the original WSBO Broadband Program application.
- Identify the amount of money needed to award the broadband construction contract. The additional money cannot result in an exceedance of the maximum funding allowed in the NOFO.
- Increase their match to remain within program requirements as applicable.

Contact your WSBO project manager, to submit a request for additional funding to the existing WSBO federal contract. *WSBO Director Approved 09/28/2022.*

## **6.15 Check Contractor Eligibility**

Before awarding a contract, Recipients must verify that the selected contractor and the owner or president is not excluded from receiving federal funds using the System for Award Management at [www.SAM.gov](http://www.SAM.gov). (2 CFR § 200.214).



Recipients must provide the Project Manager with documentation showing the date eligibility was verified. Recipients are also responsible for ensuring that all lower-tier subcontractors associated with the project are not excluded.

## **6.16 Check Contractor State Registration**

Recipients must verify that the successful bidder was registered and licensed with the state of Washington prior to bidding on the project. Subcontractors also must be registered and licensed in the state of Washington. The Department of Labor and Industries – [Verify a Contractor, Tradesperson or Business](#).

## **6.17 Award the Construction Contract**

Recipients must award the contract within 30-days, or reject all bids. The contract must be awarded to the lowest responsible bidder whose bid conforms to all material terms and conditions of the invitation for bids.

## **6.18 Execute the Construction Contract**

All the clauses and provisions that were in the construction IFB packet must be incorporated into the construction contract. All provisions required in the prime contract must also be passed on by the prime contractor to all subcontractors, including the Labor Standards Provisions.

Execute the construction contract, applicable bonding and insurance documents.

## **6.19 Conduct Pre-Construction Conference**

Prior to starting construction, all parties should attend a pre-construction conference to go over the project details and state (federal, if applicable) requirements.

## **6.20 Send Notice of Contract Award**

Within 10 days after contract award and signing, the Recipient must submit a Notice of Contract Award and Start of Construction (Attachment 6-A) form to the Project Manager.

## **6.21 Small Works Roster Procedures (only applicable to local governments)**

**When a construction contract or construction materials are less than \$50,000, the small purchase procedures may be used. If the jurisdiction has a lower ceiling for small purchases, then this lower ceiling should be followed.**

Obtain at least three (3) qualified proposals when using small purchase procurement process.

- Efforts must be made to seek at least one proposal from a certified minority or women business enterprise (MBE/WBE).
- Document all steps taken, quotation/proposals received, and MWBE outreach efforts. Legal notice of the request for proposals is not required. When using small purchase procedures, verify the selected firm's references and ability to perform the scope of work. See also the limited public works process described in [RCW 39.04.155\(3\)](#).
- The MRSC website has more information about the specific limits that jurisdictions have for using this procurement methodology at [www.mrsc.org](http://www.mrsc.org).

Recipients submit Small Works Roster documentation as stated above to your Project Manager.

## **6.22 Construction Procurement Documentation**

After the bid opening and before construction begins, Recipients must submit the following documentation to the Project Manager:

- Affidavit of publication of the advertisement for bids
- Confirmation with dates of bid advertisement posted to OMWBE webpage
- Bid Tabulation
- Contractor/Sub-contractors Sam.gov exclusions search, showing date checked
- Notice of Contract Award (see Attachment 6-A for the form)
- Preconstruction conference meeting notes, if applicable

## **6.23 Maintain Procurement Records**

Maintain documentation of the procurement process in project files for six years after all funds have been expended and project closeout.

# Attachment 6-A: Notice of Contract Award

## Washington State Broadband Office – Infrastructure Acceleration Grant Program Notification of Contract Award and Start of Construction

The form must be filled out for the general contractor working on the awarded project. Please attach your verification that the contractor and subcontractor were checked on [www.sam.gov](http://www.sam.gov) for suspension and debarment. This form must be completed within 10-days after contract award.

### Contract Information

Recipient:	
Project Name:	
Contract #:	

### Construction Procurement

Bid Opening/Closing Date:	# Of Bids Received:	SAM.gov Verification Date <sup>1</sup> :
Construction Contract Award Date:	Construction Contract Amount:	Construction Start Date:
Contractor Name:	Contractor UBI #:	
Names/Addresses of Disadvantaged Business Enterprise Solicited (if applicable):		

### Labor Standards (if applicable)

Federal Wage Decision #:	Modification #:
Published Date:	10-Day Wage Verification Date <sup>2</sup> :

Person Responsible for Compliance<sup>3</sup>:

Email Address:

Phone #:


<sup>1</sup> Date verification was made at SAM.gov that contractor is not excluded from receiving federal funds.

<sup>2</sup> Date the Recipient (or representative) determined if modifications were made to the federal wage (if applicable) decision contained in the bid document (must occur 10 days prior to the scheduled bid opening.)

<sup>3</sup> Person responsible for enforcing the labor standards requirements for this project.

# 7. Managing Construction Projects

## 7.1 Overview

Recipients undertaking a state funded construction project must have a contract management system in place to ensure contractors perform in accordance with contract terms, conditions, specifications, and applicable state requirements. This system includes conducting the pre-construction conference, review of contractor and subcontractor compliance with Labor Standards, on-site inspections, review of change order requests, project closeout, release of retainage, and record keeping.

## 7.2 Conduct the Pre-construction Conference

After awarding and signing the construction contract and before the contractor is issued a Notice to Proceed, the Recipient or its representative, is responsible for holding a pre-construction conference for the general contractor and subcontractors, engineers and other professional service providers, and other interested parties. The pre-construction conference should cover the following:

- Responsibilities of the engineer, Recipient, contractor, and any other agencies or parties contributing to or involved in the project.
- General contract provisions, including specifications, Notice to Proceed, completion schedule, guarantees and warranties for materials, workmanship, change orders, etc.
- Project inspection and reporting responsibilities of the engineer and Recipient.
- Labor Standards requirements, prevailing wage rates, apprentices and trainees, fringe benefits, weekly payroll, and additional classification requests.
- Requirements for final acceptance of work, special testing and/or site cleanup.
- Distribution of necessary forms such as certified payroll, posters and prevailing wage rates to the contractor and subcontractors.

Maintain a record of the pre-construction conference in the project file, and send a copy to your Project Manager.

## 7.3 Issue Notice of Contract Award and Notice to Proceed

Once the pre-construction conference is conducted, the Recipient can issue the Notice of Contract Award and Notice to Proceed to the contractor. The notice conveys the authorization to the contractor to begin work on the project. Send a copy to your Project Manager.

## 7.4 Contract Work Hours and Safety Standards Acts

The Contract Work Hours and Safety Standards Act (CWHSSA) applies to all construction contracts in excess of \$100,000 involving the employment of laborers or mechanics. The CWHSSA requires that applicable workers are paid at least one and one-half times their basic rate of pay for hours worked in excess of 40 hours in a standard workweek. In the event of violations, the contractor or subcontractor shall be liable to any affected employee for their unpaid wages as well as to the United States Treasury for liquidated damages.

Contractors may not require any laborer or mechanic to work in surroundings or under working conditions that are unsanitary, hazardous or dangerous to their health or safety as determined under construction safety or health standards transmitted by the Department of Labor.

### **7.5 Certified Payroll Reports**

Effective January 1, 2020, contractors must file certified payroll reports at least once per month for all prevailing wage jobs (regardless of project amount) and submit them directly to L&I through the agency's online Prevailing Wage Intent and Affidavit (PWIA) system ([RCW 39.12.120](#)). The local government agency is not responsible for reviewing or checking the reports.

Contractors must always provide weekly certified payroll reports for federal projects. For questions regarding the federal law, contact the federal Department of Labor.

### **7.6 Conduct Payroll Reviews**

Contractors are required to use the L&I online system's to submit their weekly certified payroll report.

If a project has Community Development Block Grant (CDBG), Drinking Water State Revolving Funding (DWSRF), or another Federal Funding Source:

**The first construction invoice for the project needs to have the approval of the Labor Standards Packet or 21-Day Labor package approval by CDBG, DWSRF or other Federal Funding Project Manager.** This documentation and completion/approval of the labor standards packet is required to be submitted to your Project Manager.

### **7.7 Conduct Technical Inspections**

During construction, the Recipient is responsible for monitoring contractor/subcontractor progress and compliance with technical requirements of the project. Typically, this monitoring process is the responsibility of the project engineer, consulting engineer or architect; however, the Recipient should designate someone locally with oversight responsibility. The purpose of the technical monitoring process is to ensure that the project is constructed as planned, within budget and estimated timeframes, and within specified quality and quantity standards.

### **7.8 Affidavits of Wages Paid**

[RCW 39.12.040](#) requires every Recipient, contractor and subcontractor on the project to file an Affidavit of Wages Paid soon after the work has been completed. These statements also must be filed with [L&I Contractor Portal](#), and approved by the Industrial Statistician before being submitted Recipient administering the contract. The Recipient administering the contract may not release retainage until the contractor and subcontractors have filed approved Affidavits of Wages Paid. These requirements should also be stated in the specifications and contract.

