

Title 468 WAC
TRANSPORTATION,
DEPARTMENT OF
 (Formerly: Highway Commission, etc.)

Chapters

468-34	Utility lines—Franchises and permits.
468-38	Vehicle size and weight—Highway restrictions—Equipment.
468-60	Trip reduction performance program.
468-63	Commute trip reduction program.
468-100	Uniform relocation assistance and real property acquisition.
468-270	Setting toll amounts for toll facilities in Washington state.
468-300	State ferries and toll bridges.
468-600	Transportation innovative partnership program.

**DISPOSITION OF CHAPTERS FORMERLY
 CODIFIED IN THIS TITLE**

**Chapter 468-220
 AIRCRAFT—INDICIA OF REGISTRATION**

468-220-010	Display of indicia of registration. [Statutory Authority: Chapter 47.68 RCW. 96-17-018 (Order 164), recodified as § 468-220-010, filed 8/13/96, effective 9/13/96. Statutory Authority: RCW 47.68.250. 88-01-089 (Order 112), § 12-19-010, filed 12/22/87.] Repealed by 07-11-047, filed 5/9/07, effective 6/9/07.
-------------	--

Chapter 468-34 WAC

UTILITY LINES—FRANCHISES AND PERMITS

WAC

468-34-210	Pipelines—Encasement.
------------	-----------------------

WAC 468-34-210 Pipelines—Encasement. (1) Casings shall not be required for the following conditions:

(a) Pipelines conveying natural or other gas which meet the design, installation and cathodic protection provisions of the Minimum Federal Safety Standards, 49 CFR part 192 and chapter 480-93 WAC Gas companies—Safety.

(b) Local service lines and connections conveying natural or other gas which meet the design, installation and cathodic protection provisions of the Minimum Federal Safety Standards, 49 CFR part 192 and chapter 480-93 WAC Gas companies—Safety.

(2) Casings shall be required for the following conditions:

(a) Pipeline crossings where casing is required by appropriate industry practice or special conditions.

(b) Pressurized carrier pipes and carriers of transmittants other than natural gas which are flammable, corrosive, expansive, energized, or unstable.

(c) Pipeline installations where local features, embankment materials, construction methods or other conditions indicate probability of damage to the pipeline that will render it unusable.

(3) Casings may be required as protection for carrier pipe from external loads or shock during existing highway improvement projects or new highway construction.

(4) Casing pipes shall extend a minimum of six feet beyond the toe of fill slopes, or back of ditch line, or outside curb unless limited by restrictive local conditions. The casing pipe need not be continuous on freeways with or without frontage roads; however, maintenance in the median shall not be required on a routine basis.

(5) Casing pipes shall be sealed at the ends.

(6) Casing pipes shall be designed to support the load of the highway and superimposed loads thereon and, as a minimum, shall equal the structural requirements for highway drainage facilities. Casings shall be composed of materials of sufficient durability to withstand any conditions to which they may be exposed.

[Statutory Authority: Chapter 47.44 RCW. 07-16-082, § 468-34-210, filed 7/30/07, effective 8/30/07; 89-05-022 (Order 119), § 468-34-210, filed 2/10/89. Statutory Authority: 1977 ex.s. c 151. 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-34-210, filed 12/20/78. Formerly WAC 252-04-175.]

Chapter 468-38 WAC

**VEHICLE SIZE AND WEIGHT—HIGHWAY
 RESTRICTIONS—EQUIPMENT**

WAC

468-38-073	Measurement exclusive devices.
------------	--------------------------------

WAC 468-38-073 Measurement exclusive devices. (1)

What are the criteria for being a measurement exclusive device? Generally, measurement exclusive devices are vehicle appurtenances designed and used for reasons of safety, aerodynamics, or efficient vehicle operation. A measurement exclusive device must not carry property, create a space that property could occupy outside of legal or permitted dimensions, or exceed the specific dimensional limitations stated in this section.

(2) What devices at the front of a single unit vehicle, or power unit in a vehicle combination, are excluded from length determinations? The following devices have been identified as measurement exclusive when determining length from the front of a single unit vehicle or power unit in a vehicle combination:

(a) Resilient bumpers that do not extend more than six inches from the vehicle;

(b) A fixed step up to three inches deep at the front of an existing automobile transporter until April 29, 2005. It will be the responsibility of the operator of the unit to prove that the step existed prior to April 29, 2002. Such proof can be in the form of a work order for equipment modification, a receipt for purchase and installation of the piece, or any similar type of documentation. After April 29, 2005, the step shall no longer be excluded from a vehicle's length.

(3) What devices at the front of a semi-trailer or trailer are excluded from length determinations? The following devices have been identified as measurement exclusive when determining length from the front of a semi-trailer or trailer:

(a) A device at the front of a trailer chassis to secure containers and prevent movement in transit;

(b) A front coupler device on a semi-trailer or trailer used in road and rail intermodal operations;

(c) Aerodynamic devices, air deflector;

- (d) Air compressor;
- (e) Certificateholder (manifest box);
- (f) Door vent hardware;
- (g) Electrical connector;
- (h) Gladhand (air hose connectors joining tractor to trailer);
- (i) Handhold;
- (j) Hazardous materials placards and holders;
- (k) Heater;
- (l) Ladder;
- (m) Nonload carrying tie-down devices on automobile transporters;
- (n) Pickup plate lip (plate at front of trailer to guide fifth wheel under trailer);
- (o) Pump offline on tank trailer;
- (p) Refrigeration unit;
- (q) Removable bulkhead;
- (r) Removable stake;
- (s) Stabilizing jack (antinosedive device);
- (t) Stake pocket;
- (u) Step;
- (v) Tarp basket;
- (w) Tire carrier; and
- (x) Uppercoupler.

(4) What devices at the rear of a single unit vehicle, semi-trailer or trailer are excluded from length determinations? The following devices have been identified as measurement exclusive when determining length from the rear of a semi-trailer or trailer:

(a) Aerodynamic devices that extend up to a maximum of five feet beyond the rear of the vehicle, provided such devices have neither the strength, rigidity nor mass to damage a vehicle, or injure a passenger in a vehicle, that strikes a vehicle so equipped from the rear, and provided also that they do not obscure tail lamps, turn signals, marker lamps, identification lamps, or any other required safety devices, such as hazardous materials placards or conspicuity markings (i.e., reflective tape);

- (b) Handhold;
- (c) Hazardous materials placards and holder;
- (d) Ladder;
- (e) Loading and unloading device not to exceed two feet;
- (f) Pintle hook;
- (g) Removable stake;
- (h) Splash and spray suppression device;
- (i) Stake pocket; and
- (j) Step.

(5) What devices at the side of a vehicle are excluded from width determinations? The following devices have been identified as measurement exclusive, not to exceed three inches from the side of the vehicle, when determining width of a vehicle:

- (a) Corner cap;
- (b) Handhold for cab entry/egress;
- (c) Hazardous materials placards and holder;
- (d) Lift pad for trailer on flatcar (piggyback) operation;
- (e) Load induced tire bulge;
- (f) Rain gutter;
- (g) Rear and side door hinge and protective hardware;
- (h) Rearview mirror;
- (i) Side marker lamp;

(j) Splash and spray suppressant device, or component thereof;

(k) Structural reinforcement for side doors or intermodal operation (limited to one inch from the side within the three-inch maximum extension);

(l) Tarping system for open-top cargo area;

(m) Turn signal lamp;

(n) Movable device to enclose the cargo area of a flatbed semi-trailer or trailer, usually called "tarping system," where no component part of the system extends more than three inches from the sides or back of the vehicle when the vehicle is in operation. This exclusion applies to all component parts of a tarping system, including the transverse structure at the front of the vehicle to which the sliding walls and roof of the tarp mechanism are attached, provided the structure is not also intended or designed to comply with 49 CFR 393.106, which requires a headerboard strong enough to prevent cargo from penetrating or crushing the cab; the transverse structure may be up to one hundred eight inches wide if properly centered so that neither side extends more than three inches beyond the structural edge of the vehicle. Also excluded from measurement are side rails running the length of the vehicle and rear doors, provided the only function of the latter, like that of the transverse structure at the front of the vehicle, is to seal the cargo area and anchor the sliding walls and roof. On the other hand, a headerboard designed to comply with 49 CFR 393.106 is load bearing and thus limited to one hundred two inches in width. The "wings" designed to close the gap between such a headerboard and the movable walls and roof of a tarping system are width exclusive, provided they are add-on pieces designed to bear only the load of the tarping system itself and are not integral parts of the load-bearing headerboard structure;

(o) Tie-down assembly on platform trailer;

(p) Wall variation from true flat; and

(q) Weevil pins and sockets on a platform or low-bed trailer (pins and sockets located on both sides of a trailer used to guide winch cables when loading skid mounted equipment).

(6) Are there weight measurement exclusive devices?

Yes. Any vehicle equipped with idle reduction technology, designed to promote reduced fuel usage and emissions from engine idling, may have up to four hundred pounds in total gross, axle, tandem or bridge formula weight exempt (excluded) from the weight measurement. To be eligible for the weight exemption, the vehicle operator must be able to prove:

(a) By written certification the weight of the idle reduction technology; and

(b) By demonstration or certification, that the idle reduction technology is fully functional at all times.

The weight exemption cannot exceed four hundred pounds or the certified weight of the unit, whichever is less.

(7) Can exclusion allowances be combined to create a larger allowance (i.e., adding a five-foot aerodynamic device to a two-foot loading/unloading device for a total exclusion of seven feet)? No. Each exclusion allowance is specific to a device and may not be combined with the exclusion allowance for another device.

(8) Can a device receive exclusion if it is not referenced in law or administrative rule? If the device meets

the criteria in subsection (1) of this section, a request for measurement exclusion may be made to the administrator for commercial vehicle services. If approved for an exclusion allowance, the administrator will provide the requestor a written authorization.

[Statutory Authority: RCW 46.44.090, 07-16-083, § 468-38-073, filed 7/30/07, effective 8/30/07. Statutory Authority: RCW 46.44.090 and 2005 c 189, 05-12-002, § 468-38-073, filed 5/18/05, effective 6/18/05.]

Chapter 468-60 WAC

TRIP REDUCTION PERFORMANCE PROGRAM

WAC

468-60-010

Trip reduction performance program.

WAC 468-60-010 Trip reduction performance program. The Washington state department of transportation (WSDOT), together with the commute trip reduction (CTR) board, will administer the trip reduction performance program (TRPP). This program is designed to create cost-effective trip reduction projects that reduce the number of commute vehicle trips and commute vehicle miles traveled (VMT). The 2003 legislature created this program to provide financial incentives or compensation to organizations that implement and administer cost-effective projects that increase the capacity of the transportation system by reducing the number of vehicle trips and miles traveled for commute purposes. WSDOT awards funds for cost-effective trip reduction projects, based on a price that the project charges WSDOT to reduce an annualized trip, and the projected number of annual commute vehicle trips and commute VMT reduced during the project period (the project goal). Up to half of the award amount is available through reimbursement for start-up costs. WSDOT will determine the remaining award amount, as well as any bonus funds, based on the actual performance of the project in meeting or exceeding the goal. As necessary, WSDOT will revise these rules periodically to create a more efficient, cost-effective, trip reduction program.

(1) **What are trip reduction performance projects?** WSDOT awards funds on a competitive basis to organizations that create cost-effective projects designed to reduce commute vehicle trips and commute VMT (based on the morning commute). The organization will receive funds based on the price associated with each trip and overall project performance. The TRPP is available to private employers, public agencies, nonprofit organizations, developers, and property managers who find new (to the area), sustainable ways to reduce the number of vehicle trips and vehicle miles traveled per person for commuting, and who provide financial incentives to their own or other employees for ridesharing, public transportation, nonmotorized transportation, telework, and alternative work schedules.

(2) **Definitions.** For purposes of this section, the following definitions apply.

(a) A *financial incentive* is defined as a policy, procedure, capital investment or payment intended to provide employees a financial gain if they commute in ways other than by driving alone. For example, the eligible incentives may include, but are not limited to: Providing a free transit pass, reducing the parking charge for rideshare vehicles, ini-

tiating parking charges for employee vehicles, reducing the cost of a transportation service such as a transit pass, paying the membership fee for a car sharing program, providing employees alternative work week schedules, providing a direct cash payment, reducing the insurance rate for employees who reduce the use of their vehicle for commuting, or reducing the distance an employee travels to work by reassigning their work location to a worksite closer to their home.

(b) *Car sharing* means a membership program intended to offer an alternative to car ownership under which persons or entities that become members are permitted to use vehicles from a fleet on an hourly basis.

(c) *Telework* means a program where an employee performs work functions that are normally performed at a traditional workplace, but does so instead at the employee's home, or at a work center that is located closer to the employee's home than to the employee's workplace, for at least one day a week with the effect of reducing the number of trips to the employee's workplace.

(d) A *person-trip* is one one-way commute trip made by one person to get to work. A trip avoided because the employee teleworks, or because the employee works a compressed work week schedule, is also considered a person-trip.

(e) A *mode* is the means of transportation an employee took to work. Driving alone, carpooling, working an alternative work schedule, teleworking, bicycling, etc., are examples of modes.

(f) A *measurement* records the number of person-trips made by employees commuting to work during a period such as a week or month, using each specific transportation mode. A measurement also records the distance each employee commutes to work; the type of work schedule or compressed work week that each employee works; and the number of persons in the employee's carpool or vanpool if the employee uses one of these modes. WSDOT may require that a measurement record additional information.

(g) *Mode share* is the percentage of person-trips made by a population of employees commuting to work using specific modes of transportation. For example, if twenty-three percent of the person-trips made in commuting to a worksite are by carpool, the carpool mode share for that worksite is twenty-three percent.

(h) A *mode split* is the set of mode shares for a population of employees, such as those commuting to a worksite. The sum of the mode shares for the population is one hundred percent. When calculating mode shares and mode split from measurement data, WSDOT makes adjustments as necessary for missing data, days reported by employees as not worked, inconsistency between commute mode and vehicle occupancy data, and reported use of compressed work weeks. When making these adjustments, WSDOT follows CTR board guidelines when these are available, and makes reasonable adjustments otherwise.

(i) *Commute vehicle trips* is the number of vehicle trips made to bring employees to work at a worksite or specified collection of worksites on an average weekday morning, using the mode split from a measurement. WSDOT will provide information to applicants on calculating commute vehicle trips.

Calculation: WSDOT calculates a vehicle trip by dividing a person-trip by the number of persons in the vehicle. For

passenger cars, trucks, vans, and motorcycles, WSDOT calculates the vehicle occupancy from measurement data using CTR board guidelines, or from equivalent data as agreed by WSDOT and the applicant. For buses, WSDOT assumes an average occupancy of twenty-five persons. If the CTR board issues guidelines for using bus occupancy, WSDOT will follow the board's guidelines in subsequent projects. A person-trip made by bicycling, walking, or other nonmotorized means of transportation; by riding a train; or avoided either because the employee teleworks or because the employee works a compressed work week schedule, is not considered as using a motor vehicle under this definition. If employees at a worksite work at jobs that last less than a full year, WSDOT annualizes the commute vehicle trips. For example, if the jobs at a worksite last for only nine months, then WSDOT will annualize the commute vehicle trips as three quarters of the commute vehicle trips that would be calculated if the employees worked for a full year. WSDOT then will use the annualized values in determining project performance and payments.

(j) *Reduced commute vehicle trips* is the reduction in the number of commute vehicle trips between a baseline measurement and a subsequent measurement. WSDOT will provide information to applicants on calculating reduced commute vehicle trips.

Calculation: WSDOT calculates reduced commute vehicle trips by subtracting the number of commute vehicle trips made by the employees in the subsequent measurement, from the number of vehicle trips the same number of employees would have made if they had commuted using the mode split from the baseline measurement.

(k) *Commute vehicle-miles traveled per person (VMT)* is the average daily vehicle trips each employee makes in a motorized vehicle, multiplied by the employee's one-way distance to work, summed for all employees, and the sum then divided by the number of employees.

(l) *Reduced VMT* is the reduction in the number of commute vehicle-miles traveled per person between a baseline measurement and a subsequent measurement. WSDOT calculates reduced VMT by subtracting the commute vehicle-miles traveled per person in the subsequent measurement, from the commute vehicle-miles traveled in the baseline measurement.

(m) A *project goal* is the total number of commute vehicle trips that a TRPP project proposes to reduce when it applies for TRPP funding.

(n) An *interim goal* is the number of commute vehicle trips that a TRPP project proposes to reduce for specified periods shorter than the project's entire duration. Payments for interim goals are subject to WSDOT approval.

(o) *Performance* is defined as the reduction in the number of commute vehicle trips to work locations in the TRPP project, with credit given for reductions in the commute vehicle miles traveled by employees to those work locations. WSDOT will provide directions for calculating this credit as part of the materials used when applying for TRPP funds.

(p) *Agent* is an organization or individual who represents the private employer, public agency, nonprofit organization, developer, or property manager and is charged with managing the TRPP or providing the employee the financial incentive.

(q) The *price per trip (or trip price)* is the amount that WSDOT agrees to pay for each annualized commute vehicle trip reduced by a TRPP project, up to the number of trips proposed in the project goal. WSDOT will set a maximum price per trip that it is willing to pay, that does not exceed the estimated annualized cost of providing new roadway capacity. WSDOT may vary the maximum cost by year. WSDOT will provide the maximum cost per trip as part of the documents for applying for TRPP funds.

(r) A *cost-effective application* is one that defines a project that will reduce commute vehicle trips and commute vehicle miles traveled at a price equal to or less than WSDOT's maximum price per trip.

(s) A basic project is a project that lasts up to two years.

(t) A multi-year project is a project that lasts from three to five years.

(u) The *award amount* for a project is equal to the price per trip multiplied by the project goal.

(3) **Who can apply?** To be eligible for TRPP funds, the applicant must provide financial incentives to their own or other employees for ridesharing, using public transportation, car sharing, nonmotorized commuting, telework, and/or compressed work weeks. The statewide funds are available on a competitive basis for private employers, public agencies, nonprofit organizations, developers, and property managers or their agents who create cost-effective trip reduction projects.

(4) **What kinds of projects will be funded?** To receive funds, the project must meet the program requirements and rank highly in the competitive review. The applicant determines the actual scope and design of the project. New and existing projects are eligible for selection. The primary focus of the review committee will be to select sustainable, cost-effective trip reduction projects, and if they are new or innovative, they will be given additional consideration.

(5) **How are the program funds appropriated?** The Revised Code of Washington, RCW 70.94.996 authorizes the legislature to appropriate funding for this program.

(6) **Are any of the TRPP funds set aside for specific use?** Any funds appropriated to TRPP beyond the initial program level of seven hundred fifty thousand dollars per year may be used for projects within growth and transportation efficiency centers (GTEC) and for performance of local jurisdictions.

(a) Up to eighty-five percent of any appropriated funds in excess of the initial program level will be available for GTEC projects.

(b) GTEC projects will be subject to the same competitive processes and rules as projects funded with initial program funds.

(c) Fifteen percent of any appropriated funds in excess of the initial program funds will be made available for CTR affected jurisdictions as local jurisdiction performance funds.

(d) Appropriated funds in excess of the initial program funds will be made available to proposals outside of GTECs if there are funds remaining after all proposals within GTECs that fit the program structure for viable, cost-effective, trip reduction projects have been funded.

(e) Any appropriated funds in excess of the initial program funds and any initial program funds that remain after

start-up funds, performance funds, and performance bonuses are paid will be used for local jurisdiction performance funds.

(f) WSDOT will determine the jurisdiction performance levels, and payments to the jurisdictions for performance will not exceed the maximum price per trip allowed by WSDOT.

(7) **How will the TRPP funds be distributed?** A minimum amount of the TRPP funds is to be available for each of three funding zones: Ten percent of available funds for Central Puget Sound (CPS) (King, Pierce, Snohomish counties), ten percent of available funds for non-Central Puget Sound applications, and ten percent of available funds for statewide applications (applications with worksites in the CPS and outside the CPS). The remaining funds will be awarded based on the project's ranking and available funds. WSDOT is bound to this distribution only if there are applications that fit the program structure and are viable, cost-effective trip reduction projects. This applies to all current and future funds.

(8) **How much money will be awarded to individual projects?** Funds will be allocated based on the estimated commute vehicle trips and miles traveled reduced for the project. The applicant will provide an estimate of the anticipated performance (their goal), and the price per trip that the project will charge WSDOT for reducing a commute vehicle trip. Once the selection committee ranks the projects, WSDOT will award funds based on committee ranking until half of the program funds are awarded in each fiscal year or all cost effective projects are funded. A project for a single worksite may not receive more than one hundred thousand dollars per fiscal year.

(9) **How much money can be awarded to applications with multiple partners?** Each organization (agency or employer) on the application may receive up to one hundred thousand dollars with the total amount not to exceed two hundred fifty thousand dollars per application, per fiscal year.

(10) **Who can apply for a "partnership"?** An agent "who will provide the financial incentive to the employee" can submit a project partnership application and be the prime recipient for the project.

(11) **How does the applicant apply for the TRPP funds?** WSDOT will notify eligible applicants of the open period for applications. WSDOT may open more than one application period per year depending on whether all funds are awarded. Applicants apply by submitting a completed "TRPP" application form during an open application period. The "TRPP" application form is available upon request from WSDOT. WSDOT recommends that applicants within a CTR affected area notify the jurisdictional authority, e.g., regional transportation planning organization (RTPO), county, city, or transit agency, that they are submitting an application for TRPP funds.

(a) Applicants may submit more than one project application for consideration; however, when the sum of all the project costs are combined, they cannot exceed what the applicant is eligible to receive.

(b) Applicants may submit an application that will cover one or two years (basic project) or apply for projects that cover three to five years (multi-year projects).

(c) All applicants must describe how they will measure performance for their project. Every project must have a baseline measurement and a final measurement. Additional

measurements are required for multi-year projects, and interim measurements are optional for all projects.

(d) All applicants must describe how and when they will implement their project.

(e) For basic projects, applicants must estimate the number of vehicle trips and VMT reduced for each fiscal year as well as the project total.

(f) In the case of multi-year projects, applicants must estimate the number of vehicle trips and VMT reduced for each year, as well as a project total.

(12) **Can a basic project be renewed?** A basic project that performs well may be approved for a renewal; however, the contractor must reapply. If the renewal is approved by the selection committee, the applicant may be required to conduct another baseline measurement. Renewal applications may include a proposed adjustment to the trip price and/or goal. Adjustments to the trip price or goal are subject to approval by WSDOT. All basic projects are subject to termination if the project is not performing according to expectations or is not continuing to work towards the reduction of commute trips.

(13) **How will the application be reviewed?** The chair of the CTR board will select a committee comprised of between six and nine members will review the applications and selection. The project selection committee will include at least one member of the CTR board, at least one member from Central Puget Sound and one from the rest of the state, at least one employer, at least one transit member and at least one city government representative. The committee will include at least one member from the CTR technical advisory group (TAG), a member of WSDOT familiar with performance measurement, and an RTPO representative. The award committee will select projects based on the criteria as defined in subsection (12) of this section.

(14) **What are the review criteria?** The applications will be reviewed based on the following criteria:

(a) **Cost effectiveness:** Does the project have a high likelihood of achieving its benefits at a relatively low expenditure of TRPP funds? Are the projected benefits achievable at a cost less than providing the equivalent roadway capacity?

(b) **Sustainability:** If this project is funded, will its benefits continue after the funding element of the project has been completed? Do the project design and partnerships indicate a high probability for continuing the project after all TRPP funds are used? Can the reduction in trips be sustained over a "multi-year project" timeline?

(c) **Innovation:** Is the proposed project a new idea, or something that's been done before but is new to the area? Does the project propose unique ways to reduce trips?

(d) **Measurability:** The performance of the project must be measurable. If an applicant proposes to use their own measurement approach, a detailed measurement plan must be submitted as a part of the application and must be approved by WSDOT. The measurement approach must be as accurate an estimate of the trips reduced as would be generated if the applicant made use of the WSDOT-developed measurement tool. Deviations from the approved measurement plan will be subject to review and approval by WSDOT. WSDOT may reject an application or terminate the contract if the measurement deviation is not approved.

(e) **Project implementation:** What is the timeline for implementation of the project? When and how will the project be advertised to the target population? All projects must conduct a baseline measurement of all individual participants as they begin taking part in the project. If a project targets an entire worksite, the project must identify the worksite, and all employees must participate in the measurement, or the total number of employees at the worksite must be indicated in the baseline and performance measurements. The applicant must indicate the implementation timeline, proposed measurement methods (if other than WSDOT measurement tool) and measurement schedule in the application.

(f) **Project predictability:** Are the estimates of employee participation, trip reduction, and VMT reduction likely to be achieved based on the assessment of the review committee?

(g) **Redundancy:** Does the project propose to provide services that are already available to the employees?

(h) **Thoroughness:** Has the project been thoroughly researched and carefully thought out? Are adequate details presented in the application?

(15) **How will the recipient receive the money?** Once the projects have been reviewed, prioritized and selected, the applicant will enter into a contract with the Washington state department of transportation for implementation of the project. This contract will establish the amount of money the award recipient can receive for the project, the timelines, performance expectations, and the project's measurement plan. The recipient must submit a TRPP fund disbursement form provided by WSDOT in order to request funds. On this form the recipient will identify the funds requested and provide documentation of performance or expenditures for reimbursement of start-up costs. Applications for multi-year projects must demonstrate the organization's ability to accept payments for performance, as well as bonus funds, through the end of the project time frame. WSDOT will provide funds to the recipient through three approaches: Start-up, performance and performance bonus.

(a) **Start-up funds:** WSDOT will provide start-up funding on a dollar for dollar, cost-reimbursable basis, but will not exceed fifty percent of the total project award for the duration of the project. The recipient of basic project award may request start-up funds after the baseline measurement has begun. The recipient can request start-up funds throughout the project or until the final performance funds are paid. The recipient of a multi-year project award is eligible for start-up funds through a phased payment approach. To calculate the start-up fund disbursement for multi-year projects, multiply the total project amount by 0.5, then divide that number by the number of years in the project. This is the amount that will be available as start-up funds each year.

(b) **Performance funds:** The remaining award amount will be available to the recipient following performance measurement(s) for the project, based on the project's performance. All basic projects are required to measure at the end of the project and deliver the measurement data to WSDOT by June 1st. Projects that conduct interim measurements will be eligible to receive a prorated portion of the performance funding following each measurement, with the balance available after the final measurement. Projects that do not conduct interim measurements will receive their remaining perfor-

mance funds after the final measurement. For multi-year projects, the recipient must measure the project's performance at the end of each biennium (and deliver the measurement data to WSDOT by June 1st) at a minimum, and at the end of the project. The amount of performance funds paid will be calculated from the project's price per trip and performance. Projects must reduce trips to be eligible for any performance funds. The project application must describe the measurement schedule for the project, and the contract for the project will include a measurement schedule.

(c) **Performance bonus funds:** WSDOT will provide performance bonus funds only at the end of the contract period. The recipient will receive the funds for additional performance above the award amount based on the same price per trip reduced, including credit for VMT reduced, as identified in their contract. The recipient will be eligible to receive additional bonus funds up to one hundred twenty percent of the contracted price per trip, or up to the maximum price per trip allowed (whichever is less), for every trip that exceeds the project goal. WSDOT will make performance bonus funds available only if funds are remaining in the TRPP account.

(d) **Implementation penalties:** All award recipients must implement their projects within three months (first quarter) after signing the contract in order to receive one hundred percent of the awarded funds. If the project is not implemented until the second quarter, only seventy-five percent of the awarded funds will be available; fifty percent if implementation does not occur until the third quarter; and twenty-five percent if implementation does not occur until the fourth quarter. A project is subject to termination if it has not been implemented by the fifth quarter.

(16) **What is the measurement/payment schedule?** Every project must have a baseline measurement, and the baseline measurement must begin before WSDOT will make payments to reimburse start-up costs. Interim measurements can be conducted monthly or quarterly, and must be completed in order to request interim payments. Submission of interim measurements to receive interim payments is subject to prior WSDOT approval. Every project must submit a final performance measurement at the end of the project in order to receive final payment. WSDOT must receive the final performance measurements and request for funds by June 1st of the contract closure year.

(17) **What are interim measurements and payments?** When applicable and when approved in advance by WSDOT, recipients may request monthly and/or quarterly payments for trip and VMT reductions. WSDOT will prorate payments based on the project timeline and the interim performance measurement. The sum of all performance payments will not exceed the total funds awarded to the project. Recipients will also be able to receive start-up funds that are phased throughout the life of the project (see subsection (15)(a) of this section for details on start-up fund disbursement).

(18) **Can the price per trip be adjusted?** Multi-year projects and basic projects seeking a renewal may apply for an adjustment to the trip price and/or their goal at the end of each biennium. Adjustments to trip price and goal for the project will be subject to review and approval by WSDOT. Payments for multi-year projects are contingent upon the provision of legislative funding in future biennia.

(19) **What happens if a project does not perform?** All projects are subject to termination if the project is not performing according to expectations or is not continuing to work towards the reduction of commute trips. Projects must reduce trips to be eligible for any performance funds.

(20) **How are projects that overlap treated?** No applicant may claim full reduction in employee commute vehicle trips or commute VMT that are claimed as part of another project. WSDOT will make an initial screening of awarded projects to determine whether projects overlap. If WSDOT finds that projects being considered for selection are likely to overlap, WSDOT will notify the applicants, and will provide them with the opportunity to adjust their trip prices and goals. If projects are selected that overlap, WSDOT will ask the applicants to propose a solution to the overlap. If a solution cannot be agreed upon by the applicants, WSDOT will adjust the payments for areas where it can determine overlap occurs, by dividing the amount per trip by the number of TRPP projects involved in the overlap. WSDOT will use the lower price per trip in the overlapped projects to calculate payment.

(21) **Performance documentation:** The applicant must, as part of the TRPP application, describe how the project will measure performance. WSDOT will make measurement instruments available to the project. The applicant may propose alternative ways to measure the project, but must provide a description of the alternative as part of the application. Use of any measurement instrument is subject to approval by WSDOT. WSDOT will incorporate language describing the project's measurement into the contract documents for the project. WSDOT will calculate the reduction in commute vehicle trips for the project, along with any credit for reduction in vehicle miles traveled. At its discretion, WSDOT may make software available to TRPP recipients to calculate the reductions directly.

[Statutory Authority: RCW 70.94.996, 07-05-064, § 468-60-010, filed 2/20/07, effective 3/23/07; 05-19-042, § 468-60-010, filed 9/14/05, effective 10/15/05. Statutory Authority: RCW 70.94.996, 70.94.534, 70.94.541, 04-06-087, § 468-60-010, filed 3/3/04, effective 4/3/04.]

