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**Scoring Criteria 2: Samples (3) of Policies, Procedures and Practices Prepared for a Client Providing Guidance Regarding the Strategic Planning, Funds Management, Acquisition and Administration of Federal Transportation Grant Funding**

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Packet A Appendix attachment Policies/Procedures/Practices developed by Leslie Rifkin, Spectrum Design:

**A1: Grant Program Quick Guide** - Guide to US Department of Transportation Funding Federal Transit Administration and Federal Highway Administration (2023), Washington State Ferries

# Grant Program Quick Guide

Guide to US Department of Transportation Funding  
Federal Transit Administration and Federal Highway Administration

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April 2023, Version 3.0 '

**Washington State Department of Transportation  
Ferries Division – Budget Office**

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## Glossary Of Terms !

Advance Construction Authority	AC
American Rescue Plan Act	ARPA
Bipartisan Infrastructure Law (aka Infrastructure Investment & Jobs Act)	BIL
Capital Program Development and Management Division	CPDM
Capital Program Management System	CPMS
Congestion Mitigation and Air Quality	CMAQ
Construction	CN
Coronavirus Aid, Relief, and Economic Security Act	CARES
Coronavirus Response and Relief Supplemental Appropriations Act	CRRSAA
Endangered Species Act	ESA
Federal Aid Project Agreement	FAPA
Federal Fiscal Year	FFY
Federal Highway Administration	FHWA
Federal Transit Administration	FTA
Ferry Boat Program (Construction of Ferry Boats & Ferry Terminal Facilities)	FBP
Fiscal Management Information System	FMIS
Infrastructure Investment & Jobs Act	IIJA
Million	M
Metropolitan Planning Organization	MPO
National Highway Performance Program	NHPP
Notice of Funding Opportunity	NOFO
Preliminary Engineering	PE
Preservation & Improvement	P&I
Program Item Number, Project Identification Number	PIN
Public Interest Finding	PIF
Puget Sound Regional Council	PSRC
Regional Project Evaluation Committee	RPEC
Regional Transportation Improvement Program	RTIP
Regional Transportation Planning Organization	RTPO
Right-of-Way	ROW, R/W
Statewide Transportation Improvement Program	STIP
Surface Transportation Block Grant Program	STBG
Surface Transportation Program	STP
Transit Award Management System	TrAMS
Transportation Executive Information System	TEIS
Transportation Reporting Accounting and Information System	TRAINS
Vessel Preservation & Improvement	P&I
Work Order, Work Order Authorization	WO, WOA

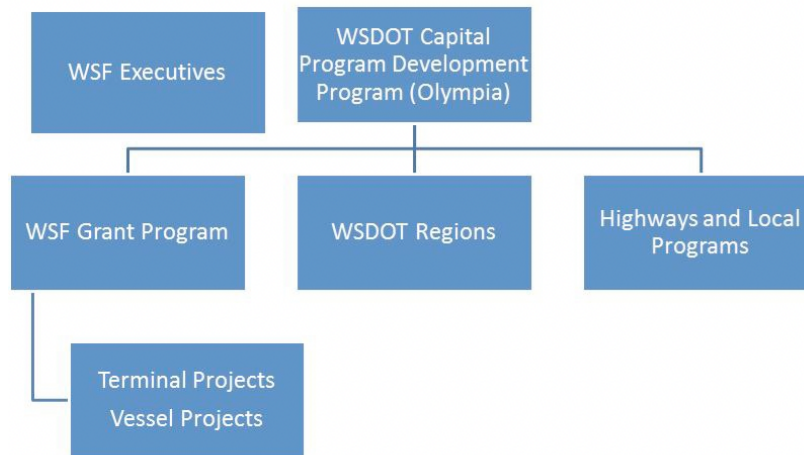
## Section 1 – Overview

The grant program of the Washington State Department of Transportation (WSDOT) Ferries Division, (referred to as Washington State Ferries or WSF) supports a number of operating, capital and preventative maintenance projects, including the maintenance, preservation, improvement and acquisition of terminal facilities and vessels. Its purpose is to provide funding support for vital WSF capital and operating projects that are necessary for the continued operation of the system, and for compliance with US Coast Guard and other federal regulations applicable to this maritime highway and transit system. WSF receives the majority of its federal funding via formula allocations and discretionary grants through two primary agencies within the US Department of Transportation – Federal Transit Administration (FTA) for capital, preventative maintenance projects and operating assistance, and Federal Highway Administration (FHWA) for capital projects and ferry operations including fuel costs. The following guide and checklists provide a simplified overview and process steps for utilizing FTA and FHWA funding for WSF capital, preventative maintenance projects and operations.

### 1.1 Functional Organization

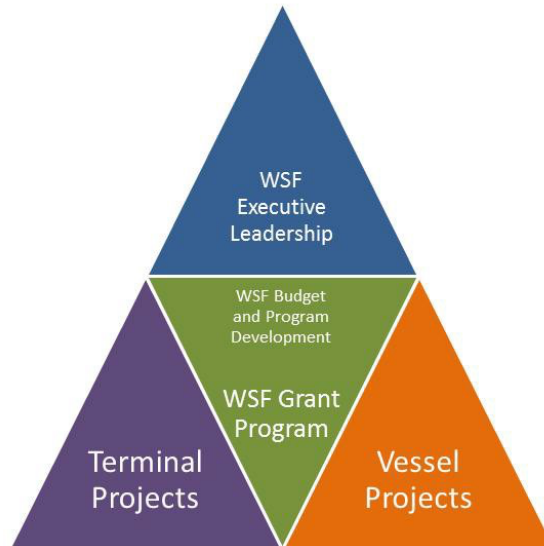
WSF utilizes WSDOT agency offices and processes to incorporate federal funding into the Ferries capital program. WSF closely coordinates utilization of federal funds with WSDOT’s Capital Program Development and Management Division (CPDM) to align with the directions and assumptions of the headquarters agency.

#### Functional Grants Program Organization



Within WSF, staff management of the grant program resides within the WSF Budget Office. This office is responsible for all capital and operating/maintenance budgets, financial plans, program change management and expenditure reporting and control. The WSF Budget Office is the central hub within WSF, coordinating the policy directives of Executive Leadership with the program funding needs of Terminal and Vessel Engineering offices.

## WSF Grants Program Reporting Structure



Federal funding carries with it a variety of pre-requisites that must be met by grant recipients, making it unsuitable for use in many WSF capital and maintenance projects. In addition, Federal funding eligibility requirements differ between FHWA and FTA, which does not make funding interchangeable on many WSF projects. As such, federal funding must be carefully assigned to WSF projects by WSF’s Grants and Capital Program Divisions within the WSF Budget Office, in concert with the WSDOT CPDM Federal Aid and Budget Program Delivery Office.