It is the Recipient's responsibility to confirm that the affidavits have been approved before releasing retainage. Agencies can Search Prevailing Wages Intents and Affidavits at the L&I website. Contractors must keep accurate work and pay records, and submit certified copies upon request.

### **Awarding Agency Portal**

Create a “My L&I” Account to sign up for L&I’s Awarding Agency Portal. You can check the status of items for multiple contractors working on your project at the same time with the portal, including:

- Verify valid Unified Business Identifier
- Contractor registration and licensing
- Contractor Public Works and Prevailing Wage Law training
- State Debarment
- Intent for Pay Prevailing Wages
- Affidavits of Wage Paid

A contract Awarding Agency is an entity that includes, but is not limited to, state and local governments, fire districts, public hospitals, port districts, housing authorities and non-profits.

### **7.9 Maintain Project Records**

The Recipient is required to maintain project records that document all financial, monitoring and inspection transactions, and progress reviews that occur during the life of the project. Recipients must maintain copies of weekly certified payrolls and any corrected certified payrolls, copies of correspondence and resolution of overtime violations, and copies of employee interviews in the project files for six years after all funds have been expended and project closeout.

### **7.10 Project Completion Requirements**

To close this project, the ARPA is requesting an Initiation of Operations Date. Initiation of operation means the date specified by the municipality on which use of the project begins for the purpose that it was planned, designed and built. Initiation of operation means the actual date the Recipient begins using, or could begin using, the facilities for its intended purpose.

To complete the closeout process, the Recipient must submit the Project Completion Report (Attachment 4-E).

The Project Completion Report is to be submitted, along with electronic photos of the completed project, with your final A-19 reimbursement request.

## 8. Sub-recipient

This chapter describes the procedures and requirements involved in using a sub-recipient to administer IAG funded activities. This chapter incorporates applicable procurement, civil rights and recordkeeping requirements. For a complete understanding of these requirements for specific compliance areas, refer to those chapters of these program guidelines.

### **8.1 What is a Sub-recipient?**

A sub-recipient is a non-profit, for profit (Broadband Internet Service Provider) organization or agency that is provided IAG program funds by an ARPA Recipient (WSBO) for the sub-recipient's use in carrying out agreed-upon eligible activities. The sub-recipient is subject to the same administrative requirements as those described in these program guidelines for the Recipient (WSBO).

A sub-recipient differs from a contractor. A contractor is selected through a competitive procurement process and is paid ARPA funds by the Recipient in compensation for specific services. A contractor is only paid ARPA funds by the Recipient in compensation for services.

### **8.2 Recipient Agreement**

#### **Check for Federal Eligibility**

When entering into an agreement with the Recipient and throughout the contract period, the Recipient must verify that the sub-recipient is not excluded from participation in transactions by any federal department or agency ([2 CFR 200.214](#)). A Recipient can use this website at [System for Award Management](#) to check federal eligibility. A Recipient must document the status of eligibility in the grant file and provide the Project Manager with documentation showing the date eligibility was verified, prior to executing an agreement.

#### **Standards of Conduct**

The sub-recipient [2 CFR 200.318](#), must have a written Standard of Conduct which safeguards against conflict of interest by its officers, employees, subcontractors and agents in the selection, award or administration of contracts supported with IAG funds. A sample Standards of Conduct is available in Chapter 3, Attachment 3-A.

#### **Agreement**

Once selected, the Recipient must execute a written agreement with the designated sub-recipient. If properly written and executed, the Recipient agreement can be both a management tool for the Recipient and an orientation and educational document for the sub-recipient. The agreement must include:

- Scope of Work/Services
- Intended Beneficiaries
- Budget
- Method of Payment
- Performance Schedule
- Deed of Trust or Indefeasible Right of Use (IRU)
- Termination Clause

- Annual Audit Requirement Clause referencing [2 CFR 200.501](#)
- Required Federal Standard Provisions
- Monitoring and Evaluation Criteria
- Record Keeping
- Insurance Requirements
- Indemnification/Hold Harmless Clause
- Use and Reversion of Assets or Disposition of Property, if applicable

Amendments to the sub-recipient agreement are occasionally necessary if there are changes in the scope or schedule of work. The Recipient should consult their WSBO project manager regarding any proposed amendments to the sub-recipient agreement.

### **8.3 Cost Eligibility**

All sub-recipients are subject to the federal cost principles applicable to [2 CFR Part 200, Subpart E](#).

### **8.4 Monitoring Sub-recipient Performance**

Recipients must monitor the sub-recipient’s compliance with ARPA requirements. The ARPA financial management, procurement, civil rights, equal employment, and recordkeeping requirements described in these guidelines accompany the receipt of ARPA funds and apply to the sub-recipient as well as the Recipient.

The Recipient must track the sub-recipient’s progress through regular status reports or meetings.

Reimbursements to the sub-recipient must reflect the timely performance of accomplishing these measurable objectives and be supported by documentation of eligible expenses.

### **8.5 Reporting**

The Recipient must collect and maintain documentation of the sub-recipient’s performance and compliance with the funding source requirements.

### **8.6 Compliance Monitoring Process**

The IAG Program Manager will review the sub-recipient agreement to ensure that it includes the required contract items and federal provisions. The Recipient must provide oversight and monitor the sub-recipient throughout the project.

### **8.7 Deed of Trust or Indefeasible Right of Use Agreement**

All sub-recipients shall enter into a Deed of Trust or Indefeasible Right of Use (IRU) Agreement with the Recipient for any ARPA funded construction, acquisition or rehabilitation that is not owned by the Recipient. The Deed of Trust or IRU shall require the sub-recipient to operate the facility or system for the original purpose (for which it received IAG funds) until at least twenty-five (25) years after the latest of:

- Acquisition
- Final completion of rehabilitation or construction or until the return of all IAG funds used for the project.

The Deed shall be executed within thirty (30) days of acquisition or substantial completion of any construction activity. The Recipients shall keep the property free and clear of all other charges, liens or encumbrances impairing the security of the Deed.

# 9. Archaeological and Cultural Resources Review

## 9.1 Cultural Resources Review Overview

In order to protect the rich cultural heritage of Washington state, Governor Jay Inslee signed [Executive Order 21-02 \(EO 21-02\)](#) in April 2021. This Executive Order replaces and immediately follows Executive Order 05-05. This Executive Order reflects the Governor’s commitment that impacts to cultural resources must be considered as part of any state funded project,

WSBO will consult with the Department of Archaeology & Historic Preservation (DAHP) and any Indian tribes that may have cultural and/or historic interest or concerns in the project's vicinity. The National Environmental Policy Act (NEPA) does not apply to ARPA funding; however, the STATE Environmental Policy Act and EO 21-02 DO apply to ARPA funding.

**With an exception, at this time the ARPA Capital funds required a NEPA checklist, 9-C.**

Consultation is started early in the planning process for pre-construction, construction, demolition or acquisition. Pre-construction activities include but are not limited to: planning, design and feasibility studies, engineering, permitting, bid documents, acquisition, etc. that will culminate in construction, demolition or land acquisition. Projects completed in phases may be reviewed on a case-by-case basis.

**The Recipient will not move forward with construction activities that will disturb soils (such as, trenching, completing geo-technical work, grading, clearing, etc.), or construction activities until EO 21-02 is completed and the WSBO has issued a final compliance letter.**

If ground-disturbing activities occur prior to the Recipient receiving the final compliance letter, ARPA funding will be jeopardized.

**Important Note:** Your initial submission of EO 21-02 and SEPA paperwork does not mean that the process is complete. Ground-disturbing activities must wait until the final compliance letter has been received.

A government-to-government relationship must be properly adhered to for the cultural review. As such, it is the WSBO’s responsibility to contact the Tribes and the DAHP. The WSBO will notify the Recipient when a cultural resources survey is necessary. The Recipient is responsible for hiring a qualified archaeologist to conduct the surveys and for submitting draft surveys to WSBO for final approval.

## 9.2 Projects Receiving Additional State or Federal Funding

The Recipient must follow the more stringent of state and federal environmental and cultural review processes in order to comply with WSBO requirements. The Recipient is responsible for informing the WSBO of additional funding sources, and submit any necessary compliance documentation that has been completed to date. Otherwise, any steps of the process not adequately documented must undergo another review.

The WSBO coordinates reviews with other funding agencies, as appropriate.

