

# Title 365 WAC

## PLANNING AND COMMUNITY AFFAIRS AGENCY

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### Chapter 365-04 WAC GENERAL PROCEDURES

#### WAC

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**WAC 365-04-010 Agency purpose.** The Planning and Community Affairs Agency was established in 1967

in the Office of the Governor to provide planning and technical assistance to the counties and municipalities of Washington State to aid them with the demands of change and the complex problems of rapid growth and development. The key elements of this assistance are cooperation and service—cooperation with and service to city governments, county governments and state and regional agencies. [Order 72-6, § 365-04-010, filed 11/3/72.]

**WAC 365-04-030 Agency organization.** (1) The executive head of the Agency is a Director appointed by the Governor. The Director may delegate such of his functions, powers, and duties to such officers and employees of the office as he deems expedient to the furtherance of the purposes of the Agency. The operating sections of the Agency include the Comprehensive Health Planning Office, the Law and Justice Planning Office, and the Local Planning Assistance, Community Services, Model Cities/Planned Variations, Training and Education, Special Projects, and Administrative divisions.

(2) The principal office of the Agency shall be at Olympia, Washington, in care of the Director of the Planning and Community Affairs Agency, Insurance Building, which office shall be open each day for the transaction of business from 8:00 a.m. to 5:00 p.m., (Saturdays, Sundays, and legal holidays excepted). Submissions, requests and communications shall be sent to the Director, Planning and Community Affairs Agency, Insurance Building, Olympia, Washington 98504.

(3) Pursuant to chapter 39.34 RCW and Executive Order 73-03, the Director of the Agency has entered into a joint venture agreement under which the functions and responsibilities of the Planning and Community Affairs Agency's local Planning Assistance, Model Cities/Planned Variations, Special Projects, Training and Education, Community Services, Comprehensive Health Planning, Law and Justice Planning and the Indian Economic and Employment Assistance divisions, sections, and programs; as well as portions of the Agency's Administrative division and supporting programs have been assigned and delegated to the Office of Community Development. The Office of Community Development shall act as the agent for the Planning and Community Affairs Agency in carrying out the Agency's functions and responsibilities; the Agency shall act through the Office of Community Development in connection with all matters assigned and delegated to the Office of Community Development under the joint venture agreement for the duration of that agreement. [Order 73-4, § 365-04-030, filed 9/12/73; Order 72-6, § 365-04-030, filed 11/3/72.]

**WAC 365-04-050 Appearance and practice before agency—Who may appear.** No person may appear in a representative capacity before the agency or its designated hearing officer other than the following:

(1) Attorneys at law duly qualified and entitled to practice before the supreme court of the State of Washington;

(2) Attorneys at law duly qualified and entitled to practice before the highest court of record of any other state, if the attorneys at law of the State of Washington are permitted to appear in a representative capacity before administrative agencies of such other state, and if not otherwise prohibited by our state law;

(3) A bona fide officer, partner, or full time employee of an individual firm, association, partnership, corporation or municipal corporation. [Order 72-6, § 365-04-050, filed 11/3/72.]

### Chapter 365-06 WAC PUBLIC RECORDS

#### WAC

365-06-010	Purpose of chapter.
365-06-020	Availability of public records and office procedures applicable to such availability.

**WAC 365-06-010 Purpose of chapter.** The purpose of this chapter shall be to ensure compliance by the Planning and Community Affairs Agency (hereinafter referred to as the "Agency"), including its officers and employees, with the provisions of chapter 1, Laws of 1973 (Initiative 276), Disclosure-Campaign-Finances-Lobbying-Records; and in particular with sections 25 through 32 of that act [RCW 42.17.250 through 42.17.320], dealing with public records. [Order 73-4, § 365-06-010, filed 9/12/73.]

**WAC 365-06-020 Availability of public records and office procedures applicable to such availability.** In accordance with WAC 365-04-030(3), the Office of Community Development acts on behalf of the Agency in connection with all matters affected by this chapter; persons seeking a public record of the Agency must contact the Office of Community Development. Public records of the Agency shall be made available to members of the general public in accordance with rules and regulations promulgated by the Office of Community Development, chapters 120-04, 120-06, 120-08, and 120-52 WAC. [Order 73-4, § 365-06-020, filed 9/12/73.]

### Chapter 365-08 WAC UNIFORM PROCEDURAL RULES

#### WAC

365-08-010	Uniform procedural rules.
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**WAC 365-08-010 Uniform procedural rules.** The planning and community affairs agency, hereinafter designated as the agency, adopts as its own rules of practice all those uniform procedural rules promulgated by

the code reviser now codified in the Washington Administrative Code, WAC 1-08-005 through 1-03-590, (excepting WAC 1-08-010 which is adopted as amended by the agency as set out herein as WAC 365-04-050) as now or hereafter amended subject to any additional rules that the agency may add from time to time. The agency reserves the right to make whatever determination is fair and equitable should any question not covered by its rules come before the agency, said determination to be in accordance with the spirit and intent of the law. [Order 72-6, § 365-08-010, filed 11/3/72.]

### Chapter 365-12 WAC

### REGULATIONS REGARDING RECOGNITION AND APPROVAL OF REGIONAL PLANNING AGENCIES FOR COMPREHENSIVE HEALTH PLANNING

#### WAC

365-12-010	Declaration of public policy.
365-12-020	Definitions.
365-12-030	Regional planning agencies—Establishment.
365-12-040	Functions.
365-12-050	Recognition and approval.
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365-12-070	Criteria.
365-12-080	Rejection.
365-12-090	Withdrawal.
365-12-100	Notification requirements.

**Reviser's note:** WAC 365-12-110 entitled "Declaration of emergency." Emergency Order 72-1, filed 1/18/72 and Permanent Order 72-2, 1/31/72 has been decodified.

**WAC 365-12-010 Declaration of public policy.** The following regulations are adopted pursuant to chapter 70.38 RCW for the purpose of implementing and furthering a program of comprehensive planning to promote, maintain and assure a high level of health for all citizens of the state, and to provide to such citizens adequate health services, health manpower, health facilities, and other resources, as well as health planning as related to environmental matters. Such a program is necessary on both a state-wide and regional basis, and must maintain responsiveness to changing health and social needs and conditions. The marshalling of all health resources to assure the availability to every person of comprehensive health services of high quality is the goal of comprehensive health planning, which must likewise assure optimum efficiency, effectiveness, equity coordination, and economy in development and implementation to reach that goal.

The timely construction and expansion of hospital and nursing home facilities and the institution of additional hospital and nursing home services should be accomplished in a manner which is orderly, coherent, timely, economical, and consistent with the effective development of necessary and adequate means of providing high quality health care for persons to be served by such facilities without duplication or fragmentation of such facilities. [Order 72-2, § 365-12-010, filed 1/31/72.]

**WAC 365-12-020 Definitions.** (1) "Application" means a request in letter or other form by an entity for recognition and approval as a regional planning agency.

(2) "Construction" means the erection, building, or substantial acquisition, alteration, reconstruction, improvement, extension, or modification of a hospital or nursing home, including equipment, inspection and the supervision thereof, and other actions necessary thereto, which cost in excess of \$100,000.

(3) "Consumer" means any person whose occupation is other than the administration of health activities or the providing of health services, who has no fiduciary obligation to a health facility or other health agency, and who has no material financial interest in the rendering of health services.

(4) "Council" means the State Comprehensive Health Planning Advisory Council.

(5) "Department" means the Washington State Department of Social and Health Services.

(6) "Regional planning agency" means the area-wide comprehensive health planning agency responsible for comprehensive health planning within a defined area.

(7) "Secretary" means the Secretary of the Washington State Department of Social and Health Services or his designee.

(8) "State planning agency" means the state comprehensive health planning agency as defined by Public Law 89-749 and designated by the Governor pursuant to chapter 70.38 RCW to be the Planning and Community Affairs Agency. [Order 72-2, § 365-12-020, filed 1/31/72.]

**WAC 365-12-030 Regional planning agencies—Establishment.** In order to carry out the provisions of chapter 70.38 RCW, and to locate the responsibilities for comprehensive health planning in single, broadly representative, area-wide entities, regional planning agencies for comprehensive health planning shall be established subject to recognition and approval by the state planning agency. [Order 72-2, § 365-12-030, filed 1/31/72.]

**WAC 365-12-040 Functions.** A regional planning agency shall perform, at a minimum, the following functions:

(1) Identify health problems, needs, and resources; recommend goals and objectives; and promote the development and effective utilization of the health resources of the area.

(2) Plan and assure coordination and optimum utilization of current and future health manpower, services, facilities, and resources, for health care and prevention of disease and injury within the area and with state-wide programs.

(3) Prepare and maintain a long-range plan for all health facilities, services, manpower, and other resources within the geographic area served by it.

(4) Establish methods of plan revision and amendment to allow responsiveness to changing needs and conditions.

(5) Individually, and in cooperation with other regional planning agencies and the state planning agency, make recommendations and otherwise further the state's comprehensive health planning program.

(6) Provide other assistance or actions as required by federal or state legislation upon request of the state planning agency or any other state agency.

(7) Develop capability to conduct evaluations and make recommendations as to applications for certificates of need for construction as defined in chapter 70.38 RCW.

(8) Upon certification, or upon request by the department, evaluate all applications for certificates of need within its area and make recommendations to the department within 60 days of receipt, or within a specified further period not to exceed an additional 30 days as approved by the secretary. [Order 72-2, § 365-12-040, filed 1/31/72.]

**WAC 365-12-050 Recognition and approval.** (1) An applicant shall be recognized and approved as a regional planning agency only when the submitted application for recognition and approval is complete and the applicant meets the criteria for recognition and approval listed in WAC 365-12-070 to the satisfaction of the state planning agency.

(2) Recognition and approval shall be effective until withdrawn by the state planning agency.

(3) Recognition and approval of a regional planning agency is not transferable or assignable without the approval of the state planning agency.

(4) The granting of recognition and approval does not constitute "certification" as that term is used in chapter 70.38 RCW. [Order 72-2, § 365-12-050, filed 1/31/72.]

**WAC 365-12-060 Procedure.** (1) **Application for recognition and approval.** In order to be recognized and approved by the state planning agency as a regional planning agency responsible for comprehensive health planning for a defined geographic area, an applicant must submit to the state planning agency an application that includes the following:

(a) The name of the applicant requesting recognition and approval.

(b) A statement indicating whether the applicant is:

(i) a municipal corporation, or

(ii) a nonprofit corporation organized under chapter 24.03 RCW.

(c) The citation of legal authority under which the applicant is organized.

(d) The applicant's articles of incorporation and corporate by-laws that are pertinent to the application.

(e) The names of the officers of the applicant.

(f) The names of the members of the applicant's advisory council or, where applicable, its board of directors, together with biographical information on, and a denomination of each member as either:

(i) a nonconsumer, or

(ii) a consumer of health services or care as defined in WAC 365-12-020(3).

(g) The description by county(ies) of the area to be represented by the applicant.