Chapter 468-63 WAC

COMMUTE TRIP REDUCTION PROGRAM

WAC

468-63-010	Purpose.
468-63-020	Definitions.
468-63-030	Program goals and measurement.
468-63-040	Local commute trip reduction plan.
468-63-050	Regional commute trip reduction plan.
468-63-060	Growth and transportation efficiency centers.
468-63-070	Opt-in, additions, and exemptions.

WAC 468-63-010 Purpose. (1) **Background and purpose.** This section describes the background of the commute trip reduction (CTR) law (RCW 70.94.521 through 70.94.555) and the purpose of these rules.

(a) **Program history and goals.** Washington state's laws relating to commute trip reduction (CTR law) were adopted in 1991 and incorporated into the Washington Clean Air Act as RCW 70.94.521 through 70.94.551. The intent of the CTR law is to reduce automobile-related air pollution, traffic congestion, and energy use through employer-based programs that encourage the use of alternatives to the single-occupant vehicle traveling during peak traffic periods for the

commute trip. Strategies such as these that encourage travelers to use the transportation system more efficiently are generally known as transportation demand management (TDM). In 2006, the Legislature amended the CTR law to make the program more efficient and effective.

(b) **Purpose of rules.** These rules are intended to ensure consistency in CTR plans and goals among jurisdictions while fairly taking into account differences in employment and housing density, employer size, existing and anticipated levels of transit service, special employer circumstances, and other factors the board determines to be relevant.

(2) **Program overview.** This section describes some general considerations for affected jurisdictions and employers.

(a) **Existing CTR programs.** Those jurisdictions with an existing CTR ordinance as of March 1, 2007, and the employers within those jurisdictions, shall continue to operate their existing CTR programs as necessary to comply with the requirements of the existing CTR ordinance, until the time that the jurisdiction adopts changes to its CTR ordinance to respond to changes in the CTR law and the planning requirements in these rules.

(b) **Relation to other transportation demand management requirements.** The state encourages local jurisdictions to make existing transportation demand management (TDM) requirements compatible with the requirements of RCW 70.94.521 through 70.94.555 and these rules. Several jurisdictions have implemented TDM requirements for employers or developers through the permitting of new facilities under the State Environmental Policy Act (SEPA), or through development requirements under the Growth Management Act (GMA). The state recognizes that jurisdictions may use TDM to satisfy different goals than those in the CTR law because of other considerations. The state encourages jurisdictions to review existing and proposed TDM requirements that are based on SEPA and GMA and make them compatible with the CTR law where feasible. The state intends for property owners to be treated equitably and that, wherever possible, jurisdictions reduce the conflict, duplication and higher cost of separate or conflicting TDM requirements at the same major employer worksite. To this end, the state recommends that TDM development requirements be measured using the same instruments, methodologies, and reporting requirements used for employers subject to the jurisdiction's CTR ordinance.

(c) **Interjurisdictional cooperation.** The state intends that, to the extent possible, jurisdictions in affected urban growth areas enter into cooperative arrangements for the implementation of their CTR plans. Such arrangements may be made with the county, other cities, transit agencies, regional transportation planning organizations, or other entities, as appropriate. The arrangements may be entered into through interlocal agreements or contracts. The advantages of such arrangements include stretching the limited resources available for implementing CTR plans and facilitating consistent treatment of employers across jurisdictional boundaries.

(d) **Cooperation among affected employers.** The state encourages affected major employers to enter into cooperative arrangements with other affected major employers in their immediate vicinity for the development and implemen-

tation of CTR programs. These arrangements could be through the formation of transportation management associations (TMAs), or they could be less formal. The advantages of such cooperation include economies of scale, the potential for sharing resources, and the formation of a larger grouping of employees, making ridesharing arrangements or special transit services easier.

(e) **State agency leadership.** RCW 70.94.547 recognizes the state's crucial leadership role in establishing and implementing effective commute trip reduction programs, and intends for the department of general administration and other state agencies, including institutions of higher education, to aggressively develop substantive programs to reduce commute trips by state employees. The interagency board created in RCW 70.94.551 is responsible for developing policies and guidelines to promote consistency among state agency commute trip reduction programs and for developing the state's leadership role.

[Statutory Authority: RCW 70.94.537, 07-05-065, § 468-63-010, filed 2/20/07, effective 3/23/07.]

WAC 468-63-020 Definitions. (1) Definitions. The definitions in this section apply throughout these rules.

(a) **Statutory definitions.** The terms listed in this subsection are defined in the CTR statutes (RCW 70.94.521 through 70.94.555).

(i) "A major employer" means a private or public employer, including state agencies, that employs one hundred or more full-time employees at a single worksite who begin their regular work day between 6:00 a.m. and 9:00 a.m. on weekdays for at least twelve continuous months during the year.

(ii) "Major employment installation" means a military base or federal reservation, excluding tribal reservations, at which there are one hundred or more full-time employees, who begin their regular workday between 6:00 a.m. and 9:00 a.m. on weekdays, for at least twelve continuous months during the year.

(iii) "Person hours of delay" means the daily person hours of delay per mile in the peak period of 6:00 a.m. to 9:00 a.m., as calculated using the best available methodology by the department of transportation.

(iv) "Commute trip" means trips made from a worker's home to a worksite during the peak period of 6:00 a.m. to 9:00 a.m. on weekdays.

(v) "Proportion of single-occupant vehicle commute trips" means the number of commute trips made by single-occupant automobiles divided by the number of full-time employees.

(vi) "Commute trip vehicle miles traveled per employee" means the sum of the individual vehicle commute trip lengths in miles over a set period divided by the number of full-time employees during that period.

(vii) "Growth and transportation efficiency center" means a defined, compact, mixed-use urban area that contains jobs or housing and supports multiple modes of transportation. For the purpose of funding, a growth and transportation efficiency center must meet minimum criteria established by the commute trip reduction board under RCW 70.94.537, and must be certified by a regional transportation planning organization as established in RCW 47.80.020.

(viii) "Affected urban growth area" means:

(A) An urban growth area, designated pursuant to RCW 36.70A.110, whose boundaries contain a state highway segment exceeding the one hundred person hours of delay threshold calculated by the department of transportation, and any contiguous urban growth areas; and

(B) An urban growth area, designated pursuant to RCW 36.70A.110, containing a jurisdiction with a population over seventy thousand that adopted a commute trip reduction ordinance before the year 2000, and any contiguous urban growth areas.

(ix) "Certification" means a determination by a regional transportation planning organization that a locally designated growth and transportation efficiency center program meets the minimum criteria developed in a collaborative regional process and the rules established by the department of transportation.

(b) **Terms defined by rule.** The terms listed in this subsection are defined herein and apply throughout these rules.

(i) "Goal" means a purpose toward which efforts are directed.

(ii) "Target" means a quantifiable or measurable value that is expressed as a desired level of performance, against which actual achievement can be compared in order to assess progress.

(iii) "Drive-alone" means single-occupant vehicle.

(iv) "Single-occupant vehicle" means a motor vehicle, including a motorcycle, occupied by one person for commute purposes. If there are other passengers occupying the motor vehicle, but the ages of these passengers are sixteen or under, the motor vehicle is still considered a "single-occupant vehicle" for measurement purposes.

(v) "Nondrive-alone travel" means travel by a method other than single-occupant vehicle. Travel avoided by telework, alternative work schedules, or condensed work weeks shall also be considered as nondrive-alone travel.

(vi) "Base year value" means the measured values of the proportion of single-occupant vehicle commute trips and commute trip vehicle miles traveled per employee at a major employer worksite, on which commute trip reduction targets for the major employer worksite shall be based.

(vii) "Jurisdiction's base year measurement" means the proportion of single-occupant vehicle commute trips by CTR commuters and commute trip vehicle miles traveled per CTR commuter on which commute trip reduction targets for the local jurisdiction shall be based. The jurisdiction's base year measurement, for those jurisdictions with an affected urban growth area as of March 1, 2007, shall be determined based on employee surveys administered in the 2006-2007 survey cycle. If complete employee survey data from the 2006-2007 survey cycle is not available, then the base year measurement shall be calculated from the most recent and available set of complete employee survey data.

(viii) "Affected employee" means a full-time employee who begins his or her regular workday at a major employer worksite between 6:00 and 9:00 a.m. (inclusive) on two or more weekdays for at least twelve continuous months, who is not an independent contractor, and who is scheduled to be employed on a continuous basis for fifty-two weeks for an average of at least thirty-five hours per week.

(ix) "CTR commuter" means a resident or employee in an affected urban growth area who is a participant in the city or county's commute trip reduction program, including any growth and transportation and efficiency center ("GTEC") programs, implemented to meet the city or county's established targets.

(x) "Commute trip vehicle miles traveled per CTR commuter" means the sum of the individual vehicle commute trip lengths in miles over a set period divided by the number of CTR commuters during that period.

(xi) "Major employer worksite" means the physical location occupied by a major employer, as determined by a local jurisdiction.

(xii) "Voluntary employer worksite" means the physical location occupied by an employer who is voluntarily implementing a CTR program.

(2) **Identification of CTR jurisdictions.** This section establishes the process to be used by WSDOT to determine the state's affected urban growth areas and lists the state's affected urban growth areas.

(a) **Process to determine affected urban growth areas.** WSDOT shall use the definition of an affected urban growth area in RCW 70.94.524 to determine the list of affected urban growth areas. WSDOT shall use the most recent set of valid and available data that covers the entire state highway system to calculate the one hundred person hours of delay threshold for state highway segments. WSDOT shall use the most recent geographical information for the state's urban growth areas as provided by the department of community, trade and economic development, or its successor.

(b) **Listing of affected urban growth areas.** The cities and counties within or containing an affected urban growth area, as determined by WSDOT, are:

(i) Clark County and the cities of Camas, Vancouver, and Washougal;

(ii) King County and the cities of Algona, Auburn, Beaux Arts, Bellevue, Black Diamond, Bothell, Burien, Clyde Hill, Covington, Des Moines, Federal Way, Hunts Point, Issaquah, Kenmore, Kent, Kirkland, Lake Forest Park, Maple Valley, Medina, Mercer Island, Newcastle, Normandy Park, Pacific, Redmond, Renton, Sammamish, SeaTac, Seattle, Shoreline, Tukwila, Woodinville, and Yarrow Point;

(iii) Kitsap County and the cities of Bainbridge Island, Bremerton, and Port Orchard;

(iv) Pierce County and the cities of Bonney Lake, DuPont, Edgewood, Fife, Fircrest, Gig Harbor, Lakewood, Milton, Orting, Puyallup, Ruston, Steilacoom, Sumner, Tacoma, and University Place;

(v) Snohomish County and the cities of Arlington, Bothell, Brier, Edmonds, Everett, Lake Stevens, Lynnwood, Marysville, Mill Creek, Monroe, Mountlake Terrace, Mukilteo, Snohomish, and Woodway;

(vi) Spokane County and the cities of Airway Heights, Liberty Lake, Millwood, Spokane, and Spokane Valley;

(vii) Thurston County and the cities of Lacey, Olympia, and Tumwater;

(viii) Whatcom County and the cities of Bellingham and Ferndale; and

(ix) Yakima County and the cities of Selah, Union Gap, and Yakima.

(c) **Listing of affected urban growth areas exempted from CTR requirements for a period not exceeding two years from March 1, 2007.** The cities or counties within an affected urban growth area, as determined by WSDOT, but which the legislature in RCW 70.94.527(12) has exempted from CTR requirements for a period not exceeding two years from March 1, 2007, are:

(i) Benton County and the cities of Kennewick, Richland, and West Richland; and

(ii) Franklin County and the city of Pasco.

(d) **Notification of cities, counties, and regional transportation planning organizations (RTPOs) required to adopt CTR plans.** WSDOT shall notify the cities, counties, and RTPOs that are determined to be in the affected urban growth areas. Cities and counties in the affected urban growth areas shall identify the major employers, if any, within their boundaries. Only those cities and counties containing a major employer in the affected urban growth area within the boundaries of their official jurisdiction shall be required to adopt a local CTR plan. Only those regional transportation planning organizations whose planning territory encompasses a city or county required to adopt a local CTR plan shall be required to adopt a regional CTR plan.

[Statutory Authority: RCW 70.94.537. 07-05-065, § 468-63-020, filed 2/20/07, effective 3/23/07.]

WAC 468-63-030 Program goals and measurement.

(1) **Program goals.** This section establishes the goals and targets for the CTR program that every city and county shall seek to achieve at a minimum for the affected urban growth area within the boundaries of its official jurisdiction. Every two years, the state shall measure the progress of each jurisdiction and region toward their established targets for reducing drive-alone commute trips and commute trip vehicle miles traveled per CTR commuter. Local and regional goals and measurement methodologies shall be consistent with the measurement guidelines established by WSDOT and posted on the agency's web site.

(2) **Statewide minimum program goals and targets.** The goals and targets of local jurisdictions for their urban growth areas shall meet or exceed the minimum targets established in this section.

(a) The first state goal is to reduce drive-alone travel by CTR commuters in each affected urban growth area. This will help urban areas to add employment and population without adding drive-alone commute traffic. The first state target based on this goal is a ten percent reduction from the jurisdiction's base year measurement in the proportion of single-occupant vehicle commute trips (also known as drive-alone commute trips) by CTR commuters by 2011.

(b) The second state goal is to reduce emissions of greenhouse gases and other air pollutants by CTR commuters. The second state target based on this goal is a thirteen percent reduction from the jurisdiction's base year measurement in commute trip vehicle miles traveled (VMT) per CTR commuter by 2011.

(3) **Local program goals and targets.** Local jurisdictions shall establish goals and targets that meet or exceed the minimum program targets established by the state. The goals and targets shall be set for the affected urban growth area in the city or county's official jurisdiction, and shall be targets

for the year 2011 based on the base year measurement for the urban growth area.

(a) Each local jurisdiction shall implement a plan designed to meet the urban growth area targets. Progress will be determined every two years based on the jurisdiction's performance in meeting its established drive-alone commute trips and VMT targets. Local jurisdictions shall establish base year values and targets for each major employer worksite in the jurisdiction. However, the targets may vary from major employer worksite to major employer worksite, based on the goals and measurement system implemented by the jurisdiction. Variability may be based on the following considerations:

- (i) Previous engagement in trip reduction programs by the employer;
- (ii) Current conditions, policies and services designed to reduce drive-alone travel in the vicinity of the major employer worksite;
- (iii) Planned investments, services, policy changes and other strategies designed to reduce drive-alone travel in the vicinity of the major employer worksite;
- (iv) Transit access to the employer worksite and frequency of transit service during peak periods in the vicinity of the major employer worksite;
- (v) Potential for ride matching internally and with other employers in the area;
- (vi) Bicycle and pedestrian access to the major employer worksite; and
- (vii) Ability to implement compressed work week schedules and/or teleworking.

(b) The base year values for major employer worksites with an existing CTR program as of March 1, 2007, shall be determined based on employee surveys administered in the 2006-2007 survey cycle. If complete employee survey data from the 2006-2007 survey cycle is not available, then the base year values shall be calculated from the most recent and available set of complete CTR employee survey data. The local CTR plan shall use data from the same survey cycle to establish base year values for major employer worksites to ensure consistency.

(c) In their local CTR plans, local jurisdictions shall communicate what local, regional and state benefits would be gained if the established targets were achieved. Benefits may include but are not limited to projected changes in transportation system performance, projected reductions in emissions of pollutants, projected reductions in energy consumption, and projected benefits for economic development. Regional transportation planning organizations (RTPOs) and WSDOT shall provide applicable data, if available, to assist this analysis.

(4) **Goals for employers.** Regardless of the variations in major employer worksite targets that a jurisdiction implements, each major employer worksite shall be accountable for attaining the targets established by the jurisdiction. However, if major employer worksites are meeting the state requirements and giving a good faith effort as defined in RCW 70.94.531, local jurisdictions may not penalize the major employer for not meeting established targets.

(5) **Voluntary employer worksites.** In the local CTR plan, local jurisdictions shall indicate whether voluntary employer worksites that agree to measure will be counted in

the calculation of the jurisdiction's progress toward its established targets. Regardless of whether the local jurisdiction chooses to count voluntary employer worksite measurements toward the area goal, jurisdictions shall continue to track results for those employer worksites that agree to measure.

(6) **Other local strategies for achieving the goals.** Jurisdictions may choose to institute trip reduction strategies for residents and employees in the urban growth area who are not affected by the local CTR ordinance. The progress of these efforts may be used in the jurisdiction's calculation of its progress toward its established urban growth area targets, if it is measured in a manner that is consistent with the measurement guidelines established by WSDOT and posted on the agency's web site.

(7) **Regional goal-setting.** The RTPO in its regional CTR plan shall establish regional CTR program goals and targets. The regional program goals and targets shall be developed based on a compilation of the local jurisdiction goals and targets in the region.

(8) **Conditional review of targets.** WSDOT shall evaluate the minimum state goal and target standard at least once every four years to determine whether, based on the current and planned level of support by transit agencies, local jurisdictions, and other service providers, the targets are attainable in each jurisdiction. As part of its evaluation, WSDOT shall determine the circumstances that have affected the ability of jurisdictions to meet the targets, including whether or not sufficient services and support for trip reduction have been provided.

(9) Local jurisdictions shall not be penalized for not meeting their established four-year targets if they are implementing a plan that meets state requirements and if WSDOT determines that there are circumstances beyond the jurisdiction's control that prevented attainment of the targets.

[Statutory Authority: RCW 70.94.537, 07-05-065, § 468-63-030, filed 2/20/07, effective 3/23/07.]

WAC 468-63-040 Local commute trip reduction plan. (1) Purpose and process.

(a) **Purpose of local CTR plan.** The state's intent in requiring local CTR plans is to ensure that CTR program goals and targets help jurisdictions achieve their broader transportation and land use goals, and that the jurisdiction in turn develops services, regulations, policies and programs that support the trip reduction investments of major employers. This can be achieved by integrating the local CTR plan and program with other transportation and land use plans and programs, and collaborating with local service providers, interest groups, and others to develop effective trip reduction strategies. Nothing in these rules is intended to change the requirements for local comprehensive plans developed under the Growth Management Act. The state intends for the CTR planning process to provide a new perspective on the local comprehensive plan; while a jurisdiction may choose to update or amend its comprehensive plan based on the outcome of the CTR planning process, nothing in these rules requires it.

(b) **Plan development process.** RCW 70.94.527(4) requires local CTR plans to be developed in consultation with local transit agencies, the applicable RTPO, major employers, and other interested parties.

(i) Consultation. The local jurisdiction shall invite, as appropriate, representatives of major employers, local transit agencies, the applicable RTPO, business associations and economic development organizations, nonprofit transportation and land use advocacy organizations, pedestrian and bicycle advocacy organizations, public health agencies, tribal governments, and residents, employees and businesses that will be affected by the CTR plan to participate in the development of the local CTR plan. The state intends for the invited partners to work collaboratively with the local jurisdiction by providing data and plans and discussing opportunities, including new and reprioritized investments and policy changes, to reduce drive-alone commute trips in the jurisdiction and increase transportation access to affected major employer worksites.

(ii) State role. WSDOT shall provide information to support local CTR plan development. This information shall include employer and jurisdiction base year values, calculated from CTR survey data, state highway system performance data, and other information as appropriate. WSDOT shall also provide technical assistance to support implementation of the local CTR plan, which may include but is not limited to:

- (A) Printing and processing of state CTR survey forms;
- (B) Creation of survey reports and customized data reports;
- (C) On-line survey set-up and assistance;
- (D) On-line annual report set-up and assistance; and
- (E) Program reviewer and survey training.

(iii) Regional role. It is critical that the local jurisdiction collaborate with the applicable RTPO in the development of its local CTR plan. By working closely with the RTPO, the local jurisdiction can produce a CTR plan that meets state requirements and is consistent with the regional CTR plan.

(iv) Public outreach. The local jurisdiction shall follow, at a minimum, a comparable process to the local requirements and procedures established for purposes of public outreach for comprehensive plan development, adoption, or amendment, including public notices and public meetings and hearings.

(c) **Consistency and integration with other plans, programs and local requirements.** RCW 70.94.527(5) requires local CTR plans to be consistent with applicable state and regional transportation plans and local comprehensive plans. RCW 70.94.527(5) also requires local CTR plans to be coordinated and consistent with those of adjoining jurisdictions or related regional issues to ensure consistency in the treatment of employers who have worksites in more than one jurisdiction. The local jurisdiction shall review the local comprehensive plan to ensure that it is consistent with the local CTR plan. If the local jurisdiction determines that the local comprehensive plan needs to be updated or amended to be consistent with the local CTR plan, the local jurisdiction shall identify in the local CTR plan what changes may be needed and when the changes will be made. The local jurisdiction shall use the regional CTR planning process as a means to discuss regional issues with adjoining jurisdictions. The local jurisdiction shall follow the administrative guidelines established by WSDOT and posted on the agency's web site to ensure consistency in the treatment of employers who have worksites in multiple jurisdictions.

(d) **Plan review and approval.** RCW 70.94.527(1) requires the local CTR plan to be submitted to the RTPO and be included in the regional CTR plan.

(i) Schedule. In order for a local jurisdiction to receive state CTR program funding in the 2007-2009 biennium, the CTR board must receive the final draft of the local CTR plan by October 1, 2007. For biennia after 2007-2009, the CTR board must receive updated CTR plans by March 31 every two years thereafter if updates to the local CTR plan have been made or if a jurisdiction is adopting a local CTR plan for the first time.

(ii) RTPO review. RCW 70.94.527(5) requires the RTPO to review the local CTR plans. Local jurisdictions shall submit the final draft of their local CTR plans to the applicable RTPO by the date specified by the RTPO, so that the RTPO may review the plans before submission to the CTR board. The RTPO will review the local CTR plan to determine its consistency with the regional CTR plan and state requirements.

(iii) Determination of consistency. RCW 70.94.527(7) requires the RTPO to collaborate with the CTR board to evaluate the consistency of local CTR plans with the regional CTR plan. When the RTPO submits its regional CTR plan to the CTR board, it shall also submit any final drafts of local CTR plans in the region and recommend to the CTR board which local CTR plans are consistent with the regional CTR plan and state requirements.

(iv) Approval by CTR board. RCW 70.94.527(7) requires local CTR plans to be approved by the CTR board in order to be eligible for state CTR funding. The CTR board shall review the final drafts of local CTR plans and communicate its findings in writing to the submitting RTPO within one hundred twenty days following receipt of the plans. If the CTR board approves a local CTR plan, the local jurisdiction shall then adopt the local CTR plan by ordinance and begin to implement the plan and any other necessary changes to local ordinances, plans, or programs. If the CTR board rejects a local CTR plan, it shall communicate its reasoning and recommendations for improvement to the submitting RTPO. The RTPO shall then work with the local jurisdiction to improve the local plan. Jurisdictions may submit a revised local CTR plan to the RTPO and CTR board in the schedule jointly established by the RTPO and the CTR board.

(v) Appeal. If a local CTR plan is not approved by the CTR board, the local jurisdiction may choose to appeal the decision to the secretary of transportation or his/her designee within sixty days of the board's decision by submitting a written request for appeal to the secretary of transportation or his/her designee. The secretary of transportation or his/her designee shall consider the appeal within sixty days of the jurisdiction's request. If the secretary of transportation or his/her designee grants the appeal, the local CTR plan shall be considered valid by the CTR board and RTPO. If the secretary of transportation or his/her designee denies the appeal, the local jurisdiction is not eligible for state CTR program funding until its revised plan is submitted and approved by the CTR board.

(e) **Plan update cycle.** According to RCW 70.94.527(5), local jurisdictions shall review their local CTR plans annually and revise them as necessary to be consistent with applicable plans developed under RCW 36.70A.070. The

local CTR plan shall be updated at least once every four years, in order to establish new four-year targets and program strategies and update other elements as needed.

(2) **Required plan elements.** RCW 70.94.527(4) requires affected local governments to adopt CTR plans consistent with the rules and deadlines established by WSDOT. The state intends for local jurisdictions to use information in existing plans and programs, such as the local comprehensive plan, unified development codes, the transportation improvement program, economic development plans, and others, as much as possible in order to develop the local CTR plan. The local CTR plan is required to meet the requirements specified in these rules, but local jurisdictions may choose to adjust the scope of their local CTR plans as needed to make them more effective. The local CTR plan shall describe how the CTR program will help achieve the jurisdiction's broader land use and transportation goals.

The local CTR plan shall contain the following elements:

(a) **Description of land use and transportation context.** Jurisdictions shall evaluate the significance of local land use and transportation conditions, characteristics and trends to describe the most critical factors to the success of CTR.

The plan shall highlight the existing and future land use and transportation conditions and characteristics considered most critical by the jurisdiction and evaluate the degree to which existing local services, policies, regulations, and programs, as well as any documented future investments, will complement the trip reduction efforts of CTR employers. Jurisdictions may choose to broaden the scope of their local CTR plan by developing a jurisdiction-wide analysis, rather than focusing only on major employers.

The plan shall evaluate the existing barriers to the success of the CTR program, and identify how the jurisdiction and its partners can overcome these barriers. The state intends for the plan to be a mechanism through which employers can describe what policy changes, services and support they need to make their CTR programs more effective.

The plan shall also discuss cross-boundary issues, such as pass-through commute patterns or larger regional issues, and how these affect the local CTR plan.

(b) **Goals and targets.** The plan shall establish the jurisdiction's CTR goals and targets and show how achievement of these goals and targets will contribute to the jurisdiction's other adopted land use and transportation goals. The plan's goals and targets shall be established at a level that meets or exceeds the state minimum standard described in WAC 468-63-030, Program goals and measurement. The plan shall describe the base year values and numerical targets for each major employer worksite required to participate in the CTR program.

(c) **Measurement methodology for determining base year values and progress toward meeting goals and targets.** The plan's measurement methodology shall be consistent with the measurement guidelines established by WSDOT and posted on the agency's web site.

(d) **Description of local services and strategies for achieving the goals and targets.** The plan shall describe what local services and strategies will be implemented to achieve the plan's goals and targets, and how these services

and strategies will support the CTR programs of major employers. Strategies may include, but are not limited to:

(i) Modifications of local policies and regulations, including the transportation concurrency system, street design standards, parking, and zoning;

(ii) Investments in services and facilities, including transit services, nonmotorized facilities and amenities; and

(iii) Marketing and incentives.

Transit agencies shall work with counties, cities and towns as a part of their six-year transit development plan established in RCW 35.58.2795 to take into account the location of major employer worksites when planning and prioritizing transit service changes or the expansion of public transportation services, including rideshare services (RCW 70.94.527(5)).

(e) **Description of requirements for major employers.** The plan shall describe the requirements for major employers that will be outlined in the local ordinance. The plan shall also describe the program that the local jurisdiction will offer to its employees and how this contributes to the success of the overall plan. The plan shall also identify the major employer worksites, including affected state agency locations, within the jurisdiction's affected urban growth area and any major employment installations.

(f) **Documentation of consultation.** The plan shall include documentation from the local jurisdiction that verifies consultation with employers, transit agencies and others to develop the plan. If the CTR plan includes new or reprioritized transit service beyond that identified in the six-year transit development plan as a strategy to meet the goals and targets, the plan shall include acknowledgement from the applicable transit agency that it supports the transit element of the plan and has agreed on a plan to fund future service investments. If the plan submittal to the CTR board does not include acknowledgement of support from the applicable transit agency, then the new or reprioritized transit service element of the plan shall not be considered as a valid strategy to meet the plan's goals and targets.

(g) **A sustainable financial plan.** The plan shall describe the funding revenues from public and private sources that are reasonably expected to be available, as well as the expected costs, to implement the plan and achieve its goals and targets. If a jurisdiction identifies program elements that are not necessary to the success of the plan, but would support the plan and are beyond expected resources, the plan shall describe the level of funding that would be needed to implement the program element and how it would contribute to the success of the plan.

(h) **Implementation structure.** The plan shall describe how the various strategies identified in the CTR plan will be implemented, either by the local jurisdiction, its partners, or its contracting partners, and when the elements of the plan are expected to be implemented. If the local jurisdiction decides to update its comprehensive plan to be consistent with the CTR plan, it shall describe which elements need updating and when the update will occur.

(i) **Growth and transportation efficiency centers.** If the jurisdiction has designated a growth and transportation efficiency center, the local jurisdiction shall summarize and incorporate the GTEC program plan into the local CTR plan in the next update of the plan.

[Statutory Authority: RCW 70.94.537, 07-05-065, § 468-63-040, filed 2/20/07, effective 3/23/07.]

WAC 468-63-050 Regional commuter trip reduction plan. (1) Purpose and process.

(a) **Purpose of regional CTR plan.** The state's intent in requiring regional CTR plans is to ensure that the region develops a consistent, integrated regional strategy for meeting CTR goals and targets. The region shall use existing plan information as much as possible to determine how the CTR program can help the region achieve its transportation goals. The state intends for CTR services and strategies to be prioritized in regional funding programs.

(b) **Plan development process.** RCW 70.94.527(6) requires the regional CTR plan to be developed in collaboration with all affected local jurisdictions, transit agencies, and other interested parties within the region.

(i) **Collaboration.** The RTPO shall invite, as appropriate, local jurisdictions, local transit agencies, major employers, business associations and economic development organizations, nonprofit transportation and land use advocacy organizations, pedestrian and bicycle advocacy organizations, public health agencies, tribal governments, and others as necessary to participate in the development of the regional CTR plan's goals, targets and strategies.

(ii) **Development of regional GTEC criteria.** The RTPO shall develop minimum land use and transportation criteria for GTECs in collaboration among local jurisdictions, transit agencies, major employers, and other affected parties as part of the regional CTR plan. The state intends for minimum land use and transportation criteria for GTECs to be developed as early in the regional planning process as possible.

(iii) **Regional role.** The state intends for the RTPO to coordinate the local and regional CTR planning process, and work closely with local jurisdictions to ensure consistency in all of the plans. The RTPO shall provide data and technical assistance to local jurisdictions to aid the development of their local CTR plans.

(iv) **Planning framework.** The state intends for local plans to follow a planning framework established by the RTPO. However, the state recognizes that during the initial planning phase in fiscal year 2007, development of local and regional CTR plans will be a concurrent, iterative process. Thus the state intent that RTPOs lead the planning process.

(c) **Identification of lead agencies.** The regional CTR plan shall describe which entities will be implementing the CTR program for each city and county, as determined locally. This description shall include an identification of lead agencies and the expected contractual relationships for program administration.

(d) **Consistency and integration with other plans, programs and local requirements.** RCW 70.94.527(6) requires the regional CTR plan to be consistent with and incorporated into transportation demand management (TDM) components in the regional transportation plan (as required by RCW 47.80.030). The regional CTR plan shall be consistent with TDM components in the regional transportation plan. The regional CTR plan shall be incorporated by the RTPO into the regional transportation plan by December 31, 2008.

(e) **Plan review and approval.** According to RCW 70.94.527(6), regions without an approved regional CTR plan shall not be eligible for state CTR funds.