### **9.3 Process Administration – Getting Started**

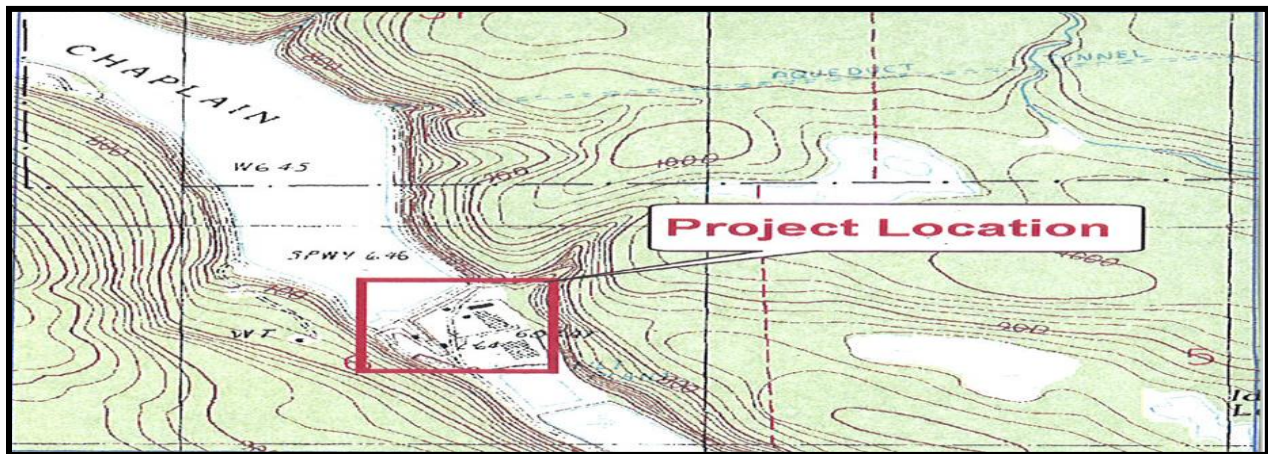
The Recipient starts the process by submitting an EZ1 form (downloaded from the DAHP webpage) to the WSBO. See EO 21-02 Historical and Cultural Resource Review Checklist, Attachment 9-A.

The WSBO conducts the consultation with the DAHP and the potentially affected Tribes.

### **9.4 Things That May Hinder Progress**

The following items may delay progress on a project’s environmental or cultural review:

- Project Review Sheet (EZ1 Form) is incomplete or contains incorrect information.
  - Project location is not clearly identified
  - Project description is not detailed enough
  - Township, range and section is incorrect
- The assumption that the cultural review is complete upon submittal of the EZ1 Form is **not correct**. The EZ1 Form is used to **initiate** the cultural review and identify potential further actions that may be required.
- Not completing the Historic Property Inventory (HPI) form when a structure or building is going to be modified or demolished. The WSBO will notify you if additional actions are required by the DAHP.
- A 7.5 Series USGS Quad map is not submitted with the EZ Form, and the project area is not identified. Example:



- Revising the project scope of work or acquiring additional relevant information may result in another cultural resource review process.
- ANY area being used for the project needs to be included in the review. This includes any staging area where equipment will be kept, not just the actual locations where the ground will be disturbed.

### **9.5 DAHP Consultation**

The EO 21-02 process requires the Recipient to define the construction project area for potential impact, and identify any building or structures 45-years or older that are located within the project site. For projects that

plan to alter structures 45-years of age or older, an online inventory survey must be completed by the Recipient.

The DAHP can issue a broad range of responses to the submittal. A common response is a “No Effect Upon Cultural/Historic Properties” letter. If you receive such a letter, you have completed the DAHP portion of the review.

If the DAHP requires more information (completion of additional forms, cultural survey, unanticipated discovery plan (Attachment 9-B), etc.) you must comply with the request. It is possible that you will need to hire a professional archaeologist to address this. Only when the DAHP concurs with the additional materials provided is the DAHP portion of EO 21-02 complete.

## **9.6 Tribal Consultation**

Tribal consultation is initiated by the WSBO sending a letter to the potential affected Tribal government(s). The letter details any project information describing the location and extent of the project, along with a map of the impacted area.

The Tribe(s) will be allowed at least 30-days to respond. There may be no response, or there may be a wide range of response to the information provided. As with the DAHP, if additional materials are required, they must be provided to the Tribe(s) and they must concur with the findings.

# Attachment 9-A: EO 21-02 Checklist

**1a.** Section 106 of the National Historic Preservation Act (Federal Funding or permitting- **this is not applicable for the ARPA SLRF. Only EO21-02 needs to be conducted**). If your project has other Federal funding in the same project as your ARPA SLRF project, then that federal agency is the lead on this process.

**Note: ARPA Capital funding require NEPA Checklist, at this time the funding could be subject to Section 106. Final Guidance hasn't been released from the US Treasury.**

Is the project subject to Section 106 of the National Historic Preservation Act? If so, EO 21-02 does not apply.

- Provide your WSBO program manager documents from the lead federal agency (i.e. Project's EZ/Project Review, Tribal notification(s) and response(s), DAHP determination/concurrence letter).
- The WSBO program manager reviews submitted documentation, and concurs that no other steps need to be taken.
- Process Complete

**1b.** Executive Order 21-02 (State Funding and not subject to review under Section 106)

*Department of Archaeology and Historic Preservation (DAHP) Consultation*

Step 1:

- Recipient** submits, by email, Form EZ1 to WSBO.
- If a historic property is involved, **Recipient** completes* Historic Property Inventory Form through DAHP's online Wisaard Database.
- Notify WSBO that the online inventory was completed*
- WSBO will initiate consultation with the DAHP**

Step 2a:

The DAHP issues a "No Effect upon Cultural/Historic Properties" letter

- DAHP consultation complete

Step 2b:

The DAHP requires further information (may occur several times)

- Provide requested information to the DAHP and WSBO

Step 3:

The DAHP issues final concurrence letter

- DAHP consultation complete

**2. Indian Tribes consultation (may involve multiple Tribes)**

Step 1:

- WSBO will initiate consultation with the Tribe(s) and will send email notification to the:**

- Tribal Cultural Resource Contact
- Tribal Historic Preservation Officer
- Tribal Chair
- Recipient

**Step 2a:**

**No response received from Tribe after at least 30-days**

- WSBO will follow-up with a phone call, email, and possibly office visit

**If there is an issue WSBO may set up a meeting with interested Tribes for a possible site visit with Recipient for a site visit.**

- Tribal consultation complete

**Step 2b:**

Tribe issues “No Impact” letter

- Tribal consultation complete

**Step 2c:**

Tribe requests further information (may occur several times)

- Provide requested information to WSBO
- Tribal consultation complete

**Step 3:**

Tribe issues final concurrence letter

- Tribal consultation complete

**3. Cultural Resource Review Process Completion. Recipient has completed:**

WSBO has completed:

- DAHP Consultation, and
- Tribal Consultation

**4. Next Steps**

WSBO will issue consultation completion email/letter notification that the EO 21-02 consultation have been met are complete. Coping DAHP and the Interested Tribes that commented on the project of their interest.

- Recipient may begin construction.

If you have any questions, please contact:

**Connie Rivera**

State Broadband Office Infrastructure Programs Manager

[Washington State Department of Commerce](http://www.wa.gov/department-of-commerce)

(360) 704-9535 cell | Work hours: 7 to 5:30, Monday-Thursday.

# Attachment 9-B: Unanticipated Find Plan Template

## PLAN AND PROCEDURES FOR THE UNANTICIPATED FIND OF CULTURAL RESOURCES AND HUMAN SKELETAL REMAINS

PROJECT, COUNTY WASHINGTON

### 1. INTRODUCTION

The plans to construct the project. The purpose of this project is to . The following Unanticipated Find Plan (UFP) outlines procedures to follow, in accordance with state and federal laws, if archaeological materials or human remains are discovered.

### 2. RECOGNIZING CULTURAL RESOURCES

A cultural resource discovery could be prehistoric or historic. Examples include:

- An accumulation of shell, burned rocks, or other food related materials
- Bones or small pieces of bone,
- An area of charcoal or very dark stained soil with artifacts,
- Stone tools or waste flakes (i.e. an arrowhead, or stone chips),
- Clusters of tin cans or bottles, logging or agricultural equipment that appears to be older than 50 years,
- Buried railroad tracks, decking, or other industrial materials.

When in doubt, assume the material is a cultural resource.

### 3. ON-SITE RESPONSIBILITIES

**STEP 1: STOP WORK.** If any employee, contractor, or subcontractor believes that they have uncovered a cultural resource at any point in the project, all work in the immediate area of the discovery must stop (typically a 10 foot radius, but depends on site conditions). The discovery location should be secured at all times.

**STEP 2: NOTIFY MONITOR.** If there is an archaeological monitor for the project, notify that person. If there is a monitoring plan in place, the monitor will follow its provisions.