(h) A statement indicating the willingness of the applicant to perform the functions of a regional planning

agency including the specific functions listed in WAC 365-12-040.

(i) A brief description of proposed activities that, when engaged in by the applicant, will accomplish the functions of a regional planning agency.

(j) A brief description of proposed sources of support, such as contributed staff, office staff, and financial assistance.

(k) An affidavit indicating the applicant's compliance with and insurance of compliance with Title VI of the Civil Rights Act of 1964, and all requirements imposed by or pursuant to regulations of the Department of Health, Education and Welfare (45 C.F.R. Part 80) issued pursuant to that title, to the end that no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be deprived of the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives financial assistance from or through the state planning agency.

(2) **Receipt and review of application.** (a) Upon receipt of an application that lacks any or all of the information required under WAC 365-12-060, the state planning agency shall:

- (i) Acknowledge receipt of the application;
- (ii) Request submission of omitted information; and
- (iii) Notify the applicant that agency action regarding its application is deferred pending receipt of the specified information.

(b) Upon receipt of an application together with all information required under WAC 365-12-060(1), the state planning agency shall:

- (i) Acknowledge receipt of the application;
- (ii) Request the council to review the submitted information and application and make recommendations to the state agency within 30 days of the council's receipt of the application;
- (iii) Taking into consideration any recommendations of the council, evaluate the submitted information and application with respect to the applicant's compliance with the criteria for recognition and approval as listed in WAC 365-12-070; and

(iv) Recognize and approve, or reject the applicant: *Provided*, That in the event of unusual circumstances, the state planning agency may notify the applicant of a deferral of the processing if its application, fully explaining the circumstances, the duration of the deferral, and the action necessary to satisfy the deferral conditions or cause: *Provided, further*, That the state planning agency shall either recognize and approve or reject an applicant within 60 days of its receipt of the complete application. [Order 72-2, § 365-12-060, filed 1/31/72.]

**WAC 365-12-070 Criteria.** To be approved by the state planning agency as a regional planning agency, an applicant must meet the following criteria.

(a) The applicant must be either a municipal corporation or a nonprofit corporation organized under chapter 24.03 RCW.

(b) The applicant must describe the geographic area to be served by the proposed regional planning agency, using county boundaries as the unit of definition. Any

variation from the area boundaries of the Official Districts established by the Governor's Executive Order dated August 6, 1969, will require the approval of the state planning agency.

(c) The applicant must intend, at a minimum, to:

(i) Identify health problems, needs, and resources; recommend goals and objectives; and promote the development and effective utilization of the health resources of the area;

(ii) Plan and assure coordination with state-wide programs and optimum utilization within the area of current and future health manpower services, facilities, and resources for health care and prevention of disease and injury;

(iii) Prepare and maintain a long-range plan for all health facilities, services, manpower, and other resources within the geographic area served by it;

(iv) Establish methods of plan revision and amendment to allow responsiveness to changing needs and conditions;

(v) Individually, and in cooperation with other regional planning agencies and the state planning agency, make recommendations and otherwise further the state comprehensive health planning program.

(vi) Provide other assistance or action as required by state or federal legislation or upon request of the state planning agency or any other state agency;

(vii) Develop the ability to conduct evaluations and make recommendations as to applications for certificates of need for construction as defined in chapter 70.38 RCW; and

(viii) Upon certification, or upon request by the department, evaluate all applications for certificates of need within its area and make recommendations to the department within 60 days of receipt, or within a specified further period not to exceed an additional 30 days as approved by the secretary.

(d) The applicant must provide for representation, through an advisory council or, where applicable, its board of directors of the major public, private, and voluntary agencies in its area that are concerned with physical, mental, and other resources. The applicant may obtain additional representation through subcommittees, technical advisory committees, and other such means.

(e) The applicant must ensure that a majority of the membership of the advisory council or, where applicable, its board of directors, are consumers of health services as defined in WAC 365-12-020(3), that reflect the geographic, socio-economic, ethnic, and age groups in the area. The members who are health care nonconsumers shall also represent broad geographic, professional, and ethnic elements of the area. The consumer majority shall also pertain to other decision-making units of the applicant agency.

(f) The applicant must ensure that comment is received by the state planning agency from a cross-section of county and city governments, and public and private and voluntary health agencies in the area concerning its application to become the agency responsible for the comprehensive area-wide health planning program, or

for organizing such a comprehensive health planning program.

(g) The applicant must comply with Title VI of the Civil Rights Act of 1964, and all requirements imposed by or pursuant to regulations of the Department of Health, Education and Welfare (45 C.F.R. Part 80) issued pursuant to that title, regarding nondiscrimination, since federal assistance is received by the state planning agency and the nondiscrimination provisions are applicable to any comprehensive health planning activity in which the state planning agency participates or assists. [Order 73-2, § 365-12-070, filed 6/29/73; Order 72-2, § 365-12-070, filed 1/31/72.]

**WAC 365-12-080 Rejection.** (1) An applicant shall be rejected as a regional planning agency only

(a) when the submitted application has not been completed to the satisfaction of the state planning agency and, after notice as provided in WAC 365-12-100(2), the applicant has failed to submit the specified information to the state planning agency within 60 days of its receipt of such notice; or

(b) when the applicant does not meet the criteria for recognition and approval listed in WAC 365-12-070 to the satisfaction of the state planning agency.

(2) An applicant that has had its application for recognition and approval as a regional planning agency rejected may reapply for recognition and approval under WAC 365-12-060, or, within 10 days of the receipt of notification of rejection and upon written notice to the state planning agency may seek recognition and approval through an administrative hearing held in accordance with chapter 34.04 RCW. [Order 72-2, § 365-12-080, filed 1/31/72.]

**WAC 365-12-090 Withdrawal.** (1) Grounds for withdrawal of recognition and approval include, but are not limited to, fraud, misrepresentation, false or misleading statements, evasion, or suppression of material facts in the application for recognition and approval, or the subsequent failure of a regional planning agency to maintain compliance with or otherwise satisfy the applicable criteria for recognition and approval.

(2) Withdrawal of recognition and approval shall not be effective unless, prior to the notification of the regional planning agency that its recognition and approval has been withdrawn, the state planning agency has given written notice in accordance with WAC 365-12-100 and the regional planning agency was given a reasonable opportunity to show compliance with or otherwise satisfy the applicable criteria for recognition and approval but failed to do so.

(3) A regional planning agency that has had its recognition and approval withdrawn may reapply for recognition and approval under WAC 365-12-060, or, within 10 days of the receipt of notification of withdrawal and upon written notice to the state planning agency may seek reinstatement of recognition and approval through an administrative hearing held in accordance with chapter 34.04 RCW. [Order 72-2, § 365-12-090, filed 1/31/72.]

**WAC 365-12-100 Notification requirements.** (1) When the applicant is recognized and approved the state planning agency shall so notify the applicant and such other agencies as may be deemed by the state planning agency to be appropriate in furtherance of the public policy stated in WAC 365-12-010.

(2) When the applicant has failed to submit an application completed to the satisfaction of the state planning agency, the state planning agency shall notify the applicant by certified letter that state planning agency action regarding its application is deferred pending receipt of information specified by the state planning agency and that the applicant must submit such information to the state planning agency within 60 days of its receipt of such notice or have its application rejected.

(3) When the applicant is rejected, the state planning agency shall so notify the applicant by certified letter fully explaining the reasons for the rejection and the action, if any, the application must perform to obtain recognition and approval.

(4) Prior to the withdrawal of recognition and approval the state planning agency shall notify the regional planning agency by certified letter of the conduct or facts that warrant the withdrawal of recognition and approval, and the date by which proof of compliance with or other satisfaction of the applicable criteria for recognition and approval must be submitted to the state planning agency to preserve its recognition and approval.

(5) Upon failure of a regional planning agency to submit proof of compliance with or other satisfaction of the applicable criteria for recognition and approval to the state planning agency, the state planning agency shall notify the regional planning agency by certified letter that its recognition and approval has been withdrawn.

(6) Unless otherwise specified, all state planning agency actions regarding recognition and approval are effective upon receipt of notice. [Order 72-2, § 365-12-100, filed 1/31/72.]

### Chapter 365-14 WAC

#### FUNDING OF REGIONAL COMPREHENSIVE HEALTH PLANNING AGENCIES

##### WAC

365-14-010	General purpose.
365-14-020	Eligibility of applicants.
365-14-030	Application process.
365-14-040	Action by agency regarding application.
365-14-050	Funding allocation basis.
365-14-060	Decision of Agency final.
365-14-070	Contract terms and conditions.
365-14-080	Commitment for additional funds.
365-14-200	Funding of demonstration projects.
365-14-210	Application process.

##### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

365-14-110	Opportunity of funded agency to apply for funds for use in otherwise unfunded district. [Order 73-2, § 365-14-110, filed 6/29/73.] Repealed by Permanent and Emergency Order 77-01, filed 3/4/77, effective 3/4/77.
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- 365-14-120 Application process. [Order 73-2, § 365-14-120, filed 6/29/73.] Repealed by Permanent and Emergency Order 77-01, filed 3/4/77, effective 3/4/77.
- 365-14-130 Agreement contents. [Order 73-2, § 365-14-130, filed 6/29/73.] Repealed by Permanent and Emergency Order 77-01, filed 3/4/77, effective 3/4/77.
- 365-14-220 Demonstration of local support. [Order 75-3, § 365-14-220, filed 8/11/75; Order 74-02, § 365-14-220, filed 2/19/74.] Repealed by Permanent and Emergency Order 77-01, filed 3/4/77, effective 3/4/77.

**WAC 365-14-010 General purpose.** In order to fully implement the provisions of chapter 70.38 RCW regarding the establishment of regional comprehensive health planning agencies, a procedure is hereby established to provide financial assistance to such agencies. The providing of financial assistance to regional comprehensive health planning agencies is intended to develop a more adequate and valuable regional health planning process, to make possible the staffing for technical planning and to achieve a degree of equal distribution of resources to all such agencies of the state. [Permanent and Emergency Order 77-01, § 365-14-010, filed 3/4/77, effective 3/4/77; Order 72-6, § 365-14-010, filed 11/3/72.]

**WAC 365-14-020 Eligibility of applicants.** Any regional comprehensive health planning agency is eligible to apply for financial assistance under this program if

(1) It serves a complete Health Service Area designated by the Governor of which there are four.

(2) It has been designated a health systems agency under PL 93-641 by the Department of Health, Education and Welfare. [Permanent and Emergency Order 77-01, § 365-14-020, filed 3/4/77, effective 3/4/77; Order 73-2, § 365-14-020, filed 6/29/73; Order 72-6, § 365-14-020, filed 11/3/72.]

**WAC 365-14-030 Application process.** (1) In order to receive financial assistance under this program, an applicant must submit to the Comprehensive Health Planning Office of the Agency an application completed substantially in accordance with the guidelines and instructions of the Agency.