(i) **Schedule.** For jurisdictions in the region to receive CTR program funding, the CTR board must receive final draft regional CTR plans by October 1, 2007, and by March 31 every two years thereafter, if updates have been made to the regional CTR plan or if the RTPO is adopting a regional CTR plan for the first time.

(ii) **Submittal.** RCW 70.94.527(7) requires RTPOs to submit their regional CTR plans, related local CTR plans, and certified GTEC programs to the CTR board. By October 1, 2007, and by March 31 every two years thereafter, the RTPO shall submit the regional CTR plan, all local CTR plans in the region, and GTEC certification reports to the CTR board. Local and regional CTR plan submittals shall include documentation of support from the applicable transit agencies if the plans include a transit element.

(iii) **Determination of consistency.** RCW 70.94.527(7) requires the RTPO to collaborate with the CTR board to evaluate the consistency of local CTR plans with the regional CTR plan. When the RTPO submits local CTR plans to the CTR board, it shall also submit its determination of which local CTR plans are consistent with the regional CTR plan and meet state requirements. If any plans are not consistent or do not meet state requirements, the RTPO shall describe its reasoning and what changes need to be made to the plan before it is approved. The CTR board shall use the RTPO recommendation during its review of the local and regional CTR plans.

(iv) **Approval.** According to RCW 70.94.527(7), regional CTR plans must be approved by the CTR board to be eligible for state CTR funding. The CTR board shall review the regional CTR plan and notify the RTPO in writing whether it approves or denies the plan. If the regional CTR plan is approved, jurisdictions in the region are eligible for state CTR funding. If the regional CTR plan is not approved, the CTR board shall state its reasoning and recommendations for improvement to the RTPO. The RTPO may then choose to submit its revised plan to the CTR board by the deadline established by the CTR board or to appeal the decision.

(v) **Appeal.** If a regional CTR plan is not approved by the CTR board, the RTPO may choose to appeal the decision to the secretary of transportation or his/her designee within sixty days of the board's decision by submitting a written request for appeal to the secretary of transportation or his/her designee. The secretary of transportation or his/her designee shall consider the appeal within sixty days of the RTPO's request. If the secretary of transportation or his/her designee grants the appeal, the regional CTR plan shall be considered valid by the CTR board. If the secretary of transportation or his/her designee denies the appeal, the region is not eligible for state CTR program funding until a revised regional CTR plan is submitted and approved by the CTR board.

(f) **Annual progress report.** RCW 70.94.527(8) requires RTPOs with a regional CTR plan to submit an annual progress report to the CTR board at the end of each state fiscal year. The RTPO is required to submit a progress report to the CTR board by June 30, 2008, and every year thereafter. The report shall describe progress in achieving the regional CTR goals and targets and shall highlight any prob-

lems being encountered in achieving the goals and targets. The information shall be reported in a form established by the CTR board.

(g) **Plan update cycle.** The regional CTR plan shall be updated concurrent with the schedule for the regular update of the regional transportation plan or in order to establish new regional goals and targets and incorporate information from updated local CTR plans.

(2) **Required plan elements.** RCW 70.94.527(6) requires affected RTPOs to adopt a regional CTR plan consistent with the rules and deadlines established by WSDOT.

The regional CTR plan shall contain the following elements:

(a) **Description of land use and transportation context.** The state intends for RTPOs to evaluate the significance of regional land use and transportation conditions, characteristics and trends to highlight factors that are considered critical to the success of the regional CTR plan.

The plan shall discuss the existing and future land use and transportation conditions and characteristics considered most critical by the RTPO and evaluate the degree to which existing local services, policies, regulations, and programs, as well as any documented future investments, will complement the trip reduction efforts of major employers and help employer programs be more effective.

The plan shall evaluate the existing barriers to the success of the CTR plan, and identify how the RTPO and its partners can overcome these barriers.

The plan shall also discuss cross-boundary issues, such as pass-through commute patterns or extra-regional issues, and how these affect the regional plan.

(b) **Minimum criteria for growth and transportation efficiency centers.** The RTPO shall adopt minimum transportation and land use criteria that are appropriately scaled to the regional context. The RTPO may establish either absolute or relative criteria. The regional criteria may include, but are not limited to:

(i) Consistency with local and regional CTR plans and local comprehensive plans;

(ii) Support achievement of goals in the regional transportation plan;

(iii) Minimum existing and/or target density thresholds (i.e., activity density, population density, or employment density);

(iv) Minimum and maximum geographic sizes;

(v) Existing and targeted levels of transit service;

(vi) Existing and targeted commute trip mode splits;

(vii) Current and forecasted level of delay on state and regional facilities of significance;

(viii) Number of employees and/or residents;

(ix) Maximum parking development ratios for new commercial and residential development;

(x) Pricing strategies affecting parking demand (commuter and transient); and

(xi) Bicycle and pedestrian accessibility.

(c) **Regional program goals and targets.** The plan shall describe the established CTR goals and targets for each of the region's affected urban growth areas and designated GTECs. The plan shall also describe the entire region's goals and targets for CTR and how the regional goals and targets relate to the local goals and targets. The plan shall describe

how the regional CTR goals and targets will help the region achieve its other transportation goals.

(d) **Description of how progress will be measured.** The plan shall describe how the measurement of local CTR plan progress will be used to assess regional progress toward CTR goals and targets. The plan's measurement methodology shall be consistent with the measurement guidelines established by WSDOT and posted on the agency's web site.

(e) **Description of regional strategies for achieving the goals and targets.** The plan shall describe what regional services and strategies will be implemented to achieve the plan's goals and targets, and how these services and strategies will support major employer programs and local CTR plans. The regional services and strategies may include modifying regional funding allocations and program prioritization criteria to support the regional CTR plan.

(f) **A sustainable financial plan.** The plan shall describe the funding revenues from public and private sources that are reasonably expected to be available, as well as the expected costs, to implement the plan and achieve its goals and targets. If a RTPO identifies program elements that are not necessary to the success of the plan, but would support the plan and are beyond expected resources, the plan shall describe the level of funding that would be needed to implement the program element and how it would contribute to the success of the plan.

[Statutory Authority: RCW 70.94.537, 07-05-065, § 468-63-050, filed 2/20/07, effective 3/23/07.]

WAC 468-63-060 Growth and transportation efficiency centers. (1) Purpose and process.

(a) **Purpose and objective of the growth and transportation efficiency center (GTEC) program.** The state's goal for the GTEC program is to provide greater access to employment and residential centers while increasing the proportion of people not driving alone during peak periods on the state highway system. Counties, cities and towns may designate existing or new activity centers as GTECs in order to establish a transportation demand management (TDM) program in the designated area. The purpose of the rules pertaining to GTECs is to provide a consistent framework for local jurisdictions to exercise their authority to implement a GTEC via comprehensive plans, development regulations, and transportation investments that support population growth and economic development, transportation-efficient land uses, and transportation demand management strategies.

The state intends for GTECs to be developed in a collaborative planning process that builds upon the information in local and regional CTR plans as well as other existing plans and programs such as the local comprehensive plan, unified development codes, the transportation improvement program, economic development plans. The state intends for the development of the GTEC program plan to be informed by and coordinated with the development of local and regional CTR plans.

The state intends to focus state program resources provided for GTECs in those urban areas that can provide the greatest current or future benefits for highway system efficiency.

(b) **Jurisdictional coordination.** The state encourages jurisdictions to discuss interjurisdictional issues and evaluate

the possibility of creating a cross-boundary GTEC. While these rules refer to the actions of a single city or county in designating a GTEC, nothing in these sections shall prohibit jurisdictions from cooperating to designate GTECs that cross jurisdictional boundaries. Jurisdictions designating a cross-boundary GTEC shall adopt consistent ordinances and enter into a cooperational partnership to implement the GTEC program.

(c) **Consistency for employers.** Major employers that are affected by the base CTR program, when located within a designated GTEC, shall only be required to fulfill one set of requirements, if the GTEC program and base CTR program requirements vary. Jurisdictions that allow major employers to follow the requirements of the GTEC, rather than the base CTR program, shall ensure that major employer worksites are measured in a manner that allows accountability for the worksite and is consistent with the measurement guidelines established by WSDOT and available on the agency's web site.

(d) **Designation and certification.** RCW 70.94.537(2) requires WSDOT to establish methods for RTPOs to evaluate and certify that designated GTECs meet the minimum requirements and are therefore eligible for funding.

(i) **Minimum land use and transportation criteria.** RCW 70.94.537(2) requires WSDOT to establish guidance criteria for GTECs. Minimum land use and transportation criteria for GTECs shall be developed by the RTPO in collaboration with local jurisdictions, transit agencies, major employers, and other affected parties as part of the regional CTR plan. The regional CTR plan may include a map that depicts which areas of the region meet the criteria.

The state's intent is to constrain funding resources to those areas that have the greatest potential to reduce single-occupant vehicle commute trips on the state highway system in the future. The state will use the RTPO certification of the GTEC's potential system benefits as part of its funding prioritization process.

(ii) **Eligibility and designation process.** To be eligible for certification as a designated "growth and transportation efficiency center," the jurisdiction must submit a GTEC certification application to the applicable RTPO that:

(A) Describes how the GTEC meets the minimum land use and transportation criteria established by the RTPO as part of the regional CTR plan;

(B) Includes a copy of the GTEC program plan and the required elements identified in this rule;

(C) Identifies when and how the GTEC program plan will be incorporated into future updates or amendments of the applicable local comprehensive plan; and

(D) Includes letters of support for the GTEC program plan from partners that are expected to contribute resources to the plan or intend to work with the local jurisdiction to develop future strategies and funding resources for the GTEC.

(iii) **Schedule.** For GTEC programs to be eligible for state CTR program funds, the CTR board must receive GTEC certification reports, or local jurisdiction requests for appeal, for new or updated GTEC programs by October 1, 2007, and by April 1 every two years thereafter.

These rules do not constrain the ability of local jurisdictions to designate a GTEC at any time, or for RTPOs to certify new or updated GTECs at any time.

GTEC program plans may be updated annually to reflect changing conditions and new information. However, substantial changes to the program plan, including reductions in targets, densities, and investments, may be made no more than once every biennium. RTPOs may require local jurisdictions to update GTEC program plans as part of the regional CTR plan update. Substantially modified GTEC program plans shall be resubmitted to the RTPO for recertification.

(iv) **Certification.** RCW 70.94.528 (1)(b) requires designated GTECs to be certified by the applicable RTPO to be eligible for state funding. The RTPO shall evaluate the jurisdiction's GTEC certification application to determine if the proposed GTEC meets the requirements outlined in this rule. The RTPO shall, in partnership with the local jurisdiction and WSDOT, evaluate how achievement of the GTEC goal would affect the performance of the state highway system and the regional transportation system.

Within sixty days following receipt of the jurisdiction's application, the RTPO shall issue a certification report to the jurisdiction that either certifies or declines to certify the GTEC. The certification report shall state the rationale for the decision and describe in quantitative terms how the GTEC addresses state and regional highway deficiencies, and what benefits for the transportation system the GTEC is projected to provide. The RTPO shall provide a copy of the certification report and the GTEC program plan report to the CTR board.

(v) **Appeal.** RCW 70.94.528 (1)(b) allows jurisdictions denied certification of a designated GTEC by an RTPO to appeal the decision to the CTR board. If the RTPO declines to certify a GTEC when requested by the local jurisdiction, the local jurisdiction may appeal the decision to the CTR board within sixty days following receipt of the RTPO's certification report. The CTR board will hear the appeal within sixty days of a jurisdiction request.

If the CTR board concurs with the RTPO decision, the jurisdiction's GTEC will not be eligible for state funding. The local jurisdiction may then choose to implement the GTEC (while ineligible for state funding) or revise its application and request RTPO certification during the next biennial budget cycle. If the CTR board overrules the RTPO and certifies the GTEC, then the jurisdiction's GTEC will be eligible for state funding if it is designated within one hundred twenty days following receipt of the notice of the state GTEC funding allocation.

(vi) **Adoption.** The jurisdiction shall "designate" the GTEC by adopting the GTEC program plan via official resolution or ordinance within one hundred twenty days following receipt of the notice of the state GTEC funding allocation. If the jurisdiction does not designate the GTEC program plan within this deadline, then it will not be eligible for any state or regional funding intended for GTEC programs for the current biennium.

(vii) **Funding.** State funding for GTECs shall be allocated by the CTR board, based on the board's funding policy developed pursuant to RCW 70.94.544.

(2) **GTEC program plan.**

(a) **Program development process.** RCW 70.94.528 (1)(a) requires the GTEC program plan to be developed in consultation with local transit agencies, the applicable RTPO, major employers, and other interested parties.

(i) **Collaboration.** The local jurisdiction shall invite, as appropriate, representatives of major employers, property managers, local transit agencies, the applicable RTPO, business associations and economic development organizations, nonprofit transportation and land use advocacy organizations, pedestrian and bicycle advocacy organizations, public health agencies, tribal governments, and residents, employees and businesses that will be affected by the GTEC to participate in the development of the GTEC program plan. The local jurisdiction and its invitees shall discuss the findings of the gap analysis portion of the plan and collaboratively develop the program's goals, targets, and program strategies.

(ii) **Informal review.** The local jurisdiction shall give collaborating entities and those entities affected by the GTEC designation an opportunity to review the draft program plan before it is released to the public and submitted for certification to the RTPO.

(iii) **Public outreach.** The local jurisdiction shall follow, at a minimum, a comparable process to the local requirements and procedures established for purposes of public outreach for comprehensive plan development, adoption, or amendment, including public notices and public meetings and hearings.

(b) **Required elements.** RCW 70.94.528 (1)(c) requires the TDM program elements in the GTEC to be consistent with the rules established by WSDOT.

The state intends for GTECs to be developed in a collaborative planning process that builds upon the information in local and regional CTR plans as well as other existing plans and programs, such as the local comprehensive plan, unified development codes, the transportation improvement program, and economic development plans. The state intends for the GTEC program plan to be a focused planning element that is coordinated with the local and regional CTR plan.

The GTEC program plan shall describe local conditions and use projections of future growth to define the scope of the problem that the GTEC goals and strategies are designed to address.

The GTEC program plan shall contain the following elements:

(i) **Executive summary.** The GTEC program plan shall include an executive summary of the jurisdiction's vision for the GTEC, how the GTEC relates to the base CTR program, how the plan's success will affect transportation access to and within the center, and states:

(A) The GTEC program goals and targets;

(B) The GTEC target population;

(C) Proposed program strategies, including policy and service changes needed to execute the plan and proposed land use strategies to support the plan; and

(D) Key funding and service partnerships.

(ii) **Background information.** The GTEC program plan shall include:

(A) A description of the geographic boundaries of the GTEC;

(B) Documentation that the GTEC is located within the jurisdiction's urban growth area; and

(C) A brief description of the jurisdiction's vision for the GTEC, including information from the local comprehensive plan, other transportation plans and programs, and funded transportation improvements.

(iii) **Evaluation of land use and transportation context.** Jurisdictions shall evaluate the significance of local conditions, characteristics and trends to determine which factors are most critical to the success of the plan. The RTPO, local transit agencies, state agencies and other appropriate entities shall assist this process by providing data and plans and discussing issues with jurisdictions.

The local jurisdiction shall evaluate existing conditions and characteristics and projected future conditions and characteristics. The jurisdiction may choose to evaluate, but is not limited to, the following issues:

(A) Existing conditions and characteristics. These may include, but are not limited to:

(I) Existing land uses, including the general location and extent of housing, commerce, industry, recreation, open spaces, public utilities, public facilities, and other land uses, and population densities and building intensities, with particular attention to mix of land uses and proximity of residential and employment locations.

(II) Existing transportation network, including:

- Major origins and destinations of trips, including traffic impacts of activity to, from and within a GTEC to state-owned transportation facilities, if adequate information is available from WSDOT to support this evaluation;

- Transit service network and level of service including unused capacity and facilities, service deficiencies and needs, if adequate information is available from transit agencies to support this evaluation;

- Available capacity and performance of other HOV systems serving the GTEC, if adequate information is available from transit agencies and WSDOT to support this evaluation;

- Public and private parking capacity, pricing, and development standards (minimums, maximums, and incentives to reduce parking);

- Significance of the use of and deficiencies in the street, sidewalk, and trail/bicycle path network for bicyclists and pedestrians and deficiencies in end of trip facilities (e.g., bike parking, storage and shower/locker facilities) necessary to support bicyclists and pedestrians;

- Estimated commute mode share in the GTEC for transit, rideshare, bike and walk for all employers;

- Number and size of CTR-affected employers and commute mode share by CTR employees; and

- Local and regional transportation demand management strategies available to businesses in the GTEC, including incentives and programs that promote nondrive-alone travel.

(III) Local and regional economic development plans.

(B) **Projected future conditions and characteristics.** Jurisdictions shall use existing data, plans and programs to describe anticipated changes in the future. Jurisdictions shall use projections of future growth to evaluate how it will affect transportation access and economic development in the GTEC. Factors may include, but are not limited to:

(I) Projected population and employment growth for at least ten and twenty years;

(II) Projected changes in land use types and intensities for at least ten and twenty years;

(III) Forecasts of traffic, delay, mode share, and parking needs for at least ten years to provide information on the location, timing, and capacity needs of future growth, as well as to describe the costs to accommodate growth under the status quo (for example, describing the projected parking costs, delay, and other costs that will be incurred from future growth); and

(IV) Identification of jurisdiction plans, policies and capital programs for the provision of infrastructure, services and amenities to support planned growth and reduce single-occupant-vehicle trips, including additional transit routes, HOV capacity, pricing strategies and nonmotorized facilities and amenities.

(iv) Gap analysis. Using the information gathered in discussion of the existing and projected future conditions and characteristics, the local jurisdiction and its partners shall evaluate the degree to which existing and future services, policies, and programs will be sufficient to maintain or improve transportation access and increase the proportion of non-drive-alone travel as the area grows. This evaluation shall describe the gaps between what services, policies and programs will be available versus what may be needed to address the projected conditions. The jurisdiction's evaluation of its own policies, programs, and regulations shall include, but is not limited to an evaluation of land use and transportation regulations, including parking policies and ordinances, streetscape design standards, development requirements, concurrency policies, level of service standards, assessment of impact fees, and zoning, to determine the extent that they can reduce the need for drive-alone travel and attract and maintain a mix of complementary land uses, particularly uses that generate pedestrian activity and transit ridership.

(v) Description of program goals and measurements. The state's goal for the GTEC program is to provide greater access to employment and residential centers while increasing the proportion of people not driving alone during peak periods on the state highway system. The GTEC program plan's established goals and targets shall be more aggressive than the minimum goal for the urban growth area established by the jurisdiction, in accordance with RCW 70.94.528(1). The GTEC's established goals and targets shall be designed to maintain or improve transportation access and increase the proportion of nondrive-alone travel as the area grows. The goals and targets shall be designed to support achievement of local and regional goals for transportation and land use.

(A) Goals and targets. Jurisdictions shall have flexibility in establishing GTEC goals and targets, as long as the targets are certified by the RTPO to be more aggressive than the minimum drive alone and VMT targets for the CTR program established by the state. The RTPO shall certify that the GTEC program targets meet this standard if the GTEC program target is to reduce, on a relative or absolute basis, more drive-alone trips or more vehicle miles traveled than the minimum base CTR program target in the urban growth area.

The GTEC targets shall be expressed in terms of changes from a base year value.

The RTPO shall determine in the GTEC certification report if the GTEC program target meets the standard defined in RCW 70.94.528(1), and work with WSDOT to evaluate

how attainment of the target will affect the performance of the state highway system.

(B) Performance measures. The GTEC program plan shall describe the methodology for measuring the program's performance. The program's performance shall be measured at least once every two years after the base year measurement in order to assess progress toward the established GTEC goals and targets. The program's measurement methodology shall be consistent with the GTEC guidelines established by WSDOT and listed on the agency's web site.

(vi) Description of program strategies. Using the gap analysis evaluation, the local jurisdiction and its partners shall identify what new or revised services, policies and programs may be needed in order to meet the GTEC's established goals and targets.

The local jurisdiction shall consult with appropriate representatives of local transit agencies, the applicable RTPO, business associations and economic development organizations, nonprofit transportation and land use advocacy organizations, public health agencies, and residents, employees and businesses that will be affected by the GTEC so that they may provide their perception of what services, policies and programs are needed to meet the GTEC's established goals and targets. The state's intent is for the discussion to be an open, collaborative process, and for all of the parties to think about how they may be able to improve their own services, policies and programs, or develop stronger partnerships, in order to support the GTEC's established goals and targets.

The GTEC program plan shall identify the target population that will be the focus of the plan, as well as the services, policies and programs that will be needed in order to meet the GTEC's established goals and targets. These may include new services, policies and programs or improvements to existing services, policies and programs. The state recognizes that program strategies will vary across the state, depending on local conditions, needs, partnerships, and resources.

The GTEC program plan may include but is not limited to the following strategies:

- (A) Improvements to policies and regulations;
- (B) New services and facilities; and
- (C) New marketing and incentive programs.

(vii) Financial plan. The GTEC program plan shall include a sustainable financial plan that demonstrates how the jurisdiction plans to implement the GTEC program to meet its goals and targets. The plan shall describe resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommend any innovating financing techniques consistent with chapter 47.29 RCW, including public/private partnerships, to finance needed facilities, services, and programs. The plan shall specifically describe when and how the expected funding resources will fund the plan's strategies. The plan shall describe how locally derived funding resources will be leveraged as a match to state GTEC program funds allocated through the CTR board according to its funding policy. The plan shall describe the jurisdiction's contingency plan if anticipated funds do not become available to support the plan. Jurisdictions may consider using other state TDM funding resources, including the trip reduction performance program, the vanpool investment program, the rideshare tax

credit, and the regional mobility grant program, in funding their GTEC programs.

(viii) Proposed organizational structure for implementing the program. The GTEC program plan shall identify the organization or organizations that are proposed to administer the GTEC program. The plan shall describe the roles of the local jurisdiction's partners by describing who will implement the various strategies identified in the plan and when the elements of the plan are expected to be implemented. If the jurisdiction will update its comprehensive plan to be consistent with the GTEC program plan, it shall describe which elements need updating and when the update will occur.

(ix) Documentation of public outreach. The GTEC program plan shall document the level and frequency of outreach and consultation with local transit agencies, the applicable RTPO, major employers, and other affected parties in the development of the GTEC program plan. The jurisdiction may choose to include letters of support from business associations, developers, employers and others as documentation of consultation. When submitting the plan to the RTPO for certification, the local jurisdiction shall include letters of support from those partners that are expected to contribute resources to the plan or intend to work with the local jurisdiction to develop future strategies and funding resources for the GTEC.

(x) Description of relationship to local CTR plan. Jurisdictions shall describe the relationship of the GTEC program plan to the base CTR program in the local CTR plan. The narrative shall include information about what the GTEC plan adds beyond the requirements and strategies in the base CTR program, and the expected benefits of the GTEC plan for the base CTR program.

(3) Support for GTECs.

(a) **Prioritization.** RCW 70.94.528 requires transit agencies, local governments, and RTPOs to identify certified GTECs as priority areas for new service and facility investments in their respective investment plans. Transit agencies, local governments, regional transportation planning organizations, and the state shall identify certified growth and transportation efficiency centers as priority areas for new service and facility investments in future updates of their investment plans, as required by RCW 70.94.528(1). Periodically, the CTR board shall evaluate the degree to which prioritization of GTECs has occurred.

(i) Transit development plan. The local transit agency shall examine and revise funding prioritization policies, recognizing funding constraints and competing priorities, in order to meet the state's intent to prioritize certified GTECs for investments in facilities, services, and amenities in its transit development plan.

(ii) City and county six-year comprehensive transportation programs. The city or county shall examine and revise funding prioritization policies, recognizing funding constraints and competing priorities, in order to meet the state's intent to prioritize certified GTECs for investments in facilities, services, and amenities in its comprehensive transportation program.

(iii) Regional transportation plan. The RTPO shall examine and revise funding prioritization policies, recognizing funding constraints and competing priorities, in order to meet the state's intent to prioritize certified GTECs for investments

in facilities, services, and amenities in its regional transportation plan.

(iv) State plans. WSDOT, the department of community, trade, and economic development, the transportation improvement board and the public works trust fund shall examine funding prioritization policies, recognizing funding constraints and competing priorities, in order to meet the state's intent to prioritize certified GTECs for investments in facilities and services as part of state plans and programs.

(b) **Integration.** The GTEC program plan shall be incorporated into other plans and programs, including local comprehensive plans and transportation improvement programs, as they are updated after January 1, 2008.

[Statutory Authority: RCW 70.94.537, 07-05-065, § 468-63-060, filed 2/20/07, effective 3/23/07.]

WAC 468-63-070 Opt-in, additions, and exemptions.

(1) **Criteria and process for opt-in.** RCW 70.94.537 (2)(h) requires WSDOT to establish criteria and a process to determine whether jurisdictions that voluntarily implement CTR are eligible for state funding. Jurisdictions that are not required to implement CTR may volunteer to participate in the program. The state CTR board is not required to provide state CTR program funding to jurisdictions that opt-in. WSDOT shall provide technical assistance to opt-in jurisdictions that meet the requirements of these rules. The state intends for each jurisdiction participating in CTR to implement a consistent set of requirements for employers. Therefore, jurisdictions that opt-in to the CTR program shall follow the requirements of the rules, with the following exceptions listed below.

(a) **Local CTR plan.** Voluntary jurisdictions may, instead of developing a stand-alone CTR plan meeting the planning requirements described in these rules, develop an amendment to the transportation element of the local comprehensive plan. The amendment shall contain the following:

(i) Goals and numerical targets for reductions in the proportion of single-occupant vehicle commute trips and vehicle miles traveled per CTR commuter for the area established by the jurisdiction;

(ii) An assessment of current conditions and how attainment of the program goal can help the jurisdiction meet its broader growth and transportation goals;

(iii) A description of local services that will help the jurisdiction and its employers meet the goals and targets;

(iv) A description of the requirements for employers;

(v) A determination of the base year value and how progress toward meeting the program goal will be measured, consistent with the measurement guidelines issued by WSDOT; and

(vi) A description of how the program will be funded and administered.

The jurisdiction must adopt the comprehensive plan amendment and adopt an ordinance implementing the CTR requirements described in the comprehensive plan to be considered an opt-in CTR jurisdiction.

(b) **State technical assistance.** After an opt-in jurisdiction provides confirmation to the CTR board that a CTR ordinance has been adopted and the jurisdiction has updated its comprehensive plan to include CTR plan information, the jurisdiction shall be eligible to receive a comparable level of

technical assistance that WSDOT provides to other jurisdictions required to adopt and implement CTR plans.

(2) **Criteria and procedure for RTPOs to propose to add urban growth areas.** RCW 70.94.537 (2)(f) requires WSDOT to establish criteria and procedures for RTPOs in consultation with local jurisdictions to propose to add urban growth areas. In their regional CTR plans, RTPOs may propose to add urban growth areas to the CTR program. The proposal shall list the jurisdictions in the urban growth area proposed to be added, and shall include documentation of the jurisdiction's consent to be added to the CTR program. If the proposed additions are accepted by the CTR board, the identified, consenting jurisdictions in the added urban growth areas shall be considered as opt-in jurisdictions. The opt-in jurisdictions shall be eligible to receive a comparable level of technical assistance that WSDOT provides to other jurisdictions required to adopt and implement CTR plans. The state CTR board is not required to provide state CTR program funding to jurisdictions that opt-in.

The CTR board shall consider proposed additions to the CTR program as part of its review of the regional CTR plan. In order for a jurisdiction to be approved as an opt-in jurisdiction through the regional CTR plan, the regional CTR plan shall include the following elements for each opt-in jurisdiction:

(a) Goals and numerical targets for reductions in the proportion of single-occupant vehicle commute trips and vehicle miles traveled per CTR commuter established by the proposed jurisdiction for the urban growth area and its employers;

(b) An assessment of current conditions and how attainment of the program goal can help the proposed jurisdiction meet its broader growth and transportation goals;

(c) A description of local services that will help the proposed jurisdiction and its employers meet the goals and targets;

(d) A description of the requirements for employers;

(e) A determination of the base year value and how progress toward meeting the program goal will be measured, consistent with the measurement guidelines issued by WSDOT; and

(f) A description of how the program will be funded and administered.

(3) **Criteria and procedure for RTPOs to propose to exempt urban growth areas.** RCW 70.94.537 (2)(f) requires WSDOT to establish criteria and procedures for RTPOs in consultation with local jurisdictions to propose to exempt urban growth areas.

(a) Exemption criteria. In order for their urban growth area to be exempted, jurisdictions must document in the submittal of their local CTR plan that they meet the following criteria:

(i) Development of a local CTR plan that meets the requirements in these rules;

(ii) The jurisdiction is not currently experiencing any problems with traffic congestion or traffic safety; and

(iii) The jurisdiction has not received any state transportation funding, including grant funding, for transportation improvements in the urban growth area within two years of the submittal of the local CTR plan;

(b) **Exemption application process.** A jurisdiction that seeks an urban growth area exemption shall notify its RTPO as part of the submittal of its local CTR plan. If the RTPO concurs with the urban growth area exemption request, the RTPO will submit the urban growth area exemption request with the regional CTR plan to the CTR board. The urban growth area exemption request shall describe why the exemption is justified.

RTPOs shall submit any urban growth area exemption requests to the CTR board by October 1, 2007, or by March 31 every two years thereafter. The CTR board may consider urban growth area exemption requests at other times.

The CTR board shall consider the proposed urban growth area exemption while reviewing the regional CTR plan, and approve or deny the urban growth area exemption. The CTR board shall state the reasoning for its decision and communicate the information in writing to the RTPO.

If the CTR board grants the urban growth area exemption, the jurisdiction is exempt from the requirements of the CTR law until the regional CTR plan is updated and the exemption is reevaluated.

If the CTR board denies the urban growth area exemption, the jurisdiction may appeal the decision to the secretary of transportation or his/her designee within sixty days of the board's decision by submitting a written request for appeal to the secretary of transportation or his/her designee. The secretary of transportation or his/her designee shall consider the appeal within sixty days of the jurisdiction's request. If the secretary of transportation or his/her designee grants the appeal, the exemption shall be granted by the CTR board. If the secretary of transportation or his/her designee denies the appeal, the jurisdiction is required to follow the CTR requirements and the regional CTR plan must reflect the inclusion of the jurisdiction's CTR plan.

(c) **Reevaluation of exemption.** As part of the regional CTR plan update, RTPOs, in consultation with local jurisdictions, shall reevaluate any exempted urban growth areas to assess whether the conditions that qualified the area for the exemption have changed. For each proposed urban growth area, the RTPO shall discuss its reasoning for a continued exemption or removal of exemption with the CTR board, and the CTR board will decide whether or not a change is warranted.

[Statutory Authority: RCW 70.94.537. 07-05-065, § 468-63-070, filed 2/20/07, effective 3/23/07.]