### 1.2 Updates

Updating this manual is a continuing process. Questions, observations, and recommendations are invited and can be provided via email to WSF Budget Office, Budget Director John Bernhard - [bernhadj@wsdot.wa.gov](mailto:bernhadj@wsdot.wa.gov).

## Section 2 - Federal Transit Administration (FTA) Funding Overview

Primary sources of funding from FTA include – Section 5307 Urbanized Area/Section 5337 State of Good Repair annual formula funding, one-time Coronavirus Aid, Relief, and Economic Security Act (CARES), Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA), and American Rescue Plan Act (ARP) stimulus funding, as well as Passenger Ferry Grant Program (PFG) and other *discretionary programs*.

<https://www.transit.dot.gov/funding>

### 2.1 FTA Formula Funding

Under the newly enacted five-year Bi-partisan Infrastructure Law (BIL), WSF receives approximately \$21 M/year or \$42 M/biennium in FTA Section 5307 Urbanized Area and 5337 State of Good Repair formula funding. This funding is apportioned annually to transit agencies in the Puget Sound Region through the Puget Sound Regional Council (PSRC) based on transit service statistics such as revenue vehicle miles, route miles and population density as well as through a new “equity” formula beginning in FFY 2025. WSF has utilized this funding on both capital and preventive maintenance programs, primarily vessel preservation & improvement (P&I) and construction of the Seattle Terminal.

### 2.2 Dedicated, One-time Stimulus Funding for Transit Operations

In federal fiscal years 2020 and 2021, under FTA’s federal stimulus programs for transit operations, WSF received the following one-time apportionments for ferry operations:

- \$39.2 M of FTA Coronavirus Aid, Relief, and Economic Security (CARES) Act Urbanized Area formula funding.
- \$80 M of Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA) Rural funding.
- \$50 M of CRRSAA Urban funding.
- \$79.5 M of American Rescue Plan Act (ARPA) funding.

### 2.3 FTA Discretionary Funding

WSF has consistently secured \$5-7 M/year in discretionary funding through FTA’s Passenger Ferry Grant program which includes a new Electric or Low-Emitting Ferry Pilot Program, as well as through PSRC regional discretionary programs. These grant programs are competitive and project specific.

## Section 3 - Federal Transit Administration (FTA) Funding Process and Requirements

### 3.1 FTA Funding Process

For FTA-funded projects, a grant agreement must be executed or pre-award authority secured prior to initiating a procurement for a project element or phase or modifying an existing contract which is utilizing FTA funding including change orders. If WSF advances a procurement before these steps have

been validated as completed, the project could be ineligible for the use of federal funding. The following process steps must be planned out and followed to ensure FTA requirements are met.

<b>Step</b>	<b>Item</b>	<b>Responsibility</b>	<b>Timeline</b>
1	Project scope is FTA-eligible, Buy America can be met or waiver is in place	Budget Office Grants, Contracts & Legal, Purchasing	n/a
2	Funding Award notification for the project/phase (Federal Register notice with federal ID#, PSRC or other agency award letter	Budget Office Grants	n/a
3	Project/phase/funding is in TEIS/CPMS	Budget Office Capital, Grants and Business Offices	varies
4	Verification project phase/funding in current STIP or STIP mod submitted and approved	Budget Office Grants	2 months if project requires a modification of funding
5	NEPA Complete or Categorical Exclusion Documented	Project Manager, Envi Program Manager, Budget Office Grants	Dependent on level of NEPA review
6	Grant Agreement developed & Executed or Pre-award Authority for project/phase/funding is documented*	Budget Office Grants	4+ months (Pre-award can be immediate dependent on funding NOFO)
7	Project Funding set up in TRAINS	WSDOT HQ Accounting Project Support & Receivables	Up to 2 weeks
8	WOA submitted	Business Manager, review by Budget Office Capital, Grants	
9	WOA approved	Budget Office Capital, Grants and HQ	Up to 4 weeks
10	Project advertised (if required); procurement solicitation documents and resulting contracts include all FTA-required clauses and certificates.	Budget Office Grants, Contracts & Legal, Purchasing	varies
11	Proceed with procurement, contract award & execution	Contracts & Legal, Purchasing	varies

The timeline between Step 1 FTA eligible project and Step 6 executed grant agreement is approximately 4-6 months and between Step 8 WOA Submitted and Step 9 WOA approved can be up to 4 weeks.



Process steps should therefore be planned out well in advance of the date WSF must initiate a procurement, or a change order to an existing procurement that is federally funded. In addition, FTA shuts down its electronic federal award system for 4-6 weeks at the end of Federal Fiscal Year (roughly last week in September – Mid November) and cannot process grant agreements or amendments during that time period.

*\*FTA formula funding authorized under the Infrastructure Investment & Jobs Act/Bi-partisan Infrastructure Law has automatic pre-award authority from October 1, 2021, through September 30, 2026 for capital assistance under all formula programs, so long as all other FTA conditions are met (see Federal Register Vol. 87, No. 82 and Vol. 87, No. 133 corrections).*

### 3.2 TrAMS Grant Agreements

FTA grant agreements are processed by the WSF Grants Division directly with FTA through FTA's electronic Transit Award Management System (TrAMS).

FTA formula funding for Vessel P&I is obligated each year in two large bucket grants through either new grant agreements or modifications to existing agreements. Other FTA funding is obligated in a single grant agreement or modification to an existing agreement, by project.

In general, it takes approximately 4-6 months to execute a grant agreement with FTA after initial award of funding.

### 3.3 Pre-Award Authority

Where federal funding is anticipated but has not yet been obligated in a grant agreement with FTA, FTA may issue Pre-award Authority in order for a federally funded project to advance to procurement while a grant agreement is under development. Pre-award authority dates are determined on a case- by-case basis by WSF Grants Office in concert with FTA based on the underlying federal funding legislation.

*Note that using pre-award authority still requires that all federal eligibility requirements are completed, including NEPA and STIP verification, prior to establishing a pre-award authority date for federal reimbursement in the future.*

### 3.4 Statewide Transportation Improvement Program (STIP)

All FTA capital funding must be programmed in the Statewide Transportation Improvement Program, which is maintained by WSDOT's Local Programs Division, before a grant agreement with FTA can be executed or pre-award authority authorized. FTA operating assistance is not required to be programmed in the STIP. *See Section 7 Statewide Transportation Improvement Program.*

### 3.5 National Environmental Policy Act (NEPA)

The National Environmental Policy Act was signed into law on January 1, 1970. Federal funding for capital projects is contingent on completing the appropriate level of NEPA action required for the project/phase. At its most basic level, NEPA requires government agencies to engage in a review process intended to discover any significant environmental and public health impacts **before** a decision is made and construction begins. The level of NEPA determination is project-based and ranges from a simple Categorical Exclusion to more rigorous Environmental Impact Statements. A project NEPA

determination must be completed by WSF's Environmental Program Manager before a grant agreement with FTA can be executed or pre-award authority authorized.