(2) In such application the applicant must include:

(a) A proposed scope of services or project proposal indicating in some detail the goals and methods to be used in carrying out said program; and

(b) A budget in which the applicant's gross revenue and project costs for the project period are detailed to the satisfaction of the Agency. [Order 73-2, § 365-14-030, filed 6/29/73; Order 72-6, § 365-14-030, filed 11/3/72.]

**WAC 365-14-040 Action by agency regarding application.** (1) Within sixty days of the receipt of such application the Agency shall review and either approve, deny or request additional information regarding such application. The failure of an applicant to submit such requested information, without reasonable grounds for such failure, may result in the denial of all or a part of its application.

(2) Prior to approving or denying such application the Agency may discuss and otherwise negotiate with the

applicant regarding its proposed scope of services or project and its budget.

(3) The Agency shall notify the applicant in writing of the action taken by it regarding the application. [Order 72-6, § 365-14-040, filed 11/3/72.]

**WAC 365-14-050 Funding allocation basis.** (1) An applicant which meets the criteria in WAC 365-14-020 shall be eligible for financial assistance in an amount equal to one-quarter of the total annual appropriation for this purpose. Funds not obligated contractually on or by January 31, shall become allocable at the discretion of the Agency. [Permanent and Emergency Order 77-01, § 365-14-050, filed 3/4/77, effective 3/4/77; Order 73-2, § 365-14-050, filed 6/29/73; Order 72-6, § 365-14-050, filed 11/3/72.]

**WAC 365-14-060 Decision of Agency final.** All decisions of the Agency regarding applications for financial assistance under this program are final, provided, however, that an applicant that has had its application for financial assistance under this program denied may submit a new application for funds not less than thirty days after the date of denial of its previous application. [Order 73-2, § 365-14-060, filed 6/29/73; Order 72-6, § 365-14-060, filed 11/3/72.]

**WAC 365-14-070 Contract terms and conditions.** The Agency shall determine the terms and conditions of all contracts made under this program. [Order 72-6, § 365-14-070, filed 11/3/72.]

**WAC 365-14-080 Commitment for additional funds.** The provision of funds under this program does not commit the state to appropriate or otherwise make available additional funds beyond the initial appropriation made for this program.

Subsequent funding of regional comprehensive health planning agencies will be dependent on reasonable progress in implementing the work program and the continuing availability of state funds for this program. [Permanent and Emergency Order 77-01, § 365-14-080, filed 3/4/77, effective 3/4/77; Order 72-6, § 365-14-080, filed 11/3/72.]

**WAC 365-14-200 Funding of demonstration projects.** Notwithstanding the provisions of WAC 365-14-020, 365-14-040 and 365-14-050, the Agency may provide financial assistance on a model or demonstration program or project basis to unrecognized regional comprehensive health planning agencies; organizations in the process of developing, or otherwise seeking to become regional comprehensive health planning agencies; and to other organizations engaged in or otherwise performing activities of a regional comprehensive health planning nature: *Provided, however,* That such entities will not be eligible to receive funding on a model or demonstration program or project basis where a federally recognized 314(b) agency exists within the same region. [Permanent and Emergency Order 77-01, § 365-14-200, filed 3/4/77, effective 3/4/77; Order 74-03, § 365-14-200,

filed 5/23/74; Order 74-02, § 365-14-200, filed 2/19/74.]

**WAC 365-14-210 Application process.** In order to receive financial assistance on a model or demonstration program or project basis, an applicant must comply with WAC 365-14-030. [Order 74-02, § 365-14-210, filed 2/19/74.]

**Chapter 365-22 WAC**

**PLANNING ADVANCES PROGRAM FOR LOCAL GOVERNMENT PUBLIC WORKS**

**WAC**

365-22-010	Objectives of the planning advance program.
365-22-020	Eligibility of applicants.
365-22-030	Eligibility of public work.
365-22-040	Application for planning advance.
365-22-050	Action by agency regarding application.
365-22-060	Planning advance funding criteria and preferences.
365-22-070	Decision of agency final.
365-22-080	Planning advance terms.
365-22-090	Commitment for additional funds.

**WAC 365-22-010 Objectives of the planning advance program.** The objectives of this Public Works Planning Advance Program for Local Governments are as follows:

- (1) Aid in financing preliminary planning and feasibility studies, as well as engineering, design, architecture, and site plan detail necessary for the construction of needed public works.
- (2) Create added incentive and motivation to local governments to develop such plans in order to be able to carry out essential capital improvement projects.
- (3) Provide employment opportunities in the planning phase and actual construction work for needed local governmental public works as well as provide services and facilities making new permanent employment possible.
- (4) Aid in providing means for implementing capital improvement plans of local governments. [Order 72-7, § 365-22-010, filed 11/16/72.]

**WAC 365-22-020 Eligibility of applicants.** Units of local government legally authorized to plan, finance, and construct proposed public works are eligible to apply for and receive planning advances. Eligible units of local government include general purpose units of local government (cities, towns, and counties), Indian tribes recognized as such by the federal government, metropolitan municipal corporations, and special purpose units of local government where such units may appropriately participate. [Order 72-7, § 365-22-020, filed 11/16/72.]

**WAC 365-22-030 Eligibility of public work.** A planning advance may be made by the Agency for planning any specific public work that the applicant has the legal authority to plan, finance, and construct: *Provided, however,* That a planning advance will not be available for the following:

- (1) A public work for which other state or federal funds are available when such funds can be used for

planning costs. (Any question with respect to a proposed planning project under this policy should be referred to the Agency before an application is prepared.);

(2) A public work which is a federal renewal project or any portion thereof, under the Housing Act of 1949, except that an advance may be made for planning a specific public work to be constructed by the applicant as a noncash grant-in-aid to an urban renewal project;

(3) The planning of public housing;

(4) A study of basic need, or priority;

(5) A project which is a federal-aid or state highway project of the U.S. Department of Transportation and/or state highway department for which planning funds are available;

(6) A public work in which the planning advance will be used in the purchase of a site or any interest therein;

(7) A public work that fails to conform to existing local, regional, or state plans. [Order 72-7, § 365-22-030, filed 11/16/72.]

**WAC 365-22-040 Application for planning advance.**

An application for a planning advance under this program shall be submitted to the Agency substantially in accordance with the instructions and guidelines of the Agency. [Order 72-7, § 365-22-040, filed 11/16/72.]

**WAC 365-22-050 Action by agency regarding application.** (1) Within sixty days of the receipt of an application for a planning advance, the Agency shall review and either approve, deny, or request further information regarding such application. The failure of an applicant to submit such requested information, without reasonable grounds for such failure, may result in the denial of all or part of its application.

(2) The Agency shall notify the applicant in writing of the action taken by it regarding the application. [Order 72-7, § 365-22-050, filed 11/16/72.]

**WAC 365-22-060 Planning advance funding criteria and preferences.**

(1) No applicant shall receive a planning advance under this program unless it

(a) demonstrates that, prior to applying for assistance under this program, it has explored all feasible alternative sources of revenue and found none available to it for necessary advance planning; and

(b) demonstrates, to the satisfaction of the Agency, how construction of the proposed public work will aid in reducing the unemployment rate in the area or sustain existing employment, and shows the impact of the proposed public work on long-range employment opportunities in the area; and

(c) certifies that it shall maintain or make, to the satisfaction of the Agency, suitable progress towards construction of such public work.

(2) In establishing priorities for funding various planning advances the Agency shall give preference to

(a) general purpose units of local government[;]

(b) planning projects that can be completed in ninety days or less;

(c) planning projects that can be accomplished for \$15,000 or less;



(d) planning projects evidencing interlocal cooperation;

(e) public works that are eligible for funding by the Washington State Economic Assistance Authority.

(3) In exercising preferences for funding various planning advances the Agency may consider, in addition, the following:

(a) immediacy of the public work's economic impact;

(b) permanency of the public work's economic impact;

(c) the local, state and/or federal participation in the public work's funding;

(d) the creation by the public work of job opportunities for the disadvantaged, minority races, or underemployed;

(e) the financial condition of the applicant;

(f) any other factors having an impact on the community as a result of the construction of the public work. [Order 72-7, § 365-22-060, filed 11/16/72.]

**WAC 365-22-070 Decision of agency final.** All decisions of the Agency regarding applications for planning advances under this program are final. [Order 72-7, § 365-22-070, filed 11/16/72.]

**WAC 365-22-080 Planning advance terms.** The Agency shall determine the terms of all planning advances made hereunder and the conditions for repayment. [Order 72-7, § 365-22-080, filed 11/16/72.]

**WAC 365-22-090 Commitment for additional funds.** The providing of a planning advance under this program does not commit either the state government or the federal government to appropriate funds to assist in financing the construction of any public work planned hereunder. [Order 72-7, § 365-22-090, filed 11/16/72.]

### Chapter 365-24 WAC

## UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION

### WAC

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#### GENERAL CONSIDERATIONS

#### WAC 365-24-010 General purpose and coverage.

(1) Purpose: These interim regulations are to assist state agencies and local public bodies in the development of policies and procedures implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1971, chapter 8.26 RCW, to assure a uniform policy for the fair and equitable treatment of persons displaced by state programs, or federally assisted programs administered by state agencies or local public



bodies. These interim regulations are adopted pursuant to the provisions of RCW 8.26.110.

(2) Conflicts: In the event of any conflict between these regulations and the provisions of chapter 8.26 RCW or any other applicable law, the statutory provisions are controlling.

(3) Authorization to exceed maximum payment specified herein: The intent of these regulations is to establish minimum requirements for relocation assistance payments by state agencies and local public bodies. Notwithstanding anything to the contrary in these regulations, any state agency or local public body, where otherwise authorized, may make any relocation assistance payment in an amount which exceeds the maximum amount for such payment authorized by this chapter, and may comply with the more specific requirements of chapter 8.26 RCW and regulations promulgated pursuant thereto, if the making of such payment or compliance with such requirements is necessary under federal law or regulations to secure federal funds.

(4) Extended eligibility for receipt of benefits: Whenever the acquisition of, or receipt of notice to vacate real property used for a business or farm operation causes any person to move from real property used for his dwelling, or to move his personal property from such other real property, such person may receive the benefits provided by RCW 8.26.040 through 8.26.070. Furthermore, whenever a displacing entity determines that a sufficient portion of a parcel upon which a business operation and dwelling unit(s) are located is taken to justify the operator of such business to move his business or go out of business, the owners and/or occupants of the dwellings on such property not within the actual taking but who are consequently forced to move shall be eligible to receive the same payments as though their dwellings were within the actual taking.

(5) Persons displaced due to federal Housing, or Demonstration Cities and Metropolitan Development Acts included: A person who moves or discontinues his business, or moves other personal property, or moves from his dwelling on or after July 1, 1971, as a direct result of any project or program which receives federal financial assistance under Title I of the Housing Act of 1949 (P.L. 81-171) as amended, or as a result of carrying out a comprehensive city demonstration program under Title I of the Demonstration Cities and Metropolitan Development Act of 1966 (P.L. 89-754), for the purposes of chapter 8.26 RCW and these regulations, shall be deemed to have been displaced as a result of the acquisition of real property. [Order 74-05, § 365-24-010, filed 10/9/74.]