Chapter 468-100 WAC

UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION

WAC

468-100-102

Criteria for appraisals.

468-100-403

Additional rules governing replacement housing payments.

WAC 468-100-102 Criteria for appraisals. (1) **Standards of appraisal:** The format and level of documentation for an appraisal depend on the complexity of the appraisal problem. The agency shall develop minimum standards for appraisals consistent with established and commonly accepted appraisal practice for those acquisitions which, by

virtue of their low value or simplicity, do not require the in-depth analysis and presentation necessary in a detailed appraisal. A detailed appraisal shall be prepared for all other acquisitions. A detailed appraisal shall reflect nationally recognized appraisal standards. An appraisal must contain sufficient documentation, including valuation data and the appraiser's analysis of that data, to support the appraiser's opinion of value. At a minimum, the appraisal shall contain the following items:

(a) The purpose and/or the function of the appraisal, a definition of the estate being appraised, and a statement of the assumptions and limiting conditions affecting the appraisal.

(b) An adequate description of the physical characteristics of the property being appraised (and, in the case of a partial acquisition, an adequate description of the remaining property), including items identified as personal property, a statement of the known and observed encumbrances if any, title information, location, zoning, present use, an analysis of highest and best use, and at least a five-year sales history of the property.

(c) All relevant and reliable approaches to value consistent with commonly accepted professional appraisal practices. When sufficient market sales data are available to reliably support the fair market value for the specific appraisal problem encountered, the agency, at its discretion, may require only the market approach. If more than one approach is utilized, there shall be an analysis and reconciliation of approaches to value that are sufficient to support the appraiser's opinion of value.

(d) A description of comparable sales, including a description of all relevant physical, legal, and economic factors such as parties to the transaction, source and method of financing, and verification by a party involved in the transaction.

(e) A statement of the value of the real property to be acquired and, for a partial acquisition, a statement of the value of the damages and benefits, if any, to the remaining real property.

(f) The effective date of valuation, date of appraisal, signature, and certification of the appraiser.

(2) **Influence of the project on just compensation.** To the extent permitted by applicable law, the appraiser in his "before" valuation shall disregard any decrease or increase in the fair market value of the real property caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project, other than that due to the physical deterioration within the reasonable control of the owner.

(3) **Owner retention of improvements:** If the owner of a real property improvement agrees and is permitted to obtain the right to remove it in whole or in part from the project site, the amount to be offered for the interest in the real property to be acquired shall be the amount determined to be just compensation for the owner's entire interest in the real property. The salvage value (defined in WAC 468-100-002(23)) of the improvement to be removed shall be deducted from the agency's payment.

(4) **Qualifications of appraisers:** The agency shall establish criteria for determining the minimum qualifications of appraisers. Appraiser qualifications shall be consistent with the level of difficulty of the appraisal assignment. The

agency shall review the experience, education, training, and other qualifications of appraisers, including review appraisers, and utilize only those determined to be qualified.

(5) **Conflict of interest:** No appraiser or review appraiser shall have any interest, direct or indirect, in the real property being appraised for the agency that would in any way conflict with the preparation or review of the appraisal. Compensation for making an appraisal shall not be based on the amount of the valuation.

No person shall attempt to unduly influence or coerce an appraiser, review appraiser, or waiver valuation preparer regarding any valuation or other aspect of an appraisal, review or waiver valuation. Persons functioning as negotiators may not supervise or formally evaluate the performance of any appraiser or review appraiser performing appraisal or appraisal review work.

No appraiser shall act as a negotiator for real property which that person has appraised, except that the agency may permit the same person to both appraise and negotiate an acquisition where the value of the acquisition is ten thousand dollars, or less.

[Statutory Authority: Chapter 8.26 RCW. 07-21-057, § 468-100-102, filed 10/11/07, effective 11/11/07; 06-02-068, § 468-100-102, filed 1/3/06, effective 2/3/06. Statutory Authority: Chapter 8.26 RCW and WSR 89-17-048 (Order 121). 01-02-027, § 468-100-102, filed 12/22/00, effective 1/22/01. Statutory Authority: Chapter 8.26 RCW. 89-17-048 (Order 121), § 468-100-102, filed 8/14/89, effective 9/14/89.]

WAC 468-100-403 Additional rules governing replacement housing payments. (1) Determining cost of comparable replacement dwelling: The upper limit of a replacement housing payment shall be based on the cost of a comparable replacement dwelling (defined in WAC 468-100-002(6)).

(a) **Three-comparable method:** If available, at least three comparable replacement dwellings shall be examined and the payment computed on the basis of the dwelling most nearly representative of, and equal to, or better than, the displacement dwelling.

(b) **Major exterior attribute:** If the site of the comparable replacement dwelling lacks a major exterior attribute of the displacement dwelling site (e.g., the site is significantly smaller or does not contain a swimming pool or outbuildings), the value of such attribute shall be subtracted from the acquisition cost of the displacement dwelling for purposes of computing the replacement housing payment.

(c) **Remainder offer:** If the acquisition of a portion of a typical residential property causes the displacement of the owner from the dwelling and the remainder is a remnant of the displacement dwelling site or a buildable residential lot, the agency may offer to purchase the entire property. If such an offer is made and the owner refuses to sell the remainder to the agency, the value attributable to that remainder, shall be added to the acquisition price paid for the displacement dwelling for purposes of computing the price differential.

(d) **Location:** To the extent feasible, comparable replacement dwellings shall be selected preferably from the neighborhood in which the displacement dwelling was located or, if not otherwise feasible, from nearby or similar neighborhoods where housing costs are generally the same as in the displacement neighborhood. Where that is not possible

dwellings may be selected from neighborhoods where housing costs are the same or higher.

(e) Multiple occupants of one displacement dwelling:

If two or more occupants of the displacement dwelling move to separate replacement dwellings, each occupant is entitled to a reasonable prorated share, as determined by the agency, of any relocation payments that would have been made if the occupants moved together to a comparable replacement dwelling. However, if the agency determines that two or more occupants maintained separate households within the same dwelling, such occupants have separate entitlements to relocation payments.

(f) Deductions from relocation payments: An agency shall deduct the amount of any advance relocation payment from the relocation payment(s) to which a displaced person is otherwise entitled. The agency shall not withhold any part of a relocation payment to a displaced person to satisfy an obligation to any other creditor.

(g) Mixed-use and multifamily properties: If the displacement dwelling was part of a property that contained another dwelling unit and/or space used for nonresidential purposes, and/or is located on a tract larger than a site that is typical for residential purposes, only that portion of the acquisition payment which is actually attributable to the displacement dwelling shall be considered its acquisition cost when computing the price differential.

(h) Insurance proceeds: To the extent necessary to avoid duplicate compensation, the amount of any insurance proceeds received by a person in connection with a loss to the displacement dwelling due to a catastrophic occurrence (fire, flood, etc.) shall be included in the acquisition cost of the displacement dwelling when computing the price differential. (Also see WAC 468-100-003.)

(2) Inspection of replacement dwelling: Before making a replacement housing payment or releasing a payment from escrow, the agency or its designated representative shall inspect the replacement dwelling and determine whether it is a DSS dwelling as defined in WAC 468-100-002(8).

(3) Purchase of replacement dwelling: A displaced person is considered to have met the requirement to purchase a replacement dwelling, if the person:

- (a) Purchases a dwelling; or
- (b) Purchases and rehabilitates a substandard dwelling; or
- (c) Relocates a dwelling which the person owns or purchases; or
- (d) Constructs a dwelling on a site the person owns or purchases; or
- (e) Contracts for the purchase or construction of a dwelling on a site provided by a builder or on a site the person owns or purchases; or
- (f) Currently owns a previously purchased dwelling and site, valuation of which shall be on the basis of current fair market value.

(4) Occupancy requirements for displacement or replacement dwelling: No person shall be denied eligibility for a replacement housing payment solely because the person is unable to meet the occupancy requirements set forth in this chapter for a reason beyond the person's control, including:

(a) A disaster, an emergency, or an imminent threat to the public health or welfare, as determined by the funding agency; or

(b) Another reason, such as a delay in the construction of the replacement dwelling, military reserve duty, or hospital stay, as determined by the agency.

(5) Conversion of payment: A displaced person who initially rents a replacement dwelling and receives a rental assistance payment under WAC 468-100-402(2) is eligible to receive a payment under WAC 468-100-401 or 468-100-402(3) if the person meets the eligibility criteria for such payments, including purchase and occupancy within the prescribed one-year period. Any portion of the rental assistance payment that has been disbursed shall be deducted from the payment computed under WAC 468-100-401 or 468-100-402(3).

(6) Payment after death: A replacement housing payment is personal to the displaced person and upon the person's death the undisbursed portion of any such payment shall not be paid to the heirs or assigns, except that:

(a) The amount attributable to the displaced person's period of actual occupancy of the replacement housing shall be paid.

(b) The full payment shall be disbursed in any case in which a member of a displaced family dies and the other family member(s) continue to occupy a DSS replacement dwelling.

(c) Any portion of a replacement housing payment necessary to satisfy the legal obligation of an estate in connection with the selection of a replacement dwelling by or on behalf of a deceased person shall be disbursed to the estate.

[Statutory Authority: Chapter 8.26 RCW, 07-08-109, § 468-100-403, filed 4/4/07, effective 5/5/07; 06-02-068, § 468-100-403, filed 1/3/06, effective 2/3/06; 89-17-048 (Order 121), § 468-100-403, filed 8/14/89, effective 9/14/89.]

Chapter 468-270 WAC

SETTING TOLL AMOUNTS FOR TOLL FACILITIES IN WASHINGTON STATE

WAC

468-270-010	Who sets the toll rates and exemptions?
468-270-020	Who collects the tolls?
468-270-030	Definitions.
468-270-040	How are the tolls determined?
468-270-050	What toll facilities are currently subject to this chapter?
468-270-060	How often will the toll rates for each toll facility be reviewed for potential change?
468-270-070	What will the toll rates be?
468-270-080	When are these toll rates in effect?
468-270-090	What vehicles are exempt from paying tolls on the Tacoma Narrows Bridge?
468-270-100	What vehicles are exempt from paying tolls on the SR 167 HOT lanes?

WAC 468-270-010 Who sets the toll rates and exemptions? The Washington state transportation commission determines and establishes toll rates for toll facilities in Washington pursuant to RCW 47.56.030; 47.46.100 (Tacoma Narrows Bridge); and RCW 47.56.403 (SR 167 HOT lanes).

[Statutory Authority: RCW 47.56.030, 47.46.100, 07-13-010, § 468-270-010, filed 6/8/07, effective 7/9/07.]

WAC 468-270-020 Who collects the tolls? The department is ultimately responsible for collecting tolls. However, the department may contract with one or more independent toll collection companies to manage the day-to-day toll collection activities at its various toll facilities. All toll related revenues collected by any independent toll collection company through WSDOT are payable to the state of Washington.

[Statutory Authority: RCW 47.56.030, 47.46.100. 07-13-010, § 468-270-020, filed 6/8/07, effective 7/9/07.]

WAC 468-270-030 Definitions. "Authorized emergency vehicle" includes but is not limited to a vehicle of any fire department, police department, sheriff's office, coroner, prosecuting attorney, Washington state patrol, ambulance service, public or private or any other emergency vehicle as defined in RCW 46.04.040.

"Bona fide emergency" occurs when an authorized emergency vehicle, as defined herein, responds to or returns from an emergency call.

"Cash customer" means a toll customer who is heading eastbound and is paying the toll in cash on a trip-by-trip basis.

"Citizens advisory committee" means the citizens committee established by RCW 47.46.090 that advises the transportation commission on Tacoma Narrows Bridge toll rates.

"Department" means the Washington state department of transportation (WSDOT).

"Electronic toll collection (ETC) lane" means a lane in which the electronic toll collection system will read the transponder of each vehicle and automatically collect the toll without requiring the vehicle to slow its speed or stop.

"Good To Go!™" is the name of the department's electronic toll collection system.

"Good To Go!™ customer" means a toll customer who participates in the department's "Good To Go!™" toll collection system.

"High-occupancy toll (HOT) lanes" means one or more lanes of a highway that charges tolls as a means of regulating access to or the use of the lanes in order to maintain travel speed and reliability. HOT lane supporting facilities include, but are not limited to, approaches, enforcement areas, improvements, buildings, and equipment.

"Transponder" means a radio frequency identification (RFID) unit attached to a toll customer's vehicle that transmits a radio signal to a reader mounted in the toll facility. The purpose of the transponder is to automatically identify the toll customer's vehicle as it passes through the toll facility. You will receive a transponder when you open a "Good to Go!™" account.

"Transportation commission" means the Washington state transportation commission whose duties and composition are set out in chapter 47.01 RCW.

[Statutory Authority: RCW 47.56.030, 47.46.100. 07-13-010, § 468-270-030, filed 6/8/07, effective 7/9/07.]

WAC 468-270-040 How are the tolls determined? In determining toll amounts, the transportation commission considers data and information provided by the department of transportation, public opinion and advice from any required citizen advisory committee. For the Tacoma Narrows Bridge

only, in accordance with chapter 47.46 RCW, the commission must consider the toll rate advice of the citizen advisory committee and must set toll amounts that cover the debt and operations and maintenance until the indebtedness is repaid as required by law.

[Statutory Authority: RCW 47.56.030, 47.46.100. 07-13-010, § 468-270-040, filed 6/8/07, effective 7/9/07.]

WAC 468-270-050 What toll facilities are currently subject to this chapter? Currently, the Tacoma Narrows Bridge and SR 167 HOT lanes are covered by this chapter.

[Statutory Authority: RCW 47.56.030, 47.46.100. 07-13-010, § 468-270-050, filed 6/8/07, effective 7/9/07.]

WAC 468-270-060 How often will the toll rates for each toll facility be reviewed for potential change? The toll rates will be reviewed and subject to change at least annually and more often as necessary to ensure the toll revenue of each facility is meeting the payment requirements and/or traffic efficiency requirements for that facility.

[Statutory Authority: RCW 47.56.030, 47.46.100. 07-13-010, § 468-270-060, filed 6/8/07, effective 7/9/07.]

WAC 468-270-070 What will the toll rates be?

Rate table \$3.00 cash/\$1.75 "Good to Go!™"
(two axle vehicles)

Tacoma Narrows Bridge			
	Cash toll rate	"Good To Go!™" toll rates	
2 axle	\$3.00	\$1.75	
3 axle	\$4.50	\$2.65	(3)
4 axle	\$6.00	\$3.50	
5 axle	\$7.50	\$4.40	(3)
6 or more axles	\$9.00	\$5.25	
SR 167 HOT lanes			
To be determined			

- Notes:
- (1) The base toll rate is the toll rate per axle. It is only used to calculate multi-axle rates, which are calculated as a multiplier of the base toll rate (\$1.50 for cash and \$0.875 for "Good to Go!™" toll rates).
 - (2) The "Good To Go!™" toll rates are in effect through June 30, 2008, or until changed by the commission. If no further action is taken by the commission, on July 1, 2008, the cash toll rate column becomes the toll rate for all vehicles.
 - (3) Rate rounded up to nearest five cents.

[Statutory Authority: RCW 47.56.030, 47.46.100. 07-13-010, § 468-270-070, filed 6/8/07, effective 7/9/07.]

WAC 468-270-080 When are these toll rates in effect? The toll rates for each facility will take effect upon commencement of the tolling program on each new toll facility. Check the WSDOT web site at wsdot.wa.gov/goodtogo for updated information on the opening dates for the tolling programs.

(1) For the Tacoma Narrows Bridge toll rates will remain in effect until changed by the commission or removed due to final repayment of the project as provided by law.

(2) For the SR 167 HOT lanes, the tolls will remain in effect until changed by the commission.

[Statutory Authority: RCW 47.56.030, 47.46.100. 07-13-010, § 468-270-080, filed 6/8/07, effective 7/9/07.]

WAC 468-270-090 What vehicles are exempt from paying tolls on the Tacoma Narrows Bridge? Except as provided herein, all vehicles crossing the Tacoma Narrows Bridge in an eastbound direction must pay the required toll. All vehicles that use the ETC lanes on the Tacoma Narrows Bridge must have a transponder and a valid "Good To Go!TM" account. Emergency vehicles not equipped with transponders must pay cash as a cash customer.

(1) Only the following vehicles providing service directly to the Tacoma Narrows Bridge are exempt from paying tolls, but must be equipped with transponders:

(a) Washington state department of transportation (WSDOT) maintenance vehicles directly involved in bridge and roadway maintenance on the Tacoma Narrows Bridge;

(b) Washington state patrol vehicles directly providing service to the SR 16 corridor in the vicinity of the Tacoma Narrows Bridge;

(c) Vehicles under the Tacoma Narrows Bridge design build contract that must cross the bridge as part of their construction duties to complete the requirements of the design build contract. This exemption status will expire on July 1, 2008, or upon completion of their construction duties, whichever comes first.

(2) Authorized emergency vehicles on bona fide emergencies as defined herein may apply for credit for their emergency trips and for the return trip from an emergency call.

(a) To be eligible for a credit, an authorized emergency vehicle must be equipped with a transponder and have an authorized prepaid account.

(b) Emergency vehicles that use the ETC lanes on a bona fide emergency may apply for a credit for each emergency trip. The credit must be applied for within six months of the trip date. The department will establish and oversee the procedure for emergency vehicle toll credits.

[Statutory Authority: RCW 47.56.030, 47.46.100. 07-13-010, § 468-270-090, filed 6/8/07, effective 7/9/07.]

WAC 468-270-100 What vehicles are exempt from paying tolls on the SR 167 HOT lanes? RCW 47.56.403 establishes an exempt category of vehicles. The transportation commission may include other exempt vehicles before tolling commences.

WAC 468-300-010 Ferry passenger tolls.

EFFECTIVE 03:00 A.M. May 1, 2007

ROUTES	Full Fare	Senior/ Disabled	Youth Fare 18 and under	Multiride Media 20 Rides ¹	Monthly Pass ⁵	Bicycle Surcharge ^{2,6}
Via Passenger-Only Ferry						
*Seattle-Vashon	8.70	4.35	7.40	73.60	117.80	1.00
Via Auto Ferry						
*Fauntleroy-Southworth	5.20	2.60	4.20	41.60	66.60	1.00
*Seattle-Bremerton						
*Seattle-Bainbridge Island						
*Edmonds-Kingston	6.70	3.35	5.40	53.60	85.80	1.00
Port Townsend-Keystone	2.60	1.30	2.10	41.60	66.60	0.50
*Fauntleroy-Vashon						
*Southworth-Vashon						
*Pt. Defiance-Tahlequah	4.30	2.15	3.45	34.40	55.05	1.00
*Mukilteo-Clinton	3.95	1.95	3.20	31.60	50.60	1.00
*Anacortes to Lopez, Shaw, Orcas or Friday Harbor - Sunday-Tuesday	9.85	4.90	7.90	71.20	N/A	2.00 ⁷

[Statutory Authority: RCW 47.56.030, 47.46.100. 07-13-010, § 468-270-100, filed 6/8/07, effective 7/9/07.]

Chapter 468-300 WAC
STATE FERRIES AND TOLL BRIDGES
(Formerly chapter 252-300 WAC.)

WAC

468-300-010	Ferry passenger tolls.
468-300-020	Vehicle under 20', motorcycle, and stowage ferry tolls.
468-300-040	Oversize vehicle ferry tolls.
468-300-220	Calculation of charter rates for vessels owned by the Washington state ferry system.
468-300-801	What is the purpose of these rules?
468-300-805	What definitions are important to understanding these rules?
468-300-808	What toll paying methods are available on WSDOT toll facilities?
468-300-810	Who collects the tolls charged on WSDOT toll roads and bridges?
468-300-820	What is a "Good To Go! TM " toll collection system?
468-300-822	Is the WSDOT electronic toll collection (ETC) system compatible with electronic payment methods used by other transportation systems?
468-300-824	Will commercial vehicles using the CVISN program need a special transponder to use WSDOT toll facilities?
468-300-826	What is "dynamic toll pricing"?
468-300-828	What is the purpose of the department's State Route 167 high-occupancy toll (HOT) lanes pilot project?
468-300-830	How can I open a "Good To Go! TM " customer account and use the electronic toll collection lanes?
468-300-832	What types of "Good To Go! TM " customer accounts are available?
468-300-834	Do I need to establish a separate "Good To Go! TM " account for each "Good To Go! TM " toll road or bridge that I use?
468-300-840	What is a customer service center (CSC)?
468-300-850	What toll payment methods are available to "Good To Go! TM " customers?
468-300-852	How can my customer account be closed?
468-300-853	If my registered account is closed, am I entitled to a refund?
468-300-854	What toll payment methods are available to manual toll customers?
468-300-860	What administrative fees may apply to WSDOT toll customers?
468-300-862	What administrative services are provided to WSDOT toll customers without charge?
468-300-890	How does WSDOT process dishonored checks and dishonored credit card transactions?

ROUTES	Full Fare	Senior/ Disabled	Youth Fare 18 and under	Multiride Media 20 Rides ¹	Monthly Pass ⁵	Bicycle Surcharge ^{2,6}
*Anacortes to Lopez, Shaw, Orcas or Friday Harbor - Wednesday-Saturday	10.95	5.45	8.80	71.20	N/A	2.00 ⁷
Between Lopez, Shaw, Orcas and Friday Harbor ⁴	N/C	N/C	N/C	N/C	N/A	N/C
Anacortes to Sidney and Sidney to all destinations	16.00	8.00	12.80	N/A	N/A	4.00 ⁸
From Lopez, Shaw, Orcas and Friday Harbor to Sidney@	6.00	3.00	4.80	N/A	N/A	1.00 ⁹
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ³	22.00	11.00	17.60	N/A	N/A	5.00 ¹⁰

All fares rounded to the next multiple of \$0.05.

* These routes operate as a one-point toll collection system.

¹MULTIRIDE MEDIA - Shall be valid only for 90-days from date of purchase after which time the tickets shall not be accepted for passage. Remaining value will not be eligible for refund or exchange. Subsequent to the implementation of the Electronic Fare System (EFS) in the fall of 2005, this will be replaced by a 20 ride card valid for 90 days from the date of purchase. For mail order deliveries, WSF may add additional days to allow for delivery times. Starting on the earliest fare change opportunity (May 1 or the second Sunday in October) at a minimum 6 months after completion of system-wide implementation of the Electronic Fare System (EFS), purchase of this product at a toll booth will be 5% higher, not to exceed an additional \$2.50, at terminals where kiosks are available, except for customers paying with commuter vouchers made available through local transit agencies or qualifying for the senior/disabled and youth fares.

²BICYCLE SURCHARGE - Is an addition to the appropriate passenger fare.

³ROUND TRIP - Round trip passage for international travel available for trips beginning or ending on one of the Islands served.

⁴INTER-ISLAND FARES - Passenger fares included in Anacortes tolls.

⁵PASSES - Passenger passes are available for all routes except Anacortes/San Juan Island/Sidney. Passes are valid for the period printed on the pass and will be presented to Washington state ferries staff or scanned through an automated turnstile whenever a passenger fare is collected. This pass is based on 16 days of passenger travel with a 20% discount. A \$1.00 retail/shipping and handling fee will be added to the price of the pass.

A combination ferry-transit pass may be available for a particular route when determined by Washington state ferries and a local public transit agency to be a viable fare instrument. The WSF portion of the fare is based on 16 days of passenger travel per month at a 20% discount.

The monthly pass is valid for a maximum of 31 round trips per month, is nontransferable, is nonreproducible, and is intended for a single user. Monthly passes purchased through the regional SmartCard program are also nontransferable and intended for a single user, but allow for unlimited usage.

⁶BICYCLE PERMIT - A bicycle pass is available on all routes except: Anacortes/San Juan Island/Sidney for a \$20.00 annual fee subject to meeting WSF specified conditions. The pass is valid for one year. A cyclist with a valid pass shall have the bicycle surcharge waived.

⁷BICYCLE SURCHARGE - This becomes \$4.00 during peak season (May 1 until the second Sunday in October).

⁸BICYCLE SURCHARGE - This becomes \$6.00 during peak season.

⁹BICYCLE SURCHARGE - This becomes \$2.00 during peak season.

¹⁰BICYCLE SURCHARGE - This becomes \$8.00 during peak season.

CHILDREN/YOUTH - Children under six years of age will be carried free when accompanied by parent or guardian. Children/youths

six through eighteen years of age will be charged the youth fare, which will be 80% of full fare rounded to the next multiple of \$ 0.05.

SENIOR CITIZENS - Passengers age 65 and over, with proper identification establishing proof of age, may travel at half-fare passenger tolls on any route where passenger fares are collected.

PERSONS OF DISABILITY - Any individual who, by reason of illness, injury, congenital malfunction, or other incapacity or disability is unable without special facilities or special planning or design to utilize ferry system services, upon presentation of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes a disability may travel at half-fare passenger tolls on any route. In addition, those persons with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and such endorsement shall allow the attendant to travel free as a passenger.

BUS PASSENGERS - Passengers traveling on public transit buses pay the applicable fare. Passengers traveling in private or commercial buses will be charged the half-fare rate.

MEDICARE CARD HOLDERS - Any person holding a Medicare card duly issued to that person pursuant to Title II or Title XVIII of the Social Security Act may travel at half-fare passenger tolls on any route upon presentation of a WSF Disability Travel Permit or a Regional Reduced Fare Permit at time of travel.

IN-NEED ORGANIZATIONS - For qualified organizations serving in-need clients by providing tickets for transportation on WSF at no cost to clients, program would offer a monthly discount to approximate appropriate multiride media discount rates. Appointing bodies (those that appoint Ferry Advisory Committees) will nominate to the Washington State Transportation Commission those organizations that meet the criteria of the program. The Commission will review such nominations and certify those organizations that qualify. The following criteria will be used for nominating and certifying in-need organizations: Nongovernmental and not-for-profit organizations whose primary purpose is one or more of the following: Help clients with medical issues; provide clients with low-income social services; help clients suffering from domestic violence; provide clients with employment-seeking services; and/or help clients with Social Security. Travel will be initially charged based on full fare and billed monthly. The credits will be approximately based on the discount rates offered to multiride media users applicable on the date of travel. This program will expire after April 30, 2008.

PROMOTIONAL TOLLS - A promotional rate may be established at the discretion of the WSF Assistant Secretary, Executive Director for a specific discount in order to enhance total revenue and effective only at designated times on designated routes.

Special passenger fare rate(s) may be established for a pilot program in conjunction with the Central Puget Sound Regional Fare Integration project on ferry route(s) serving King, Pierce, Snohomish and Kitsap counties. The rate(s) may be established at the discretion of the WSF Assistant Secretary, Executive Director for a specific discount not to exceed fifty percent of full fare.

SCHOOL GROUPS - Passengers traveling in authorized school groups for institution-sponsored activities will be charged a flat rate of \$1 per walk-on group or per vehicle of students and/or advisors and staff. All school groups require a letter of authorization. Vehicles and drivers will be charged the fare applicable to vehicle size. The special school rate is \$2 on routes where one-point toll systems are in effect. Due to space limitations, authorized school groups will not be permitted to use one of the passenger-only routes without prior WSF approval.

BUNDLED SINGLE FARE BOOKS - WSF may bundle single fare types into multiride media as a customer convenience. This media shall be valid only until the first of May following the date of purchase, after which time the coupons shall not be accepted for passage. Remaining value will not be eligible for refund or exchange. For mail order deliveries, WSF may add additional days for delivery times. Anacortes to San Juan Islands senior/disabled fares will be bundled at the applicable early week price.

PEAK SEASON SURCHARGE - A 20% surcharge shall be applied to passengers from May 1 to the second Sunday in October, except those using frequent user fare media, on the Anacortes to Lopez, Shaw, Orcas and Friday Harbor routes.

GROUP OR VOLUME SALES - In order to increase total revenues, WSF may develop full fare or discounted customer packages or bundle single fare types into multiride media or offer passes for high volume or group users. In pricing these packages, WSF will have discretion to set appropriate volume discounts based on a case-by-case basis.

SPECIAL EVENTS - In order to increase total revenues, WSF may develop, create or participate in special events that may include, but not be limited to, contributing or packaging discounted fares in exchange for the opportunity to participate in the income generated by the event.

[Statutory Authority: RCW 47.56.030, 47.60.326. 07-08-064, § 468-300-010, filed 3/29/07, effective 5/1/07; 06-08-036, § 468-300-010, filed 3/29/06, effective 5/1/06; 05-10-041, § 468-300-010, filed 4/28/05, effective 6/1/05; 03-08-072, § 468-300-010, filed 4/1/03, effective 5/2/03; 02-09-010, § 468-300-010, filed 4/5/02, effective 5/6/02; 01-11-010, § 468-300-010, filed 5/3/01, effective 6/3/01; 00-24-050, § 468-300-010, filed 11/30/00, effective 12/31/00; 99-08-066, § 468-300-010, filed 4/5/99, effective 5/6/99; 98-08-051, § 468-300-010, filed 3/27/98, effective 4/27/98; 96-05-046 and 96-05-047 (Orders 79 and 80), § 468-300-010, filed 2/16/96, effective 3/19/96; 94-18-014 (Order 77), § 468-300-010, filed 8/25/94, effective 9/25/94; 94-07-104 (Order 75), § 468-300-010, filed 3/18/94, effective 4/18/94; 93-18-005, § 468-300-010, filed 8/19/93, effective 9/19/93; 92-18-005, § 468-300-010, filed 8/20/92, effective 9/20/92; 91-18-022 (Order 72), § 468-300-010, filed 8/27/91, effective 9/27/91; 89-14-052 (Order 67, Resolution No. 354), § 468-300-010, filed 6/30/89; 89-04-014 (Order 66, Resolution No. 343), § 468-300-010, filed 1/23/89, effective 7/1/89; 87-12-005 (Order 61, Resolution No. 298), § 468-300-010, filed 5/21/87. Statutory Authority: RCW 47.60.290, 47.60.300 and 47.60.326. 86-24-009 (Order 59, Resolution No. 287), § 468-300-010, filed 11/21/86. Statutory Authority: RCW 47.60.326. 86-06-010 (Order 54, Resolution No. 263), § 468-300-010, filed 2/21/86; 85-11-007 (Order 44, Resolution No. 241), § 468-300-010, filed 5/3/85; 84-11-052 (Order 42, Resolution Nos. 221 and 222), § 468-300-010, filed 5/17/84; 84-10-002 (Order 41, Resolution No. 218), § 468-300-010, filed 4/20/84; 83-07-062 (Order 33, Resolution No. 175), § 468-300-010, filed 3/22/83; 82-07-063 (Order 28, Resolution No. 143), § 468-300-010, filed 3/22/82. Statutory Authority: RCW 47.60.325 and 47.56.030. 81-15-099 (Order 23, Resolution No. 117), § 468-300-010, filed 7/22/81. Statutory Authority: RCW 47.60.325. 81-08-044 (Order 17, Resolution No. 104), § 468-300-010, filed 3/31/81; 80-16-012 (Order 16, Resolution No. 90), § 468-300-010, filed 10/27/80; 80-04-104 (Order 15, Resolution No. 72), § 468-300-010, filed 4/1/80; 79-09-136 (Order 11, Resolution No. 57), § 468-300-010, filed 9/5/79; 79-04-047 (Order 6, Resolution No. 44), § 468-300-010, filed 3/27/79; 78-06-040 (Order 2, Resolution No. 21), § 468-300-010, filed 5/19/78.]