<https://www.transit.dot.gov/regulations-and-guidance/environmental-programs/environmental-programs>

### 3.6 Procurement and Buy America Requirements

While FTA defers to most State procurement requirements where the State is the grantee, FTA Buy America requirements apply to all grantees unilaterally and can be very restrictive. In general, FTA's Buy America policies for federally funded projects require that "the steel, iron, and manufactured goods used in the project are produced in the United States (49 U.S.C. § 5323(j)(1)). FTA's Buy America requirements apply to third-party procurements by FTA grant recipients. This includes rolling stock, defined in 49 CFR Part 661.3 as "transit vehicles such as buses, vans, cars, railcars, locomotives, trolley cars and buses, and ferry boats, as well as vehicles used for support services." A grantee must include in its bid or request for proposal (RFP) specification for procurement of steel, iron or manufactured goods (including rolling stock) an appropriate notice of the Buy America provision and require, as a condition of responsiveness, that the bidder or offeror submits with the bid or offer a completed Buy America certificate in accordance with 49 CFR §§661.6 or 661.12.

Under limited circumstances, FTA may waive certain Buy America requirements. FTA has a standing nationwide waiver in place for: microprocessors, computers, software and devices used solely for processing or storing data. In addition, there is a small purchase waiver limited to \$150,000 per purchase (aka project), including labor, options and subsequent growth in the contract. Splitting up procurements to come under this dollar limit is not permitted. See Section 8 for the Guide to Buy America for FHWA and FTA funded projects.

For a complete overview of FTA funding programs and requirements, <https://www.transit.dot.gov/about-fta>

## Section 4 - Federal Highway Administration (FHWA) Funding Overview

Primary sources of funding from FHWA include - Ferry Boat Program (FBP), National Highway Performance Program (NHPP) and Surface Transportation Block Grant Program (STBG) formula, otherwise known as contract authority funding, as well as Congestion Mitigation and Air Quality (CMAQ) and other discretionary programs.

<https://www.fhwa.dot.gov/bipartisan-infrastructure-law/funding.cfm>

### 4.1 FHWA Formula Funding/Contract Authority

WSDOT receives approximately \$38 M/year or \$76 M/biennium of Ferry Boat Program (FBP) formula funding from FHWA. This funding is allocated annually to WSDOT and in turn to WSF. This funding is distributed to states based on a national distribution formula that considers the number of ferry passengers and vehicles the ferry system carries as well as nautical route miles traveled by ferries. While WSF has utilized this funding on a variety of vessel and terminal projects the majority of this funding is allocated to Vessel P&I, with smaller amounts funding specific terminal construction projects as needed. Under new BIL legislation, this funding may now be used on ferry operations, including fuel.

WSDOT is also a direct recipient of NHPP and STBG formula, or contract authority, funding. WSF currently receives a portion of NHPP/STBG funding through WSDOT each biennium that WSDOT has redirected to WSF projects from other agency highway priorities. This funding ends after the 2027-29 biennium as reflected in the current project list. This funding has been allocated to Vessel P&I, Seattle, Mukilteo and Bainbridge Terminals, and smaller amounts to specific terminal construction as needed. (note NHPP funding for vessels is restricted to those vessels that operate on certain National Highway System-equivalent routes)

### 4.2 FHWA Discretionary Funding

WSF has received CMAQ as well as STBG discretionary funding through the PSRC's Regional Project Evaluation Committee (RPEC) for Bainbridge, Mukilteo and Seattle Terminals as well as Diesel Energy Efficiency, Jumbo Mark II Hybrid Conversion Programs and Terminal Electrification. These grants are all competitive and project specific.

## Section 5 - FHWA Funding Process and Requirements

### 5.1 FHWA Funding Process

Federal requirements must be met prior to:

- Initiating a procurement for a project element or phase that has or will use FHWA funds.
- Modifying an existing contract that uses FHWA funding. This includes a change order.

The following process steps must be planned out and followed to ensure these requirements are met. See Sections 5.2 through 5.6 for more details.

<b>Step</b>	<b>Item</b>	<b>Responsibility</b>	<b>Timeline</b>
1	Project scope is eligible for FHWA funding. No Buy America issues or waiver/PIF in place	Budget Office Grants, Contracts & Legal, Purchasing	N/A
2	Project/phase/funding is in CPMS, which interfaces with TEIS	Budget Office Capital and Grants, Project Management	N/A
3	Verification project phase/funding in current STIP or STIP mod. submitted & approval received	Budget Office Grants	2 months if project is not in the STIP or requires a modification of funding
4	NEPA complete or Categorical Exclusion documented	Project Manager, Envi Program Manager, Budget Office Grants	Dependent on level of NEPA review
5	ROW certified/design approved where required	Project Manager, HQ	Varies, if required
6	Funding allocated by FHWA to CPDM or project will use AC	Budget Office Grants, CPDM	N/A
7	WOA submitted	Project Manager, review by Budget Office Capital and Grants	Fill in
8	FAPA submitted to FHWA	CPDM, Budget Office Capital and Grants	1 week
9	FHWA executes FAPA for phase/funding or AC	FHWA Regional Office	1-2 weeks
10	WOA approved	CPDM	Up to 4 weeks
11	WOA and Project set up in TRAINS accounting system	Budget Office Grants, HQ Accounting Project Support & Receivables	1 week
12	Project advertised (if required); procurement solicitation documents and contracts incorporate all required FHWA-required clauses and certificates	Contracts & Legal, Purchasing	Varies
13	Proceed with procurement /contract award & execution	Contracts & Legal, Purchasing	Varies

The timeline between Step 7 WOA submittal and Step 10 WOA approval can take up to 4 weeks. Therefore, all WOA's should be planned well in advance of the date WSF must initiate a procurement or a change order to an existing procurement that is federally funded.

In addition, FHWA shuts down its electronic federal award system FMIS for 3 weeks at the end of the federal fiscal year (roughly last week in September – Mid October). WSDOT HQ does not process WOAs to create or modify FAPAs during that time period. WSDOT CPDM provides notifications to all WSDOT Divisions as of the last date HQ can process WOAs requiring federal funds before FMIS shuts down.

### 5.2 Federal Aid Project Agreement (FAPA)

FHWA funds are primarily obligated in an individual Federal Aid Project Agreements (FAPA) through FHWA's Financial Management Information System (FMIS). The exception is FHWA funding received for Seattle and Mukilteo terminals which is transferred through a process called "flexing" from FHWA to FTA per prior agreement, and then follows FTA grant guidelines.