**WAC 365-24-020 General responsibilities of relocating entities.** State agencies and local public body acquiring real property and relocating persons as a consequence of such acquisition should instruct officials responsible for programs affected by chapter 8.26 RCW that:

(1) Application of chapter 8.26 RCW and these regulations: The provisions of chapter 8.26 RCW and these regulations apply to any program or project of real

property acquisition which may create a "displaced person" as defined in WAC 365-24-110,

(a) where such acquisition is initiated by a state agency;

(b) where such acquisition is initiated by a local public body for a program or project which received federal financial assistance for all or part of the cost; or

(c) where such acquisition is initiated by a local public body which, pursuant to RCW 8.26.020(2), elects to comply with chapter 8.26 RCW.

(2) Responsibility of head of displacing entity: The executive head of a state agency or local public body engaged in the acquisition of real property or any interest therein for a project or program involving relocation, and over funds appropriated or otherwise available for such acquisition and relocation is responsible for carrying out the provisions of chapter 8.26 RCW and these regulations applicable to that program or project, subject to review as provided in RCW 8.26.030(1).

(3) Use of housing agencies: In carrying out relocation assistance activities affected by these regulations, a state agency or local public body, whenever practicable, shall utilize the services of state or local housing agencies, or other agencies having experience in the administration or conduct of similar housing assistance activities. [Order 74-05, § 365-24-020, filed 10/9/74.]

**WAC 365-24-030 State agencies and local public bodies policies and procedures.** (1) All state agencies and local public bodies responsible for the acquisition of real property in connection with a program or project that will result in the displacement of any person on or after the effective date of these regulations, shall prepare and adopt policies and procedures consistent with these regulations not less than 60 days prior to the commencement of any project phase causing displacement. Such policies and procedures must provide at a minimum, that:

(a) A written notice of the initiation of negotiations with the owner of property to be acquired must be given by the displacing entity to tenants and other persons occupying such property advising:

(i) Eligibility for relocation assistance and benefits which could become available after acquisition of the property by the displacing entity can be lost if the owner or any tenant moves or makes any financial commitments for replacement housing or facilities prior to receiving a written notice to vacate from the displacing entity for its program or project, or otherwise fails to meet the legal requirements for such assistance or benefits;

(ii) The displacing entity's land purchase intentions and plans are subject to change and even cancellation until the acquisition is closed;

(iii) Neither the owner nor any tenant should move or make any financial commitment for replacement housing or facilities until he has received a final determination from the displacing entity concerning his eligibility for relocation payments; the requirements which must be satisfied before such payments or benefits, if any, can be provided by the acquiring entity if it purchases the property; and until receipt of a written authorization or

notice to vacate for the program or project from the acquiring entity;

(iv) Where he can obtain full information concerning relocation assistance, eligibility for relocation payments and the requirements which must be satisfied before such payments can be made; and

(v) The procedures for obtaining RCW 8.26.130 review.

(b) A written notice to vacate must be given to each individual, family, business, or farm operation to be displaced; and that all notices shall be served personally or delivered by certified or registered first class mail.

(c) A displaced person who makes proper application for a payment authorized for such person by chapter 8.26 RCW and these regulations shall be paid promptly after a move, or, in hardship cases, be paid in advance.

(d) Applications for benefits under the Act are to be made within 18 months of the date on which the displaced person moves from the real property acquired or to be acquired; or the date on which the acquiring entity makes final payment of all costs of that real property, whichever is the later date. The head of the state agency or local public body may extend this period upon a proper showing of good cause.

(2) A copy of such policies and procedures and revisions thereof shall be furnished to the Office by the displacing entity within 30 days after adoption by the displacing entity. A copy of any policies and procedures regarding real property acquisition or relocation being utilized by a displacing entity at the time these regulations become effective shall be transmitted to the Office within 30 days of such effective date. [Order 74-05, § 365-24-030, filed 10/9/74.]

**WAC 365-24-040 Review of activities for compliance with chapter 8.26 RCW.** The Director shall provide for periodic review of all state agency and local public bodies land acquisition and relocation policies, procedures and practices to ensure compliance with the provisions of chapter 8.26 RCW and these regulations. Records relating to such policies, procedures and practices, as specified by the Office, shall be maintained by displacing entities for the purpose of review. [Order 74-05, § 365-24-040, filed 10/9/74.]

**WAC 365-24-050 Public information.** (1) The head of each state agency or local public body should make available to the public full information concerning such entity's relocation program and he shall ensure that persons to be displaced are fully informed, at the earliest possible time, of the specific plans and procedures for assuring that comparable replacement housing will be available for home owners and tenants in advance of displacement; available relocation payments and assistance; the eligibility requirements and procedures for obtaining such payments and assistance; and the right of administrative review by the head of the state agency or local public body concerned, as provided by chapter RCW 8.26.130.

(2) Whenever a displaced person is eligible for a replacement housing payment under RCW 8.26.050 or 8.26.060(1) and Parts VI and VII of these regulations

except that he has not yet purchased a replacement dwelling, the head of the displacing entity or his designee shall at the request of the displaced person provide a written statement to any interested person, financial institution, or lending agency as to such person's eligibility for a payment and the requirements that must be satisfied before such payment can be made. If the proposed replacement dwelling has been selected or if plans and specifications are available for the construction or rehabilitation of a proposed dwelling, the displacing entity, after its representative has inspected the dwelling or plans and found that they meet the required standards, shall include such finding and the amount of the payment to be available in such statement. [Order 74-05, § 365-24-050, filed 10/9/74.]

**WAC 365-24-060 Payments not considered income or resource.** As provided for in RCW 8.26.140 no payment received under RCW 8.26.010 through 8.26.130 shall be considered as income for the purposes of any income tax or any tax imposed under Title 82 RCW as now or hereafter amended; or for the purpose of determining the eligibility or extent of eligibility of any person for assistance under the Social Security Act or any other federal law. These payments are not to be considered income or resources, and such payments shall not be deducted from any amount to which any recipient would otherwise be entitled, under Title 74 RCW, as now or hereinafter amended. Supplemental rent payments, however, may be considered in determining the amount of public assistance to which a recipient may be entitled to the extent that there would be a duplication of a shelter allowance as established by the public assistance standards. [Order 74-05, § 365-24-060, filed 10/9/74.]

**WAC 365-24-100 Interpretation of definitions.** The head of the displacing state agency or local public body may expand the following definitions where necessary to insure greater clarity and the successful implementation of the acquisition and/or relocation program; modification of the definitions should not, however, deviate from the general concepts contained herein. [Order 74-05, § 365-24-100, filed 10/9/74.]

**WAC 365-24-110 Specific definitions.** (1) "Average annual net earnings" (see definition in WAC 365-24-540).

(2) "Bona fide mortgage" (see definition in WAC 365-24-620 (2)(c)).

(3) "Business" means any lawful activity, excepting a farm operation, conducted primarily:

(a) For the purchase, sale, lease and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or other personal property; or

(b) For the sale of services to the public; or

(c) by a nonprofit organization; or

(d) solely for the purposes of RCW 8.26.040(1) for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by means of an outdoor advertising

display or displays, otherwise lawfully erected and maintained, whether or not such display or displays are located on the premises on which any of the above activities are conducted.

(4) "Comparable replacement dwelling" means a dwelling unit which meets the requirements of chapter 8.26 RCW and those outlined in WAC 365-24-210.

(5) "Director" means the Director of the Washington State Office of Community Development, and any persons to whom he has delegated his powers and duties under the Act and these rules and regulations.

(6) "Displaced person" means any person who, on or after July 1, 1971, moves from real property lawfully occupied by him, or moves his personal property from real property on which it was lawfully located, as a result of the acquisition of such real property, in whole or in part, or as the result of the written order of the acquiring entity to vacate real property, for a program or project undertaken by a state agency or a local public body. Solely for the purposes of RCW 8.26.040(1) and (2), and 8.26.070, the term "displaced person" includes any person who, on or after July 1, 1971, moves from real property or moves his personal property from real property, as a result of the acquisition of, or the receipt of the written order of the acquiring entity to vacate other real property, on which such person conducts a business or farm operation, for a program or project undertaken by the state or a local public body. The term "displaced person" also includes persons deemed to have been displaced as a result of the acquisition of real property financed in whole or in part under certain federal legislation referenced in RCW 8.26.160 and WAC 365-24-010(5). The term "displaced person" DOES NOT INCLUDE persons who occupy property subsequent to other persons in occupancy of the same property at the initiation of negotiations for the property or at the time written notice of intent to acquire or to vacate is issued by the displacing entity, whichever is earlier.

(7) "Dwelling unit" means any single family building; one family unit (including a nonhousekeeping unit) in a two-family or multi-family building, a unit of a condominium, or cooperative housing project; a mobile home; or other residential unit.

(8) "Economic rent" is the amount of rent the displaced occupant would have had to pay for a comparable dwelling in an area that is generally equal to that in which is located the dwelling unit to be acquired by the displacing entity.

(9) "Eligible person" means any displaced person who is or becomes lawfully entitled to any relocation under chapter 8.26 RCW.

(10) "Family" means two or more individuals, one of whom is the head of a household, plus all other individuals regardless of blood or legal ties who live with and are considered a part of the family unit. Where two or more individuals occupy the same dwelling with no identifiable head of a household, they shall be treated as one family for replacement housing payment purposes.

(11) "Farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for

sale or for home use, which customarily produces such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support; where an activity is not obviously a farm operation and that designation is sought for such activity, such activity may be so considered where it customarily produces such products or commodities in sufficient quantity to be capable of contributing at least one-third of the operator's income. The term "farm operation" shall geographically include so much land as is farmed in the same agricultural operation. In determining whether geographically separated lands constitute a single farming operation, the displacing entity may consider the common or separate use of machinery, tools, or employees, the manner in which income is reported, depreciation is calculated, products or commodities are stored and marketed, and any other factors which would be helpful in making this determination.

(12) "His" means, where appropriate, hers or its; words importing the masculine gender may be understood as also importing the feminine and neuter genders.

(13) "Initiation of negotiations" means the day on which the acquiring entity makes the first personal or written contract with the property owner or his representative during which price is discussed, and offers to purchase the real property.

(14) "Real property acquisition" means the purchase of real property or any rights therein for a public purpose through negotiation or condemnation by a state agency or local public body.

(15) "Local public body" means any county, city, or town, or other municipal corporation or political subdivision of the state or any instrumentality of any of the foregoing but only with respect to any program or project the cost of which is financed in whole or in part by a federal agency; unless such entity has elected to comply with chapter 8.26 RCW pursuant to RCW 8.26.020(2).

(16) "Mortgage" means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, under the laws of this state, together with the credit instruments, if any, secured thereby. The term "mortgage" shall include real estate contracts.