**STEP 3: NOTIFY CONSTRUCTION SITE PROJECT MANAGEMENT.** Contact the Project Managers:

<b>Jurisdiction:</b>		<b>Firm:</b>	
<b>Name:</b>		<b>Name:</b>	
<b>Title:</b>		<b>Title:</b>	
<b>Number:</b>		<b>Number:</b>	
<b>Email:</b>		<b>Email:</b>	

The Construction Site Project Manager or their designee will make all other calls and notifications. If human remains are encountered, treat them with dignity and respect at all times. Cover the remains with a tarp or other materials (not soil or rocks) for temporary protection in place and to shield them from being photographed. Do not call or speak with the media about the remains specifically.

**4. FURTHER CONTACTS AND CONSULTATION**

**A. Construction Site Project Manager’s Responsibilities:**

- **Protect Find**: The Construction Site Project Manager is responsible for taking appropriate steps to protect the discovery site. All work will stop in an area adequate to provide for the total security, protection, and integrity of the resource. Vehicles, equipment and unauthorized personnel will not be permitted to traverse the discovery site. Work in the immediate area will not resume until treatment of the discovery has been completed following provisions for treating archaeological/cultural material as set forth in this document.
- **Direct Construction Elsewhere On-site**: The Construction Site Project Manager may direct construction away from cultural resources to work in other areas prior to contacting the concerned parties.
- **Contact the Department of Archaeology and Historic Preservation (DAHP)**: If the DAHP has not yet been contacted, the Construction Site Project Manager will do so.
- **Identify Find**: The Construction Site Project Manager will ensure that a qualified professional archaeologist examines the find to determine if it is archaeological. This will either be an archaeological consultant hired by the Construction Site Project or staff from DAHP.
  - If the discovery is determined not archaeological, work may proceed with no further delay.
  - If the discovery is determined to be archaeological, the Construction Site Project Manager will continue with notification.
  - If the discovery is human remains or funerary objects, the Construction Site Project Manager will ensure that the DAHP State Physical Anthropologist examines the find. If the discovery is determined to be human remains, the procedure described in Section 5 will be followed.
- **Notify DAHP**: The Construction Site Project Manager will contact the involved federal or permitting agencies (if any) and the Department of Archaeology and Historic Preservation (DAHP).

**Federal and/or Permitting Agencies:**

<b>Agency:</b>		<b>Agency:</b>	
<b>Name:</b>		<b>Name:</b>	
<b>Title:</b>		<b>Title:</b>	
<b>Number:</b>		<b>Number:</b>	
<b>Email:</b>		<b>Email:</b>	

Department of Archaeology and Historic Preservation:

<b>Dr. Allyson Brooks</b> State Historic Preservation Officer 360-586-3066 or 360-586-3064	<b>Dr. Rob Whitlam</b> State Archaeologist 360-586-3080
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Department of Commerce:

<b>Connie Rivera</b> <b>Broadband Infrastructure Programs Manager</b> <b>Washington State Broadband Office</b> <b>(360) 704-9535</b> <b>Connie.Rivera@commerce.wa.gov</b>	<b>Alden (AL) Andy</b> <b>Broadband Infrastructure Program Supervisor</b> <b>Washington State Broadband Office</b> <b>(360) 791-2595</b> <b>Alden.Andy@commerce.wa.gov</b>
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The Construction Site Project Manager will contact the interested and affected Tribes. Tribes consulted on this project are:

<b>Tribe:</b> <b>Name:</b> <b>Title:</b> <b>Number:</b> <b>Email:</b>		<b>Tribe:</b> <b>Name:</b> <b>Title:</b> <b>Number:</b> <b>Email:</b>	
<b>Tribe:</b> <b>Name:</b> <b>Title:</b> <b>Number:</b> <b>Email:</b>		<b>Tribe:</b> <b>Name:</b> <b>Title:</b> <b>Number:</b> <b>Email:</b>	

B. Further Activities:

- Archaeological discoveries will be documented as described in Section 6.
- Construction in the discovery area may resume as described in Section 7.

**5. SPECIAL PROCEDURES FOR THE DISCOVERY OF HUMAN SKELETAL MATERIAL**

Any human skeletal remains, regardless of antiquity or ethnic origin, will at all times be treated with dignity and respect.

If the project occurs on federal lands (e.g., national forest or park, military reservation) or Indian lands (e.g., reservations, allotments, communities) the provisions of the Native American Graves Protection and Repatriation Act of 1990 apply, and the responsible federal agency will follow its provisions. Note that state highways that cross federal and Indian lands are on easements and are not owned by the state.

If the project occurs on non-federal lands, it will comply with applicable state laws, and the following procedure:

A. Notify Law Enforcement Agency and Coroner’s Office:

- In addition to the actions described in Sections 3 and 4, the Construction Site Project Manager will immediately notify the local law enforcement agency and coroner’s office.
- The medical examiner (with assistance of law enforcement personnel) will determine if the remains are human, whether the discovery site constitutes a crime scene, and will notify DAHP if the remains are determined to be non-forensic.

**Agency:**

**Number:**


B. Participate in Consultation:

- Per RCW 27.44.055, RCW 68.50, and RCW 68.60, DAHP will have jurisdiction over non-forensic human remains and will make a determination of whether the remains are Indian or not, and notify all affected tribes.

C. Further Activities:

- Documentation of human skeletal remains and funerary objects will be agreed upon through the consultation process described in RCW 27.44.055, RCW 68.50, and RCW 68.60.
- When consultation and documentation activities are complete, construction in the discovery area may resume as described in Section 7.

**6. DOCUMENTATION OF ARCHAEOLOGICAL MATERIALS**

Archaeological deposits discovered during construction will be assumed eligible for inclusion in the National Register of Historic Places under Criterion D per 36 CFR 800.13(c) until a formal Determination of Eligibility is made. If the project does not have a federal nexus/compliance requirement, contact the Construction Site Project Manager or DAHP regarding the possible need for an Emergency Excavation Permit per RCW 27.53. In general, expect that:

- All prehistoric and historic cultural material discovered during project construction will be recorded by a professional archaeologist on the State of Washington cultural resource site or isolate form using standard techniques. Site overviews, features and artifacts will be photographed; stratigraphic profiles and soil/sediment descriptions will be prepared for subsurface exposures. Discovery locations will be documented on scaled site plans and site location maps.
- Cultural features, horizons and artifacts detected in buried sediments may require further evaluation using hand-dug test units. Units may be dug in a controlled fashion to expose features, collect samples from undisturbed contexts, or interpret complex stratigraphy. A test excavation unit or small trench might also be used to determine if an intact occupation surface is present. Test units will be used only when necessary to gather information on the nature, extent and integrity of subsurface cultural deposits to evaluate the site’s significance. Excavations will be conducted using state-of-the-art techniques for controlling provenience.

- Spatial information, depth of excavation levels, natural and cultural stratigraphy, presence or absence of cultural material, and depth to sterile soil, regolith or bedrock will be recorded for each probe on a standard form. Test excavation units will be recorded on unit-level forms, which include plan maps for each excavated level, and material type, number, and vertical provenience (depth below surface and stratum association where applicable) for all artifacts recovered from the level. A stratigraphic profile will be drawn for at least one wall of each test excavation unit.
- Sediments excavated for purposes of cultural resources investigation will be screened through 1/8-inch mesh, unless soil conditions warrant 1/4-inch mesh.
- All prehistoric and historic artifacts collected from the surface and from probes and excavation units will be analyzed, catalogued and temporarily curated. Ultimate disposition of cultural materials will be determined in consultation with the federal agencies (if any), DAHP and the affected tribes.

If assessment activity exposes human remains (burials, isolated teeth or bones), the process described in Section 5 above will be followed.

## **7. PROCEEDING WITH CONSTRUCTION**

Project construction outside the discovery location may continue while documentation and assessment of the cultural resources proceed. A Cultural Resources Specialist (either from DAHP, a consulting Tribe or a professional consultant) must determine the boundaries of the discovery location. In consultation with DAHP and affected tribes, the Construction Site Project Manager will determine the appropriate level of documentation and treatment of the resource. If federal agencies are involved, the agencies will make the final determinations about treatment and documentation.

Construction may continue at the discovery location only after the process outlined in this plan is followed and DAHP (and the federal agencies, if any) determine that compliance with state and federal laws is complete.

# Attachment 9-C: NEPA Checklist

## Treasury's Coronavirus Capital Projects Fund Environmental Checklist

This is a reference document that lists environmental laws that may apply to any eligible project. The following questions will aid entities in identifying the environmental laws that may apply; however, the entity must perform the proper due diligence to ensure their project complies with all applicable laws. Additionally, recipients must retain records, permits and documentation necessary to evidence compliance with all environmental requirements.

### FEDERAL LAWS

#### 1.1 NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

The National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 et seq.) provides a national policy that encourages “productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man...” The NEPA requires that all federal agencies use a systematic, interdisciplinary approach for protection of the human environment; this approach will ensure the integrated use of the natural and social sciences in any planning and decision-making that may have an impact upon the environment. The NEPA also requires the preparation of a detailed Environmental Impact Statement (EIS) on any major federal action that may have a significant impact on the environment.