Unlike FTA grant agreements which are managed directly by WSF, WSDOT CPDM Federal Aid and Budget Program Delivery Office processes all FHWA FAPAs and modifications. WSF's Work Order Authorization (WOA) process triggers the creation of or modification to a FAPA by CPDM. FAPAs must be executed and WOAs approved through CPDM prior to advertising, executing change orders or initiating work on the project or the project will be invalidated from use of federal funding. In general, CPDM policy is for WOAs with federal FHWA funding to be submitted 4 weeks prior to a project-related procurement, contract modification, or phase change from Preliminary Engineering (PE) to Construction (CN) to allow for processing time internally and with FHWA. *CPDM/FHWA may expedite FAPAs in emergency situations on shorter time-lines only on a case-by-case basis.*

Funding amounts in the FAPA are based initially on an Engineer's Estimate. Adjust to Award situations may result in the need to modify the initial FAPA:

- 1) On initial CN (CCFA) requests, FHWA has allowed WSDOT a "buffer" in the federal aid agreement to allow for a possible increase in cost at award. Currently, the protocol is for the "buffer" to be the amount of State funds estimated for the Project Item Number (PIN) for which federal funds are being requested.
- 2) At award, if an increase occurs that is within the "buffer", a modification to the FAPA is deemed not necessary. If a decrease occurs, a modification to the FAPA is deemed not necessary. When an increase occurs that is in excess of the buffer, a modification to the FAPA will be needed.
- 3) FHWA expects a subsequent modification to the FAPA to bring Federal funds in line with the work order which will be either during the next Work Order change request [#4 below] or at closure.
- 4) If a project experiences cost overruns, additional funding is approved through change management, and if this will require increase in federal funding, the FAPA will need to be amended.

Please refer to the CPDM Program Management Manual for policies on FAPA at:

[wwwi.wsdot.wa.gov/publications/manuals/fulltext/M3005/PMM.pdf](http://wwwi.wsdot.wa.gov/publications/manuals/fulltext/M3005/PMM.pdf)

### 5.3 Advance Construction (AC) Authority

Where federal funding is anticipated but has not yet been allocated by FHWA, FHWA allows for Advance Construction (AC) authority. AC and partial conversion of AC are cash flow management tools that allow states to begin projects with their own funds and only later convert these projects to Federal assistance.

AC allows a state to request and receive approval to construct Federal-aid projects in advance of the apportionment of authorized Federal-aid funds. Under normal circumstances, states "convert" AC funding to Federal aid at any time that sufficient Federal-aid funds and obligation authority are available and do so all at once. Under partial conversion, a state may obligate funds for AC in stages. AC funding must be incorporated into a FAPA **PRIOR** to advancing the project to construction, per the process outlined in the following pages.

*Using AC still requires that all federal eligibility requirements are completed before a FAPA can be processed to obtain FHWA approval for federal reimbursement in the future.*

#### 5.4 Statewide Transportation Improvement Program (STIP)

FHWA funding for use on capital projects must be programmed into the STIP, which is maintained by WSDOT, before a FAPA with FHWA can be executed. See Section 7 Statewide Transportation Improvement Program guidance.

#### 5.5 National Environmental Policy Act (NEPA)

The National Environmental Policy Act was signed into law on January 1, 1970. Federal funding for capital projects is contingent on completing the appropriate level of NEPA action required for the project/phase. At its most basic level, NEPA requires government agencies to engage in a review process intended to discover any significant environmental and public health impacts **before** a decision is made and construction begins. The level of NEPA determination is project-based and ranges from a simple Categorical Exclusion to more rigorous Environmental Impact Statements. A project NEPA determination must be completed by WSF's Environmental Program Manager before a WOA can be submitted and FAPA executed. [https://www.environment.fhwa.dot.gov/nepa/nepa\\_projDev.aspx](https://www.environment.fhwa.dot.gov/nepa/nepa_projDev.aspx)

#### 5.6 Right-of-Way (ROW) Certification and Design Approval

All federal laws are triggered with FHWA funding in the construction phase, including the requirements for ROW certification and design approvals. (see Sec 6 Additional Guidance)

#### 5.7 Procurement and Build America, Buy America Requirements

While FHWA defers to most State procurement requirements where the State is the grantee, FHWA Buy America requirements apply to all grantees unilaterally and can be very restrictive. FHWA Buy America requirements and FTA Buy America requirements differ, which can cause additional challenges for procurements involving one or the other fund source. FHWA has issued a standing Buy America waiver for ferry vessels (not terminals) for: marine diesel engines, electrical switchboards and switchgear, electric motors, pumps, ventilation fans, boilers, electrical controls, and electronic equipment. (FHWA has confirmed that this waiver covers satellite compasses, gyrocompasses, and radar.) Additional requests for waivers and Public Interest Findings (PIF) (documentation of the justification to allow exceptions to Federal or State rules and/or procedures) may be requested but are not guaranteed. See Section 8 Guide to Buy America for FHWA and FTA funded projects.

For a complete overview of FHWA funding programs and requirements, please see WSDOT Local Agency Guidelines which provides local agencies with statewide policies and standards to follow when using FHWA funds for transportation projects:

<https://www.wsdot.wa.gov/publications/manuals/fulltext/M36-63/LAG.pdf> and associated

<https://www.fhwa.dot.gov/resources/>

## Section 6 - Additional Guidance and Project Requirements Using FHWA Funds (*through CPDM*)

### 6.1 Purpose

Projects that use federal highway funds, and/or require an FHWA approval action, in any phase must adhere to certain federal requirements. The information below helps define the actions/documentation required under different federal funding scenarios.

### 6.2 PE Phase: FHWA Funds in PE Phase Only & outcome of the PE phase results in a NEPA approval

With no federal funds in the ROW or construction phases, the WSDOT must still follow federal environmental regulations and the Uniform Relocation Assistance and Real Property Acquisition Policies Act. A NEPA document must be approved by FHWA and all environmental commitments must be incorporated into the right of way and construction phases. ROW must be acquired per the WSDOT Right of Way manual. Some acquisition activity may proceed during the PE Phase in accordance with the manual. **Title 23 USC regulations, including Davis-Bacon provisions, *do not apply* if no FHWA funds are used for construction. Construction must comply with Buy America.**

- Documentation required:
  - Approved NEPA document (*Any environmental commitments must be incorporated into the R/W and/or construction phases.*)

### 6.3 ROW Phase: FHWA Funds in ROW Phase

For FHWA funds to be used in the ROW phase of the project, the environmental documentation including FHWA NEPA approval must be completed prior to FHWA ROW authorization. The approved relocation plan (if applicable), Project Funding Estimate, approved ROW, and all property acquisitions must be completed and approved prior to advertising the project. All environmental commitments must be incorporated into the R/W and construction phases. The Right of Way must be certified by WSDOT prior to advertising the project, even if no federal funds are used in construction.