(17) "Office" means the Washington State Office of Community Development.

(18) "Owner" means a person who holds fee title, a life estate, a 99-year lease, or an interest in a cooperative housing project which includes the right of occupancy of a dwelling unit, or is the contract purchaser of any such estates or interest; owns a mobile home which under state law is determined to be real property and not personal property; or who is possessed of such other proprietary interest in the property acquired as, in the judgment of the head of the acquiring entity, warrants consideration as ownership. In the case of one who has succeeded to any of the foregoing interests by devise, bequest, inheritance, or operation of law, the tenure of ownership (but not, however, occupancy) of the succeeding owner shall include the tenure of the preceding owner.

(19) "Person" means any individual, partnership, corporation or association; or any owner, part-owner, tenant, or sharecropper who operates a farm.

(20) "Regulations" means the regulations promulgated by the Director pursuant to chapter 8.26 RCW.

(21) "State agency" means any department, commission, office, agency, or instrumentality of the State of Washington. [Order 74-05, § 365-24-110, filed 10/9/74.]

#### ASSURANCE OF ADEQUATE REPLACEMENT HOUSING PRIOR TO DISPLACEMENT

**WAC 365-24-210 Determination or assurance of availability of housing.** (1) Prohibition of displacement unless housing availability has been determined or assured: No state agency or local public body shall proceed with any project phase which will cause the displacement of any person until the Director has determined or received satisfactory assurances from the displacing entity that within a reasonable period of time prior to displacement there will be dwellings available, on a basis consistent with the requirements of Title VIII of the Civil Rights Act of 1968 (P.L. 90-284) and chapter 49.60 RCW; in areas not generally less desirable in regard to public utilities and public and commercial facilities; at rents or prices within the financial means of the families and individuals displaced; that are decent, safe, and sanitary (as described in (2) below); comparable to those previously occupied (as described in (3) below); and equal in number to the number of, and available to, such displaced persons who require such dwellings; and reasonably accessible to their places of employment. Where a project or program is being financed in whole or in part by a federal agency and such agency has received and accepted satisfactory assurances from the displacing entity that dwellings will be available within a reasonable period of time prior to displacement on the bases and under the conditions specified in this subsection, receipt by the Director of a notice from the displacing entity of acceptance of assurances, confirmed by the federal agency, will satisfy the requirements of this subsection.

(2) Decent, safe and sanitary housing: A decent, safe and sanitary dwelling, is one which is found to be in sound, clean and weathertight condition, and which meets the following minimum criteria. Adjustments may only be made in cases of unusual circumstances or in unique geographic areas.

(a) Housekeeping unit: A housekeeping unit must include a kitchen with fully usable sink; a cooking stove, or connections for same; a separate complete bathroom; hot and cold running potable water in both the bathroom and kitchen; an adequate and safe wiring system for lighting and other electrical services; and heating as required by climatic conditions and local codes.

(b) Nonhousekeeping unit: A nonhousekeeping unit is one which meets local code standards for boarding houses, hotels, or other congregate living.

(3) Comparable replacement dwelling: A comparable replacement dwelling is one which is:

(a) Functionally equivalent and substantially the same as the acquired dwelling, but not excluding newly constructed housing.

(b) Adequate in size to meet the needs of the displaced family or individual. However, at the option of the displaced person, a comparable replacement dwelling may exceed his needs when the replacement dwelling has the same number of rooms or the equivalent square footage as the dwelling from which he was displaced.

(c) Open to all persons regardless of race, color, religion, or national origin, consistent with the requirements of the Civil Rights Act of 1964, and Title VIII of the Civil Rights Act of 1968, and chapter 49.60 RCW.

(d) Located in an area not generally less desirable than one in which the acquired dwelling is located, with respect to:

(i) Neighborhood conditions, including but not limited to municipal services and other environmental factors.

(ii) Public utilities.

(iii) Public and commercial facilities.

(e) Reasonably accessible to the displaced person's place of employment or potential place of employment.

(f) Within a financial means of the displaced family or individual.

(g) Available on the market to the displaced person.

(h) If a mobile home, placed in a fixed location:

(i) In a mobile home park which is licensed and operating under applicable state and local laws or ordinances; or

(ii) In a mobile home subdivision where the displaced person owns the lot on which the mobile home is placed; or

(iii) On real property owned or leased by the displaced person in other than a mobile home subdivision, provided such placement is in accordance with state and local laws or ordinances and provided such placement was made under any applicable permits needed from the state or local public body.

(i) Whenever comparable replacement housing is not available on the market, the head of the displacing entity may consider available housing exceeding these basic criteria.

(4) Determination of financial means: In the process of determining or giving assurances that decent, safe and sanitary comparable housing is available consistent with the standards of WAC 365-24-210(1) a determination must be made as to the displaced person's ability to afford the replacement dwelling. The following should be used as a guideline in making this determination: The average monthly rental or housing cost (e.g., monthly mortgage payments, insurance for the dwelling unit, property taxes and other reasonable recurring related expenses) which the displaced person will be required to pay, in general, should not exceed 25 per cent of the monthly gross income or the present ratio of housing payment to the income of the displaced family or individual, including supplemental payments made by public agencies. The policies of a displacing entity may provide for determinations that 25 per cent of monthly gross income for housing costs or the present ratio of housing payment to the individual's income is or is not excessive to the other needs of the displaced family or individual,

such as food, clothing, child care, medical expenses, etc. In these cases, the head of the displacing entity or his designee shall establish criteria for determining the financial means of the displaced family or individual. [Order 74-05, § 365-24-210, filed 10/9/74.]

**WAC 365-24-220 Data support for determination or assurance.** The determination or assurances should be based on a current survey and analysis of the available replacement housing by the displacing entity. Such survey and analysis must take into account the competing demand on available housing. [Order 74-05, § 365-24-220, filed 10/9/74.]

**WAC 365-24-230 Waiver of assurances.** Pursuant to RCW 8.26.090, the Director may prescribe by regulation, situations where the assurances described in WAC 365-24-210(1) may be waived. Only emergency or other extraordinary situations where immediate possession of real property is of critical importance will warrant the waiving of assurances required under this chapter. Each request from a displacing entity for a waiver of assurance of replacement housing shall be supported by appropriate justification. Any waiver of assurances shall be in writing, signed by the Director. [Order 74-05, § 365-24-230, filed 10/9/74.]

**WAC 365-24-240 Housing provided as a last resort.** When it is determined that adequate, comparable replacement housing is not available and cannot otherwise be made available, the head of the displacing entity or his designee may take action or approve action to develop replacement housing pursuant to RCW 8.26.080. [Order 74-05, § 365-24-240, filed 10/9/74.]

## RELOCATION ASSISTANCE ADVISORY SERVICES

**WAC 365-24-310 Relocation assistance advisory program.** Pursuant to RCW 8.26.070, every state agency or local public body shall provide a relocation assistance advisory program for persons displaced as a result of any federally assisted or, for state agencies, state financed, land acquisition programs or projects. State agencies and local public bodies shall ensure that the relocation assistance advisory program includes such measures, facilities or services as may be necessary or appropriate to perform all of the tasks detailed in RCW 8.26.070(2). Relocation advisory services of such program may also be provided to any person occupying property immediately adjacent to the real property acquired, who the head of the displacing entity or his designee finds is caused substantial economic injury because of the acquisition. [Order 74-05, § 365-24-310, filed 10/9/74.]

**WAC 365-24-312 Other advisory services.** Other advisory services shall be provided under RCW 8.26.070(2)(e) to displaced persons and under WAC 365-24-310 to persons occupying property immediately adjacent to real property acquired, in order to minimize hardships to such persons in adjusting to relocation. Such other advisory services shall include ready access to needed social services and counseling services for

families and individuals both prior to and subsequent to relocation. In meeting this requirement, the displacing entity should utilize local welfare or social services and counseling whenever possible, or take whatever steps are necessary to assure adequate services are provided. [Order 74-05, § 365-24-312, filed 10/9/74.]

**WAC 365-24-320 Contracting for relocation services.** In order to prevent unnecessary expense and duplication of functions and to promote uniform and effective administration of relocation assistance programs for displaced persons, any state agency or local public body may enter into contracts with any individual, firm, association, or corporation for services in connection with such programs, or may carry out its functions under these regulations through any federal, state, or local governmental agency or instrumentality having an established organization for conducting relocation assistance programs provided, however, responsibility, control, and authority for compliance with chapter 8.26 RCW and these regulations remain with the head of the displacing entity. [Order 74-05, § 365-24-320, filed 10/9/74.]

**WAC 365-24-330 Coordination of planned relocation activities.** (1) When two or more state agencies or local public bodies contemplate displacement activities in a given community or area, the heads of the respective entities shall coordinate their activities through the Director. He shall require that appropriate channels of communication be established between the entities for the purpose of planning relocation activities and coordinating available housing resources.

(2) The entities causing displacement shall designate at least one representative who will meet periodically with the Director and representatives of other federal, state agencies and local public bodies to review the impact of their respective programs on the community or area.

(3) When more than one state agency or local public body or a combination of the two are causing displacement in a community or area, the heads of those displacing entities or their designees shall cooperate in choosing a uniform procedure for the application of methods for computing replacement housing payments, shall use uniform schedules of rental housing in the community or area, and shall otherwise cooperate and coordinate their activities under Parts IV through VII of these regulations to ensure equality of payments in similar situations. [Order 74-05, § 365-24-330, filed 10/9/74.]

## RELOCATION PAYMENT FOR MOVING AND RELATED EXPENSES

**WAC 365-24-410 Eligibility.** (1) Any displaced person (including one who conducts a business or farm operation), is eligible to receive a relocation payment for moving expenses. A person who lives on his business or farm property may be eligible for payments for both moving and related expenses as a dwelling occupant, as

well as for payments for displacement from a business or farm operation.

(2) Any person who moves from real property or moves his personal property from real property as a result of the acquisition of his real property, in whole or part, or receipt of a written notice from the acquiring agency to vacate real property; or, solely for the purpose of RCW 8.26.040, as a result of the acquisition of, or receipt of a written notice of the acquiring agency to vacate, other real property on which such person conducts a farm or business; is eligible to receive a payment for moving expenses. [Order 74-05, § 365-24-410, filed 10/9/74.]

**WAC 365-24-420 Allowable moving expenses for displaced persons.** (1) Transportation of individuals, families, and personal property from the acquired site to the replacement site, not to exceed a distance of 50 miles, except where the displacing entity determines that relocation beyond this 50-mile area is justified.

(2) Packing, and unpacking, crating, and uncrating of personal property.

(3) Advertising for packing, crating, and transportation when the displacing entity determines that such advertising is necessary.

(4) Storage of personal property for a period generally not to exceed 12 months when the displacing entity determines that storage is necessary in connection with relocation.

(5) Insurance premiums covering loss and damage of personal property while in storage or transit.