WAC 468-300-020 Vehicle under 20', motorcycle, and stowage ferry tolls.

EFFECTIVE 03:00 A.M. May 1, 2007

ROUTES	Vehicle Under 20' Incl. Driver One Way	Vehicle Under 20' w/Sr Citizen or Disabled Driver ⁴	Vehicle Under 20' Over Height Charge ¹	Multiride Media 20 Rides ²
Fauntleroy-Southworth Port Townsend/Key-stone	8.90	7.60	8.90	142.40
Seattle-Bainbridge Island Seattle-Bremerton Edmonds-Kingston	11.55	9.85	11.55	184.80
*Fauntleroy-Vashon *Southworth-Vashon *Pt. Defiance-Tahlequah Mukilteo-Clinton	14.80	12.65	14.80	118.40
	6.85	5.85	6.85	109.60
10 Rides - 5 Round Trips				
*Anacortes to Lopez - Sunday-Tuesday	23.95	19.00	23.95	99.75
*Lopez - Wednesday-Saturday	26.60	21.10	26.60	99.75
*Shaw, Orcas - Sunday-Tuesday	28.75	23.80	28.75	119.65
*Shaw, Orcas - Wednesday-Saturday	31.90	26.40	31.90	119.65
*Friday Harbor - Sunday-Tuesday	34.15	29.20	34.15	142.15
*Friday Harbor - Wednesday-Saturday	37.90	32.40	37.90	142.15
Between Lopez, Shaw, Orcas and Friday Harbor ³	16.65	16.65	16.65	66.40
<i>International Travel</i>				
Anacortes to Sidney and Sidney to all destinations	42.95	35.95	42.95	N/A
Travelers with advanced reservations (\$15 fee) Anacortes to Sidney and Sidney to all destinations ⁶	27.95	19.95	42.95	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney	12.80	9.80	12.80	N/A
Travelers with advanced reservations (\$7 fee) from Lopez, Shaw, Orcas and Friday Harbor to Sidney ⁷	5.80	2.80	12.80	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ⁵	55.75	44.75	55.75	N/A

EFFECTIVE 03:00 A.M. May 1, 2007

ROUTES	Motorcycle ⁵ Incl. Driver Stowage ¹ One Way	Motorcycle w/Sr Citizen or Disabled Driver Stowage ¹ One Way	Motorcycle Oversize Charge ¹	Motorcycle Frequent User Commuter 20 Rides ²
Fauntleroy-Southworth Port Townsend/Key-stone	3.85	2.55	1.30	61.60
Seattle-Bainbridge Island Seattle-Bremerton Edmonds-Kingston	5.00	3.30	1.65	80.00
*Fauntleroy-Vashon *Southworth-Vashon				
*Pt. Defiance-Tahlequah	6.40	4.25	2.10	51.20
Mukilteo-Clinton	2.95	1.95	1.00	47.20
*Anacortes to Lopez - Sunday-Tuesday	12.70	7.75	2.85	105.75
*Lopez - Wednesday-Saturday	14.10	8.60	3.15	105.75
*Shaw, Orcas - Sunday-Tuesday	13.65	8.70	3.80	113.65
*Shaw, Orcas - Wednesday-Saturday	15.15	9.65	4.20	113.65
*Friday Harbor - Sunday-Tuesday	14.75	9.80	4.90	122.65
*Friday Harbor - Wednesday-Saturday	16.35	10.85	5.40	122.65
Between Lopez, Shaw, Orcas and Friday Harbor ³	4.75	4.75	4.75	N/A
Anacortes to Sidney and Sidney to all destinations	21.40	13.40	5.40	N/A
Travelers with advanced reservations (\$15 fee) Anacortes to Sidney and Sidney to all destinations ⁶	N/A	N/A	N/A	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney	7.40	4.40	1.40	N/A
Travelers with advanced reservations (\$7 fee) from Lopez, Shaw, Orcas and Friday Harbor to Sidney ⁷	N/A	N/A	N/A	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ⁵	28.80	17.80	6.80	N/A

All fares rounded to the next multiple of \$0.05.

* These routes operate as a one-point toll collection system.

¹SIZE - All vehicles up to 20' in length and under 7'6" shall pay the vehicle under 20' toll. Vehicles up to 20' but over 7'6" in height shall pay an overweight charge of 100% of the vehicle full fare. Motorcycles with trailers, sidecars, or any vehicle licensed as a motorcycle with three or more wheels will pay an oversize motorcycle charge of 100% of the motorcycle full fare. Upon presentation by either the driver or passenger of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes disability, the height charge will be waived for vehicles equipped with wheel chair lift or other mechanism designed to accommodate the person with disability.

²MULTIRIDE MEDIA - Shall be valid only for 90 days from date of purchase after which time the media shall not be accepted for passage. Remaining value will not be eligible for refund. For mail order deliveries, WSF may add additional days to allow for delivery time. Starting on the earliest fare change opportunity (May 1 or the second Sunday in October) at a minimum 6 months after completion of system-wide implementation of the Electronic Fare System (EFS), purchase of this product at a toll booth will be 5% higher, not to exceed an additional \$2.50, at terminals where kiosks are available, except for customers paying with commuter vouchers made available through local transit agencies or qualifying for the senior/disabled and youth fares.

³INTER-ISLAND FARES - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may only be obtained when purchasing the appropriate vehicle fare for inter-island travel (westbound at Lopez, Shaw, or Orcas) and is free of charge. Transfers shall be valid for 24 hours from time of purchase.

⁴SENIOR CITIZEN, DISABLED DRIVER OR DISABLED ATTENDANT DRIVER - Half fare discount applies to driver portion of the vehicle-driver fare and only when the driver is eligible. Those persons with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and

such endorsement shall allow the attendant, when driving, to have the driver portion of the vehicle fare waived.

⁵ROUND TRIP - Round trip passage for international travel available for trips beginning or ending on one of the islands served.

⁶RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$15 nonrefundable reservation fee. The reservation fee shall be a \$30 nonrefundable fee when the peak season surcharge is in effect.

⁷RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$7 nonrefundable reservation fee. The reservation fee shall be a \$15 nonrefundable fee when the peak season surcharge is in effect.

RIDE SHARE VEHICLES - A commuter ride share vehicle which carries five or more persons on a regular and expense-sharing basis for the purpose of travel to and from work or school and which is certified as such by a local organization approved by the Washington state ferry system, may purchase for a \$20 fee, a permit valid for one year valid only during the hours shown on the permit. The \$20.00 fee shall include the driver. Remaining passengers shall pay the applicable passenger fare. Except that the minimum total paid for all passengers in the van shall not be less than four times the applicable passenger fare. Carpools of three or more registered in WSF's preferential loading program must also pay a \$20.00 yearly permit fee.

STOWAGE - Stowage carry-on items including kayaks, canoes and other items of comparable size which are typically stowed on the vehicle deck of the vessel shall be charged at the motorcycle rate. This rate includes the walk-on passenger carrying on the item to be stowed.

PEAK SEASON SURCHARGE - A 25% surcharge shall be applied to vehicles from the first Sunday in May to the second Sunday in October except those using multiride media. A 35% surcharge shall be applied on vehicle fares from Anacortes to Lopez, Shaw, Orcas and Friday Harbor, except those using multiride media.

IN-NEED ORGANIZATIONS - For qualified organizations serving in-need clients by providing tickets for transportation on WSF at no cost to clients, program would offer a monthly discount to

approximate appropriate multiride media discount rates (20% off base season rates, except for Anacortes to San Juan Islands where it is 35% off base season end of week rates). Appointing bodies (those that appoint Ferry Advisory Committees) will nominate to the Washington State Transportation Commission those organizations that meet the criteria of the program. The Commission will review such nominations and certify those organizations that qualify. The following criteria will be used for nominating and certifying in-need organizations: Nongovernmental and not-for-profit organizations whose primary purpose is one or more of the following: Help clients with medical issues; provide clients with low-income social services; help clients suffering from domestic violence; provide clients with employment-seeking services; and/or help clients with Social Security. Travel will be initially charged based on full fare and billed monthly. The credits will be approximate based on the discount rates offered to multiride media users applicable on the date of travel. This program will expire after April 30, 2008.

media shall be valid only until the first of May following the date of purchase after which time the media shall not be accepted for passage. Remaining value will not be eligible for refund or exchange. For mail order deliveries, WSF may add additional days to allow for delivery time. Anacortes to San Juan Islands senior/disabled fares will be bundled at the applicable early week price.

[Statutory Authority: RCW 47.56.030, 47.60.326, 07-08-064, § 468-300-020, filed 3/29/07, effective 5/1/07; 06-08-036, § 468-300-020, filed 3/29/06, effective 5/1/06; 05-10-041, § 468-300-020, filed 4/28/05, effective 6/1/05; 03-08-072, § 468-300-020, filed 4/1/03, effective 5/2/03; 02-09-010, § 468-300-020, filed 4/5/02, effective 5/6/02; 01-11-010, § 468-300-020, filed 5/3/01, effective 6/3/01; 00-24-050, § 468-300-020, filed 11/30/00, effective 12/31/00; 99-08-066, § 468-300-020, filed 4/5/99, effective 5/6/99; 98-08-051, § 468-300-020, filed 3/27/98, effective 4/27/98; 96-19-045 (Order 82), § 468-300-020, filed 9/12/96, effective 10/13/96; 94-18-014 (Order 77), § 468-300-020, filed 8/25/94, effective 9/25/94; 94-07-104 (Order 75), § 468-300-020, filed 3/18/94, effective 4/18/94; 93-18-005, § 468-300-020, filed 8/19/93, effective 9/19/93; 92-18-005, § 468-300-020, filed 8/20/92, effective 9/20/92; 91-18-022 (Order 72), § 468-300-020, filed 8/27/91, effective 9/27/91; 89-14-052 (Order 67, Resolution No. 354), § 468-300-020, filed 6/30/89; 89-04-014 (Order 66, Resolution No. 343), § 468-300-020, filed 1/23/89, effective 7/1/89; 87-12-005 (Order 61, Resolution No. 298), § 468-300-020, filed 5/21/87. Statutory Authority: RCW 47.60.326, 86-06-010 (Order 54, Resolution No. 263), § 468-300-020, filed 2/21/86; 85-11-007 (Order 44, Resolution No. 241), § 468-300-020, filed 5/3/85; 84-11-052 (Order 42, Resolution Nos. 221 and 222), § 468-300-020, filed 5/17/84; 84-10-002 (Order 41, Resolution No. 218), § 468-300-020, filed 4/20/84; 83-07-062 (Order 33, Resolution No. 175), § 468-300-020, filed 3/22/83; 82-07-063 (Order 28, Resolution No. 143), § 468-300-020, filed 3/22/82. Statutory Authority: RCW 47.60.325 and 47.56.030, 81-15-099 (Order 23, Resolution No. 117), § 468-300-020, filed 7/22/81. Statutory Authority: RCW 47.60.325, 81-08-044 (Order 17, Resolution No. 104), § 468-300-020, filed 3/31/81; 80-04-104 (Order 15, Resolution No. 72), § 468-300-020, filed 4/1/80; 79-09-136 (Order 11, Resolution No. 57), § 468-300-020, filed 9/5/79; 79-04-047 (Order 6, Resolution No. 44), § 468-300-020, filed 3/27/79; 78-06-040 (Order 2, Resolution No. 21), § 468-300-020, filed 5/19/78.]

PENALTY CHARGES - Owner of vehicle without driver will be assessed a \$100.00 penalty charge.

PROMOTIONAL TOLLS - A promotional rate may be established at the discretion of the WSF Assistant Secretary, Executive Director for a specified discount in order to enhance total revenue and effective only at designated times on designated routes.

GROUP OR VOLUME SALES - In order to increase total revenues, WSF may develop full fare or discounted customer packages or bundle single fare types into multiride media or offer passes for high volume or group users. In pricing these packages, WSF will have discretion to set appropriate volume discounts based on a case-by-case basis.

SPECIAL EVENTS - In order to increase total revenues, WSF may develop, create or participate in special events that may include, but not be limited to, contributing or packaging discounted fares in exchange for the opportunity to participate in the income generated by the event.

BUNDLED SINGLE FARE MEDIA - WSF may bundle single fare types into multiple trip books as a customer convenience. This

WAC 468-300-040 Oversize vehicle ferry tolls.

EFFECTIVE 03:00 A.M. May 1, 2007

ROUTES	Oversize Vehicle Ferry Tolls ¹							Cost Per Ft. Over 80' @
	Overall Unit Length - Including Driver							
	20' To Under 30' Under 7'6" High	20' To Under 30' Over 7'6" High	30' To Under 40'	40' To Under 50'	50' To Under 60'	60' To under 70'	70' To and include 80'	
Fauntleroy-Southworth Port Townsend/Keystone	13.35	26.70	35.60	44.50	53.40	62.30	71.20	0.90
Seattle-Bainbridge Island Seattle/Bremerton Edmonds-Kingston	17.35	34.65	46.20	57.75	69.30	80.85	92.40	1.20
*Fauntleroy-Vashon *Southworth-Vashon *Pt. Defiance-Tahlequah	22.20	44.40	59.20	74.00	88.80	103.60	118.40	1.50
Mukilteo-Clinton	10.30	20.55	27.40	34.25	41.10	47.95	54.80	0.70
*Anacortes to Lopez - Sunday-Tuesday ²	35.95	71.85	95.80	119.75	143.70	167.65	191.60	2.40
*Anacortes to Shaw, Orcas - Sunday-Tuesday ²	43.15	86.25	115.00	143.75	172.50	201.25	230.00	2.90
*Anacortes to Friday Harbor - Sunday-Tuesday	51.25	102.45	136.60	170.75	204.90	239.05	273.20	3.45
*Anacortes to Lopez - Wednesday-Saturday ²	39.90	79.80	106.40	133.00	159.60	186.20	212.80	2.70
*Anacortes to Shaw, Orcas - Wednesday-Saturday ²	47.85	95.70	127.60	159.50	191.40	223.30	255.20	3.20
*Anacortes to Friday Harbor - Wednesday-Saturday	56.85	113.70	151.60	189.50	227.40	265.30	303.20	3.80
Between Lopez, Shaw, Orcas and Friday Harbor ³	25.00	49.95	66.60	83.25	99.90	116.55	133.20	N/A

ROUTES	Oversize Vehicle Ferry Tolls ¹ Overall Unit Length - Including Driver							Cost Per Ft. Over 80' @
	20' To Under 30' Under 7'6" High	20' To Under 30' Over 7'6" High	30' To Under 40'	40' To Under 50'	50' To Under 60'	60' To under 70'	70' To and include 80'	
<i>International Travel</i>								
Anacortes to Sidney to all destinations - Recreational Vehicles and Buses	64.45	64.45	85.90	107.40	128.85	150.35	171.80	2.15
Anacortes to Sidney and Sidney to all destinations - Commercial Vehicles	64.45	128.85	171.80	214.75	257.70	300.65	343.60	4.30
Travelers with advanced reservations (\$15 fee)								
Anacortes to Sidney and Sidney to all destinations - Recreational Vehicles and Buses	49.45	49.45	70.90	92.40	113.85	135.35	156.80	2.15
Travelers with advanced reservations (\$15 fee)								
Anacortes to Sidney and Sidney to all destinations ⁵ - Commer- cial Vehicles	49.45	113.85	156.80	199.75	242.70	285.65	328.60	4.30
Lopez, Shaw, Orcas and Friday Harbor to Sidney - Recreational Vehicles and Buses	19.20	19.20	25.60	32.00	38.40	44.80	51.20	0.65
- Commercial Vehicles	19.20	38.40	51.20	64.00	76.80	89.60	102.40	1.30
Travelers with advanced reservations (\$7 fee) from	12.20	12.20	18.60	25.00	31.40	37.80	44.20	0.65
Lopez, Shaw, Orcas and Friday Harbor to Sidney ⁶ - Recreational Vehicles and Buses								
- Commercial Vehicles	12.20	31.40	44.20	57.00	69.80	82.60	95.40	1.30
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ⁴ - Recreational Vehicles and Buses	83.65	83.65	111.50	139.40	167.25	195.15	223.00	2.80
- Commercial Vehicles	83.65	167.25	223.00	278.75	334.50	390.25	446.00	5.60

¹OVERSIZE VEHICLES - Includes all vehicles 20 feet in length and longer regardless of type: Commercial trucks, recreational vehicles, vehicles under 20' pulling trailers, etc. Length shall include vehicle and load to its furthest extension. Overheight charge is included in oversize vehicle toll. Vehicles wider than 8'6" pay double the fare applicable to their length. Private and commercial passenger buses or other passenger vehicles pay the applicable oversize vehicle tolls. Public transit buses and drivers shall travel free upon display of an annual permit which may be purchased for \$10. Upon presentation by either the driver or passenger of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes disability, vehicles 20-30 feet in length and over 7'6" in height shall be charged the 20-30 foot length and under 7'6" in height fare for vehicles equipped with wheelchair lift or other mechanism designed to accommodate the person with the disability.

²TRANSFERS - Tolls collected westbound only. Oversize vehicles traveling westbound from Anacortes may purchase a single intermediate transfer when first purchasing the appropriate fare. The transfer is valid for a 24-hour period and is priced as follows: May 1, 2007 - April 30, 2008, \$56.50 base season, \$76.25 peak season.

³INTER-ISLAND - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may only be obtained when purchasing the appropriate vehicle fare for inter-island travel (westbound at Lopez, Shaw, or Orcas) and is free of charge. Transfers shall be valid for 24 hours from time of purchase.

⁴ROUND TRIP - Round trip passage for international travel available for trips beginning or ending on one of the islands served.

⁵RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$15 nonrefundable reservation fee. The reservation fee shall be a \$30 nonrefundable fee when the peak season surcharge is in effect.

⁶RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$7 nonrefundable reservation fee. The reservation fee shall be a \$15 nonrefundable fee when the peak season surcharge is in effect.

COMMERCIAL VEHICLE RESERVATION FEES - For commercial vehicles traveling with reservations a participation fee (\$200 for summer schedule season, \$100 for each of the other schedule seasons) will be charged. Fees will be collected when reservations are confirmed.

PEAK SEASON SURCHARGE - A peak season surcharge shall apply to all oversize vehicles. The oversize fare shall be determined based on the peak-season car-and-driver fare and the analogous oversize vehicle fare, calculated with the same factor as the oversize base seasons fares are to the base season under 20 foot fare. The senior citizen discount shall apply to the driver of an oversize vehicle.

SENIOR CITIZEN DISCOUNTS - Discounts of 50% for the driver of the above vehicles shall apply. Senior citizen discount is determined by subtracting full-fare passenger rate and adding half-fare passenger rate. The senior citizen discount shall apply to the driver of an oversize vehicle.

PENALTY CHARGES - Owner of vehicle without driver will be assessed a \$100.00 penalty charge.

DISCOUNT FROM REGULAR TOLL - Effective June 1, 2005, through fall of 2005, oversize vehicles making 12 or more, one-way crossings per week (Sunday through Saturday) will qualify for a 10% discount from the regular ferry tolls. With the implementation of EFS in spring 2006, WSF will provide a commercial account program that will be prepaid and offer access to volume discounts based on travel, revenue or other criteria in accordance with WSF business rules. On an annual basis, commercial accounts will pay a \$50 nonrefundable account maintenance fee.

GROUP OR VOLUME SALES - In order to increase total revenues, WSF may develop full fare or discounted customer packages or bundle single fare types into multiple trip books or offer passes for high volume or group users. In pricing these packages, WSF

will have discretion to set appropriate volume discounts based on a case-by-case basis.

SPECIAL EVENTS - In order to increase total revenues, WSF may develop, create or participate in special events that may include, but not be limited to, contributing or packaging discounted fares in exchange for the opportunity to participate in the income generated by the event.

EMERGENCY TRIPS DURING NONSERVICE HOURS - While at locations where crew is on duty charge shall be equal to the cost of fuel consumed to make emergency trip. Such trips shall only be offered as a result of official requests from an emergency services agency and only in the case of no reasonable alternative.

DISCLAIMER - Under no circumstances does Washington state ferries warrant the availability of ferry service at a given date or time; nor does it warrant the availability of space on board a vessel on a given sailing.

[Statutory Authority: RCW 47.56.030, 47.60.326. 07-08-064, § 468-300-040, filed 3/29/07, effective 5/1/07; 06-08-036, § 468-300-040, filed 3/29/06, effective 5/1/06; 05-10-041, § 468-300-040, filed 4/28/05, effective 6/1/05; 03-08-072, § 468-300-040, filed 4/1/03, effective 5/2/03; 02-09-010, § 468-300-040, filed 4/5/02, effective 5/6/02; 01-11-010, § 468-300-040, filed 5/3/01, effective 6/3/01; 00-24-050, § 468-300-040, filed 11/30/00, effective 12/31/00; 99-08-066, § 468-300-040, filed 4/5/99, effective 5/6/99; 98-08-051, § 468-300-040, filed 3/27/98, effective 4/27/98; 96-19-045 (Order 82), § 468-300-040, filed 9/12/96, effective 10/13/96; 94-18-014 (Order 77), § 468-300-040, filed 8/25/94, effective 9/25/94; 94-07-104 (Order 75), § 468-300-040, filed 3/18/94, effective 4/18/94; 93-18-005, § 468-300-040, filed 8/19/93, effective 9/19/93; 92-18-005, § 468-300-040, filed 8/20/92, effective 9/20/92; 91-18-022 (Order 72), § 468-300-040, filed 8/27/91, effective 9/27/91; 89-14-052 (Order 67, Resolution No. 354), § 468-300-040, filed 6/30/89; 89-04-014 (Order 66, Resolution No. 343), § 468-300-040, filed 1/23/89, effective 7/1/89; 87-12-005 (Order 61, Resolution No. 298), § 468-300-040, filed 5/21/87. Statutory Authority: RCW 47.60.290, 47.60.300 and 47.60.326. 86-24-009 (Order 59, Resolution No. 287), § 468-300-040, filed 11/21/86. Statutory Authority: RCW 47.60.326. 86-06-010 (Order 54, Resolution No. 263), § 468-300-040, filed 2/21/86; 85-11-007 (Order 44, Resolution No. 241), § 468-300-040, filed 5/3/85; 84-11-052 (Order 42, Resolution Nos. 221 and 222), § 468-300-040, filed 5/17/84; 83-07-062 (Order 33, Resolution No. 175), § 468-300-040, filed 3/22/83; 82-18-009 (Order 29, Resolution No. 153), § 468-300-040, filed 8/20/82; 82-07-063 (Order 28, Resolution No. 143), § 468-300-040, filed 3/22/82. Statutory Authority: RCW 47.60.325 and 47.56.030. 81-15-099 (Order 23, Resolution No. 117), § 468-300-040, filed 7/22/81. Statutory Authority: RCW 47.60.325. 81-08-044 (Order 17, Resolution No. 104), § 468-300-040, filed 3/31/81; 80-04-104 (Order 15, Resolution No. 72), § 468-300-040, filed 4/1/80; 79-09-136 (Order 11, Resolution No. 57), § 468-300-040, filed 9/5/79; 79-04-047 (Order 6, Resolution No. 44), § 468-300-040, filed 3/27/79; 78-06-040 (Order 2, Resolution No. 21), § 468-300-040, filed 5/19/78.]

WAC 468-300-220 Calculation of charter rates for vessels owned by the Washington state ferry system. Pursuant to chapter 323, Laws of 1997, vessels owned by the Washington state ferry system may be made available for charter subject to operational availability. Execution of a charter agreement as set forth in the statute must precede a commitment to charter. The following actual hourly vessel operating costs have been calculated for establishing the rates to be charged for vessel charters from July 1, 2006, through June 30, 2007:

Vessel Class	Deck Crew On Overtime	Deck Crew On Straight Time
Jumbo Mark II	\$ 1,559.00	\$ 1,384.00
Jumbo	1,517.00	1,353.00
Super	1,428.00	1,274.00
Evergreen	1,027.00	884.00
Issaquah	1,073.00	943.00
Steel	818.00	711.00

Vessel Class	Deck Crew On Overtime	Deck Crew On Straight Time
Rhododendron	718.00	612.00
Hiyu	508.00	447.00

The rate for an individual charter will be calculated by:

(1) Multiplying the actual operating cost set forth above for the vessel that is chartered by the number of hours, or fraction thereof, for which the vessel is chartered;

(2) Adding labor costs, mileage and per diem expenses to determine the total actual costs if the particular charter requires a crew callout; and

(3) Increasing the total actual costs calculated pursuant to subsections (1) and (2) of this section by an appropriate profit margin based on market conditions, and rounding to the nearest fifty dollars.

In the case of charters for the transport of hazardous materials, the transporter is required to pay for all legs necessary to complete the charter, even if the vessel is simultaneously engaged in an operational voyage on behalf of the Washington state ferry system.

[Statutory Authority: RCW 47.56.030, 47.60.326. 07-08-064, § 468-300-220, filed 3/29/07, effective 5/1/07; 06-08-036, § 468-300-220, filed 3/29/06, effective 5/1/06; 05-10-041, § 468-300-220, filed 4/28/05, effective 6/1/05; 03-08-072, § 468-300-220, filed 4/1/03, effective 5/2/03; 02-09-010, § 468-300-220, filed 4/5/02, effective 5/6/02; 01-11-010, § 468-300-220, filed 5/3/01, effective 6/3/01; 99-08-066, § 468-300-220, filed 4/5/99, effective 5/6/99; 98-08-051, § 468-300-220, filed 3/27/98, effective 4/27/98. Statutory Authority: RCW 47.01.061, 47.56.032 and 1997 c 323. 97-15-110 (Order 83), § 468-300-220, filed 7/22/97, effective 8/22/97.]

WAC 468-300-801 What is the purpose of these rules? The purpose of these rules is to explain how the Washington state department of transportation (WSDOT) will operate its tolling programs including electronic toll collection and enforcement and specifically to:

(1) Establish a uniform toll collection system for transportation facilities in Washington state;

(2) Regulate toll collections within the state's uniform toll collection system; and

(3) To the extent that technology and resources permit, establish an open standard electronic toll collection system using automatic vehicle identification technology (AVI) that is compatible with other toll systems throughout the state and country.

[Statutory Authority: RCW 47.46.105, 46.63.160, 47.56.403. 07-10-008, § 468-300-801, filed 4/19/07, effective 5/20/07.]

WAC 468-300-805 What definitions are important to understanding these rules? The terms "check," "cashiers check," "bank check" and "travelers' checks" used in these toll rules are defined in RCW 62A.3-104 Negotiable instrument. In addition to the check definitions in RCW 62A.3-104, the following definitions are important to understanding these rules:

"Active account" means an open customer account with any balance from which electronic toll payments may be automatically deducted by an electronic toll collection (ETC) system.

"Automatic vehicle identification (AVI) technology" means an electronic toll collection (ETC) system using wireless radio frequency identification (RFID) transponders with

readers that automatically identify vehicles as they enter and exit a tolling facility. WSDOT uses a toll collection system based upon AVI technology named "Good To Go!™."

"Closed account" means a customer account that has been closed.

"Closed pending account" means a customer account, which is in the process of being closed at the request of the customer. Closed pending status can be maintained for no more than fifteen days; after fifteen days the customer's account is closed.

"Commission" means the transportation commission appointed by the governor. The commission is responsible for setting toll rates and schedules.

"Customer account" is a prepaid toll account used for electronic toll collection into which customers deposit funds for the automatic, electronic payment of tolls.

"Department" means the Washington state department of transportation (WSDOT).

"Dishonored check" means any check returned to WSDOT by a financial institution for any reason of nonacceptance, nonpayment or stop payment unless a justifiable stop payment order exists.

"Dishonored credit card transaction" means a credit card transaction that is not approved by the entity that issued the credit card.

"Dynamic toll pricing" means varying the toll rate charged to toll customers to maintain specific performance standards of traffic management.

"Electronic toll collection (ETC) lane" means a lane in which the electronic toll collection system will read the transponder of each vehicle and automatically collect the toll without requiring the vehicle to slow its speed or stop.

"Good To Go!™" is the name of the department's electronic toll collection system.

"Good To Go!™ contract" means the terms and conditions noted on the back of the "Good To Go!™" customer application and to which the customer agrees by opening a customer account.

"Good To Go!™ customer" means a toll customer who participates in the department's "Good To Go!™" toll collection system.

"High occupancy vehicle" means a public agency bus or vanpool or a carpool vehicle with minimum occupancy requirements that may vary from two to four persons depending upon the posted roadway HOV signage.

"High-occupancy toll (HOT) lanes" means one or more lanes of a highway that charges tolls as a means of regulating access to or the use of the lanes in order to maintain travel speed and reliability. HOT lane supporting facilities include, but are not limited to, approaches, enforcement areas, improvements, buildings, and equipment.

"Inactive account" means a customer account that has had no toll transaction activity during the twenty-four-month period, which begins with the date of the customer's last transaction.

"Insufficient funds account" means an ETC customer's account with a balance less than the single toll rate in effect for the highest class of vehicle registered under the account at the time the customer's electronic toll transaction is processed.

"Insufficient funds account—Private unregistered accounts" means an ETC customer's private unregistered account with a balance less than the single toll rate in effect for Class 2 (i.e., two axle) vehicles at the time the electronic toll transaction is processed.

"Independent toll collection company" means a vendor who contracts with WSDOT to collect and process tolls.

"Low balance account" means a customer account with a balance equal to two times the toll rate normally paid by the customer or less.

"Manual payment toll customer" means a toll customer who manually pays their toll at a tollbooth.

"Notice of nonsufficient funds (NSF)" means the notice sent to a toll customer who presented a nonsufficient funds check to WSDOT in payment of any toll transaction. This notice will be mailed to the toll customer at the address noted on the check returned from the financial institution.

"Notice of dishonored credit card transaction" means a transaction authorized by a toll customer that is not honored by the financial institution for any reason except for the existence of a stop payment order.

"Person" means an individual, firm, partnership, corporation, or association.

"Photo monitoring system" means a system where a sensor, working in conjunction with an electronic toll collection system, is installed in the toll lanes to produce an automatic image of the vehicle and the vehicle license plate as it passes through the toll facility. The photo monitoring system may produce:

- (1) One or more photographs;
- (2) One or more microphotographs;
- (3) A videotape; or
- (4) Any other recorded images that capture each vehicle that passes through the toll facility.