- Documentation required:
  - Approved NEPA document
  - Approved Relocation Plan (if applicable)
  - Project Funding Estimate
  - Approved Right of Way Plan
  - WSDOT Approved right of way certification

#### 6.4 ROW Phase: No FHWA Funds in ROW Phase

In accordance with the WSDOT Right of Way manual that is currently being updated, WSDOT may acquire property prior to a NEPA approval by FHWA. There are rules for when federal funding can be used. Also, purchase of property shall not limit the environmental analysis or sway consideration of alternatives. Work with the HQ Real Estate Services office.

#### 6.5 Construction Phase: FHWA Funds in Construction Phase

All federal laws are triggered with federal funds in the construction phase; examples include NEPA, Title 23 USC, Uniform Relocation Assistance and Real Property Policies Act, Buy America, and Davis-Bacon. After approval of the NEPA document, right of way certification, design approval, and verification that the project is in the STIP, the construction phase can be authorized by FHWA. Once FHWA authorizes construction funding, the WSDOT has authority to advertise the project.

- Documentation required:
  - NEPA document (Sent directly to FHWA) and required federal, state, local permits/approvals
  - Design file for projects that are FHWA Full Oversight
  - WSDOT approved right of way certification (if applicable)

#### 6.6 Construction Phase: No FHWA Funds in Construction Phase

Title 23 USC regulations, including Davis-Bacon provisions, do not apply if FHWA funds are not used for construction. Buy America is required if FHWA funds were used in PE or ROW.

Please Note: If construction is state funded, but federal funds were used in design, the WSDOT is taking a risk of a court challenge by NOT completing NEPA. Questions have come up about projects that used federal funds on design, and construction phase is going to be state funded.

Our recommendation is that we should assume NEPA unless we are certain that no federal permits/approvals are required. These federal actions include Corps Nationwide and Individual permits, Endangered Species Act (ESA) compliance, Historic Preservation Act and others. Until the Department makes the decision to take that risk, a completed NEPA document is required.

*Note: If there is any federal money in any phase of a project, all federal rules apply for right of way acquisition and management of property acquired. For complex projects, NEPA is done in PE (not in construction); NEPA, ESA, need to be complete prior to permit application/final design.*



## Section 7 – Statewide Transportation Improvement Program

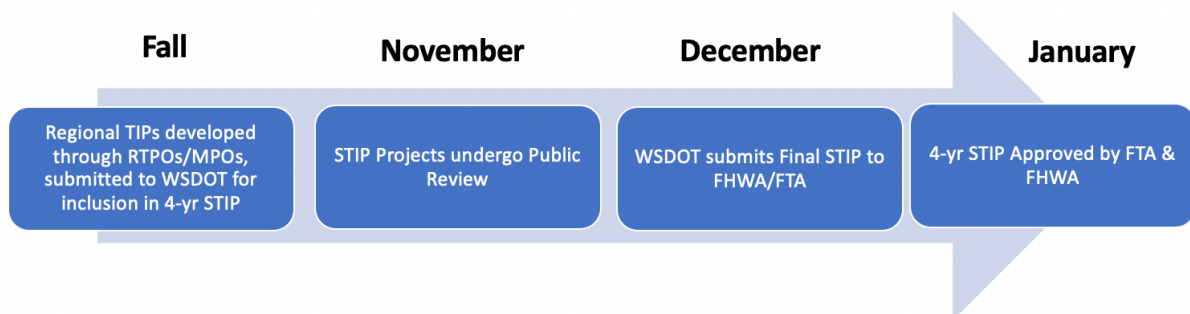
### 7.1 What is the STIP?

Washington State’s Statewide Transportation Improvement Program (STIP) is a federally required, fiscally constrained and prioritized listing of transportation projects covering a period of four years (currently 2022-2025). The STIP is consistent with the long-range statewide transportation plan, metropolitan transportation plans, and regional transportation improvement programs, and is required for projects to be eligible for funding under title 23 U.S.C. and title 49 U.S.C. Chapter 53. The STIP reflects the multimodal transportation program of state, local, tribal, and public transportation (transit) projects, which includes highways, streets, roads, rail roads, transit-hubs, park-and-ride lots, bridges, sidewalks, bike lanes, ferry terminals, trails and safety projects funded with federal, state, tribal and local sources.

The STIP is developed from local, metropolitan planning organizations (MPOs), and regional transportation planning organizations (RTPOs) transportation improvement programs (TIPs) created by local, metropolitan regional, tribal and state transportation planning processes. An environment of community engagement is woven into each stage of the planning process merging public dialogue forums with practical solutions to deliver transportation projects that “fit” into the communities and augment their transportation needs.

The STIP, while reflecting a four year time span of funding, is a rolling calendar year document and is developed on an annual basis to maintain its four year nature. Regional TIPs are submitted to WSDOT each fall. The draft STIP is then available for public review and comment in November. The final STIP is submitted to Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) in December and approved in January. The STIP is also a living document and can be amended monthly from January through October to capture changes to a project’s scope, cost and funding.

### Annual Cycle of Development of 4-yr State Transportation Improvement Program



Most major projects are in the STIP, but not all are required to be. Projects required to be included in the STIP:

- Projects utilizing Federal Transit Administration (FTA) or Federal Highway Administration (FHWA) funding
- Projects considered “regionally significant” which for Ferry systems include:
  - Additional vessel, not including seasonal service change;
  - Vessel replacement;
  - New or relocated terminal;
  - New parking facilities with 50 or more stalls; and
  - Terminal replacement that adds capacity.

Projects programmed in the STIP are the highest priority for the available funding, to preserve and improve the state's transportation network and achieving the national goals established in the Moving Ahead for Progress in the 21st Century Act (MAP-21), continued in the Fixing America’s Surface Transportation Act (FAST) and most recently in the Bipartisan Infrastructure Law (BIL), otherwise known as the Infrastructure Investment and Jobs Act (IIJA), the most recent federal five-year transportation reauthorization act for FFYs 2022-2026 signed into law November 15, 2021.

Only those projects programmed in the STIP can be authorized by the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) to utilize federal funds. Once projects are approved in the STIP, agencies may request federal fund authorization of the project and execute an associated Federal Aid Agreement (FHWA) or Grant Agreement (FTA).

## 7.2 Roll of RTPOs and MPOs In STIP Development & Administration

Authorized in the 1990 Washington State Growth Management Act, **Regional Transportation Planning Organizations (RTPO)s** are a formal mechanism for local governments and the state to coordinate transportation planning for regional transportation facilities. An RTPO is formed through a voluntary association of local governments within a county or contiguous counties. RTPO members include cities, counties, WSDOT, tribal governments, ports, transportation service providers, private employers and others. An RTPO covers both urban and rural areas and receives state funding in support of its planning efforts. Collaborating with cities, counties, transit agencies, ports, WSDOT and business and community groups, RTPOs conduct a variety of transportation planning and coordinating activities such as:

- Prepare a regional transportation plan (RTP) that is consistent with county planning policies
- Certify that countywide planning and policy elements of local comprehensive plans are consistent with the RTP
- Develop and update a six-year Regional Transportation Improvement Program (RTIP)
- Coordinate regional Transportation Improvement Program projects with the State for inclusion in the 4-year STIP and its updates

Federal legislation created **Metropolitan Planning Organizations (MPOs)**. An MPO covers an urbanized area and receives federal funding in support of its planning efforts.