(6) Removal, reinstallation, reestablishment, including such modifications as deemed necessary by the displacing entity of, and reconnection of utilities for, machinery, equipment, appliances, and other items, not acquired as real property. Prior to payment of any expenses for removal and reinstallation of such property, the displaced person shall be required to agree in writing that the property is personal and that the displacing entity is released from any payment for the property.

(7) Property lost, stolen, or damaged (not caused by the fault or negligence of the displaced person, his agents, or employees) in the process of moving, where insurance to cover such loss or damage is not available.

(8) Such other reasonable expenses determined to be allowable under regulations issued by the displacing entity. [Order 74-05, § 365-24-420, filed 10/9/74.]

**WAC 365-24-430 Limitations on allowable moving expenses for displaced persons.** (1) Maximum amount of payment for moves accomplished by the displaced person, himself: When the displaced person accomplishes the move himself, the amount of payment shall not exceed the estimated cost to move him commercially, unless the head of the responsible displacing entity determines a greater amount is justified.

(2) Maximum reimbursement for business or farm operation personal property not moved, but sold and replaced: When an item of personal property which is used in connection with any business or farm operation is not

moved but is sold and promptly replaced with a comparable item, reimbursement shall not exceed whichever is the lesser of:

(a) The replacement cost plus reasonable costs incurred in selling the property minus the proceeds received from the sale; or

(b) The estimated cost of moving.

(3) Maximum reimbursement for business or farm operation personal property of low value and high bulk: When personal property which is used in connection with a business or farm operation to be moved is of low value and high bulk, and the cost of moving would be disproportionate in relation to the value in the judgment of the head of the displacing entity, the allowable reimbursement for the expense of moving the personal property shall not exceed the difference between the amounts which would have been received for such items on liquidation and the cost of replacing the same with a comparable item available on the market. This provision will be applicable in the case of the moving of junk yards, stockpiled sand, gravel, minerals, metals and similar type items of personal property. The cost of removal of the personal property shall not be considered as an offsetting charge against other payments to the displaced person.

(4) Maximum reimbursement for business or farm operation personal property that is abandoned: When the personal property which is used in connection with a business or farm operation is abandoned, the displaced person is entitled to payment for the fair market value of the property for continued use at its location prior to displacement or the estimated cost of moving 50 miles, whichever is less. A displaced person, prior to abandoning property, shall be required to make reasonable efforts to dispose of the property by, for instance, contacting persons known to deal in the type of property involved. The displaced person shall be required to submit to the displacing entity a written statement certifying his efforts to sell or otherwise dispose of the property prior to submitting a claim for property loss. The cost of removal of the personal property shall not be considered as an offsetting charge against other payments to the displaced person. [Order 74-05, § 365-24-430, filed 10/9/74.]

**WAC 365-24-440 Nonallowable moving expenses and losses of displaced persons.** (1) Additional expenses incurred because of living in a new location.

(2) Cost of moving structures or other improvements which the displaced person received or shipped except as otherwise provided by law.

(3) Improvements to the replacement site, except when required by law or specifically authorized by the displacing entity.

(4) Interest on loans covering moving expenses.

(5) Loss of good will.

(6) Loss of profit.

(7) Loss of trained employees.

(8) Personal injury.

(9) Cost of preparing the application for moving and related expenses.



(10) Payment for search costs in connection with locating a replacement dwelling.

(11) Such other items as the head of the displacing entity or his designee determines should be excluded. [Order 74-05, § 365-24-440, filed 10/9/74.]

**WAC 365-24-450 Allowable expenses in searching for replacement business or farms.** (1) Actual travel costs.

(2) Extra costs for meals and lodging.

(3) Time spent in searching for a replacement facility or farm at the rate of the searcher's salary or earnings, but not to exceed \$10.00 per hour.

(4) At the discretion of the displacing entity, necessary broker, real estate or other professional fees to locate a replacement business facility or farm operation, under circumstances described in the displacing entity's policies and procedures. [Order 74-05, § 365-24-450, filed 10/9/74.]

**WAC 365-24-460 Limitations on allowable expenses in searching for replacement business or farms.** The total amount a displaced person may be paid for searching expenses may not exceed \$500 unless the head of the displacing entity or his designee determines and gives prior approval that the greater amount is justified based on the circumstances involved. [Order 74-05, § 365-24-460, filed 10/9/74.]

#### PAYMENT IN LIEU OF MOVING AND RELATED EXPENSES

**WAC 365-24-510 For displacement from a dwelling.** RCW 8.26.040(2) provides that at the option of the displaced person, in lieu of the moving and related expense payment payable pursuant to Part IV of these rules and regulations, a displaced person may receive a moving expense allowance not to exceed \$300, based on a schedule established by the State Highway Commission, as well as a dislocation allowance of \$200. The Director will make copies of the schedule available upon request. [Order 74-05, § 365-24-510, filed 10/9/74.]

**WAC 365-24-520 For displacement from a business.** (1) A person displaced from his business, as defined in RCW 8.26.020(5)(a through c) and WAC 365-24-110(4)(a through c) is eligible under RCW 8.26.040(3) to receive a fixed payment in lieu of moving and related expenses as specified in WAC 365-24-540. Care must be exercised in each instance, however, to assure that such payments are made only in connection with a bona fide business. The displacing entity shall include in its policies and procedures adopted pursuant to these regulations appropriate criteria for a determination that a given activity does, in fact, constitute a bona fide business.

(2) Those businesses described in RCW 8.26.020(d) are not eligible under RCW 8.26.040(3) for a payment in lieu of moving and related expenses.

(3) Where a displaced person is displaced from his place of business, no payment shall be made under

RCW 8.26.040(3) until the head of the displacing entity or his designee determines

(a) That the business is not part of a commercial enterprise having at least one other establishment not being acquired, which is engaged in the same or similar business, and

(b) That the business cannot be relocated without a substantial loss of existing patronage. The determination of loss of existing patronage shall be made by the displacing entity only after consideration of all the pertinent circumstances, including but not limited to the following factors:

(i) The type of business conducted by the displaced business.

(ii) The nature of the clientele of the displaced business.

(iii) The relative importance of the present and proposed location to the displaced business and the availability of a suitable replacement location for the displaced person. The term "existing patronage" as applied in the section to businesses that are nonprofit organizations, includes the persons, community and clientele served or affected by the activities of the nonprofit organization. [Order 74-05, § 365-24-520, filed 10/9/74.]

**WAC 365-24-530 For displacement from a farm operation.** A person displaced from his farm operation, as defined in RCW 8.26.020(6) and WAC 365-24-110(12) is eligible under RCW 8.26.040(3) to receive a fixed payment in lieu of moving and related expenses as specified in WAC 365-24-540, except as further provided herein: Where a displaced person is displaced from only a part of his farm operation the fixed payment provided by RCW 8.26.040(3) and WAC 365-24-540 shall be made only if the displacing entity determines that the farm met the definition of the farm operation prior to the acquisition and that the property remaining after the acquisition can no longer meet the definition of a farm operation. [Order 74-05, § 365-24-530, filed 10/9/74.]

**WAC 365-24-540 Amount of business fixed payment.** The fixed payment to a person displaced from a business (including nonprofit organizations) or a farm operation shall be an amount equal to the average annual net earnings of the business or farm operation, except that such payments shall not be less than \$2,500 nor more than [than] \$10,000. The term "average annual net earnings" as used in this section means one-half of any net earnings of the business or farm operation, before federal, state, and local income tax, during the two taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired for such project, or during such other period as the head of the displacing entity or his designee determines to be more equitable for establishing such earnings, and includes any compensation made by the business or farm operation to the owner, his spouse or his dependents during such period. If a business or farm operation has no net earnings, or has suffered losses during the period used to compute "average annual net earnings", it may nevertheless receive the



\$2,500 minimum payment. [Order 74-05, § 365-24-540, filed 10/9/74.]

### REPLACEMENT HOUSING PAYMENTS FOR DWELLING OWNER/OCCUPANTS

**WAC 365-24-610 Eligibility.** (1) A displaced owner/occupant is eligible for a replacement housing payment as authorized by RCW 8.26.050 in an amount not to exceed \$15,000 if he meets both of the following requirements.

(a) The displaced owner/occupant actually owned and occupied the acquired dwelling from which he was displaced, for not less than 180 days prior to the initiation of negotiation for the property; or owned and occupied an acquired dwelling covered or qualified under RCW 8.26.160 from which he was displaced, for not less than 180 days prior to displacement; and

(b) Purchases and occupies a comparable replacement dwelling which is decent, safe, and sanitary, as defined in WAC 365-24-210(2) and (3), not later than the end of the one-year period beginning on the date on which he received from the displacing entity the final payment of all costs of the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date.

(2) A displaced owner/occupant of a dwelling who does not qualify under this section for a replacement housing payment for homeowners, may be eligible for a replacement housing payment under Part VII of these regulations. [Order 74-05, § 365-24-610, filed 10/9/74.]

**WAC 365-24-620 Computation of replacement housing payment.** The replacement housing payment of not more than \$15,000 consists of a differential payment for replacement as well as, where determined necessary, amounts for interest and incidental expenses.

(1) Differential payment for replacement housing: The head of the displacing entity or his designee, utilizing standards established by the State Highway Commission, shall determine the amount, if any, which when added to the acquisition cost of the dwelling acquired by the displacing entity is necessary to purchase a comparable replacement dwelling. The Director will make copies of such standards available to displacing entities upon request.

(2) Interest payment: The head of the displacing entity or his designee shall determine the amount, if any, necessary to compensate a displaced owner/occupant for any increased interest cost, including points paid by him. Such amount shall be paid only if the acquired dwelling was encumbered by a bona fide mortgage. The following shall be used in determining the amount of the interest payment to be paid:

(a) The payment shall be equal to the excess in the aggregate interest and other debt service costs of the amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the bona fide mortgage on the acquired dwelling at the time of acquisition, over the remaining term of the

mortgage on the acquired dwelling, reduced to the discounted present value.

(b) The discount rate shall be the prevailing interest rate made on savings deposits by commercial banks in the general area in which a replacement dwelling is located.

(c) A "bona fide mortgage" is one which was a valid lien on the acquired dwelling for not less than 180 days prior to the initiation of negotiations.

(d) However, the interest payment shall be based on the present value of the reasonable cost of the interest differential, including points paid by the purchaser, on the amount financed not to exceed the amount of the unpaid debt on the acquired dwelling for its remaining term.

(3) Incidental expenses:

(a) The head of the displacing entity or his designee shall determine the amount, if any, necessary to reimburse a displaced owner/occupant for the actual costs incurred by him incident to the purchase of the replacement dwelling (but not including prepaid expenses) such as:

(i) Legal, closing and related costs including title search, preparing conveyance instruments, notary fees, surveys, preparing plats, and charges incident to recordation.

(ii) Lenders, FHA or VA appraisal fees.

(iii) FHA application fees.

(iv) Certification of structural soundness when required by lender, FHA, VA.

(v) Credit report.

(vi) Title policies or abstract of title.

(vii) Escrow agent's fee.