No photograph, digital photograph, microphotograph, videotape, or other recorded image may be used for any purpose other than toll enforcement, nor retained longer than necessary to verify that tolls are paid, or to enforce toll evasion violations.

"Pilot project" means a Washington state department of transportation project that serves as a tentative model for future department transportation projects.

"Prepaid account" means an open "Good To Go!™" customer account with a balance in excess of any minimum balance requirements.

"Shoulder hours" means the hours bracketing the weekday morning and afternoon peak commute hours.

"Toll collection system" means any system that identifies a correct toll and collects its payment. A toll collection system may include manual cash collection, electronic toll collection, and a photo monitoring system.

"Toll customer" means someone who passes through a toll facility and is required to pay a toll electronically, manually or according to a video toll (V-Toll) system.

"Toll transportation facility" means a facility whose purpose is to collect and process WSDOT tolls and detect and process toll violations. A toll facility includes all traffic, bridge lanes requiring tolls and any related tollbooths and operation buildings.

"Transportation systems and facilities" means any capital-related investments and additions to the state's trans-

portation infrastructure, including but not limited to highways, roads, bridges, vehicles, and equipment, marine-related facilities, vehicles, and equipment, park and ride lots, transit stations and equipment, transportation management systems, and other transportation-related investments.

"Transponder" means a radio frequency identification (RFID) unit attached to a toll customer's vehicle that transmits a radio signal to a reader mounted in the toll facility. The purpose of the transponder is to automatically identify the toll customer's vehicle as it passes through the toll facility.

"Variable pricing" means varying the toll rate by time of day or level of traffic congestion.

"Video-toll" or "V-Toll" is an alternative method of toll collection from a "Good to Go!™" account holder. If a "Good to Go!™" account holder uses the toll facility but does not pay the toll because his or her transponder is not properly mounted on the account holder's registered vehicle a photo-monitoring system captures the vehicle's license plate and the toll will be posted to the "Good to Go!™" account.

[Statutory Authority: RCW 47.46.105, 46.63.160, 47.56.403. 07-10-008, § 468-300-805, filed 4/19/07, effective 5/20/07.]

WAC 468-300-808 What toll paying methods are available on WSDOT toll facilities? The following toll paying methods are available on WSDOT toll facilities:

(1) **HOT LANES ONLY:** All vehicles that are required to pay a toll must have an active "Good To Go!™" transponder and account to enable you to pay by electronic toll collection (ETC) via the transponder mounted on your windshield.

(2) **OTHER TOLL FACILITIES:** When you use the Tacoma Narrows Bridge or other WSDOT toll facilities you have two payment options:

(a) **ETC payment:** This electronic toll payment option uses your "Good To Go!™" account in the ETC lanes. This allows you to drive through the toll facility, using the ETC lanes, at regular traffic speed;

(b) **Manual payment:** This payment option requires that you manually pay your toll using cash or a credit or labeled debit card in the manual payment lanes at a tollbooth facility. This option also requires you to stop your vehicle at the tollbooth facility (only on TNB).

[Statutory Authority: RCW 47.46.105, 46.63.160, 47.56.403. 07-10-008, § 468-300-808, filed 4/19/07, effective 5/20/07.]

WAC 468-300-810 Who collects the tolls charged on WSDOT toll roads and bridges? (1) To ensure that tolls at all WSDOT toll facilities are collected in a timely, effective and efficient manner, WSDOT may contract with one or more independent toll collection companies to manage the day-to-day toll collection activities at its various toll facilities.

(2) All toll related revenues collected by any independent toll collection company through WSDOT are payable to the state of Washington.

(3) Although the WSDOT may contract with independent toll collection companies to manage the day-to-day toll collection activities at its toll projects, WSDOT retains ultimate oversight authority for all toll collection operations at those facilities.

[Statutory Authority: RCW 47.46.105, 46.63.160, 47.56.403. 07-10-008, § 468-300-810, filed 4/19/07, effective 5/20/07.]

WAC 468-300-820 What is a "Good To Go!™" toll collection system? (1) "Good To Go!™" is the trademark name for WSDOT's electronic toll collection (ETC) system. This ETC system uses an electronic transmission from a transponder mounted in a toll customer's motor vehicle to record the toll charge and then debit the toll customer's account with an appropriate toll as the customer's vehicle passes through the toll facility at regular speed with no need for slowing or stopping.

(2) The purpose of such an electronic toll collection system is to help manage highway and/or bridge traffic through a toll facility.

Note: To maximize the effectiveness of electronic toll collection technology, WSDOT encourages anyone who regularly travels through a WSDOT toll facility to sign up and participate in the department's "Good To Go!™" system.

[Statutory Authority: RCW 47.46.105, 46.63.160, 47.56.403. 07-10-008, § 468-300-820, filed 4/19/07, effective 5/20/07.]

WAC 468-300-822 Is the WSDOT electronic toll collection (ETC) system compatible with electronic payment methods used by other transportation systems? (1) At the time ETC was first implemented in the United States, automatic vehicle identification (AVI) technology in general was not interoperable;

(2) To the extent that technology and resources permit, WSDOT's electronic toll collection system will use AVI devices that are:

(a) Compatible with:

(i) Other electronic payment devices; or

(ii) Transponders from the Washington state ferry system, other public transportation systems or other toll collection systems; and

(b) Provided by multiple vendors.

(3) WSDOT is committed to ensuring that its electronic toll collection system is customer friendly, cost-effective and compatible (interoperable) with electronic payment devices and/or methods used by other transportation systems. Therefore, using criteria like the following, WSDOT will regularly review its tolling technology and may change its toll collection methods to ensure customer convenience and toll collection efficiency at a reasonable cost:

(a) Open road (nonstop) electronic toll collection capability;

(b) Cost of transponders to customers;

(c) Ability to meet department operational and accuracy standards; and

(d) Compatibility with other electronic toll collection technologies that are in use or are emerging.

[Statutory Authority: RCW 47.46.105, 46.63.160, 47.56.403. 07-10-008, § 468-300-822, filed 4/19/07, effective 5/20/07.]

WAC 468-300-824 Will commercial vehicles using the CVISN program need a special transponder to use WSDOT toll facilities? WSDOT will install readers at all toll sites that will accept electronic toll payments from any commercial vehicle participating in the Washington state electronic weigh state bypass (CVISN) program.

A CVISN participant must open an active "Good To Go!™" account to use this service.

[Statutory Authority: RCW 47.46.105, 46.63.160, 47.56.403. 07-10-008, § 468-300-824, filed 4/19/07, effective 5/20/07.]

WAC 468-300-826 What is "dynamic toll pricing"?

Dynamic toll pricing is a toll pricing method that changes based upon live traffic conditions, to maximize the performance of the tolled facility. For example, in a HOT lane the toll rate charged to enter the lane will be lower when more lane space is available, and higher when less lane space is available.

[Statutory Authority: RCW 47.46.105, 46.63.160, 47.56.403. 07-10-008, § 468-300-826, filed 4/19/07, effective 5/20/07.]

WAC 468-300-828 What is the purpose of the department's State Route 167 high-occupancy toll (HOT) lanes pilot project?

(1) In chapter 47.56 RCW, the legislature authorized WSDOT to establish, construct and operate a HOT lane pilot project on State Route 167 within King County. The purpose of the project is to help determine if HOT lanes can more efficiently move people and vehicles within the SR 167 corridor by allowing drivers of single occupant vehicles, who pay a toll, to use SR 167 HOV lanes when excess capacity exists.

(2) At a minimum, the pilot project must comply with the following requirements:

(a) The commission:

- Will establish the schedule of toll charges for high-occupancy toll (HOT) lanes and determine the manner in which the charges are collected.

- Will not assess HOT lane toll charges on high occupancy vehicles.

- May use dynamic pricing to vary HOT lane toll charges by time of day, level of traffic congestion within the highway facility, vehicle occupancy, or other criteria that the commission deems appropriate.

- May vary HOT lane toll charges for single-occupant inherently low-emission vehicles, such as those powered by electric batteries, natural gas, propane, or other clean burning fuels.

- Will periodically review HOT lane toll charges to determine if they are effectively maintaining travel time, speed, and reliability on the highway facilities.

- Will remove the HOT lane toll charges four years after toll collection begins, unless reauthorized by the Washington state legislature.

(b) The department:

- Will, if necessary, automatically adjust HOT lane toll charges, using dynamic tolling, to limit toll-paying single-occupant vehicle users access to the HOT lanes in order to maintain average HOT lane vehicle speeds above forty-five miles per hour, at least ninety percent of the time during peak hours.

- Will monitor the pilot project and annually report to the commission and the legislature on operations and findings.

- Will modify the pilot project, if necessary, to address identified safety issues and mitigate negative impacts to high-occupancy vehicle lane users.

- Will adopt rules allowing the automatic vehicle identification transponders used for electronic toll collection on the pilot project to be compatible with other electronic payment devices or transponders from the Washington state ferry sys-

tem, other public transportation systems, or other toll collection systems to the extent that technology and resources permit.

(3) A violation of the pilot project's high-occupancy toll lane restrictions is a traffic infraction.

[Statutory Authority: RCW 47.46.105, 46.63.160, 47.56.403. 07-10-008, § 468-300-828, filed 4/19/07, effective 5/20/07.]

WAC 468-300-830 How can I open a "Good To Go!™" customer account and use the electronic toll collection lanes? To open a "Good To Go!™" customer account, you must complete the "Good To Go!™" account application and prepay at least the minimum fund balance into the account.

Note: The "Good To Go!™" customer contract contains a full explanation of the terms and conditions associated with the WSDOT "Good To Go!™" toll collection program.

[Statutory Authority: RCW 47.46.105, 46.63.160, 47.56.403. 07-10-008, § 468-300-830, filed 4/19/07, effective 5/20/07.]

WAC 468-300-832 What types of "Good To Go!™" customer accounts are available? The following table identifies and describes the various "Good To Go!™" customer accounts that are available:

Type of Account:	Description:
(1) Private registered	A prepaid "Good To Go!™" account that: <ul style="list-style-type: none"> • Is for a private party (not a business entity); • Includes customer-identifying information. • May be charged for cost of transponder.
(2) Private unregistered	A prepaid "Good To Go!™" account that: <ul style="list-style-type: none"> • Is for a private party (not a business entity); and • Does not include customer-identifying information. Private unregistered account customers are anonymous. • May be charged for cost of transponder.
(3) Commercial pre-paid	A "Good To Go!™" account that: <ul style="list-style-type: none"> • Must be in a business name, which may be a person; • Must have a business contact listed on the account; and • May be charged for cost of transponder.

[Statutory Authority: RCW 47.46.105, 46.63.160, 47.56.403. 07-10-008, § 468-300-832, filed 4/19/07, effective 5/20/07.]

WAC 468-300-834 Do I need to establish a separate "Good To Go!™" account for each "Good To Go!™" toll road or bridge that I use? If you are using a "Good To Go!™" transponder issued by any "Good To Go!™" toll

facility operator, you may use any "Good To Go!™" toll facility without establishing a separate toll account.

[Statutory Authority: RCW 47.46.105, 46.63.160, 47.56.403. 07-10-008, § 468-300-834, filed 4/19/07, effective 5/20/07.]

WAC 468-300-840 What is a customer service center (CSC)? (1) CSCs are established for "Good To Go!™" toll projects to:

- (a) Provide tolling information to current and prospective "Good To Go!™" toll customers;
- (b) Enroll toll customers into the department's "Good To Go!™" program;
- (c) Accept "Good To Go!™" payments from customers; and

(d) Provide other customer related services as needed.

(2) WSDOT may contract with an independent toll collection company to operate a CSC.

(3) To learn the location of a CSC near you and how it operates, please call 1-866-WDOT2GO (1-866-936-8246) or go on-line at wsdot.wa.gov/goodtogo.

[Statutory Authority: RCW 47.46.105, 46.63.160, 47.56.403. 07-10-008, § 468-300-840, filed 4/19/07, effective 5/20/07.]

WAC 468-300-850 What toll payment methods are available to "Good To Go!™" customers? The following table describes the payment methods available to "Good To Go!™" customers:

Forms of payment acceptable for "Good To Go!™" account replenishment fees	Payment options available to walk-in customers	Mail-in payment options available	Telephone and fax payment options available	On-line payment options available	Automatic account replenishment payment options available
Cash and cash-equivalents (U.S. currency only):					
U.S. coin and currency	Yes	No	No	No	No
Personal checks	Yes	Yes	No	No	No
Business checks	Yes	Yes	No	No	No
Travelers checks	Yes	Yes	No	No	No
Bank checks	Yes	Yes	No	No	No
Money orders	Yes	Yes	No	No	No
Vouchers	Yes	No	No	No	No
Forms of payment other than cash and cash-equivalents (U.S. currency only):					
Credit cards (Master Card, VISA, Discover, American Express)	Yes	Yes	Yes	Yes	Yes
Labeled debit cards (no pin)	Yes	Yes	Yes	Yes	Yes
Unlabeled debit cards (with pin)	Yes	No	No	No	No
Electronic Benefit Transfer	Yes	No	No	No	No
Automated Clearing House	Yes	Yes	Yes	No	Yes

[Statutory Authority: RCW 47.46.105, 46.63.160, 47.56.403. 07-10-008, § 468-300-850, filed 4/19/07, effective 5/20/07.]

WAC 468-300-852 How can my customer account be closed? Your account may be closed by:

- (1) **Customer request.**
- (2) **Automatic closure:** Your account may be automatically closed:
 - (a) After twenty-four months of showing no account activity; or
 - (b) After one day of showing a zero balance; or
 - (c) Immediately upon showing a negative balance.

[Statutory Authority: RCW 47.46.105, 46.63.160, 47.56.403. 07-10-008, § 468-300-852, filed 4/19/07, effective 5/20/07.]

WAC 468-300-853 If my registered account is closed, am I entitled to a refund? Refunds may be obtained upon closure of your registered account according to the procedures and circumstances listed in the table below. Refunds shall be in the form of original payment, when possible. For example, if deposit was made by credit card, the refund would be a credit to the same credit card.

If:	Then:
(1) Your account is changed to "closed pending" status either by your request, or automatically, by twenty-four months of inactivity:	A refund will be distributed to you within fifteen days after any outstanding toll charges are paid.
(2) You visit a customer service center and request that your account be closed:	Any cash or credit card refunds due to you will be distributed to you within fifteen days after the day that you requested that your account be closed.
(3) You request and complete refund form and return it to the customer service center.	Any refunds due you will be processed and distributed to you within fifteen days from the date WSDOT received your completed request.
(4) You request a refund for disputed charges:	(a) Your request will be submitted to WSDOT for approval.

If:	Then:
	(b) If WSDOT approves your requested refund, it will be processed and distributed to you within fifteen days from the date your request was approved.

[Statutory Authority: RCW 47.46.105, 46.63.160, 47.56.403. 07-10-008, § 468-300-853, filed 4/19/07, effective 5/20/07.]

WAC 468-300-854 What toll payment methods are available to manual toll customers? The following table describes the forms of toll payments available to **manual toll customers** and the conditions under which toll collectors will accept those payments:

Accepted Form of Toll Payment:	Accepted Only In:
U.S. coin and currency	Staffed toll lanes and exact change lanes
Credit cards (Master Card, VISA, Discover, American Express)	Enabled toll lanes
Labeled debit cards (no pin)	Enabled toll lanes

Accepted Form of Toll Payment:	Accepted Only In:
Regional fare coordination system (RFCS) fare media (smart cards) from the Washington state ferry system and the regional transportation systems of Pierce, King, Snohomish and Thurston counties	Enabled toll lanes when implemented
Other noncash instruments authorized by the department	Enabled toll lanes

[Statutory Authority: RCW 47.46.105, 46.63.160, 47.56.403. 07-10-008, § 468-300-854, filed 4/19/07, effective 5/20/07.]

WAC 468-300-860 What administrative fees may apply to WSDOT toll customers? The following table lists and explains the administrative fees that a toll customer may have to pay:

What customer services result in administrative fees being charged?	When is the administrative fee charged?	The amount of each administrative fee listed in this table is established in the "Good To Go!™" customer contract
Mailing paper copies of "Good To Go!™" private registered account statements	Private registered accounts will be assessed a fee for each paper statement mailed.	\$1.50 per each statement mailed
Mailing paper copies of "Good To Go!™" commercial account statements beyond the regularly provided quarterly statement	Commercial customer accounts will be assessed a statement fee for each paper statement mailed in excess of the regular quarterly statement.	\$.50 per page
Reprinting copies of "Good To Go!™" statements for "private registered accounts"	When a "Good To Go!™" customer requests that a reprint of a previous account statement be mailed to them.	\$1.50 per each mailed reprinted statement
Processing nonsufficient fund (NSF) checks	Each time WSDOT receives notice of a NSF check.	Current fee rate for each nonsufficient check
Account collection fee	WSDOT will assess a collection fee when a toll customer's account is turned over to a collection agency.	Amount designated by the collection agency per each account
Closing an inactive "Good To Go!™" account	When a "Good To Go!™" customer account has not been used for twenty-four consecutive months. This monthly service fee will be assessed until the: (1) Customer's account balance drops below the lowest class toll rate in effect during the time the account is inactive; or (2) Customer requests that their account be closed; or	Inactive closing fee \$5.00

What customer services result in administrative fees being charged?	When is the administrative fee charged?	The amount of each administrative fee listed in this table is established in the "Good To Go!™" customer contract
	(3) Customer reactivates their account by using it to pay a toll.	
Replacing a transponder	"Good To Go!™" customers may be required to purchase a replacement transponder if it is lost, stolen or damaged.	Cost of transponder

[Statutory Authority: RCW 47.46.105, 46.63.160, 47.56.403. 07-10-008, § 468-300-860, filed 4/19/07, effective 5/20/07.]

WAC 468-300-862 What administrative services are provided to WSDOT toll customers without charge? The WSDOT provides the following administrative services to WSDOT toll customers without charge:

(1) Electronic statements are free and are automatically available to "Good To Go!™" customers at wsdot.wa.gov/goodtogo;

(2) Paper statements, including reprints, may be provided without charge to customer service center walk-in customers upon request;

(3) The interactive voice response (IVR) system provides previous day account balance information and information regarding the last ten account transactions and the last five payments to call-in customers without charge at 1-866-WDOT2GO or 1-866-936-8246; and

(4) Customer service representatives will provide account balance information to call-in customers without charge.

[Statutory Authority: RCW 47.46.105, 46.63.160, 47.56.403. 07-10-008, § 468-300-862, filed 4/19/07, effective 5/20/07.]

WAC 468-300-890 How does WSDOT process dishonored checks and dishonored credit card transactions? The process for handling dishonored checks and dishonored credit card transactions described in this section is based upon WAC 468-20-900 (Dishonored checks).

[Statutory Authority: RCW 47.46.105, 46.63.160, 47.56.403. 07-10-008, § 468-300-890, filed 4/19/07, effective 5/20/07.]

Chapter 468-600 WAC

TRANSPORTATION INNOVATIVE PARTNERSHIP PROGRAM

WAC

468-600-010	Intent.
468-600-015	Definitions.
468-600-030	Conflict of interest.
468-600-035	Proposer conduct.
468-600-038	Conflict of interest by state officials—Appearance of fairness.
468-600-040	Release of rights and indemnification of state.
468-600-100	Department to establish programmatic approach to solicitation of TIP projects.
468-600-102	Selection of projects for solicitation.
468-600-103	Alternative process for soliciting projects authorized.
468-600-105	Issuance of requests for proposals.
468-600-110	Public notice of solicitation.
468-600-200	Authority for the state to accept unsolicited proposals—Moratorium.
468-600-210	Projects eligible for unsolicited proposals.
468-600-215	Department's management of unsolicited proposals.
468-600-220	Submission of unsolicited conceptual proposals.
468-600-230	Fees to accompany unsolicited proposals.
468-600-232	Alternative process authorized.
468-600-240	Contents and format of conceptual proposals.
468-600-250	Contents and format of detailed proposals.

468-600-300	Additional disclosure requirements for proposers of solicited and unsolicited proposals.
468-600-305	Appointment of evaluation panel.
468-600-310	Preliminary review of proposals.
468-600-315	Commission review of unsolicited conceptual proposals.
468-600-320	Competing proposals.
468-600-330	Proposal evaluation factors and criteria.
468-600-331	Factors for proposals that include tolling.
468-600-340	Proposer presentations.
468-600-345	Required supplements or refinements to proposals.
468-600-350	Evaluation panel recommendation to commission.
468-600-355	Commission review and selection of proposals.
468-600-360	Commission's authority to elect competitive negotiations.
468-600-365	Protests of rejection of proposal/award of contract to competitor in competing proposals context.
468-600-370	Notification of apparent successful proposer—Prenegotiation activities authorized.
468-600-600	Public records and public disclosure.
468-600-605	Designation of sensitive business, commercial or financial information and trade secrets.
468-600-700	General preconditions for entering into agreements.
468-600-710	Negotiation of agreement.
468-600-715	Mandatory terms of agreements.
468-600-720	Terms to be negotiated between the parties.
468-600-722	State objection to subcontractors.
468-600-725	Cessation of negotiations.
468-600-730	Legal sufficiency review of final agreement.
468-600-735	Commission analysis required.
468-600-740	Publication of contents of proposed agreement.
468-600-741	Public hearings on proposed project and agreement.
468-600-742	Twenty-day period for consideration and evaluation of public comments.
468-600-750	Commission review of final agreement.
468-600-800	Program expenses attributable to projects.
468-600-810	State's reservation of rights.

WAC 468-600-010 Intent. The Transportation Innovative Partnership Act was created to encourage the innovative delivery and funding of important transportation-related projects and services by leveraging resources more readily available in the private sector.

The legislature has articulated the policy goals and objectives of the act, found in chapter 47.29 RCW. These rules are intended to prescribe the processes that will be used to implement a successful transportation innovative partnership program in the state of Washington.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-010, filed 2/6/07, effective 3/9/07.]

WAC 468-600-015 Definitions. As used in these rules:

- (1) "Commission" means the Washington state transportation commission;
- (2) "Competing proposal" means a written submission to the department that a proposer submits in response to a notice issued by the department under WAC 468-600-320;
- (3) "Department" means the Washington state department of transportation;

(4) "Eligible project" as defined in RCW 47.29.050 includes:

(a) Transportation projects, whether capital or operating, where the state's primary purpose for the project is to facilitate the safe transport of people or goods via any mode of travel. However, this does not include projects that are primarily for recreational purposes, such as parks, hiking trails, off-road vehicle trails, etc.; and

(b) Facilities, structures, operations, properties, vehicles, vessels, or the like that are developed concurrently with an eligible transportation project and that are capable of providing revenues to support financing of an eligible transportation project, or that are public projects that advance public purposes unrelated to transportation;

(5) "Eligible public works project" means only a project that meets the criteria of either RCW 47.29.060 (3) or (4);

(6) "Governor" means the governor of the state of Washington;

(7) "Key persons" means individuals or personnel employed by or affiliated with a proposer or team of proposers, and who, because of that person's responsibilities and participation in a proposed project, the department has formally designated as key to the proposer's ability to successfully develop or deliver the project;

(8) "Major partner" means, with respect to a limited liability company or joint venture, each firm, business organization or person that has an ownership interest therein in excess of five percent, unless the department has provided an alternate definition that applies only to a specific project or series of projects;

(9) "Major subcontractor" means any subcontractor designated in the proposal to perform ten percent or more of the scope of work for a proposed project, unless the department has provided an alternate definition that applies only to a specific project or series of projects;

(10) "Private sector partner" and "private partner" means a person, entity or organization that is not the federal government, a state, or a political subdivision of the state and that proposes to enter into an agreement with the state to participate in any or all portions of the design, development, construction, improvement, expansion, extension, delivery, operation, maintenance or financing of a project eligible under the act;

(11) "Proposal" means a written submission to the department satisfying the requirements of WAC 468-600-240 or 468-600-250;

(12) "Proposer" means a person, business entity, a consortium of business entities or a public sector entity that submit a proposal for review and evaluation under these rules, whether the proposal was solicited or unsolicited by the department;

(13) "Public facility" means a building, structure, vehicle, vessel or the like where ownership is retained by the public sector and where the facility is available for use by the general public. This does not include any facilities that are owned by the private sector;

(14) "Public funds" means all moneys derived from a public imposition of taxes, fees, charges and tolls, including those imposed by a private entity for the privilege to use a publicly owned facility;

(15) "Public-private partnership" and "PPP" mean a non-traditional arrangement between the department and one or more public or private entities for the implementation of an eligible project as defined in subsection (12) of this section;

(16) "Public project" means a project that is owned by the state or any of its political subdivisions;

(17) "Secretary" means the secretary of the Washington state department of transportation;

(18) "State" means the government of the state of Washington, including all agencies, organizations, boards, commissions, elected or appointed officials, who are empowered to act on behalf of the state of Washington;

(19) "Transportation Innovative Partnership Act" and "act" means the law enacted and codified in chapter 47.29 RCW, and any amendments thereto;

(20) "Transportation innovative partnership program" and "TIPP" means that portion of the department of transportation responsible for implementing and carrying out the duties prescribed in chapter 47.29 RCW, these rules, and under the powers conferred upon the department to implement the executive branch functions of state government;

(21) "WSDOT" means the Washington state department of transportation.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-015, filed 2/6/07, effective 3/9/07.]

WAC 468-600-030 Conflict of interest. (1) When submitting a proposal, the proposer's representative must certify that he or she is unaware of any information that might be pertinent in determining whether an organizational conflict of interest exists. If the proposer is aware of information that might be pertinent to this issue, the proposer must provide, as an exception to the certification, a disclosure statement fully describing this information in a form approved by the commission as part of its proposal. For purposes of this section, "organizational conflict of interest" means that because of other activities or relationships with other persons, a proposer, a principal officer of a proposer, or a prime contractor who is proposed to perform construction or design work on an eligible project, is unable or potentially unable to render impartial assistance or advice to the state; or the person's objectivity in performing the proposed contract work is or might be otherwise impaired; or a person has an unfair competitive advantage.

(2) After review and approval by the commission, the department shall publish and make available conflict of interest guidelines and policies that encompass the standards of conduct required by federal and state law, and as further required in these administrative rules. The conflict of interest guidelines and policies may be modified as necessary to meet the particular objectives of individual projects, whether those projects emanate from solicited or unsolicited proposals.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-030, filed 2/6/07, effective 3/9/07.]

WAC 468-600-035 Proposer conduct. (1) Proposers are prohibited from influencing or attempting to influence the evaluation of, or the decision to select a specific project proposal that has been submitted, or may be submitted under these rules, except as specifically allowed under these rules or as specifically allowed by the state in any RFP document.

This includes, but is not limited to, attempts to influence officers or employees of the state or elected or appointed officials of the local, state or federal level of government.

(2) For those activities not prohibited by subsection (1) of this section, but which attempt to influence decision making in any legislative branch, proposers must fully disclose all lobbying activities undertaken by any of its contractors, officers, employees or agents that are subject to public disclosure under chapter 42.17 RCW or federal law. For lobbying activities subject to chapter 42.17 RCW, copies of all required disclosure forms for the previous two years' reporting cycles must be submitted.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-035, filed 2/6/07, effective 3/9/07.]

WAC 468-600-038 Conflict of interest by state officials—Appearance of fairness. (1) Any person elected, appointed or employed by the state, who has a conflict of interest or potential conflict of interest, must disclose such actual or potential conflict of interest and abstain from consideration, discussion, debate, and decision making concerning any project proposal submitted under these rules.

(2) During the pendency of any solicitation, negotiation or selection of a proposal, no member of the commission may engage in ex parte communications with proponents or opponents with respect to the proposal, unless that person:

(a) Places on the record the substance of any written or oral ex parte communications concerning the decision of action; and

(b) Provides that a public announcement of the content of the communication and of the parties' rights to rebut the substance of the communication shall be made at each meeting where action is considered or taken on the subject to which the communication related. This prohibition does not preclude a member of the commission from seeking in a public meeting specific information or data from such parties relative to the decision if both the request and the results are a part of the public record.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-038, filed 2/6/07, effective 3/9/07.]

WAC 468-600-040 Release of rights and indemnification of state. By submitting a proposal, a proposer thereby waives and relinquishes any claim, right, or expectation to occupy, use, profit from, or otherwise exercise any prerogative with respect to any route, corridor, rights of way, public property or public facility identified in the proposal as being necessary for or part of the proposed project. A proposer may not obtain any claim, right or expectation to use any such route, corridor, rights of way, public property or public facility by virtue of having submitted a proposal that proposes to use it or otherwise involves or affects it.

By submitting such a proposal, a proposer thereby waives and relinquishes any right, claim, copyright, proprietary interest or other right in any proposed location, site, route, corridor, rights of way, alignment, or transportation mode or configuration identified in the proposal as being involved in or related to the proposed project, and proposer agrees to indemnify and hold the state harmless against any such claim made by any of its contractors, subcontractors, agents, employees and assigns.

The waiver and release of rights in this section do not apply to a proposer's rights in any documents, designs and other information and records that constitute "sensitive business, commercial or financial information" as that term is defined and used in WAC 468-600-605.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-040, filed 2/6/07, effective 3/9/07.]

WAC 468-600-100 Department to establish programmatic approach to solicitation of TIP projects. (1)

The department shall establish a programmatic approach, or plan, for the selection and solicitation of TIP projects. The plan will include maintaining a registry of projects eligible for development under a competitive solicitation process. The projects must meet all eligibility requirements of WAC 468-600-015(4). The projects should be reasonably described, including the status of any preliminary development or construction, and any public or private funds committed for any phase of the project, whether expended, appropriated, earmarked or otherwise identified as available for use.

(2) The department shall periodically update the information in the registry, and shall review and consider additions or deletions to the registry at least every two years. When considering additional projects for the registry, or removal of the projects on the registry, the department must publish a request for information that seeks comments and suggestions from the public and private sectors.

(3) At least once every two years, the department must develop a plan for conducting a solicitation of proposals under the TIP program. The purpose of this plan is to:

(a) Encourage sound programming and budgeting practices, which are the basis for submittals required under chapter 43.88 RCW;

(b) Ensure that the department does not issue a request for proposals that exceeds the resources available to properly evaluate, select and enter into development agreements;

(c) Ensure that development of projects under the TIP program would not run contrary to any legislatively enacted direction or express executive policies or directions; and

(d) Provide potential proposers an anticipated schedule for the solicitation and development of certain projects on the registry.

In selecting projects for competitive solicitation, the department should endeavor to follow the published plan for soliciting proposals for projects on the registry. However, the department is not required to solicit only those projects contained on the registry, nor is it required to conduct a solicitation for a predetermined number of projects each year or biennium, nor is it required to undertake projects in the exact order of consideration as published in the *Register*.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-100, filed 2/6/07, effective 3/9/07.]

WAC 468-600-102 Selection of projects for solicitation.