- 1) Will the proposed activity be under the permitting authority of any federal agency? Yes No
- 2) Will the proposed activity receive federal assistance (other than Coronavirus Capital Projects Fund funding)? Yes No
- 3) Will the proposed activity be subject to any federal regulatory decision or approval? Yes No

Has a NEPA or NEPA-like review been independently prepared for this proposed eligible activity or is a NEPA review underway? Yes No

If the answer to any of these questions is “yes,” contact the relevant federal agency or agencies for further guidance on environmental compliance. Additional information concerning NEPA can be found at: <https://ceq.doe.gov/>.

#### 1.2. COASTAL ZONE MANAGEMENT ACT (CZMA)

Capital Projects Fund grant applications may be subject to the review provisions of Section 307 of the Coastal Zone Management Act (CZMA) and implementing regulations 15 CFR Part 930. Questions as to the applicability of the CZMA consistency provisions should be directed to the Office of Ocean and Coastal Resource Management/Coastal Services Center within the National Oceanic and Atmospheric Administration. A federal consistency determination or certification may be required from the state coastal zone management program, based on the following questions:

- 1) Will the proposed activity occur in or near the state designated coastal zone? Yes No  
(<http://coastalmanagement.noaa.gov/mystate/docs/StateCZBoundaries.pdf>)
- 2) Is the activity likely to have reasonably foreseeable effects on any land or water use or natural resource of the designated coastal zone? Yes No

If the answer to either of these questions is “yes,” contact the State Coastal Zone Management Program (<https://coast.noaa.gov/data/czm/consistency/media/state-fc-contacts.pdf>) for further guidance on federal consistency requirements in your state. Additional information on federal consistency can be found at: <https://coast.noaa.gov/czm/consistency/>.

### 1.3 ENDANGERED SPECIES ACT (ESA)

Section 7 of the Endangered Species Act (ESA) imposes a duty on federal agencies to ensure their actions are not likely to adversely affect threatened or jeopardize the continued existence of any species listed as threatened or endangered, or that would result in the destruction or adverse modification of the critical habitat of a listed species. A Section 7 consultation may be required if a threatened or endangered species or critical is present.

- 1) Will the proposed activity occur in proximity to threatened or endangered species or critical habitat as defined by the ESA and under the jurisdiction of the National Marine Fisheries Service (NMFS) (<https://www.fisheries.noaa.gov/species-directory/threatened-endangered>) or the U.S. Fish and Wildlife Service (USFWS) (<https://www.fws.gov/endangered/>)? Yes No
- 2) Will the proposed activity potentially affect threatened or endangered species or critical habitat as defined by the ESA and under the jurisdiction of National Marine Fisheries Service (NMFS) or U.S. Fish and Wildlife Service (USFWS)? Yes No

If the answer to either of these questions is “yes,” contact the regional office of USFWS (<http://www.fws.gov/offices/>) and/or NMFS (<https://www.fisheries.noaa.gov/contact-directory/regional-offices>) to determine if consultation is required. Most consultations are conducted informally with the federal agency or a designated non-federal representative. Non-federal representatives may be involved in the informal consultation process and may request and receive species lists, prepare the biological assessment, and provide information for the formal consultation. However, the USFWS requires the action agency to designate formally the non-federal representative in writing. Moreover, the ultimate responsibility for Section 7 obligations remains with the action agency. Additional information concerning Section 7 consultations can be found in the Endangered Species Act Consultation Handbook at: <http://www.fws.gov/policy/m0002.html>.

### 1.4 MAGNUSON – STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT (MSA)

The Magnuson-Stevens Fishery Conservation and Management Act (MSA) is the primary law that governs marine fisheries managements in U.S. federal waters. Consultation with the NMFS may be required if Essential Fish Habitat (EFH) is present where project activity will occur. The trigger for EFH consultation is a federal agency’s determination that an action or proposed action, funded, authorized, or undertaken by that agency may adversely affect EFH.

- 1) Will the proposed activity occur in proximity to EFH as identified by the nearest Regional Fishery Management Council (<https://www.habitat.noaa.gov/apps/efhmapper/>)? Yes No
- 2) Will the proposed activity potentially adversely affect EFH? Yes No

If the answer to either of these questions is “yes,” contact the nearest regional office of the NMFS (<https://www.fisheries.noaa.gov/contact-directory/regional-offices>) or Regional Fishery Management Council (<http://www.fisherycouncils.org/>) to determine if consultation is required. Additional information concerning EFH can be found at: <https://www.fisheries.noaa.gov/national/habitat-conservation/essential-fish-habitat>. Information about consultations can be found in the Essential Fish Habitat Consultation Guidance at: <https://www.fisheries.noaa.gov/national/habitat-conservation/consultations-essential-fish-habitat#the-consultation-process>.

### 1.5 MARINE MAMMAL PROTECTION ACT (MMPA)

The Marine Mammal Protection Act prohibits actions that may result in take of any marine mammal. Taking is defined as “to harass, hunt, capture or kill, or attempt to harass, hunt, capture or kill any marine mammal.” Any Agency actions with the potential to take a marine mammal require consultation with NMFS (for seals, sea lions, whales, dolphins and most marine mammals) or FWS (sea otters, polar bears, walruses, manatees and dugongs) following a process similar to ESA Section 7 consultation.

- 1) Will the proposed activity occur in proximity to any known marine mammals (<https://www.fisheries.noaa.gov/species-directory>)? Yes No
- 2) Will the proposed activity likely result in the take of a marine mammal? Yes No

If the answer to either of these questions is “yes,” contact the nearest regional office of NMFS (<https://www.fisheries.noaa.gov/contact-directory/regional-offices>) to determine if a permit is required. Additional

information concerning marine mammal permits can be found at: <https://www.fisheries.noaa.gov/insight/understanding-permits-and-authorizations-protected-species> and <https://apps.nmfs.noaa.gov/index.cfm>.

## 1.6 CLEAN WATER ACT (CWA)

A separate type of permit is required to dispose of dredge or fill material in the Nation's waters, including wetlands. Authorized by Section 404 of the Act, this permit program is administered by the U.S. Army Corps of Engineers (USACE), subject to and using environmental guidance from the Environmental Protection Agency (EPA). Some types of activities are exempt from permit requirements, including certain farming, ranching and forestry practices that do not alter the use or character of the land; some construction and maintenance; and activities already regulated by States under other provisions of the Act.

A permit may be required from the USACE for the disposal of dredge or fill material in the nation's waters, including wetlands.

- 1) Will the proposed activity result in any disposal of dredge or fill material to the nation's waters or wetlands? Yes No

If the answer to this question is "yes," contact the Regulatory Program of the nearest District Office of the USACE (<http://www.usace.army.mil/Locations.aspx>) for further guidance on Section 404 permits.

A Water Quality Certification (Section 401) is required for activities that may result in a discharge into navigable waters, including wetlands, watercourses and natural or man-made ponds. A National Pollution Discharge Elimination System (NPDES) permit may also be required for such discharges.

- 1) Will the proposed activity result in any discharge to navigable waters? Yes No

If the answer to this question is "yes," contact your state water quality agency for additional guidance. Additional information concerning Section 401 or NPDES requirements can be found at: <https://www.epa.gov/cwa-401/overview-cwa-section-401-certification> and <https://www.epa.gov/npdes/npdes-permit-basics>.

## 1.7 CLEAN AIR ACT (CAA)

Clean Air Act (CAA), 42 U.S.C §§ 7409, 7410, 7502-7514, 7571-7574, requires establishment of National Ambient Air Quality Standards (NAAQS) and designation of areas based on achievement of these standards. It also requires preparation of a State Implementation Plan for Air Quality (SIP). In Section 176(c) of the CAA, federal agencies must demonstrate that their actions conform to these SIPs (or the Tribal or Federal equivalent of a SIP). The CAA also requires emission limits to be controlled and regulated through permit requirements set by states or Tribes. Special conditions may be required on projects that could affect air quality.

- 1) Will the proposed activity result in any direct or indirect emissions within a non-attainment area (<https://www.epa.gov/green-book>)? Yes No

If the answer to this question is "yes," contact the nearest state air quality agency (<http://www.4cleanair.org>) for further guidance on determining conformity with the state implementation plan.

## 1.8 NATIONAL HISTORIC PRESERVATION ACT (NHPA)

Pursuant to 54 U.S.C. § 300101, the National Historic Preservation Act (NHPA) establishes federal government policy with regards to historic preservation. Section 106 of NHPA (54 U.S.C § 306108) requires that “the head of any federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in any State and the head of any Federal department or independent agency having authority to license any undertaking shall, prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license, take into account the effect of the undertaking on historic properties; and afford the Advisory Council on Historic Preservation a reasonable opportunity to comment with regard to such undertaking.” Special conditions may be required on projects that could affect historic resources.