(viii) State revenue stamps or transfer taxes.

(b) Limitation: No fee, cost, charge, or expense is reimbursable which is determined to be a part of the finance charge under the Truth-in-Lending Act, Title I, Public Law 90-321 and Regulation "Z" (12 CFR Part 226) issued pursuant thereto by the Board of Governors of the Federal Reserve System. [Order 74-05, § 365-24-620, filed 10/9/74.]

### REPLACEMENT HOUSING PAYMENTS FOR TENANTS AND CERTAIN OTHERS

**WAC 365-24-710 Eligibility.** (1) A displaced tenant, or an owner/occupant of a dwelling for less than 180 days, is eligible for a replacement housing payment not to exceed \$4,000 as authorized by RCW 8.26.060 if he meets both of the following requirements:

(a) Actually and lawfully occupied the dwelling for not less than 90 days prior to the initiation of negotiations for acquisition of the property, or actually occupied the property covered or qualified under RCW 8.26.160 for not less than 90 days prior to displacement.

(b) Is not eligible to receive payments under RCW 8.26.050.

(2) An owner/occupant of a dwelling for not less than 180 days prior to the initiation of negotiations is eligible for replacement housing payments as a tenant as authorized by RCW 8.26.060 when he rents a decent, safe and sanitary comparable replacement dwelling (instead

of purchasing and occupying such a dwelling) not later than the end of the one-year period beginning on the date on which he receives from the displacing entity final payment for all costs of the acquired dwelling or on the date on which he moves from an acquired dwelling, whichever is the later date. [Order 74-05, § 365-24-710, filed 10/9/74.]

**WAC 365-24-720 Computation of replacement housing payments for displaced tenants.** A displaced tenant is either eligible for a replacement rental housing payment; or, if he purchases replacement housing within one year from displacement, is eligible for a down payment including expenses incidental to closing not to exceed \$4,000.

(1) Differential payment for replacement rental housing: The head of the displacing entity or his designee shall determine by either a schedule, comparative, or other method, the amount necessary to rent a comparable replacement dwelling. The displaced tenant is bound to the method selected by the displacing entity for determining the reasonable cost of a comparable replacement dwelling, except he may appeal the displacing entity's determination in accordance with Part VIII of these regulations.

(a) Schedule method: The displacing entity may establish a schedule for renting comparable replacement dwellings available on the private market. The schedule should be based on current market analysis sufficient to support determinations of the amount for each type of dwelling to be acquired.

(b) Comparative methods: The displacing entity may determine the average month's rent of a comparable replacement dwelling by selecting one or more dwellings most representative of the dwelling acquired, which is available to the displaced person, and which meets the standards set in WAC 365-24-210(3) for a comparable replacement dwelling. A single dwelling shall be used only when additional comparable dwellings are not available.

(c) Alternate method: The displacing entity may develop other criteria for computing replacement rental housing payments when neither the schedule nor the comparative method is feasible.

(d) Computation process: The payment should be computed by determining the payment necessary to rent a comparable replacement dwelling for four years and subtracting from such amount 48 times the average month's rent paid by the displaced tenant during the last three months prior to initiation of negotiations, or such other period prior to such date as the head of the displacing entity or his designee shall establish, if such rent was reasonable. Regulations, ordinances, policies or procedures of the displacing entity may prescribe the circumstances or determine the individual cases in which economic rent rather than the actual rent paid by the displaced tenant may be used in this computation; provided, however, whenever rent is being paid to the displacing entity by a displaced tenant, economic rent shall be used in determining the amount of the payment to which the displaced tenant is entitled.

(e) Disbursement of rental replacement housing payment: The head of the displacing entity or his designee should develop procedures to implement RCW 8.26.060 to provide a replacement rental housing payment that will enable the displaced person to rent comparable decent, safe, and sanitary housing. The displacing entity should develop criteria for determining the manner of disbursement of such payment, that is, whether it will be in the form of a lump sum payment, and/or annual installments, or monthly payments. The criteria should include, as a minimum, the displaced person's present status as to decent, safe and sanitary housing conditions, income, and the wishes of the displaced person.

(2) Payment for purchased replacement housing: If the tenant elects to purchase replacement housing instead of continuing to rent, a payment shall be made to him in the amount necessary to enable him to make a down payment and to cover incidental expenses on the purchase of replacement housing, but not exceeding \$4,000, computed as follows:

(a) The down payment shall be the amount necessary to make a down payment on a comparable replacement dwelling. Determination of the amount necessary for such down payment shall be based upon the amount of down payment required for purchase of the dwelling using a conventional loan; plus

(b) Incidental expenses of closing the transaction as described in WAC 365-24-620(3).

(c) Whenever a payment for purchased replacement housing exceeds \$2,000, the tenant must match any amount in excess of the \$2,000 by an equal amount in making the down payment.

(d) The full amount of the replacement housing payment must be applied to the purchase price and incidental costs shown on the closing statement. [Order 74-05, § 365-24-720, filed 10/9/74.]

**WAC 365-24-730 Computation of replacement housing payment for certain others.** (1) Replacement rental housing payments for displaced owner/occupants who do not qualify for replacement housing payments under WAC 365-24-610 because of the 180-day occupancy requirement and who elect to rent shall be computed in the manner provided in WAC 365-24-720(1).

(2) Replacement housing payments for displaced owner/occupants who do not qualify for replacement housing payments under WAC 365-24-610 because of the 180-day occupancy requirement but who have actually and lawfully occupied for a period of 90 days or more the dwelling unit to be acquired and who elect to purchase a replacement dwelling shall be computed in the manner provided in WAC 365-24-720(2). [Order 74-05, § 365-24-730, filed 10/9/74.]

#### ADMINISTRATIVE REVIEW AND RULE-MAKING

**WAC 365-24-810 Right of review.** Any person aggrieved by a determination as to eligibility for, method of determination, or the amount of, a payment authorized by chapter 8.26 RCW and these regulations may have such determination reviewed and reconsidered by the head of the displacing entity having authority over

the applicable program or project. [Order 74-05, § 365-24-810, filed 10/9/74.]

**WAC 365-24-820 Initiation of appeal—Notice and statement.** Any person aggrieved by determination as to his eligibility for, method of determination, or the amount of, a payment authorized by chapter 8.26 RCW and these regulations and desiring to invoke the appeal procedures, within 30 days following receipt of notification of the rejection of such claim by the displacing entity or its administrative review board, shall submit to the head of the displacing entity, a notice of appeal which shall include a written statement of the facts pertinent to the case and the decision, if any, of the displacing entity's administrative review board, with respect to such appeal. [Order 74-05, § 365-24-820, filed 10/9/74.]

**WAC 365-24-822 Form of statement.** No specified form or format is prescribed, but the statement or letter should state all of the facts and the reasons why the aggrieved person believes the claim should be paid or why he believes he is otherwise aggrieved. For identification, the letter or statement should show the project name and parcel number of the real property involved, and should bear the signature and address of the aggrieved person or his attorney. [Order 74-05, § 365-24-822, filed 10/9/74.]

**WAC 365-24-824 Correction or amendment of notice.** If any notice of appeal is found by the displacing entity to be defective or insufficient, such entity may require the persons filing said notice of appeal to correct, clarify or amend the same to conform with the requirements of chapter 8.26 RCW and these regulations. The displacing entity may refuse to schedule any conference or hearing thereon until such requirements have been complied with or may issue an order providing for dismissal of such appeal upon failure to comply within a specified reasonable time. [Order 74-05, § 365-24-824, filed 10/9/74.]

**WAC 365-24-830 Preliminary review authorized.** In order to insure consistent and uniform administration of the relocation assistance program, a displacing entity may establish an administrative review board for a preliminary review of all such claims. [Order 74-05, § 365-24-830, filed 10/9/74.]

**WAC 365-24-832 Notice and time limitation on preliminary review.** In the event of such preliminary review, the aggrieved person shall be given 20 days' notice of such review and allowed to present any documents or written statements or written evidence in support of his claim. Such review shall be accomplished within 30 days of the date of hearing and the aggrieved person shall be promptly notified of the rejection or allowance, in whole or in part, of the claim submitted. [Order 74-05, § 365-24-832, filed 10/9/74.]

**WAC 365-24-834 Effect of preliminary review.** In the event of such preliminary review, a claim shall not

be considered as rejected until it shall have been rejected, in whole or in part, by the administrative review board. [Order 74-05, § 365-24-834, filed 10/9/74.]

**WAC 365-24-840 Applicability of administrative procedure act.** (1) In accordance with RCW 8.26.030(1), the provisions of the Administrative Procedure Act (chapter 34.04 RCW) regarding the resolution of contested cases shall be utilized by the head of a displacing entity in resolving any appeal filed pursuant to WAC 365-24-830.

(2) References to "agency" in the Administrative Procedure Act shall be understood to mean "displacing entity" for the purposes of these regulations. [Order 74-05, § 365-24-840, filed 10/9/74.]

**WAC 365-24-850 Appointment of hearing officer.** Upon receipt of a notice of appeal, the head of the displacing entity may designate any qualified person as hearing officer with respect to such appeal. [Order 74-05, § 365-24-850, filed 10/9/74.]

**WAC 365-24-852 Hearing officer powers and duties.** It shall be the duty of the hearing officer to conduct conferences or hearings in cases assigned to him in an impartial and orderly manner, and he shall have the authority, subject to the other provisions of these regulations:

- (1) To administer oaths and affirmations;
- (2) To issue subpoenas on request of any party;
- (3) To rule on all procedural matters, objections and motions;
- (4) To rule on all offers of proof and receive relevant evidence;
- (5) To interrogate witnesses called by the parties in an impartial manner to develop any facts deemed necessary to fairly and adequately decide the appeal;
- (6) To secure and present in an impartial manner such evidence, in addition to that presented by the parties, as he deems necessary to fairly and equitably decide the appeal;
- (7) To take any other action necessary and authorized by these regulations and the law. [Order 74-05, § 365-24-852, filed 10/9/74.]

**WAC 365-24-854 Time and place of hearing.** Hearing officers shall hold hearings within 45 days following receipt by the displacing entity of the notice of appeal, and upon not less than 20 days' notice to the aggrieved person. Hearings shall be held in the county where the real property is located, or at such other location as may be agreed upon between the hearing officer and the aggrieved person. Failure to hold such hearing within the time specified herein, however, shall not affect the authority of the hearing examiner, the necessity of the hearing, or the rights of the parties involved. [Order 74-05, § 365-24-854, filed 10/9/74.]

**WAC 365-24-856 Evidence.** (1) Admissibility: Subject to the other provisions of these regulations, all relevant evidence is admissible which, in the opinion of the

hearing officer, is the best evidence reasonably obtainable, having due regard for its necessity, availability and trustworthiness. In passing upon the admissibility of evidence, the hearing officer shall give consideration to, but shall not be bound to follow, the rules of evidence governing civil proceedings, in matters not involving trial by jury, in the superior court of the State of Washington.