The department may select projects for development that it believes would benefit from the formation of a public-private partnership under the TIP program, and present a draft request for proposals for the selected project or projects to the commission for review and approval to proceed with a solicitation. In making its recommendation of projects for

solicitation, the department should seek those that offer the greatest potential to accelerate cost-effective delivery of the project, promote innovative approaches to delivering the project, provide a means of financing for the project that might not otherwise be readily available under a traditional project delivery process, or otherwise meet the policy goals established in RCW 47.29.040. Before approving any projects proposed for solicitation, the commission must ensure that the projects are included in the Washington transportation plan or otherwise identified by the commission as being a priority need for the state.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-102, filed 2/6/07, effective 3/9/07.]

WAC 468-600-103 Alternative process for soliciting projects authorized. When the department in its sole discretion deems it appropriate to do so given the nature of the proposal, the department may specify requirements for proposal content, and for criteria and procedures under which the proposals will be evaluated and selected, that are in addition to or in lieu of those provided for in WAC 468-600-105 through 468-600-110 and 468-600-300 through 468-600-350. Any alternative process or processes so specified must comply with the requirements of RCW 47.29.010 through 47.29.290. Examples of possible alternative processes include:

- (1) Issuing a request for qualifications, where proposers are ranked and selected based on the qualifications of the major partners, major subcontractors and key persons, which would result in a predevelopment agreement being entered into that authorizes the proposer to fully develop a detailed proposal that would be evaluated pursuant to WAC 468-600-350;
- (2) Issuing a request for proposals that invites the private sector to make proposals to develop eligible projects that are contained in the department's registry of projects under WAC 468-600-100.

These examples are offered for illustrative purposes only, and should not be construed to limit the scope of the state's discretion or authority to develop proposal and evaluation criteria and processes for any project as long as those criteria and processes comply with the requirements of RCW 47.29.010 et seq.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-103, filed 2/6/07, effective 3/9/07.]

WAC 468-600-105 Issuance of requests for proposals. The department shall draft and issue requests for proposals at the direction or on behalf of the commission pursuant to WAC 468-600-102. When drafting requests for proposals (RFP), the department must specify requirements for proposal content, and may identify criteria and procedures under which proposals will be evaluated and selected. If the commission approves the projects and the RFP proposed for solicitation, the department shall issue the RFP and publish notice as provided in WAC 468-600-106. The department may set the deadline for responses as it sees fit to encourage full knowledge, opportunity and competition among private entities. At a minimum, the request for proposals for each transportation project must include the following:

- (1) **General information.**
 - (a) Notice of any preproposal conference as follows:

- (i) The time, date and location of any preproposal conference;

- (ii) Whether attendance at the conference will be mandatory or voluntary; and

- (iii) A disclaimer that statements made by the department's representatives at the conference are not binding upon the state unless confirmed by written addendum.

- (b) The name and title of the person authorized and designated by the department to receive the proposals and contact person (if different).

- (c) Instructions and information concerning submission requirements including the address of the office to which proposals must be delivered and any other special information, e.g., whether proposals may be submitted by facsimile or electronic data interchange (secured e-mail).

- (d) The time and date of closing after which the department will not accept proposals.

- (e) The form and submission of proposals and any information required therein.

- (f) If the agreement resulting from a solicitation will be a contract for a public work subject to chapter 39.12 RCW or the Davis-Bacon Act (40 U.S.C. section 3141 to 3148), a statement that no proposals will be considered by the state unless the proposal contains a statement by the proposer, as part of its proposal, that proposer agrees to be bound by and will comply with the provisions of chapter 39.12 RCW and 40 U.S.C. section 3141 to 3148.

- (g) Contractor's certification of nondiscrimination in obtaining required subcontractors in accordance with state law.

- (h) How the state will notify proposers of addenda and how the state will make addenda available.

- (2) **Project description.** A description of the eligible project for which the department is requesting proposals for a public-private partnership in such detail as the department considers appropriate or feasible under the circumstance.

- (3) **Evaluation process.** A description of the process by which the proposals will be evaluated, including:

- (a) A statement that the commission and/or department may reject any proposal not in compliance with all prescribed procedures and requirements and other applicable laws, and that the state reserves its rights under WAC 468-600-810;

- (b) The anticipated solicitation schedule, deadlines, protest process, and evaluation process, if any; and

- (c) Evaluation criteria that the state will use to select a proposal(s) from among those submitted in response to the request for proposals.

- (4) **Desired contract terms.** The department shall provide an outline or draft term sheet of those contract terms and conditions, including warranties and bonding requirements, that the department considers necessary.

- (5) **Federal funds.** If federal funds are involved, the federal laws, rules and regulations applicable to the fund requirements shall govern in the event they conflict with a provision required by state law.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-105, filed 2/6/07, effective 3/9/07.]

WAC 468-600-110 Public notice of solicitation. (1) Notice and distribution fee. The commission, or the department acting on behalf of the commission, shall furnish notice

to a sufficient number of entities for the purpose of fostering and promoting competition. The notice shall indicate where, when, how, and for how long the solicitation document may be obtained and generally describe the work. The notice may contain any other appropriate information. The department may charge a fee or require a deposit for the solicitation document. The department may furnish notice using any method determined to foster and promote competition, including:

(a) Mail notice of the availability of solicitation documents ("notice") to entities that have expressed an interest in department procurements;

(b) Place notice on the state of Washington's electronic procurement system; or

(c) Place notice on the department's and the commission's internet web site.

(2) **Method of publication.** The department shall furnish notice for every solicitation for proposals by any method that meets the requirements of law, including:

(a) Mail notice of the availability of solicitation documents ("notice") to entities that have expressed an interest in department procurements;

(b) Place notice on the state of Washington's electronic procurement system;

(c) Place notice on the department and commission's internet web site;

(d) Advertising - the department shall publish the advertisement for proposals at least once in at least one newspaper of general circulation in the area where the contract is to be performed, in at least one trade newspaper or publication of general statewide circulation and in as many additional issues and publications as the department may determine to be necessary or desirable to foster and promote competition.

(3) **Publication contents.** All advertisements for proposals shall set forth:

(a) The scheduled closing, that shall not be less than five days after the date of the last publication of the advertisement;

(b) The date that entities must file applications for prequalification if prequalification is a requirement and the class or classes of work for which entities must be prequalified;

(c) The nature of the work to be performed or the goods to be purchased;

(d) The office where any documents related to the solicitation may be reviewed;

(e) The name, title and address of the department employee authorized to receive proposals; and

(f) If applicable, that the contract is for a public work subject to chapter 39.12 RCW or the Davis-Bacon Act (40 U.S.C. sections 3141 to 3148).

(4) **Posting advertisement for proposals.** The department shall post a copy of each advertisement for proposals at the principal business office of the department. A proposer may obtain a copy of the advertisement for proposals upon request from the transportation innovative partnership program office, or on the internet at www.wsdot.wa.gov.

(5) **Notice to state office of minority and women's business enterprises (OMWBE).** The department shall provide timely notice of all solicitations to the state office of minority and women's business enterprises.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-110, filed 2/6/07, effective 3/9/07.]

WAC 468-600-200 Authority for the state to accept unsolicited proposals—Moratorium. The commission may not accept or consider any unsolicited proposals before July 1, 2007.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-200, filed 2/6/07, effective 3/9/07.]

WAC 468-600-210 Projects eligible for unsolicited proposals. Projects that are the subject of an unsolicited proposal must meet the following minimum criteria:

(1) The project must meet the definition of an "eligible project" under WAC 468-600-015(4);

(2) The project must not be listed in the registry of projects intended for a competitive solicitation, under WAC 468-600-100;

(3) The project must be included in the Washington transportation plan or otherwise identified by the commission as being a priority need of the state.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-210, filed 2/6/07, effective 3/9/07.]

WAC 468-600-215 Department's management of unsolicited proposals. (1) The department may, at any time, select any class, category or description of proposal or an eligible project, including any individual proposal or project, for the purpose of giving priority to the processing and consideration of unsolicited proposals by issuing a written order that declares that the department will give priority to the processing and consideration of unsolicited proposals for certain types of projects (or to a particular proposal), and describes the class or character of the proposals or projects (or the particular proposal or project) that are given priority. The priority order may either specify the term of the priority order, identify the submitted proposals (or proposal) that are subject to the priority order, or provide that the priority order will continue in effect until recalled by a subsequent order of the department.

(2) Commencing on the effective date of the order giving priority, the department may undertake expedited processing and consideration of unsolicited proposals (or a particular unsolicited proposal) for transportation projects of the class, category or description contained in the order. The limited resources of the department, in such cases, will require either the postponement of, or delay in, the processing and consideration of unsolicited proposals for projects that are not within a class, category or description that is subject to a priority order.

(3) By submitting an unsolicited proposal, each proposer thereby waives and relinquishes every claim of right, entitlement or expectation that:

(a) Its proposal will enjoy the benefit of a priority order; and

(b) The processing and consideration of its proposal will not be subject to postponement or delay arising out of the department's issuance of an order that gives priority to another proposal or to proposals for different classes, categories or descriptions of projects.

(4) The department may, by written order, suspend the acceptance and consideration of proposals based on the types, classes, cost ranges, geographic areas of projects, or other factors as determined by the department. The order will specify either the term of the suspension or that the suspension will continue until recalled by a subsequent order of the department.

(5) Commencing on the effective date of the suspension order, the department will refuse to accept unsolicited proposals or unsolicited proposals for projects of the class, category or description contained in the order, and may, as stated in the order, cease further processing and consideration of any such unsolicited proposals then currently under consideration by the department.

(6) By submitting an unsolicited proposal, each proposer thereby waives and relinquishes every claim of right, entitlement or expectation that the processing and consideration of its proposal will not be subject to suspension under this rule.

(7) The state of Washington, the department of transportation, the Washington transportation commission, and their officers and employees, shall have no responsibility or liability of any nature for the preservation, confidentiality or safekeeping of any proposal that is subject to a suspension order under this rule and is submitted to the department while that suspension order is in effect.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-215, filed 2/6/07, effective 3/9/07.]

WAC 468-600-220 Submission of unsolicited conceptual proposals. (1) Subject to WAC 468-600-210 through 468-600-215, any private entity or unit of government may submit an unsolicited conceptual proposal for a project to the department for consideration under the transportation innovative partnership program.

(2) A proposal review fee in the amount prescribed by WAC 468-600-230 must accompany any unsolicited conceptual proposal submitted by a private entity or unit of government.

(3) The proposer shall submit twenty copies, individually identified, of any unsolicited conceptual proposal in addition to the proposal bearing the signature of the authorized representative. The original proposal, required copies and processing fee shall be delivered to the department.

(4) The department will consider an unsolicited conceptual proposal only if:

(a) The proposed project is unique or innovative in comparison with, and is not substantially duplicative of, other transportation system projects included in the state transportation improvement program within the department or, if it is similar to a project in the state transportation improvement program, the proposed project has not been fully funded by the state or any other public entity as of the date the proposal is submitted, or the proposal offers an opportunity to materially advance or accelerate the implementation of the project. Unique or innovative features that may be considered by the department in evaluating such a proposal may include but are not limited to unique or innovative financing, construction, design, schedule or other project components as compared with other projects or as otherwise defined by state rules or regulations; and

(b) The conceptual phase includes all information required by and is presented in the format set out in WAC 468-600-240. Such information shall include a list of any proprietary information included in the proposal that the proposer considers protected trade secrets or other information exempted from disclosure under either WAC 468-600-605 or RCW 47.29.190.

(5) The department will not consider an unsolicited proposal for a project involving another state or local government unit of another state unless the department and the appropriate representative of the other state or of the local government unit of the other state have entered into an agreement that permits the acceptance of unsolicited proposals for such a project.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-220, filed 2/6/07, effective 3/9/07.]

WAC 468-600-230 Fees to accompany unsolicited proposals. (Reserved.)

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-230, filed 2/6/07, effective 3/9/07.]

WAC 468-600-232 Alternative process authorized.

When the commission in its sole discretion deems it appropriate to do so given the nature of the proposal, the commission may specify requirements for proposal content, and for criteria and procedures under which the proposals will be evaluated and selected, that are in addition to or in lieu of those provided for in WAC 468-600-240 through 468-600-370. Any alternative process or processes so specified must comply with the requirements of RCW 47.29.010 through 47.29.290. Examples of possible alternative processes include:

(1) Selecting a proposal for development into a final agreement based on a unitary proposal instead of a two-step conceptual/detailed proposal process; and

(2) Proposers are ranked and selected based on the qualifications of the major partners, major subcontractors and key persons, which would result in a predevelopment agreement being entered into that authorizes the proposer to fully develop a detailed proposal that would be evaluated pursuant to WAC 468-600-350.

(3) Nothing in this section, nor in these WAC rules, shall be construed to allow proposer conduct or participation in a project that would be prohibited under the Federal Highway Administration's *Conflict of Interest Guidelines*.

These examples are offered for illustrative purposes only, and should not be construed to limit the scope of the state's discretion or authority to develop proposal and evaluation criteria and processes for any project as long as those criteria and processes comply with the requirements of RCW 47.29.010 et seq.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-232, filed 2/6/07, effective 3/9/07.]

WAC 468-600-240 Contents and format of conceptual proposals. Pursuant to RCW 47.29.170, unsolicited proposals are subject to a two-step process. The first step is to submit the conceptual proposal. If the concept is approved, the commission or department may ask for further informa-

tion in the form of a fully detailed proposal, which constitutes the second step. An unsolicited or competing conceptual proposal shall include at least the following information, unless waived by the department, separated by tabs as herein described:

(1) TAB 1: Qualifications and experience.

(a) Identify the legal structure of the private entity or consortium of private entities or of private and public entities (the "team") submitting the proposal. Identify the organizational structure of the team for the project, the team's management approach and how each major partner and major subcontractor identified as being a part of the team as of the date of submission of the proposal fits into the overall team.

(b) Describe the experience of each private entity involved in the proposed project. Describe the length of time in business, business experience, public sector transportation experience, PPP experience, development experience, design-build experience and other similarly sized engagements of each major partner and major subcontractor. The lead entity must be identified.

(c) Provide the names, addresses and telephone numbers of persons within the team who may be contacted for further information.

(d) Include the address, telephone number, and the name of a specific contact person at a public entity for which the private entity or the team or the primary members of the team have completed a development project, public-private partnership project or design-build project.

(e) Include the resumes for those managerial persons within the team that will likely be associated in a significant way with the project development and implementation.

(f) Provide financial information regarding the private entity or team and each major partner that includes, if available, the most recent independently audited financial statement of the private entity or team and of each major partner, and which demonstrates their ability to perform the work and project as set forth in the proposal, including ability to obtain appropriate payment and performance bonds.

(g) Submit executed disclosure forms, prescribed by the department, for the team, each major partner and any major subcontractor.

(2) TAB 2: Project characteristics.

(a) Provide a topographical map (1:2,000 or other appropriate scale) depicting the location of the proposed project.

(b) Provide a description of the eligible project or projects, including all proposed interconnections with other existing transportation facilities or known publicly identified projects.

(c) Describe the project in sufficient detail so the type and intent of the project, the general location of the project, and the communities that may be affected by the project are clearly identified. Describe the assumptions used in developing the project.

(d) List the critical factors for the project's success.

(e) If the proposed project does not conform with the state and regional transportation plans or regional plans, outline the proposer's approach for securing the project's conformity with, or indicate the steps required for, acceptance into such plans.

(f) When a proposed project is sited, in whole or in part, within the jurisdiction of a metropolitan planning organiza-

tion or area commission on transportation, identify applicable regional and local approvals required for the project.

(g) Provide an explanation of how the proposed transportation project would impact local transportation plans of each affected locality.

(h) Provide a list of public transportation facilities and major apparent public utility facilities that will be crossed or affected by the transportation project and a statement of the proposer's plans to accommodate such facilities.

(i) Describe the role the proposer anticipates the department will have in the development, construction, operation, maintenance, financing, or any other aspect of the eligible project.

(3) TAB 3: Project financing.

(a) Provide a projected budget for the project or scope of work based on proposer's prior experience on other scopes of work and projects or other cost projection factors and information.

(b) Include a list and discussion of assumptions (e.g., user fees, toll rates and usage of the facility) underlying all major elements of the plan for the project.

(c) Identify the proposed risk factors relating to the proposed project financing and methods for dealing with these factors.

(d) Identify any significant local, state or federal resources that the proposer contemplates requesting for the project. Describe the total commitment (financial, services, property, etc.), if any, expected from governmental sources; the timing of any anticipated commitment; and its impact on project delivery.

(e) Identify any aspect of the financial model for the project that implicates or potentially implicates restrictions on the use of highway-related revenues under Article II, section 40 of the Washington Constitution (commonly known as the Motor Vehicle Trust Fund), and explain how the financial model avoids conflicting with those restrictions.

(f) Provide a conceptual estimate of the total cost of the transportation project.

(4) TAB 4: Public support/project benefit/compatibility.

(a) Identify who will benefit from the project, how they will benefit and how the project will benefit the overall transportation system.

(b) Identify any anticipated government support or opposition, or general public support or opposition, for the project.

(c) Explain the strategy and plans that will be carried out to involve and inform the agencies and the public in areas affected by the project.

(d) Describe the significant social and economic benefits of the project to the community, region or state and identify who will benefit from the project and how they will benefit. Identify any state benefits resulting from the project including the achievement of state transportation policies or other state goals.

(5) All pages of a conceptual proposal shall be numbered. Each copy of the proposal will be bound or otherwise contained in a single volume where practicable. All documentation submitted with the proposal will be contained in that single volume.

(6) A conceptual proposal submitted by a private sector partner must be signed by an authorized representative of the

private sector partner submitting the unsolicited conceptual proposal.

(7) The proposer shall include a list of any proprietary information included in the proposal which the proposer considers protected trade secrets or other information exempted from disclosure under WAC 468-600-605.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-240, filed 2/6/07, effective 3/9/07.]

WAC 468-600-250 Contents and format of detailed proposals. If the preliminary conceptual proposal is accepted, the commission or the department may request a detailed proposal. A detailed proposal shall include all information required in the conceptual proposal under WAC 468-600-240, with additional discussion, description and details, and with updates and refinements as necessary to keep the document most current. In addition, the following information must be included, unless waived by the department:

(1) TAB 2: Project characteristics.

(a) Provide a detailed description of the eligible project or projects, including all proposed interconnections with other existing transportation facilities or known publicly identified projects. Describe the project in sufficient detail so the type and intent of the project, the general location of the project, and the communities that may be affected by the project are clearly identified. Describe the assumptions used in developing the project.

(b) Identify any significant local, state or federal services or practical assistance that the proposer contemplates requesting for the project. In particular, identify and describe any significant services that will need to be performed by the department such as right of way acquisition or operation and maintenance of the completed project.

(c) Include a preliminary list of all significant federal, state, regional and local permits and approvals required for the project. Identify which, if any, permits or approvals are planned to be obtained by the department.

(d) List the critical factors for the project's success.

(e) Identify the proposed preliminary schedule for implementation of the project.

(f) Describe the assumptions related to ownership, law enforcement and operation of the project and any facility that is part of the project.

(g) Describe the payment and performance bonds, guarantees, letters of credit and other performance security, if any, that the proposer will provide for the project.

(h) Identify any public improvements that will be part of the proposed project that will constitute "public works" under RCW 47.29.020(5), the workers on which must be paid in accordance with Washington's prevailing rate of wage law, chapter 39.12 RCW, and any public improvements the workers on which must be paid in accordance with the federal Davis-Bacon Act, 40 U.S.C. sections 3141 to 3148.

(2) TAB 3: Project financing.

(a) Identify the form and amount of any private capital contribution and the entities that will make such capital contributions. If other forms of contribution are proposed, describe the nature of the contributions, the fair market value (if applicable), and whether compensation for such contributions will be sought.

(b) If the proposal would provide for a state-granted franchise to a private concessionaire in exchange for financial consideration, provide the proposer's financial model and all capital costs, operating and maintenance costs (including reconstruction, resurfacing, restoration, and rehabilitation costs), revenues and other data and assumptions that comprise the base case financial model.

(c) Provide an explanation of how funds for the project will be segregated, accounted for and expended in a manner that ensures that any moneys protected under Article II, section 40 of the Washington Constitution be expended exclusively for the purposes authorized under that provision.

(d) Identify, to the extent possible, proposed financing team members, including banks, investment banks, equity investors, credit enhancement providers, bond trustees and legal counsel to the same.

(3) TAB 5: Special deliverables.

(a) Provide a statement setting out the plan for securing all necessary real property, including proposed timeline for any necessary acquisitions.

(b) Provide proposed design, construction and completion guarantees and warranties.

(c) Include traffic studies and/or forecasts and related materials that establish project revenue assumptions, including, if any, user fees or toll rates, and usage of the facility.

(d) Provide such additional material and information as the department may reasonably request.

(4) All pages of a proposal shall be numbered. Each copy of the proposal shall be bound or otherwise contained in a single volume where practicable. All documentation submitted with the proposal will be contained in that single volume.

(5) A proposal submitted by a private sector partner must be signed by an authorized representative of the private sector partner submitting the proposal.

(6) The proposer shall clearly mark any proprietary information included in the proposal which the proposer considers protected trade secrets or other information exempted from disclosure under RCW 47.29.190 and WAC 468-600-605. Any individual page containing material that the proposer considers proprietary must be stamped "proprietary."

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-250, filed 2/6/07, effective 3/9/07.]

WAC 468-600-300 Additional disclosure requirements for proposers of solicited and unsolicited proposals.

(1) In addition to the disclosure requirements of WAC 468-600-600, the department may impose, after the submission of a proposal, any other special disclosure requirements the department determines to be reasonably necessary to evaluate the expertise, experience, financial backing, integrity, ownership and control of any proposer.

(2) All proposers must provide all the information required by this rule and by the department. All proposers and key persons must complete and submit the required disclosure form within the deadlines set by the department. All proposers and key persons must provide any documents required in the disclosure process, or other documents as determined by the department, or their proposals may be rejected by the department.

(3) The department may reject, or require the supplementation of, a proposal if the proposer has not provided all

information required in the disclosure form or if any information provided is not accurate, current or truthful. The failure or refusal of any proposer to properly execute, fully complete, or accurately report any information required by the required disclosure shall be sufficient grounds for rejection of the proposal.

(4) Any change in the status of the proposer, in the identity of any of the key persons, or the addition of any key persons must be reported to the department within thirty days of the known change, and those whose status has changed or who have been added as key persons will be required to submit the required disclosure information. For purposes of this section, a "change in the status of a proposer" means a reorganization of the business structure or corporate structure of the proposer or a major partner, or a change in ownership of the proposer or a major partner amounting to a transfer of over twenty percent of the entity's ownership.

(5) The burden of satisfying the department's disclosure requirements, both in terms of producing the disclosures and assuring their accuracy and completeness, resides with each proposer.

(6) Each proposer, by submitting a proposal, thereby accepts all risk of adverse public notice, damages, financial loss, criticism, harm to reputation or embarrassment that may result from any disclosure or publication of any material or information required or requested by the state in connection with the proposer's submission of a proposal. In submitting a proposal, the proposer expressly waives, on behalf of itself, its partners, joint venturers, officers, employees and agents, any claim against the secretary, the state of Washington, the commission, the department and their officers and employees, for any damages that may arise therefrom.

(7) A public entity that submits a proposal may, prior to submission, request the department to waive the disclosure requirements of this rule with respect to the corporate public entity and its officers. However, if the public entity proposes to enter into or establish a partnership or joint venture with a private sector partner to perform any substantial portion of the proposed project (as opposed to the engagement of only a prime contractor or subcontractors), then disclosure of the private party must be made as if the private party is a proposer, in accordance with this rule.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-300, filed 2/6/07, effective 3/9/07.]

WAC 468-600-305 Appointment of evaluation panel.

The commission shall appoint and direct an evaluation panel to commence a review and evaluation process as directed in this section. At a minimum, the evaluation panel must consist of:

- (1) Department staff;
- (2) An independent representative of a consulting or contracting firm with no interests in the project, whose firm would be precluded from participating in any part of the project;
- (3) An observer from the state auditor's office or the joint legislative audit and review committee;
- (4) A person appointed by the commission; and
- (5) A financial expert.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-305, filed 2/6/07, effective 3/9/07.]

WAC 468-600-310 Preliminary review of proposals.

(1) For solicited proposals, after the close of the proposal period, the department will conduct a preliminary review and certify receipt of those submitted proposals that have met the following criteria:

- (a) The proposal is complete;
- (b) The proposal is responsive; and
- (c) The proposal meets any additional procedural or process requirements prescribed by the state.

Solicited proposals certified by the department under this subsection will be forwarded to the evaluation panel under WAC 468-600-305.

(2) Unsolicited conceptual proposals submitted under WAC 468-600-220 will be reviewed by the evaluation panel, as created and assembled under WAC 468-600-305. The evaluation panel will initially determine whether the conceptual proposal is eligible for evaluation pursuant to WAC 468-600-200 (state's authority to accept unsolicited proposals—Moratorium); WAC 468-600-210 (Projects eligible for unsolicited proposals) and WAC 468-600-215 (department's management of unsolicited proposals). If not, the evaluation panel will not proceed further with its evaluation and the department may return the proposal to the proposer. If the conceptual proposal is eligible for evaluation, the evaluation panel will assess:

- (a) Whether the proposal is complete;
- (b) Whether the proposer appears qualified;
- (c) Whether the proposal appears to satisfy the requirements of WAC 468-600-240;
- (d) Whether the project as proposed appears to be technically and financially feasible;
- (e) Whether the project as proposed appears to have the potential of enhancing the state transportation system; and
- (f) Whether the project as proposed appears to be in the public interest.

(3) The evaluation panel will report the results of its evaluation and its recommendation to the commission. The recommendation will not include sensitive business, commercial or financial information or trade secrets as described in WAC 468-600-605.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-310, filed 2/6/07, effective 3/9/07.]

WAC 468-600-315 Commission review of unsolicited conceptual proposals.

Following an assessment by the evaluation panel that an unsolicited conceptual proposal merits further review, the commission will review the recommendation and approve or disapprove the proposal for further evaluation and action by the state. If approved for further review, the commission shall direct the proposer to prepare a detailed proposal pursuant to WAC 468-600-250.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-315, filed 2/6/07, effective 3/9/07.]

WAC 468-600-320 Competing proposals. (1) If the commission grants approval of a conceptual proposal for further evaluation and review, within thirty days of the commission's approval the department shall provide public notice of the proposed project. This notice shall:

(a) Be published in a newspaper of general circulation and upon such electronic web site providing for general public access as the department may develop for such purpose;

(b) Be provided to any county, city, metropolitan service district, or transportation district in which the project will be located;

(c) Be provided to any person or entity that expresses in writing to the department an interest in the subject matter of the unsolicited conceptual proposal and to any member of the legislature whose house or senate district would be affected by such proposal;

(d) Outline the general nature and scope of the unsolicited conceptual proposal, including the location of the transportation project and the work to be performed on the project; and

(e) Specify the address to which any competing conceptual proposal must be submitted.

(2) The department may also elect to deliver such notice directly to any person or entity the department believes may have an interest in submitting a competing conceptual proposal.

(3) Any entity that elects to submit a competing conceptual proposal for the proposed project shall submit a written letter of intent to do so not later than thirty calendar days after the department's initial publication of notice. Any letter of intent received by the department after the expiration of the thirty-day period shall not be valid and any competing conceptual proposal submitted thereafter by a private or governmental entity that has not submitted a timely letter of intent shall not be considered by the department.

(4) An entity that has submitted a timely letter of intent must submit its competing conceptual proposal to the department not later than one hundred twenty calendar days after the department's initial publication of notice under subsection (1) of this section, or such other time as the department provides in the notice. The competing conceptual proposal must:

(a) Be signed by an authorized representative of the proposer;

(b) Be accompanied by the processing fee for conceptual proposals required under WAC 468-600-230; and

(c) Include the information and be organized in the manner required of an unsolicited conceptual proposal under WAC 468-600-240.

(5) Any competing conceptual proposal that is received within the time provided in subsection (4) of this section must be forwarded to the evaluation panel as provided in WAC 468-600-310. The panel must:

(a) Evaluate the competing conceptual proposal under the criteria specified in WAC 468-600-310; and

(b) Determine whether the competing proposal(s) differ from the original unsolicited conceptual proposal in such a significant and meaningful manner that they should be treated as an original unsolicited conceptual proposal. If the evaluation panel believes that a proposal submitted as a competing proposal should be treated as an original unsolicited conceptual proposal and that it satisfies the requirements of WAC 468-600-240, the evaluation panel shall forward the proposal to the commission for preliminary review and approval under WAC 468-600-315, and the proposal shall thereafter be processed under these rules in the same manner as an unsolicited conceptual proposal. If the competing con-

ceptual proposal is not to be treated as an original unsolicited conceptual proposal, the competing conceptual proposal will be reviewed by the evaluation panel as provided in WAC 468-600-330 through 468-600-350.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-320, filed 2/6/07, effective 3/9/07.]

WAC 468-600-330 Proposal evaluation factors and criteria. For solicited proposals, the evaluation panel shall assess the certified proposals based on the unique project-specific evaluation criteria identified in the solicitation documents, including any written amendments or clarifications thereto, and upon any other factors the panel believes is necessary to ensure a successful project that benefits the public interest.

For unsolicited and competing proposals, the evaluation panel must consider the following factors:

(1) **Qualifications and experience.** Has the proposer created a team that is qualified, managed, and structured in a manner that will enable the team to complete the proposed project and perform the proposed scope of work?

(a) **Experience with similar infrastructure projects.** Have members of this team previously worked together or in a substantially similar consortium or partnership arrangement constructing, improving, operating, maintaining or managing transportation infrastructure? Has the lead firm managed, or any of the member firms worked on, a similar public-private partnership project?

(b) **Demonstration of ability to perform work.** Does the team possess the necessary financial, staffing, equipment, and technical resources to successfully complete the project and perform the proposed scope of work? Do the team and/or member firms have competing financial or workforce commitments that may inhibit success and follow-through on this project?

(c) **Leadership structure.** Is one firm designated as lead on the project? Does the organization of the team indicate a well thought out approach to managing the project? Is there an agreement/document in place between members?

(d) **Project manager's experience.** Is a project manager identified, and does this person work for the principal firm? If not, is there a clear definition of the role and responsibility of the project manager relative to the member firms? Does the project manager have experience leading this type and magnitude of project?

(e) **Management approach.** Have the primary functions and responsibilities of the management team been identified? Have the members of the team developed an approach to facilitate communication among the project participants? Has the firm adequately described its approach to communicating with and meeting the expectations of the state?

(f) **Financial condition.** Is the financial information submitted on the forms sufficient to determine the firms' capability to fulfill its obligations described in the project proposal, and is that capability demonstrated by the submitted information?

(g) **Project ownership.** Does the proposal identify the proposed ownership arrangements for each phase of the project and clearly state assumptions on legal liabilities and responsibilities during each phase of the project?