MPOs and RTPOs serve the same basic transportation planning functions - develop a long-range plan, coordinate within a region, and prepare a transportation improvement program for inclusion in the STIP. The federal MPO and state RTPO requirements of these organizations are complementary. The lead agency for a RTPO can also be lead agency for the MPO within the region. The Puget Sound Regional Council (PSRC) is designated under federal law as the MPO and under State law as the RTPO for King, Pierce, Snohomish, and Kitsap counties through which the majority of Washington State Ferries (WSF) transportation projects are managed. WSF may also participate in TIP development from time to time through Skagit County of Governments (SCOG), Peninsula and Island RTPOs for terminal projects located within their boundaries.

While some MPOs develop their TIP in its entirety annually, routine maintenance is required to accurately reflect anticipated federal expenditures, and to provide transparency to the public interested in short-term transportation improvements in the area. Therefore, the TIP may be amended at several junctures over the course of the calendar year. Those amendments to the regional TIPs are submitted to WSDOT for inclusion in the STIP per its monthly amendment cycle.

### 7.3 Annual Obligation Reporting

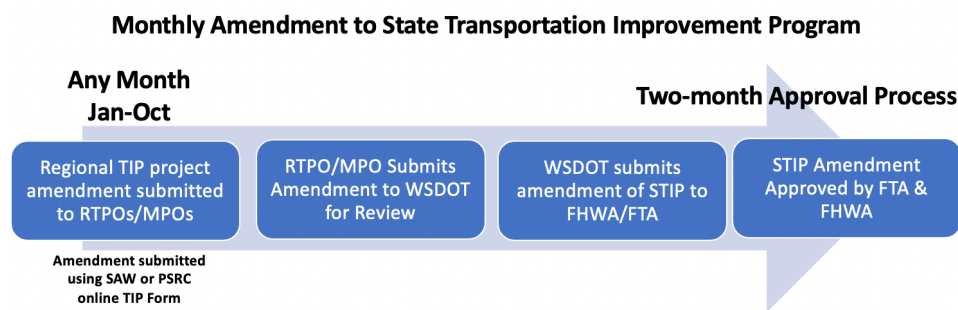
In order to facilitate the implementation of the RTIP policies, some RTPOs, including SCOG, work with the Washington State Department of Transportation (WSDOT) and other project sponsors to present to member agencies, at least quarterly, a full accounting of the funds obligated for each project in its RTIP and any changes in the status of those projects. SCOG leads the development of the Skagit region's annual listing of federal obligations for the previous calendar year which are due by the end of March and correspond to projects programmed in its Regional Transportation Plan and RTIP. The listing includes obligations for all 23 USC (FHWA) and 49 USC Chapter 53 (FTA) funds for the prior calendar year. Per 23 CFR 450.334, this is a joint responsibility of, Skagit Transit and SCOG.

### 7.4 STIP Amendments & Administrative Modifications

The STIP is a dynamic document in Washington due to the various budget cycles for the corresponding lead agencies and the selection cycles of the various state and regional transportation agencies. After FHWA and FTA initially approve the STIP in January, there is often a need to make changes to the STIP to ensure project delivery of the federal program. When a change to the STIP is necessary, the MPO and WSDOT determine if the change is classified as either an amendment or administrative modification (23 CFR 450.104). An amendment is a major revision to a project included in the STIP, such as adding or deleting a project to the STIP, major change in project scope or funding, any change requiring a new regional air quality conformity finding etc. An administrative modification is a minor revision to a project included in the STIP, such as minor changes to project/project phase initiation dates, minor change in project scope, lead agency change, etc., which do not require federal approval. Therefore, administrative modifications are posted to the web site after processing by WSDOT and provided to FHWA and FTA as informational twice a year.

WSDOT establishes a STIP amendment schedule annually that identifies the monthly deadline for submitting changes to the STIP. This schedule allows the various RTPOs and MPOs to work through their internal processes and approvals required for amending the STIP. The amendment schedule allows for amendments to be accepted any month between January and October.

Approval of a STIP amendment at the state and federal level is dependent upon public involvement and continued financial constraint of the STIP. After review and concurrence by WSDOT, the amendment is submitted to FHWA and FTA for approval and is available for public review and comment on WSDOT’s website concurrently for 10 calendar days. WSDOT notifies MPOs, RTPOs and others on the status of and approval of STIP Amendments. On average it takes two months to approve an application to amend a project in the STIP.



## 7.5 Links to Key STIP Guidance, Schedules and Projects

### WSDOT

- WSDOT STIP amendment schedule is available at: <https://wsdot.wa.gov/business-wsdot/support-local-programs/delivering-your-project/statewide-transportation-improvement-program-stip>
- Federal STIP amendment approval is available at: <https://wsdot.wa.gov/sites/default/files/2021-10/LP-STIP-Amendment-Status.pdf>
- WSDOT searchable database of currently approved STIP projects: <https://wsdot.wa.gov/LocalPrograms/Projects/Reports/ProjectSearch.aspx>
- WSDOT’s STIP Administrative Manual that guides STIP development and Amendment can be found at: <https://wsdot.wa.gov/sites/default/files/2022-12/LP-STIP-Documents-2022-25.pdf>
- WSDOT’s SAW Administrative Manual used by RTPOs to program projects in the STIP can be found at: <https://wsdot.wa.gov/sites/default/files/2021-10/LP-STIP-Training-Manual.pdf>

### PSRC

- The PSRC maintains a TIP amendment calendar for projects in the Puget Sound region. The PSRC’s amendment process and calendar can be found at: <https://www.psrc.org/our-work/funding/transportation-improvement-program/amendments>

- The PSRC maintains a database of its currently approved TIP projects in the Puget Sound Region here: <https://www.psrc.org/media/7341>
- The PSRC’s TIP/STIP Guidance, forms and associated information can be found here: <https://www.psrc.org/our-work/funding/transportation-improvement-program>

## 7.6 WSF and the STIP

WSF reviews its capital program prior to the start of a new biennium to determine where WSF may need to add or amend a capital project into the regional and State Transportation Improvement Program based on Legislative approval of WSF’s Project List. In addition, WSF may periodically receive formula or discretionary funding from the USDOT that must be amended into the STIP. WSF Projects may need to be added or amended to the STIP under the following circumstances:

- New federal funding for a project has been approved by the Washington State ! Legislature !
- New federal discretionary funding for a project has awarded by Federal, State or ! Regional agencies !
- Federal fund types have been modified for a project currently in the STIP through WSF internal change management
- Acceleration or deceleration of federal funding has been approved by the Washington State Legislature
- WSF is determined to have a project of “regional significance” such as construction of new or replacement vessels, new terminals or expansion of existing terminals

Where the WSF Budget Office has determined that a STIP Amendment is necessary based on the above, a **STIP Amendment Request Form** is developed by the Grant Program Manager in concert with the Capital Program Division and appropriate Business Manager within Vessel or Terminal Engineering or IT. Once an Amendment Request Form is completed and signed by designated parties, the Budget Office will coordinate development of the project STIP Amendment through either the Puget Sound Regional Council’s on-line TIP Application software or, in the case of a project located in a district coordinated through an RTPO, through the WSDOT on-line SAW website. (See 2023 Guide to STIP).