- 1) Will the proposed activity occur near property listed or eligible for listing in the National Register of Historic Places (<https://www.nps.gov/subjects/nationalregister/index.htm>), or near property otherwise protected by section 106 of the National Historic Preservation Act (<http://www.nps.gov/history/local-law/nhpa1966.htm>) or a similar State Preservation Act? Yes No

If the answer to this question is “yes,” contact the U.S. Advisory Council on Historic Preservation (<http://www.achp.gov>), or your state historic preservation office (<http://www.ncshpo.org/>) for further guidance concerning compliance requirements.

## 1.9 COASTAL BARRIER RESOURCE ACT (CBRA)

The Coastal Barrier Resources Act (CBRA) of 1982 (16 U.S.C. 3501 et seq.) protects undeveloped coastal barriers and related areas by prohibiting direct or indirect Federal funding that might support development in these areas. The act lists exceptions to the limitations on Federal expenditures and financial assistance within the CBRS. No exception may be implemented, however, without first consulting with the FWS.

- 1) Is the proposed activity located on an undeveloped coastal barrier designated by the Coastal Barriers Resources Act (<http://www.fws.gov/cbra/>)? Yes No

If the answer to this question is “yes,” contact the nearest Regional Office of USFWS (<http://www.fws.gov/where>) for further guidance.

## 1.10 RIVERS AND HARBORS ACT

Section 10 of the Rivers and Harbors Act of 1899 requires authorization from the Secretary of the Army, acting through the Corps of Engineers, for the construction of any structure in or over any navigable water of the United States. The law applies to any dredging or disposal of dredged materials, excavation, filling, re-channelization or any other modification of a navigable water of the United States, and applies to all structures, from the smallest floating dock to the largest commercial undertaking. A permit may be required from the USACE if the proposed activity involves any work in, over or under navigable waters of the United States.

- 1) Will the proposed activity involve any work (including structures) that will occur in, over or under navigable waters of the United States? Yes No

If the answer to this question is “yes,” contact the Regulatory Program of the nearest District Office of the USACE (<http://www.usace.army.mil/Locations.aspx>) for further guidance on Section 10 permits. The USACE can authorize activities by a standard individual permit, letter-of-permission, nationwide permit or regional permit. The USACE will make the determination on what type of permit is needed.

### **1.11 RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)**

The Resource Conservation and Recovery Act (RCRA) gives EPA the authority to control hazardous waste from cradle to grave. This includes the generation, transportation, treatment, storage, and disposal of hazardous waste. A RCRA permit may be required from the EPA or designated state agency for the long-term storage, treatment or disposal of hazardous materials or petroleum products.

- 1) Will the proposed activity include the long-term storage of hazardous materials or petroleum products? Yes No

If the answer to this question is “yes,” contact the nearest RCRA Regional Office of the EPA or state authorized agency (<https://www.epa.gov/hwgenerators/links-hazardous-waste-programs-and-us-state-environmental-agencies>) for further guidance on RCRA compliance.

### **1.12 COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA)**

The Comprehensive Environmental Response, Compensation, and Liability Act -- otherwise known as CERCLA or Superfund -- provides a Federal "Superfund" to clean up uncontrolled or abandoned hazardous-waste sites as well as accidents, spills and other emergency releases of pollutants and contaminants into the environment. Special provisions and requirements may apply if the proposed activity involves a Superfund site (<http://www.epa.gov/superfund/sites/index.htm>).

- 1) Will the proposed activity involve a known Superfund site (<https://www.epa.gov/superfund/search-superfund-sites-where-you-live>)? Yes No

If the answer to this question is “yes,” contact the nearest Regional Office of the EPA (<https://www.epa.gov/aboutepa/regional-and-geographic-offices>) for further guidance on CERCLA requirements.

### **1.13 WILD AND SCENIC RIVERS ACT**

The Wild and Scenic Rivers Act prohibits federal support for actions such as the construction of dams or other instream activities that would harm the free-flowing condition, water quality or outstanding resource values of a designated Wild and Scenic River. Designation of a river neither does nor inherently prohibit development. “The Act purposefully strives to balance dam and other construction at appropriate sections of rivers...”

- 1) Is the proposed activity located on a designated Wild and Scenic River (<http://www.rivers.gov/index.php>)? Yes No

If the answer to this question is “yes” contact the nearest Regional Office of the USFWS (<http://www.fws.gov/where>) for further guidance.

### **1.14 SAFE DRINKING WATER ACT (SDWA)**

The Safe Drinking Water Act (SDWA) authorizes the EPA to set national health-based standards for drinking water to protect against both naturally-occurring and man-made contaminants that may be found in drinking water. EPA, states and water systems then work together to make sure that these standards are met. A permit may be required if the proposed activity will involve underground injection which may impact drinking water sources.

- 1) Will the proposed activity involve underground injection which may impact drinking water sources? Yes No

If the answer to the question is “yes,” contact the nearest state drinking water or underground injection control program (<https://www.epa.gov/uic>). For more information see: <http://water.epa.gov/lawsregs/guidance/sdwa/>.

### **1.15 FARMLAND PROTECTION POLICY ACT (FPPA)**

The Farmland Protection Policy Act (FPPA) is intended to minimize the impact Federal programs have on the unnecessary and irreversible conversion of farmland to nonagricultural uses. It assures that to the extent possible federal programs are administered to be compatible with state, local units of government, and private programs and policies to protect farmland. For the purpose of FPPA, farmland includes prime farmland, unique farmland and land of statewide or local importance. Farmland subject to FPPA requirements does not have to be currently used for cropland. It can be forest land, pastureland, cropland or other land, but not water or urban built-up land. For more information, visit: <https://www.nrcs.usda.gov/wps/portal/nrcs/main/national/landuse/fppa/>.

- 1) Is the proposed activity for new construction, acquisition of undeveloped land or change in use of land or property? Yes No

If the answer to the question is “no,” the FPPA does not apply. If the answer to the question is “yes,” to determine any necessary next steps, contact the local National Resource Conservation Service District Conservationist ([https://www.nrcs.usda.gov/wps/portal/nrcs/detail/soils/contactus/?cid=nrcs142p2\\_053951](https://www.nrcs.usda.gov/wps/portal/nrcs/detail/soils/contactus/?cid=nrcs142p2_053951)).

## EXECUTIVE ORDERS

Executive Orders (E.O.) are directives from the President of the United States to federal agencies and officials.

### 2.1 E.O. 11988, as amended by E.O. 13690 – Floodplain Management

E.O. 11988 requires federal agencies to avoid, to the extent possible, the long and short-term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct and indirect support of floodplain development wherever there is a practicable alternative. To this effect, an 8-step process must be followed for projects that may have potential impacts to or within floodplains ([https://emilms.fema.gov/is\\_0253a/groups/74.html](https://emilms.fema.gov/is_0253a/groups/74.html)). On January 30, 2015, in amending and building upon E.O. 11988, the President issued E.O. 13690, establishing Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input. Order 13690 and the associated Federal Flood Risk Management Standards (FFRMS) reinforce the important tenets and concepts articulated in Order 11988. When avoiding the floodplain is not possible, E.O. 13690 calls for agencies to make efforts to improve the resilience of communities as of federal actions. Importantly, Order 13690 established a new standard against which federal agencies are to evaluate the potential impacts of flooding on federal investments, the FFRMS. This standard set a higher vertical elevation and a greater horizontal extent to the floodplain to be considered.

- 1) Is the proposed activity located in a designated floodplain or have the potential to affect or be affected by a floodplain on a National Flood Insurance Program map: (<https://msc.fema.gov/portal/home>)? Yes No

If the answer to this question is “yes,” contact the nearest Regional Office of the Federal Emergency Management Agency (<http://www.fema.gov/regional-operations>) for further guidance.

### 2.2 E.O. 11990 – WETLAND PROTECTION

This E.O. requires agencies to minimize the destruction, loss, or degradation of wetlands, and to preserve and enhance the natural beneficial values of wetlands. Similar to E.O. 11988, the 8-step process is followed to consider how actions affect wetlands.

- 1) Is any portion of the proposed activity in wetlands? Yes No

If the answer to this question is “yes,” provide documentation in the grant application demonstrating that: (1) there is no practicable alternative, and (2) the proposed activity includes all practicable measures to minimize harm to wetlands.

### 2.3 E.O. 12898 – ENVIRONMENTAL JUSTICE

This E.O. requires that "each federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies and activities on minority populations and low-income populations." Thus, as appropriate, analysis of environmental justice concerns should be integrated during the review process.

- 1) Will the proposed activity have disproportionately high and adverse human health or environmental effects on minority or low-income populations? Yes No

If the answer to this question is “yes,” see the Council on Environmental Quality website for further guidance on Environmental Justice: <https://ceq.doe.gov/nepa-practice/justice.html>, <https://ceq.doe.gov/docs/ceq-regulations-and-guidance/regs/ej/justice.pdf>, and [https://www.epa.gov/sites/default/files/2016-08/documents/nepa\\_promising\\_practices\\_document\\_2016.pdf](https://www.epa.gov/sites/default/files/2016-08/documents/nepa_promising_practices_document_2016.pdf).