(h) **Competitive subcontracting.** To what extent have adequate procurement policies been adopted by the proposer to ensure opportunities for competitive procurement of work, services, materials and supplies that the proposer will subcontract?

(2) **Project characteristics.** Is the proposed project technically feasible?

(a) **Project definition.** Is the project described in sufficient detail to determine the type and size of the project, the location, all proposed interconnections with other transportation facilities, the communities that may be affected, and alternatives (e.g., alignments) that may need to be evaluated?

(b) **Proposed project schedule.** Is the time frame for project completion clearly outlined? Is the proposed schedule reasonable given the scope and complexity of the project?

(c) **Quality management.** Does the proposer present a quality management plan, including quality control and quality assurance processes, that are good industry practice and are likely to result in delivery of a project and services that meet the department's standards and comply with contract requirements?

(d) **Operation.** Does the proposer present a reasonable statement setting forth plans for operation of the project or facilities that are included in the project?

(e) **Technology.** Is the proposal based on proven technology? What is the degree of technical innovation associated with the proposal? Will the knowledge or technology gained from the project benefit other areas of the state or nation? Does the technology proposed maximize interoperability with relevant local and statewide transportation technology? Can the proposed project upgrade relevant local technology?

(f) **Conforms to laws, regulations, and standards.** Is the proposed project consistent with applicable state and federal statutes and regulations, or reasonably anticipated modifications of state or federal statutes, regulations or standards? Does the proposed design meet applicable state and federal standards?

(g) **Federal permits.** Is the project outside the purview of federal oversight, or will it require some level of federal involvement due to its location on the National Highway System or Federal Interstate System or because federal permits are required? Does the proposal identify the primary federal permits and agencies that will be involved in review and oversight of the project?

(h) **Meets/exceeds environmental standards.** Is the proposed project consistent with applicable state and federal environmental statutes and regulations? Does the proposed design meet applicable state environmental standards? Does the proposal adequately address air quality issues?

(i) **State and local permits.** Does the proposal list the required permits and provide a schedule for obtaining them? Are there known or foreseeable negative impacts arising from the project? If so, does the proposal outline a plan to address those negative impacts? Are alternatives to standards or regulations needed to avoid those impacts that cannot be addressed?

(j) **Right of way.** Does the proposal set forth a method or plan to secure all property interests required for the transportation project?

(k) **Maintenance.** Does the proposer have a plan to maintain any facilities that are part of the proposed transportation project in conformance with department standards? Does the proposal clearly define assumptions or responsibilities during the operational phase including law enforcement, toll collection and maintenance? Under the proposal, will maintenance and operation of any new facilities be consistent with standards applied throughout the highway system and use the same work forces and methods?

(3) **Project financing.** Has the proposer provided a financial plan that allows access to the necessary capital to make a substantial contribution of nonstate, private sector, or other innovative financing resources to the financing of the facility or project?

(a) **Financing.** Did the proposer demonstrate evidence of its experience, ability and commitment to provide a sufficient private-sector contribution or other innovative financing contribution of funds or resources to the project as well as the ability to obtain the other necessary financing?

(b) **Conformance with RCW 47.29.060.** Does the proposed financing plan conform to any requirements of state-issued debt under RCW 47.29.060? If the proposed financing plan is not in conformance, has the proposer committed to seeking any necessary legislative or other state approvals in order to proceed with the financing plan as proposed?

(c) **Financial plan.** Does the financial plan demonstrate a reasonable basis for funding project development and operations? Are the assumptions on which the plan is based well defined and reasonable in nature? Are the plan's risk factors identified and dealt with sufficiently? Are the planned sources of funding and financing realistic? Is the proposer willing to place private capital at risk in order to successfully deliver the project? Does the proposer adequately identify sources of nonstate funding that it anticipates including in the project financing, and does the proposer provide adequate assurance of the availability of those funds and the reliability of the funding sources?

(d) **Estimated cost.** Is the estimated cost of the project reasonable in relation to the cost of similar projects?

(e) **Life-cycle cost analysis.** Does the proposal include an appropriately conducted life-cycle cost estimate of the proposed project and/or facility? How does the life-cycle cost impact the projected rate of return?

(f) **Financial model.** If the procurement is for a concession agreement, does the proposal present a sound base case financial model? Are the assumptions in the financial model reasonable and realistic?

(g) **Business objective.** Does the proposer clearly articulate its reasons for pursuing this project? Do its assumptions appear reasonable?

(4) **Public support.** Has the proposer demonstrated sufficient public support for the proposed project or proposed a reasonable plan for garnering that support?

(a) **Community benefits.** Will this project bring a significant transportation and economic benefit to the community, the region, and/or the state? Are there ancillary benefits to the communities because of the project?

(b) **Community support.** What is the extent of known support or opposition for the project? Does the project proposal demonstrate an understanding of the national and regional transportation issues and needs, as well as the

impacts this project may have on those needs? Is there a demonstrated ability to work with the community? Have affected local jurisdictions expressed support for the project?

(c) **Public involvement strategy.** What strategies are proposed to involve local and state elected officials in developing this project? What level of community involvement is contemplated for the project? Has the proposer articulated a clear strategy for informing and educating the public and for obtaining community input throughout the development and life of the project?

(5) **Project compatibility.** Is the proposed project compatible with, or can it be made compatible with state and local comprehensive transportation plans?

(a) **Compatibility with the existing transportation system.** Does this project propose improvements that are compatible with, or that can be made compatible with, the present and planned transportation system? Does the project provide continuity with existing and planned state and local facilities?

(b) **Fulfills policies and goals.** Does the proposed project help achieve performance, safety, mobility or transportation demand management goals? Does the project improve connections among the transportation modes?

(c) **Conformity with local, regional and state transportation plans.** Does the project conform with, or can it achieve conformity with, city and county comprehensive plans and regional transportation plans? Does the project conform with, or can it achieve conformity with, plans developed by the commission and any applicable regional transportation plans or local transportation programs? If not, are the steps proposed in the proposal to achieve conformity with such plans adequate and appropriate to provide a high likelihood that the project and the applicable plans can be brought into conformity?

(d) **Economic development.** Will the proposed project enhance the state's economic development efforts? Is the project critical to attracting or maintaining competitive industries and businesses to the region, consistent with stated objectives?

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-330, filed 2/6/07, effective 3/9/07.]

WAC 468-600-331 Factors for proposals that include tolling. If the project financing component of a proposal includes a plan to impose tolls, the evaluation panel shall specifically consider:

(1) The opinions and interests of units of government encompassing or adjacent to the path of the proposed tollway project in having the tollway installed;

(2) The potential impact of the proposed tollway project on local environmental, aesthetic and economic conditions and on the economy of the state in general;

(3) The extent to which funding other than state funding is available for the proposed tollway project and the extent to which resources other than tolls would be required to be established and/or maintained as necessary security to support such a financing;

(4) The likelihood that the estimated use of the tollway project will provide sufficient revenues to independently finance the costs related to the construction and future maintenance, repair and reconstruction of the tollway project,

including the repayment of any loans to be made from monies in the transportation innovative partnerships account created under RCW 47.29.230 or other accounts;

(5) With respect to tollway projects, any portion of which will be financed with state funds or department loans or grants:

(a) The relative importance of the proposed tollway project compared to other proposed tollways; and

(b) Traffic congestion and economic conditions in the communities that will be affected by competing tollway projects; and

(6) The effects of tollway implementation on other major highways in the state system and on community and local street traffic.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-331, filed 2/6/07, effective 3/9/07.]

WAC 468-600-340 Proposer presentations. At any time during the evaluation process, the evaluation panel may request proposers to make presentations to the panel. Proposers shall be afforded not less than ten business days following written notification from the panel to prepare such presentations. The format of these presentations will include a formal presentation by the proposer, followed by any questions the evaluation panel may have pertaining to the project proposal or the presentation. These meetings will allow the evaluation panel to seek clarification of project elements and complete deliverable requirements, and provide proposers with the opportunity to further explain their proposed projects. If there is an issue to which the proposer is unable to respond during the formal presentation, the evaluation panel may, at its discretion, grant the proposer a reasonable period of time in which to submit a written response.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-340, filed 2/6/07, effective 3/9/07.]

WAC 468-600-345 Required supplements or refinements to proposals. (1) The department reserves the right to require or to permit proposers to submit, at any time, revisions, clarifications to, or supplements of their previously submitted proposals. The department may, in the exercise of this authority, require proposers to add features, concepts, elements, information or explanations that were not included in their initial proposals, and may require them to delete features, concepts, elements, information or explanations that were included in their initial proposals. A proposer will not be legally bound to accept a request to add to or delete from a proposal any feature, concept, element or information, but its refusal to do so in response to a request by the department shall constitute sufficient grounds for the department to elect to terminate consideration of its proposal.

(2) After the department's opening and review of proposals, the department may issue or electronically post an addendum to the request for proposals that:

(a) Requires proposers to address or add physical features or elements, and information or explanations that were not included in their initial proposals; or

(b) Requires proposers to delete physical features or elements that were included in their initial proposals; or

(c) Change the method by which the department will send any such addendum that it issues by a method other than

electronic posting to all proposers to continue in the proposal process; or

(d) Any addendum issued will contain a deadline by which the proposers must submit to the department any additions to, modifications of or deletions from their proposals.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-345, filed 2/6/07, effective 3/9/07.]

WAC 468-600-350 Evaluation panel recommendation to commission. (1) After reviewing the proposals and hearing presentations from proposers, the evaluation panel will prepare a written determination, based on facts and circumstances presented in the proposals and the presentations, that one or more proposals merit selection and advancement into a contract negotiation phase or to contract execution. In its written determination regarding any proposal, the evaluation panel may specify conditions that it recommends the proposer be required to satisfy before proceeding to contract negotiations. By way of example, such conditions may include, but are not limited to:

(a) Requiring the proposer to provide additional information or clarification concerning elements or parts of its proposal;

(b) Requiring the proposer to develop and submit additional information confirming the technical feasibility of the proposed project;

(c) Requiring the proposer to develop and submit additional information confirming that the proposed project complies with or can be brought into compliance with relevant local and state transportation plans, restrictions on property use, and environmental laws, or that the project and the applicable plans, restrictions and environmental laws can otherwise be brought into conformity;

(d) Requiring the proposer to commit in writing to the department to undertake good faith efforts to modify or adjust the proposal in specific ways, or to incorporate steps, characteristics or features that the department identifies as necessary or desirable to enhance the feasibility, public acceptance, transportation efficiency, or economy in execution or operation, of the project;

(e) Otherwise requiring the proposer to develop and present revisions to, or alternatives within, the proposal that will permit the department to obtain best value based on the requirements and evaluation criteria set forth in the notice or request for proposals and based on knowledge obtained by the department by virtue of its review and evaluation of the proposals; and

(f) Requiring the proposer to enter into an interim agreement, on terms satisfactory to the proposer and the state, under which the proposer will provide services to the department in connection with the development of the proposal or further development of the project, including assistance to the department in obtaining any necessary regulatory approvals.

(2) The evaluation panel will report its assessments and recommendations to the commission.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-350, filed 2/6/07, effective 3/9/07.]

WAC 468-600-355 Commission review and selection of proposals. The commission shall review the proposals, the

assessments and the recommendations of the evaluation panel. Based on that review, the commission may:

(1) Select one proposal to advance to execution of a contract or development agreement; or

(2) Select one proposal to advance to negotiations of a contract or development agreement; or

(3) Select one proposal to advance to execution or negotiations of a contract or development agreement, subject to the proposer's willingness and ability to satisfy specified conditions; or

(4) Pursuant to WAC 468-600-360, select more than one proposal from which to conduct competitive negotiations; or to continue competitive negotiations for a specified period of time; or

(5) Reject all proposals. For purposes of this section, competitive negotiations means negotiations authorized under WAC 468-600-360, for the purposes of refining and arriving at a final selection of a proposer. This term does not refer to negotiations for a contract or development agreement as provided in WAC 468-600-710.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-355, filed 2/6/07, effective 3/9/07.]

WAC 468-600-360 Commission's authority to elect competitive negotiations. (1) In addition to the commission's ability to exercise any alternative process permitted under WAC 468-600-232, the commission may authorize, at its option, competitive negotiations with more than a single proposer as a means of selecting from among competing proposals submitted under these rules.

Negotiations under this section are part of the proposal evaluation process and do not constitute the negotiation of a project agreement.

(2) The commission may announce its election to conduct competitive negotiations:

(a) In any notice issued for solicited proposals under WAC 468-600-105; or

(b) By written notice, by mail or by electronic means, to the proposers, issued at any time following the state's receipt of proposals under WAC 468-600-220.

(3) In any communication under subsection (2) of this section, or by notice to the proposers issued by mail or by electronic means at any time after the receipt of proposals, the commission may announce that it will initiate competitive negotiations with all proposers who submitted responsive proposals, or only with proposers who qualify to negotiate because the state has determined that their proposals fall within a competitive range.

(4) When the commission elects to negotiate only with proposers within a competitive range, then after the evaluation panel's evaluation of proposals in accordance with the criteria set forth in the notice or request for proposals, the commission will determine the proposers in the competitive range.

(a) For purposes of this subsection (4), the proposers in the competitive range consist of those proposers whose proposals, as determined by the commission in its discretion, have a reasonable chance of being determined the best proposal as the result of the evaluations conducted by the evaluation panel under WAC 468-600-350. In determining which proposals fall within the competitive range, the commission

may consider whether its preliminary evaluation of proposals establishes a natural break in the preliminary scores of the proposals that suggests those proposals that are sufficiently competitive to be included in the competitive range.

(b) The department will provide written notice to all proposers, by mail or by electronic means, of the proposals the commission determines to fall within the competitive range. A proposer whose proposal is not within the competitive range may submit a written protest of the commission's evaluation and determination of the competitive range within fourteen calendar days after the date of the department's notice. A proposer's written protest must state facts and argument that demonstrate how the competitive range determination was flawed or how the commission's determination constituted an abuse of discretion. If the department receives no written protest concerning the proposed selection listing within the fourteen calendar day period, then the department will proceed with negotiations with the proposers whose proposals fell within the competitive range.

(c) In response to a timely filed protest, the commission will issue a written decision that resolves the issues raised in the protest. The commission will make its written determination available, by mail or by electronic means, to the protesting proposer and to the proposers falling within the competitive range.

(5) The object of competitive negotiations, which the department may conduct concurrently with more than one proposer or serially, is to maximize the state's ability to obtain best value and to permit proposers to develop revised proposals. Therefore, the negotiations may include, but shall not be limited to:

(a) Informing proposers of deficiencies in their proposals;

(b) Notifying proposers of parts of their proposals for which the department would like additional information; and

(c) Otherwise allowing proposers to develop revised proposals that will permit the state to obtain the best proposal based on the requirements and evaluation criteria set forth in the notice or request for proposals.

(6) The scope, manner and extent of negotiations with any proposer are subject to the discretion of the department. To prevent the disclosure of proposal information to a proposer's competitors, the department shall conduct negotiations with proposers before the nature of the proposals, information about the proposed project, or proposal information have been made public under WAC 468-600-600. In conducting negotiations, the department:

(a) Shall treat all proposers fairly and shall not engage in conduct that favors any proposer over another;

(b) Shall not reveal to another proposer a proposer's unique technology, unique or innovative approaches to project design, management or financing, or any information that would compromise the proposer's intellectual property, trade secrets or sensitive business information; or

(c) Shall not reveal to another proposer a proposer's price or pricing information, provided, however, that the department may inform a proposer that the department considers a proposer's price or pricing information to be too high or too low.

(7) The evaluation panel must further evaluate the proposals subjected to the competitive negotiation process, and

recommendations to the commission for their action under WAC 468-600-355.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-360, filed 2/6/07, effective 3/9/07.]

WAC 468-600-365 Protests of rejection of proposal/award of contract to competitor in competing proposals context. (1) At least fourteen calendar days prior to the final selection of the successful proposer in any competitive proposal selection process, the department will give, electronically or otherwise, written notice to all participating proposers of the commission's apparent selection of the successful proposer. A proposer who would be adversely affected by the selection announced in the notice may, within fourteen calendar days after the date of the department's notice, submit to the department a written protest of the selection of the apparent successful proposer.

(2) For purposes of this rule, a protesting proposer is adversely affected by a selection only if the proposer has submitted a responsive competing proposal and is next-in-line for selection. In other words, the protesting proposer must demonstrate that all higher-scoring proposers are ineligible for selection because either:

(a) The higher-scoring proposals were not responsive to the requirements stated in the department's solicitation documents; or

(b) The department committed a substantial violation of a provision in the department's notice requesting competitive negotiation, in these rules, or in chapter 47.29 RCW, or otherwise abused its discretion, in evaluating the revised proposals.

(3) A proposer's written protest must state facts and argument that demonstrate how the selection process was flawed or how the commission's selection of the apparent successful proposer constituted an abuse of the commission's discretion. If the commission receives no written protest concerning the proposed selection listing within the fourteen-day period, then the selection of the successful proposer automatically shall become effective on the fifteenth calendar day after the department first transmitted or otherwise delivered its written notice of the apparent successful proposer.

(4) In response to a proposer's timely filed protest that complies with this rule, the commission will issue a written decision that resolves the issues raised in the protest. In considering a timely protest, the commission may request further information from the protesting proposer and from the apparent successful proposer identified in the department's notice issued under subsection (1) of this section. The commission will make its written determination available, by mail or by electronic means, to the protesting proposer and to the apparent successful proposer identified in the department's notice issued under subsection (1) of this section.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-365, filed 2/6/07, effective 3/9/07.]

WAC 468-600-370 Notification of apparent successful proposer—Prenegotiation activities authorized. (1) Upon the commission's selection of a proposal under WAC 468-600-355 and upon expiration of the protest period, the department shall notify the proposer of its intent to execute a

contract or development agreement or to enter negotiations on a contract and/or development agreement.

(2) Upon the commission's provisional selection of a proposal subject to satisfaction of conditions, and upon expiration of the protest period, the department shall notify the proposer of the conditions. The proposer shall have a period of time, set forth in the department's notice, but to be at least ten calendar days, from receipt of the department's notification to elect to proceed under specified conditions. If the proposer elects to proceed, the department shall work with the proposer to develop a plan for satisfying the conditions. If the plan entails entry into an interim agreement, the agreement will conform to all relevant requirements of chapter 47.29 RCW and these rules.

(3) After the commission's selection or provisional selection of a proposal, the department and the proposer may confer on any matter pertinent to refinement of the proposal.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-370, filed 2/6/07, effective 3/9/07.]

WAC 468-600-600 Public records and public disclosure. (1) Upon written request and within the time required under chapter 42.56 RCW, the department shall review such requests, process and provide those records that are not otherwise exempt from disclosure. The department may charge fees as allowed by state law.

(2) On the department's receipt of a request pursuant to chapter 42.56 RCW, for the disclosure of records or information that have been submitted to the department by a proposer under the program authorized by chapter 47.29 RCW, the department will notify the proposer of the request and provide the proposer a reasonable opportunity to demonstrate that all or part of the requested records or information are exempt from disclosure under applicable law recognizing the confidentiality of public records and information. In determining whether the information or records are exempt from disclosure, the department will consider the evidence and objections to disclosure presented by the proposer, but as custodian of the records or information, the department must make the initial determination of the records that may be withheld from disclosure.

(3) An affected proposer who seeks to demonstrate that public records pertaining to it are exempt from disclosure must respond to the department with its evidence and objections within four working days of the department's issuance of notice of the request to the proposer. After considering the proposer's evidence and objections, the department will inform the proposer of its disclosure decision, giving the proposer no fewer than three working days in which to institute appropriate proceedings in its own behalf to protect the proposer's interests in preventing the disclosure or maintaining the confidentiality of the records or information. The proposer shall be exclusively responsible for all costs, expenses and attorney fees incurred in taking any action to prevent the disclosure of information or records under this section. The department shall not make a disclosure of records or information while an action by the proposer to enjoin disclosure thereof is pending.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-600, filed 2/6/07, effective 3/9/07.]

WAC 468-600-605 Designation of sensitive business, commercial or financial information and trade secrets.

(1) The following procedure shall be followed by proposers to designate information as "sensitive business, commercial or financial information" under RCW 47.29.190: Each individual page of a proposal that contains sensitive business, commercial or financial information must be clearly marked "sensitive business, commercial or financial information."

(2) A proposer may desire that certain information be considered "trade secret" information for purposes of applying the public records exemption set out in state law. "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique or process that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. To qualify for that exemption, trade secret information must meet the following criteria:

- (a) Not be the subject of a patent;
- (b) Be known only to a limited number of individuals within an organization;
- (c) Be used in a business that the organization conducts;
- (d) Be of potential or actual commercial value; and
- (e) Be capable of providing the user with a business advantage over competitors not having the information.

(3) The following procedures shall be followed by the proposer to designate information as trade secret:

(a) Each individual page of a proposal, plan or progress report that contains trade secret information must be clearly marked trade secret;

(b) Written substantiation describing what information is considered trade secret and why, must accompany the document. The written substantiation shall address the following:

- (i) Identify which portions of information are claimed trade secret;
- (ii) Identify how long confidential treatment is desired for this information;
- (iii) Identify any pertinent patent information;
- (iv) Describe to what extent the information has been disclosed to others, who knows about the information, and what measures have been taken to guard against undesired disclosure of the information to others;
- (v) Describe the nature of the use of the information in business;
- (vi) Describe why the information is considered to be commercially valuable;
- (vii) Describe how the information provides a business advantage over competitors;
- (viii) If any of the information has been provided to other government agencies, identify which one(s); and
- (ix) Include any other information that supports a claim of trade secret.

(4) Notwithstanding a proposer's designation of information as constituting "trade secret," and subject to a proposer's opportunity to object to disclosure under WAC 468-600-605, the department may independently assess whether the trade secret exemption applies when responding to a public records request.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-605, filed 2/6/07, effective 3/9/07.]

WAC 468-600-700 General preconditions for entering into agreements. The following are preconditions of any agreement that will be entered into between the state and a private sector partner:

(1) The department must seek to adopt contracting techniques that represent the best practices in use by owners of facilities;

(2) To the extent permitted by law, protection must be provided for local contractors to participate in any subcontracting opportunities on projects;

(3) Projects that use tolling technology must maintain standards that are consistent with any standards adopted or widely used by the state;

(4) Provision must be made for patrolling and law enforcement on state-owned transportation facilities, as approved by the Washington state patrol for facilities within their jurisdiction;

(5) Any debt to be issued to pay for the construction of a state-owned transportation facility that is secured by public funds must conform to RCW 47.29.060, or if not in conformance, any agreements reached must be conditioned upon obtaining necessary legislative approval of alternative financing provisions;

(6) The public involvement plan must provide that all forums, workshops, open houses or public meetings be administered and attended by the public sector partner; and

(7) Any project with a capital cost in excess of three hundred million dollars must establish an advisory committee, consisting of at least five but not more than nine members, who shall be appointed by the commission.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-700, filed 2/6/07, effective 3/9/07.]

WAC 468-600-710 Negotiation of agreement. A proposal or proposals selected by the commission for negotiation of a final agreement shall be referred to a negotiation team within the department. The team shall be responsible for negotiating the final agreement with the proposer. Each final agreement will define the rights and obligations of the state and the respective proposer with regard to the project. Agreements must contain all provisions in WAC 468-600-700 and 468-600-715, and must allocate responsibilities under WAC 468-600-720.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-710, filed 2/6/07, effective 3/9/07.]

WAC 468-600-715 Mandatory terms of agreements. Any final agreement must include the following provisions:

(1) If public moneys are used to pay any costs of construction of public works that is part of an eligible project, the construction contract shall contain provisions that require payment of workers under the contract in accordance with chapter 39.12 RCW; and

(2) Any maintenance provisions on a public facility must be provided in a manner consistent with collective bargaining agreements, the Personnel Reform Act, and civil service laws in effect on any portion of the project that constitutes a public facility.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-715, filed 2/6/07, effective 3/9/07.]

WAC 468-600-720 Terms to be negotiated between the parties. Any final agreement must contain terms that address at least the following issues:

(1) At what point in the transportation project public and private sector partners will enter the project and which partners will assume responsibility for specific project elements;

(2) How the partners will share management of the risks of the project;

(3) How the partners will share the costs of development of the project;

(4) How the partners will allocate financial responsibility for cost overruns;

(5) The consequences for nonperformance;

(6) The incentives for performance;

(7) The invoicing and payment procedures and schedules to be followed to the extent that the department or state is to pay for the work, and the accounting and auditing standards to be used to evaluate work on the project; and

(8) An agreement for the construction of a public improvement as part of an eligible project shall provide and be approved for bonding, financial guarantees, deposits or the posting of other security to secure the payment of laborers, subcontractors and suppliers who perform work or provide materials as part of the project. Furthermore, the department shall determine that adequate security exists to address any default or nonperformance by the private sector partner or other contractual claims of the department against the proposer; and

(9) For projects that revert to public ownership, responsibilities for reconstruction or renovation that bring the facility up to government standards before reversion to the state.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-720, filed 2/6/07, effective 3/9/07.]

WAC 468-600-722 State objection to subcontractors.

(1) Prior to the execution of any contract with a proposer, the proposer must provide the department with a list of all major subcontractors who will perform work in the construction, operation or maintenance of the project. All subcontractors must be legally eligible to perform or work on public contracts under federal and Washington law and regulations. No subcontractor will be accepted who is ineligible to receive public works contracts in the state of Washington.

(2) If the department has reasonable objection to any proposed subcontractor, the department is authorized to require, before the execution of a contract, an apparently successful proposer to submit an acceptable substitute. In such case, the proposer must submit an acceptable substitute, and the contract may, at the department's discretion, be modified to equitably account for any difference in cost necessitated by the substitution. The department will set a maximum time period from the date of the department's written demand for substitution within which to make an acceptable substitution. A proposer's failure to make an acceptable substitution at the end of the time period will constitute sufficient grounds for the department to refuse to execute a contract, without incurring any liability for the refusal. In setting a maximum time period, the department shall consider the scope of the subcon-

tract, availability of other subcontractors, and whether the disapproved subcontractor is identified in the proposal as an equity contributor or source of other financial support to the project relied on by the proposer. Following such identification, the proposer shall be granted an additional maximum time period as determined by the department to conclude negotiations of acceptable terms and conditions with that substitute major subcontractor.

(3) The department may not require any proposer to engage any subcontractor, supplier, other person or organization against whom the proposer has reasonable objection.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-722, filed 2/6/07, effective 3/9/07.]

WAC 468-600-725 Cessation of negotiations. The department must establish a maximum time period allowed for conducting negotiations on a potential project or development agreement(s). Such time period may be established in the solicitation document described in WAC 468-600-105, or as a condition of selecting a particular proposer or proposers. If the department elects to conduct competitive negotiations under WAC 468-600-360, any deadline established for conducting negotiations must be equitably applied to all proposers engaged in negotiations. The department may extend a maximum negotiating time period if it determines extension to be in the interests of the state.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-725, filed 2/6/07, effective 3/9/07.]

WAC 468-600-730 Legal sufficiency review of final agreement. On completion of a final agreement, the attorney general will review it for legal sufficiency. The department and the transportation commission are wholly responsible for exercising business judgment, including the appropriate and desirable allocation of risk and incentive in any agreement.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-730, filed 2/6/07, effective 3/9/07.]

WAC 468-600-735 Commission analysis required. Before any agreements are executed, the commission must:

- (1) Conduct a financial analysis that fully discloses all costs and cost estimates, including the costs of any financing, and all estimated project revenues; and
- (2) Compare the department's internal ability to complete the project that documents the advantages of completing the project as a public-private partnership versus solely as a public venture.

The commission may undertake this analysis at any point in the solicited or unsolicited proposal process.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-735, filed 2/6/07, effective 3/9/07.]

WAC 468-600-740 Publication of contents of proposed agreement. If a tentative agreement has been reached, before the commission may take any action on such agreement, an executive summary describing all material elements of the agreement must be prepared and made available to the public. The department must publish notice of existence of the agreement in each county that is, or could potentially be, affected by the project. The published notice must generally

describe the nature of the project, the anticipated communities that the project might impact, and how summary level information on the proposed agreement can be obtained. Such notice must be provided not less than twenty calendar days before the public hearing required under WAC 468-600-741.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-740, filed 2/6/07, effective 3/9/07.]

WAC 468-600-741 Public hearings on proposed project and agreement. Prior to taking action on any tentative agreement, the commission must hold an informational session and public hearing in the county seat of the boundaries of the proposed project with at least twenty calendar days' advance notice. Notice of such meeting may be provided in conjunction with the publication of the notice under WAC 468-600-740.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-741, filed 2/6/07, effective 3/9/07.]

WAC 468-600-742 Twenty-day period for consideration and evaluation of public comments. After holding the public hearing required in WAC 468-600-741, the commission must consider any testimony received, and must wait at least twenty calendar days before taking any action approving, rejecting or directing execution or continued negotiations of the agreement.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-742, filed 2/6/07, effective 3/9/07.]

WAC 468-600-750 Commission review of final agreement. On completion of the attorney general's legal sufficiency review of the final agreement, and after considering any public comment received, the commission shall:

- (1) Approve the final agreement;
- (2) Reject the final agreement; or
- (3) Return the final agreement to the team for further negotiation on issues the commission specifies.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-750, filed 2/6/07, effective 3/9/07.]

WAC 468-600-800 Program expenses attributable to projects. The department shall confer with its internal auditor and accounting staff to adopt a methodology to properly apportion program and project development expenses to the specific projects that are the subject of an agreement executed under WAC 468-600-750. The department shall forward the methodology for properly allocating program expenses to the office of financial management for review and approval.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-800, filed 2/6/07, effective 3/9/07.]

WAC 468-600-810 State's reservation of rights. (1) The state reserves all rights available to it by law in administering these rules, including without limitation, the right in its sole discretion to:

- (a) Reject any and all proposals at any time;
- (b) Terminate evaluation of any and all proposals at any time;

(c) Suspend, discontinue and/or terminate comprehensive agreement negotiations with any proposer at any time prior to the actual authorized execution of such agreement by all parties;

(d) Negotiate with a proposer without being bound by any provision in its proposal;

(e) Request or obtain additional information about any proposals;

(f) Issue addenda to and/or cancel any RFQ or RFP;

(g) In accordance with the rule-making procedures of chapter 34.05 RCW, supplement or withdraw all or any part of these rules;

(h) Decline to return any and all fees required to be paid by proposers hereunder; and

(i) Request revisions to proposals.

(2) Absent express written provisions contained in any solicitation document, order or written policy issued by the department, the department is not liable for, or required to, reimburse the costs incurred by proposers, whether or not selected for negotiations, in developing proposals or in negotiating agreements. Any and all information the department makes available to proposers shall be as a convenience to the proposer and without representation or warranty of any kind.

[Statutory Authority: RCW 47.29.030. 07-04-095, § 468-600-810, filed 2/6/07, effective 3/9/07.]