WSF attempts to limit its STIP amendments to once a year following the legislative session but may consider additional amendments to the STIP on a case by case basis. ***STIP amendments take approximately 2 months to process after an online amendment application has been submitted to the PSRC or RTPO.***

## 7.7 Programming of WSF Terminal and Vessel Projects with RTPOs/MPOs in the Puget Sound Region

WSF’s policy on inclusion of its capital projects in Regional Transportation Improvement Programs is:

- All **Terminal Projects** required to be included in a regional TIP are programmed with the appropriate MPOs/RTPOs based on geographic location of the terminal. As an example, the Port Townsend terminal and any associated federal funding for that terminal would be coordinated by the Peninsula RTPO due to its location within that RTPO's boundaries. Edmonds Terminal, located in Edmonds, WA is within the boundary of the Puget Sound Urbanized Area where the Puget Sound Regional Council is the RTPO/MPO for projects within its boundaries.
- All **vessel preservation and improvement** projects required to be included in a regional TIP are programmed exclusively through PSRC.
  - Vessels are mobile assets that move from one part of Puget Sound to another depending on ever changing deployment plans and emergency redeployments. As a result, it is difficult to forecast vessel budgets associated with specific geographic locations.
  - FTA allocates federal funds for vessels through PSRC regardless where the vessel is deployed.
  - Almost all work on vessels is performed at shipyards in the PSRC region. Identifying the location that vessel work will be performed for budgeting development purposes is impossible because shipyards are selected based on competitive processes.
- Annual Obligation Reporting and other TIP-mandated reporting for WSF projects is coordinated through the respective RTPO/MPO responsible for maintaining WSF projects in its RTIP per the above.

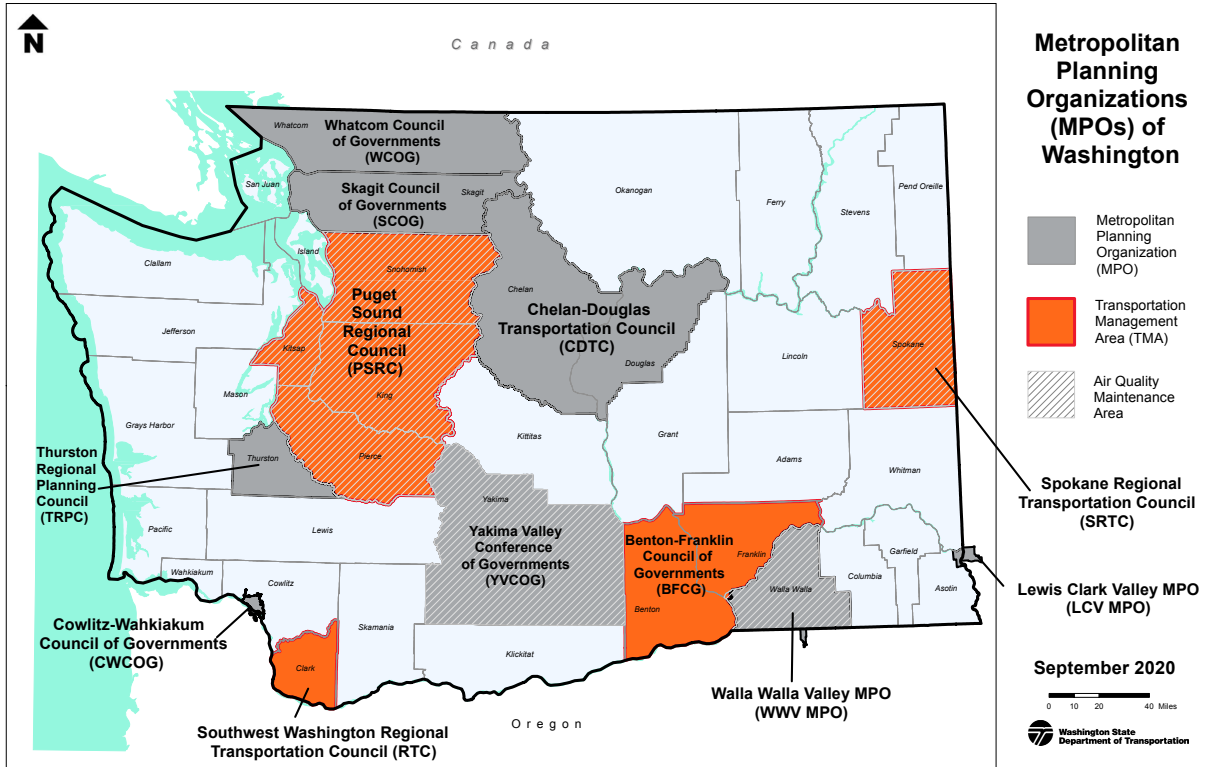
WSF records, tracks and reports on status of TIP/STIP amendments using a TIP Tracker developed in Excel. WSF Budget Office also maintains a TIP Mod Workbook for each Project in the STIP.





## 7.9 Map of Metropolitan Planning Organizations (MPOs) in Washington State

The following diagram can be found at <https://wsdot.wa.gov/sites/default/files/2021-10/Map-MPO-MetroPlanningAreaBoundaries.pdf>





## 7.10 WSDOT STIP Administrative Guideline

The following table is found at <https://wsdot.wa.gov/sites/default/files/2021-10/LP-STIP-Appendix-C.pdf>