## **2.4 E.O. 13089 – CORAL REEF PROTECTION**

This E.O. requires that any actions that are authorized or funded by federal agencies not degrade the condition of coral reef ecosystems.

- 1) Will the proposed activity involve a coral reef ecosystem or National Marine Sanctuary (<http://sanctuaries.noaa.gov>)? Yes No

If the answer to this question is “yes,” contact the National Oceanic and Atmospheric Administration Coral Reef Conservation Program (<http://www.coralreef.noaa.gov>) for further guidance. Additional information regarding E.O. 13089 can be found at: <https://www.govinfo.gov/content/pkg/FR-1998-06-16/pdf/98-16161.pdf>.

## **2.5 E.O. 13112 – INVASIVE SPECIES**

This E.O. requires agencies to prevent the introduction of invasive species and provide for their control.

- 1) Will the proposed activity have the potential to introduce or cause the spread of an invasive species? For more information on invasive species, see <https://www.invasivespeciesinfo.gov/>. Yes No

If the answer to this question is “yes,” provide documentation demonstrating that the benefits of the activity clearly outweigh the potential harm caused by invasive species, and that all feasible and prudent measures to minimize risk of harm will be taken in conjunction with the actions.

## **2.6 E.O. 13186 – RESPONSIBILITIES OF FEDERAL AGENCIES TO PROTECT MIGRATORY BIRDS**

This E.O. requires the incorporation and promotion of migratory bird conservation considerations into all agency activities.

- 1) Is the proposed activity likely to occur during a time of the year when migrating birds are in the vicinity? For more information on migratory birds, see <http://www.fws.gov/migratorybirds>. Yes No

If the answer to this question is “yes,” contact the nearest Regional Office of the U.S. Fish and Wildlife Service (<http://www.fws.gov/where>) for further guidance. Additional information regarding E.O. 13186 can be found at: <https://www.fws.gov/birds/policies-and-regulations/administrative-orders/executive-orders.php>.

# 10. Monitoring

## 10.1 Monitoring Overview

The objectives of monitoring are to determine if Recipients are:

- Carrying out funded activities in a timely manner and complying with applicable laws, regulations and terms as described in their contracts (as modified or amended).
- Charging costs to the program or project that are eligible and minimizing the opportunity for fraud, waste and mismanagement.

## 10.2 WSBO's Monitoring Role

The role of the WSBO is to assure that Recipients are carrying out their programs in accordance with applicable laws and regulations. In carrying out this responsibility, we will help Recipients identify problems or potential problems in program implementation, identify the causes of problems and help Recipient to correct them. Templates of the monitoring checklists are included as Attachments 10-A.

## 10.3 Definitions

- Contract Monitoring – An ongoing process of reviewing Recipient performance, progress and compliance with applicable laws or regulations assuring any necessary corrective action. The Recipient is responsible for monitoring their subrecipients. An on-site visit may occur.
- Concerns/Issues – Areas that warrant preventative action before noncompliance or are out of compliance with applicable laws or regulations.
- Findings – Substantial evidence obtained by the Project Manager as a result of any monitoring or reporting activity that indicates nonperformance or noncompliance with a specific requirement of applicable laws or regulations. Continued unresolved findings may have serious implications for future eligibility.
- Recommendation – Advice for future action due to a concern or to further comply with applicable laws or regulations.
- Required Action or Resolution – The corrective response directed to the Recipient, or subrecipient if applicable, to resolve a monitoring issue or address a finding.

## **10.4 Contract Monitoring Activities**

Project managers conduct contract monitoring throughout the contract period to assess Recipient progress and performance.

WSBO will emphasize the following areas when conducting monitoring in accordance with applicable state and federal regulations:

- Overall Recipient Management
- Subrecipients
- Financial Management
- Professional Services Procurement (including Minority- and Women-Owned Business outreach)
- Construction Procurement (including Minority- and Women-Owned Business outreach)

### **Follow-up Action**

- In the event that the Recipient fails to meet a target date for corrective action, WSBO will issue a formal request for response.
- If the Recipient has not responded within 30 calendar days after the corrective action date, WSBO will withhold further payment until the Recipient responds or implements corrective action.
- Failure by the Recipient to correct deficiencies may result in WSBO withholding funds and possible restrictions on future grants.

# Attachment 10-A: Monitoring Checklist

CONSTRUCTION MONITORING CHECKLIST			
RECIPIENT		CONTRACT #	
PROJECT		PRIMARY RECIPIENT CONTACT OTHER PARTICIPANTS	
DATE		COMMERCE STAFF	
REVIEW COMPLETION & ROUTING			
		Initials	Date Completed
PROJECT MANAGER			
INFRASTRUCTURE PROGRAMS MANAGER			

OVERALL RECIPIENT MANAGEMENT	
1. Does the Recipient have written standards of conduct (Handbook Attachment 3-A)?	
2. Is there any appearance or evidence of conflict of interest? (Project Manager to determine and answer)	
3. Confirm Recipient has an executed IAG OR WSBO CONTRACT (digital or hardcopy)	
4. Does it appear that the recipient is implementing the project in accordance with overall management and reporting requirements?	
<b>COMMENTS:</b>	

SUB-RECIPIENTS (if applicable)	
1. Sub-recipient Name	
2. Copy of SAM.Gov active registration verification (showing date checked)	
3. Is there a written contract or agreement that includes the required Federal Standard Provisions along with other recommend content listed in the management handbook?	
4. How has the recipient monitored the performance and compliance?	
<b>COMMENTS</b>	

## FINANCIAL MANAGEMENT

1. Identify the person(s) primarily responsible for the financial management of the contract.

### Check for Allowable and Eligible Costs

2. Review funding sources for the project. Identify other funding sources: State, local, private, and federal. Federal funds cannot be used to duplicate costs/services/equip. etc. ID internal controls to ensure no duplicate expenditures

The Recipient is expected to disburse funds for outstanding invoices within a reasonable time, per their contract requirements. Project Manager will ask the recipient to fill in the table below using three vouchers of your choice.

### Check for Timely Distribution of Funds

<i>A19-Voucher #</i>	<i>Date Funds Received from Commerce:</i>	<i>Date Funds Disbursed to Subrecipient/Contractor:</i>	<i>Total Days</i>

## COMMENTS

## PROFESSIONAL SERVICES PROCUREMENT

1. Name of consultant/engineer/architect:
2. Copy of SAM.Gov Consultant exclusion check showing date checked (prior to award):
3. Amount of contract:
4. Purpose of the contract work:
5. Which type of RFQ/RFP procurement, either an, Annual Roster or Project Specific Advertisement did the Recipient prepare?
6. Did the procurement instrument (RFQ or RFP) contain all required clauses and provisions?
7. List Publications Dates (RFQ/RFP advertised once per week for two weeks with 14 days allowed after last publication for respondents to submit RFQ/RFP?)
8. Has the Recipient provided a copy of the Affidavit of Publication or provided actual copies of the Published Ad?

Efforts to use Small, Minority, and Women-Owned Businesses, Document Review /Selection Process and Federal Standard Provisions	
9. Did the Recipient provide the posted advertisement or the email from the State Office of Minority and Women’s Business Enterprises (OMWBE) website at <a href="http://www.omwbe.wa.gov">www.omwbe.wa.gov</a> showing date posted? OR Did Recipient provide documentation that they sent the advertisement to a minimum of five MWBE consultants?	
10. Does the Recipient have documentation supporting the review and selection process?	
<b>Comments:</b>	

CONSTRUCTION PROCUREMENT	
<b>Construction Procurement - Utilizing Competitive Sealed Bids</b>	
1. List Publications Dates of the Advertisement for Bids (once per week for two weeks with 14 days allowed after last publication for bidders to submit)?	
2. Has the Recipient provided a copy of the Affidavit of Publication or provided actual copies of the published Advertisement?	
3. For projects that do NOT contain solely last mile work: Verify contract contains the above language: a. Include interconnection requirements in contract (to any grant funded facilities at any technically feasible point along the network without exceeding capacity limitations.) – <i>Physical interconnection with public and/or private facilities.</i> b. Mandatory connection to public internet (directly or indirectly). c. Rates and terms shall be reasonable and nondiscriminatory. Document compliance (copies of policies, rate/term sheets, etc.)	
4. <b>Efforts to use Small, Minority, and Women-Owned Businesses</b> Did the Recipient provide the posted advertisement or the email from the State Office of Minority and Women’s Business Enterprises (OMWBE) website at <a href="http://www.omwbe.wa.gov">www.omwbe.wa.gov</a> showing date posted?  OR Send the invitation to bid advertisement to a minimum of five MWBE contractors. You can use the directory on the OMWBE website or develop your own local list.	
<b>Key Dates/comments:</b>	
1. Bid Closing/Opening:	
2. Bid Tabulation (If less than 3 bids, PM ask for Plan Holders List):	

3. Contractor Name:	
4. Copy of SAM.Gov Contractor exclusion check showing date checked (prior to award):	
5. Contract Award Date:	
6. Preconstruction Conference, if applicable:	
7. Executed contract (with bonds and insurance):	
8. Construction Start:	
9. Notice of Contract Award and Start of Construction form:	
<b>Comments:</b>	

SMALL PURCHASE/ NON-COMPETITIVE PROCUREMENT	
Small Purchases (less than \$50,000)	Response
1. Name of Contract/Purchase	
2. Amount:	
3. Date of SAM.Gov Contractor Clearance	
4. How many price quotations did Recipient solicit? (must solicit bids from at least three sources; must receive at least two bids)	
5. Did Recipient issue a purchase order or contract to the most advantageous vendor in terms of price and other factors considered?	
6. Bonding and insurance requirements were met (if applicable)?	

# 11. Appendix

## 11.1 State Requirements

Title	Relevant Law or Regulation
Insurance Coverage	<u>Non-Profits</u> : Contractual Requirement <u>Self-Insured</u> : <a href="#">RCW 48.62</a>
Labor Regulations	<a href="#">Title 49 RCW</a>
Preservation of Archaeological and Cultural Resources	<a href="#">Executive Order 21-02</a> <a href="#">RCW 27.44 Indian Graves and Records</a> <a href="#">RCW 27.53 Archaeological Sites and Resources</a> <a href="#">RCW 68.60 Abandoned and Historic Cemeteries and Historic Graves</a> <a href="#">WAC 25-48 Archaeological Excavation and Removal Permits</a>
Public Works	<a href="#">Title 39 RCW</a>
State Environmental Policy Act (SEPA)	<a href="#">Chapter 43.21C RCW</a>

## 11.2 Federal Requirements

Title	Relevant Law or Regulation
Age Discrimination Act of 1975	<a href="#">42 U.S.C. 6101 et seq.</a> , <a href="#">31 CFR Part 23</a>
Annual Audit Requirement Clause	<a href="#">2 CFR 200.501</a>
Conflicts of Interest	<a href="#">2 CFR 200.318(c)</a> , <a href="#">2 CFR 200.112</a>
Contract Hours and Safety Standards Act	<a href="#">40 U.S.C. 3702</a> and <a href="#">3704</a> , <a href="#">29 CFR Part 5</a>
Cost Principles	<a href="#">2 CFR Part 200, Subpart E</a>
Equipment and Real Property Management	<a href="#">2 CFR Part 200, Subpart D</a> , <a href="#">2 CFR 200.311</a> , <a href="#">2 CFR 200.313</a>
Labor Agreements	<a href="#">29 U.S.C. 158(f)</a>
New Restrictions on Lobbying	<a href="#">31 CFR Part 21</a>
Procurement, Suspension, and Debarment Requirements	<a href="#">2 CFR 200.317</a> through <a href="#">2 CFR 200.322</a>
Reducing Text Messaging While Driving	<a href="#">Executive Order 13513</a> , <a href="#">74 CFR 51225</a>

Title	Relevant Law or Regulation
Relocation and Real Property Acquisition Requirement	<a href="#">42 U.S.C. 4601-4655</a> , <a href="#">49 CFR Part 24</a>
SAM.gov Requirements	<a href="#">2 CFR Part 25</a> , <a href="#">2 CFR 200.214</a>
Section 504 of the Rehabilitation Act of 1973	<a href="#">29 U.S.C. 794</a>
Sections 602 & 603 of the Social Security Act	<a href="#">Sections 602 &amp; 603</a>
Standards of Conduct	<a href="#">2 CFR 200.318</a>
Title II of the Americans with Disabilities Act of 1990	<a href="#">42 U.S.C. 12101 et seq.</a>
Title IX of the Education Amendments of 1972	<a href="#">20 U.S.C. 1681 et seq.</a> <a href="#">31 CFR Part 28</a>
Title VI of the Civil Rights Act of 1964	<a href="#">42 U.S.C. 2000d-1 et seq.</a> <a href="#">31 CFR Part 22</a>
Uniform Administrative Requirements	<a href="#">2 CFR Part 200</a>

### **11.3 Quick References for WSBO Funding**

Organization	Website
Washington State Broadband Office	<a href="https://www.commerce.wa.gov/building-infrastructure/washington-statewide-broadband-act/">https://www.commerce.wa.gov/building-infrastructure/washington-statewide-broadband-act/</a>
Washington State Labor & Industries - Prevailing Wage	<a href="http://www.lni.wa.gov">www.lni.wa.gov</a>
Office of Minority & Women’s Businesses	<a href="http://www.omwbe.wa.gov">www.omwbe.wa.gov</a>
Municipal Research and Services Center (MRSC)	<a href="http://www.mrsc.org">www.mrsc.org</a>
Washington Small Business Development	<a href="http://www.wsbdc.org">www.wsbdc.org</a>
Washington Society of Certified Public Accountants	<a href="http://www.wscpa.org">www.wscpa.org</a>
Washington Utilities and Transportation Commission	<a href="http://www.utc.wa.gov/">http://www.utc.wa.gov/</a>

## 11.4 Glossary

Acronym	Meaning
<b>A-19 Reimbursement Voucher</b>	The form used to request reimbursement for incurred WSBO project expenses.
<b>ALN</b>	Assistance Listing Number: For SLFRF this is 21.027. For Capital this is 21.029
<b>ARPA</b>	American Rescue Plan Act
<b>ARPA Recipient or ‘Recipient’</b>	WSBO’s title with regards to the funding received by the federal agency as the pass thru agency. This funding is then passed on to Recipients (also called sub-recipients).
<b>CFR</b>	Code of Federal Regulations
<b>CMS</b>	Contract Management System
<b>Commerce</b>	Washington State Department of Commerce.
<b>Competitive Bid Process</b>	All construction activities must be contracted out to the lowest responsible bidder through a competitive bidding process.
<b>Contractor</b>	Firm selected through a competitive procurement process and is paid ARPA SLFRF funds by the Recipient (WSBO) in compensation for specific services.
<b>ARPA</b>	American Rescue Plan Act
<b>CWHSSA</b>	Contract Work Hours and Safety Standards Act
<b>Department of Archaeology and Historic Preservation (DAHP)</b>	Washington State Department of Archaeology and Historic Preservation, which reviews cultural resource activities for federal and state funded projects.
<b>Electronic Funds Transfer (EFT)</b>	RECIPIENTS are encouraged to sign up for EFT to have funds transferred to their accounts electronically rather than through the mail by State Warrant.
<b>ESD</b>	Employment Security Department
<b>Executed Contract</b>	A contract is considered “executed” once the document is signed by the RECIPIENT and Commerce.
<b>GAO</b>	Government Accountability Office
<b>GEO</b>	Governor’s Executive Order
<b>IAG</b>	Infrastructure Acceleration Grant

Acronym	Meaning
IFB	Invitation for Bid
IRU	Indefeasible Right of Use
ISP	Internet Service Provider
Lowest Responsible Bidder	A term used to determine the successful contractor for a construction project that has been competitively bid.
MRSC	Municipal Research and Services Center
MTDC	Modified Total Direct Costs: all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first \$25,000 of each sub-award. <i>Excludes equipment, capital expenditures and rental costs.</i>
OMB	Office of Management and Budget
OMWBE	Office of Minority and Women’s Business Enterprises
PRAC	Pandemic Relief Accountability Committee
Prevailing Wages	Hourly wage and usual benefits paid in the largest city in each county, to the majority of workers, laborers and mechanics as determined by the Washington State Department of Labor and Industries for each trade and occupation employed in the performance of public work.
PWIA	Prevailing Wage Intent and Affidavit
RCW	Revised Code of Washington
Recipient	The receiving organization of funds from WSBO, may also be referred to as a <b>sub-recipient</b>
RFP	Request for Proposals
RSQ	Request for Statement of Qualifications
SAM	System for Award Management
SAW	Secure Access Washington: <a href="https://secureaccess.wa.gov/">https://secureaccess.wa.gov/</a>
SLFRF	Coronavirus State and Local Fiscal Recovery Fund and Capital Fund
Statewide Vendor Number (SWV)	A vendor number established through the Washington State Office of Financial Management

Acronym	Meaning
<b>Subcontractor</b>	Firm selected through a competitive procurement process and is paid by the Recipient in compensation for specific services.
<b>UBI</b>	Unified Business Identifier
<b>US Treasury</b>	U.S. Department of the Treasury
<b>WAC</b>	Washington Administrative Code
<b>WSBO</b>	Washington State Broadband Office