### STIP Administration

Appendix C

<b>Amendment</b> <sup>1</sup>	<b>Administrative Modifications</b> <sup>2</sup>	<b>Updates Not Requiring STIP Change</b>
See Section VII STIP Management - STIP Amendments & Administrative Modifications of the STIP document for definition.	See Section VII STIP Management - STIP Amendments & Administrative Modifications of the STIP document for definition. The following do not require the STIP to be modified prior to federal authorization of the project. However, the STIP must be updated to align with MPO requirements and reflect the changes as soon as possible.	The following do not require the STIP to be changed, as they will be reflected in the annual obligation report or subsequent STIP as applicable.
Adding a New Project	Revisions to lead agency	Moving a project within the four years of the TIP or STIP.
Deleting a Project	Adding a prior phase of a project not previously authorized	Changes in a projects federal fund source(s) (any change from IM to NHS or STP etc., is an update only as this is a funds management action)
Changes to a project's total programmed amount* greater than 30% (or any amount greater than \$3 million). This includes adding or subtracting funds from currently programmed phases. * Total programmed amount = A project's current 4-year STIP total of programmed funds	Changes to a project's total programmed amount* less than 30% (or any amount less than \$3 million). This includes adding or subtracting funds from currently programmed phases. <b>Note:</b> In order to reprogram funds decreased from a project or phase (i.e. adjust to award), the STIP will need to be updated prior to or at the same time funds are being reprogrammed. * Total programmed amount = A project's current 4-year STIP total of programmed funds	Any and/or all federal funds currently programmed in the STIP for a particular project without consideration of the phase split. For example: Programmed amounts are: PE – 1,000,000 CN – 4,000,000 Authorization for PE of 1,750,000 is allowed without a change to the STIP since the funds are programmed. <b>OR</b> Authorization for CN of 5,000,000 if the funds were not utilized for PE.
Major Scope Changes		
Changes to a project that affects Air Quality Conformity	Minor changes or errors in project information such as: environmental type, right of way required, improvement type, project limits, functional classification, typographical errors, transposed numbers, etc.	All adjustments in a project's funding authorization for award of a contract.
Adding a future phase of a project		
Adding Federal dollars to a project currently in the TIP/STIP that does not have federal funds ( <i>federalizing a project</i> ).		

<sup>1</sup> Amendments will continue monthly January through October

<sup>2</sup> Administrative modifications will be updated monthly and available via the on-line STIP. FHWA/FTA will be provided listing twice a year with the January and October amendment submittals. Additionally, financial feasibility will be shown in the original STIP and updated twice a year in the January and October amendment submittals to FHWA/FTA.

# Section 8 - Guide to Build America/ Buy America (graphic needs to be updated) &

## Guide to Buy America for Washington State Ferries

### Federal Highway Administration (FHWA)

100% of steel and iron must be manufactured and fabricated in the U.S. (Exception if the total value of iron and steel is below \$2,500 or 0.1% of contract cost, whichever is greater. Any state-furnished materials, contractor-furnished materials, and proprietary items must be included in this calculation.)

--- **STEEL AND IRON** ---

Buy America applies if manufactured products are predominantly steel or iron (consisting of at least 90% steel or iron content when delivered to the job site for installation). FHWA waives Buy America for manufactured products not made predominantly of steel or iron.

--- **MANUFACTURED % PRODUCTS %** ---

Requirements are the same as for any other procurement.

--- **ROLLING STOCK & COMMUNICATION EQUIPMENT %** ---

Waiver for ferry vessels (not terminals) for marine diesel engines, electrical switchboards and switchgear, electric motors, pumps, ventilation fans, boilers, electrical controls, and electronic equipment. (FHWA has confirmed that this waiver covers satellite compasses, gyrocompasses, and radar.) If domestic sourcing will increase the contract (total bid amount) by >25%, a waiver can be requested. A waiver can also be requested if materials are not produced in the U.S. in sufficient quantities and of a satisfactory quality.

--- **WAIVERS** ---

Same as FTA; see information in right column. Additionally, state-furnished materials on an FHWA-funded contract must comply with Buy America, even if materials are state-furnished. A Public Interest Finding is required if materials are furnished to a contractor on an FHWA-funded contract.

--- **STATE-FURNISHED % MATERIALS %** ---

### Federal Transit Administration (FTA)

Applies to all construction materials made primarily of steel or iron and used in infrastructure projects such as transit facilities or bridges. Requirement 100% of steel and iron must be manufactured and fabricated in the U.S., whether the item is an end product, a component, or a subcomponent. Exceptions include rolling stock which has different requirements. Examples: structural steel or iron, and steel or iron beams and columns. Once the steel and iron requirements are satisfied, the manufactured product requirements apply to the balance of the construction contract.

Applies to infrastructure projects not made primarily of steel or iron. Requirement: 100% of manufactured end products and components must be manufactured in the U.S.; subcomponents may be of foreign origin. End products are typically the deliverable items specified in the contract, and are ready to provide their intended use without further manufacturing or assembly. The size and scope of a contract or bid governs the hierarchy of components and subcomponents. Examples of end products: terminal buildings, bus shelters, fare collection systems, and information systems. For the end product example of a terminal building, an example of a component is an elevator.

Applies to rolling stock (including ferry vessels), rolling stock components, and communication equipment. Requirement: for procurement of rolling stock, and communication equipment, 1) at least 60% of components (by cost) must be manufactured in the U.S. and 2) final assembly must take place in the U.S. When procuring replacement parts for vessels, the replacement part retains its original characterization (end product, component, or subcomponent) and the manufactured product requirements apply. Examples of vessel components: propulsion controls, engines, generators, electrical systems, steering system assemblies, and passenger seats. Examples of communication equipment: radios, public address speakers, antennas, and passenger information displays.

Waiver for microprocessors, computers, microcomputers, software, and devices used solely for processing or storing data. This waiver does not extend to a product or device which merely contains a microprocessor or microcomputer and is not used solely for the purpose of processing or storing data.

Waiver for small purchases (contract under a certain threshold, currently set at \$100,000). Grantees may not split up procurements that exceed this threshold in order to avoid Buy America rules that would otherwise apply. If domestic sourcing will increase the end product cost by >25%, a waiver can be requested. A waiver can also be requested if materials are not produced in the U.S. in sufficient quantities and of a satisfactory quality.

All materials procured under an FTA-funded contract must comply with Buy America. State law limitations apply; see the related WSF Federally-Eligible Activities diagram.

#### Notes:

- This guide is intended for internal use by Washington State Ferries (WSF) staff as a resource for Buy America FAQs. It is not a comprehensive guide and is not a substitute for the Buy America regulations - 23 CFR 635.410 (FHWA) and 49 CFR Part 661 (FTA).
- The best practice is to use either FTA or FHWA funds on a project, but not both.
- Manufacturing is more than assembly; manufacturing alters the form or function of materials/elements, adding value and transforming the materials/elements so they represent a new and functionally different end product.
- Under MAP 21, if FHWA funds are used on any of a project's contracts (under the same NEPA document) must comply with FHWA Buy America regardless of how each contract is funded.
- WSF's existing FHWA grants fall under Buy America, which is a different regulation outlined in 49 CFR Part 25.
- Buy America concerns should be raised as early as possible during a project's design. For more information, see the WSF Federally-Eligible Activities diagram, as well as Division 7 of the WSDOT Plans Preparation Manual (PPM) and the Terminal Design Manual. The Transportation Research Board's 2010 Legal Digest is useful for understanding FTA's Buy America policy.

Washington State Ferries  
November 2014