(2) Subpoenas: Every subpoena shall state the name of the state agency or local public body and the title of the proceeding, if any, and shall command the person to whom it is directed to attend and give testimony or produce designated books, documents or things under his control at a specified time and place.

(3) Service: Unless the service of a subpoena is acknowledged on its face by the person subpoenaed, service shall be made by delivering a copy of the subpoena to such person and by tendering him on demand the fees for one day's attendance and the mileage allowed by law.

(4) Proof of service: The person serving the subpoena shall make proof of service by filing the subpoena and the required return, affidavit, or acknowledgment of service with the state agency or local public body or the officer before whom the witness is required to testify or produce evidence. If service is made by a person other than an officer of the state agency or local public body and such service has not been acknowledged by the witness, such person shall make an affidavit of service. Failure to make proof of service does not affect the validity of the service.

(5) Quashing: Upon motion made promptly, and in any event at or before the time specified in the subpoena for compliance, by the person to whom the subpoena was issued, any party may

(a) quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or

(b) condition denial of the motion upon just and reasonable conditions.

(6) Scope - Geographical: Such attendance of witnesses and such production of evidence may be required from any place in the State of Washington, at any designated place of hearing.

(7) Depositions and interrogatories: Except as may be otherwise provided, any party may take the testimony of any person, including a party, by deposition upon oral examination or written interrogatories for use as evidence in the proceeding, except that leave must be obtained if notice of the taking is served by a proponent within 20 days after the filing of a notice of appeal. The attendance of witnesses may be compelled by the use of a subpoena. Depositions shall be taken only in accordance with this regulation and the regulation on subpoenas.

(8) Scope (relevance): Unless otherwise ordered, the deponent may be examined regarding any matter not privileged, which is relevant to the subject matter involved in the proceeding.

(9) Protection of parties and deponents: A party desiring to take a deposition of any person upon oral examination shall give reasonable notice of not less than three days in writing to all parties. The notice shall state

the time and place for taking the deposition, the name and address of each person to be examined, if known, and if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs. On motion of a party upon whom the notice is served, the hearing officer may for cause shown, enlarge or shorten the time. If the parties so stipulate in writing, depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used as other depositions. After notice is served for taking a deposition, upon its own motion or upon motion reasonably made by any party or by the person to be examined and upon notice and for good cause shown, the hearing officer may make an order that the deposition shall not be taken, or that it may be taken only at some designated place other than that stated in the notice, or that it may be taken only on written interrogatories, or that certain matters shall not be inquired into, or that the scope of the examination shall be limited to certain matters, or any other order which justice requires.

(10) Recordation - objections: The officer before whom the deposition is to be taken shall put the witness on oath and shall personally or by someone acting under his direction and in his presence, record the testimony. Objections to notice, qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented or to the conduct of the officer, or of any party, shall be noted by the officer upon the deposition. All objections by any party not so made are waived.

(11) Signing attestation and returns: When the testimony is fully transcribed, the deposition shall be submitted to the witness for examination and shall be read to or by him, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefore; and the deposition may then be used as fully as though signed, unless on a motion to suppress, the hearing officer holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

(12) Use and effect - certification: The officer shall certify on the deposition that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness. He shall then securely seal the deposition in an envelope endorsed with the title of proceeding and marked "Deposition of (here insert name of witness)" and shall promptly send it by registered or certified mail to the designated hearing officer, for filing. The party taking the deposition shall give prompt notice of its filing to all other parties. Upon payment of reasonable charges therefore, the officer

shall furnish a copy of the deposition to any party or to the deponent.

Subject to rulings by the hearing officer upon objections a deposition taken and filed as provided in this rule will not become a part of the record in the proceeding until received in evidence by the hearing officer upon his own motion or the motion of any party. Except by agreement of the parties or ruling of the hearing officer, a deposition will be received only in its entirety. A party does not make a party, or the privy of a party, or any hostile witness his witness by taking his deposition. Any party may rebut any relevant evidence contained in a deposition whether introduced by him or any other party.

(13) Depositions upon interrogatories: Where the deposition is taken upon written interrogatories, the party offering the testimony shall separately and consecutively number each interrogatory and file and serve them with a notice stating the name and address of the person who is to answer them and the name or descriptive title and address of the officer before whom they are to be taken. Within ten days thereafter a party so served may serve cross-interrogatories upon the party proposing to take the deposition. Within five days thereafter, the latter may serve redirect interrogatories upon the party who served cross-interrogatories.

(14) Official notice – matters of law: The hearing officer, upon request made before or during a hearing, will officially notice:

(a) Federal law: The Constitution; congressional acts, resolutions, records, journals and committee reports; decisions of federal courts and administrative agencies; executive orders and proclamations; and all rules, orders and official publications;

(b) State law: The constitution of the State of Washington, acts of the legislature, resolutions, records, journals and committee reports; decisions of administrative agencies of the State of Washington, executive orders and proclamations by the Governor; and all rules, orders and official publications;

(c) Governmental organization: Organization, territorial limitations, officers, departments, and general administration of the government of the State of Washington, the United States, and several states and foreign nations;

(d) Agency organization: The department, commission or board organization, administration, officers, personnel, and official publications.

(15) Record: The record on any appeal shall consist of the decision or order appealed from the notice of appeal therefrom, responsive pleadings, if any, and notices of appearances, and any other written applications, motions, briefs, stipulations or requests duly filed by any party. Such record shall also include all depositions, the transcript of testimony and argument and other proceedings at the hearing, together with all exhibits offered. No part of the records of the agency or local public body or other documents shall be made part of the record unless admitted in evidence. [Order 74-05, § 365-24-856, filed 10/9/74.]

**WAC 365-24-858 Submission of proposed decision and orders.** The hearing examiner shall within 30 days after completion of the hearing and record, prepare in writing a proposed decision and order containing findings and conclusions as to each contested issue of fact and law, as well as the order based thereon. The hearing examiner shall file the original, signed by him with the head of the displacing entity and mail by certified or registered first class mail, a copy to each aggrieved person who is a party to the appeal and to his attorney or representative of record. [Order 74-05, § 365-24-858, filed 10/9/74.]

**WAC 365-24-860 Exceptions—Time for filing.** Within 20 days, or such further period as the hearing examiner may allow, any party to the appeal may file with the hearing examiner, a written statement of exceptions. [Order 74-05, § 365-24-860, filed 10/9/74.]

**WAC 365-24-862 Reply to exceptions.** Any party may, within 15 days after the filing of an exception by an adverse party, submit a reply to exceptions, a written brief, or a statement of position regarding the matters on which exceptions were taken. In such instances, a copy of the transcript of testimony and other proceedings of the hearing shall be made available to the parties. [Order 74-05, § 365-24-862, filed 10/9/74.]

**WAC 365-24-870 Submission or record and issuance of final decision.** The entire record, including all exhibits, and proposed finding of fact and conclusion of law, together with all exceptions and replies to exceptions, shall be submitted to the head of the displacing entity having authority over the applicable program or project. Upon receipt of the entire record, the head of the displacing entity having authority over the applicable program or project. Upon receipt of the entire record, the head of the displacing entity in a manner consistent with RCW 34.04.110, shall consider the same and may either adopt, modify, or reject the proposed findings of fact and conclusions of law and proposed order, and shall issue the final decision of the displacing entity. Such decision shall be made within a reasonable time after receipt of the entire record. [Order 74-05, § 365-24-870, filed 10/9/74.]

**WAC 365-24-880 Petitions for rule making.** Any interested person may petition the Director requesting the promulgation, amendment, or repeal of any rule or regulation. [Order 74-05, § 365-24-880, filed 10/9/74.]

**WAC 365-24-882 Requisites.** Where the petition requests the promulgation of a rule, the requested or proposed rule must be set out in full. Where the petition requests the amendment or repeal of a rule presently in effect, the rule or portion of the rule in question must be set out as well as the suggested amended form, if any. The petition must also include a statement of the need or reasons for, or the advisability of the requested rule, proposed amended rule, or repeal of a rule, together with

briefs of any applicable law. [Order 74-05, § 365-24-882, filed 10/9/74.]

**WAC 365-24-884 Notice of disposition.** The Director will notify the petitioning party within a reasonable time of the disposition of the petition. [Order 74-05, § 365-24-884, filed 10/9/74.]

### UNIFORM ACQUISITION POLICIES

**WAC 365-24-910 Acquisition procedures.** Every state agency and local public body acquiring real property in connection with any program or project shall, to the greatest extent practicable, be guided by the policies and requirements contained in RCW 8.26.180 through 8.26.200. For the purposes of those sections and these regulations and term "acquiring agency" includes both a state agency and a local public body. [Order 74-05, § 365-24-910, filed 10/9/74.]

**WAC 365-24-920 Statement furnished to owner upon initiation of negotiations for acquisition of real property.** When negotiations for the acquisitions of real property are initiated, the owner shall be provided with a written statement concerning the proposed acquisition, which statement includes the information required under RCW 8.26.180(3) as well as a clear identification of the real property and the estate or interest therein to be acquired including the buildings, structures, and other improvements on the land, as well as the fixtures considered to be part of the real property. [Order 74-05, § 365-24-920, filed 10/9/74.]

**WAC 365-24-930 Relocation costs and awards not to be considered in making appraisals.** For real property acquisitions under state law, contracts or options to purchase real property shall not incorporate provisions for making payments for relocation costs and related items as outlined in Parts IV through VII of these regulations. Appraisers shall not give consideration to or include in their real property appraisals any allowances for the benefits provided under Parts IV through VII of these regulations. The estimated compensation shall be determined solely on the basis of the appraised value of the real property with no consideration being given to or reference contained therein to the payments to be made under Parts IV through VII of these regulations. [Order 74-05, § 365-24-930, filed 10/9/74.]

**WAC 365-24-940 Consideration of relocation costs of outdoor advertising displays in making appraisals.** Notwithstanding any other provisions contained herein, whenever, the cost of moving or relocating an outdoor advertising display or displays is determined to be equal to or in excess of the in-place value of the display, consideration should be given to acquiring such display or displays as a part of the real property. [Order 74-05, § 365-24-940, filed 10/9/74.]

**WAC 365-24-950 Acquisition of mobile homes.** A state agency or local public body may purchase mobile homes where:

(1) The structural condition of the mobile home is such that it cannot be moved without substantial damage or unreasonable cost; or

(2) The mobile home does not meet the standards for decent, safe, and sanitary dwelling units as set out in WAC 365-24-210(2). [Order 74-05, § 365-24-950, filed 10/9/74.]

**WAC 365-24-960 Appraisal standards.** For the purpose of promoting uniformity under RCW 8.26.180, the head of any state agency or local public body engaged in a program of land acquisition shall establish standards for appraisals used in their projects or programs, criteria for determining the qualifications of appraisers, and a system of review by qualified appraisers. In preparing such standards, acquiring entities should be guided by the Uniform Appraisal Standards for Federal Land Acquisition published in 1973, by the Interagency Land Acquisition Conference, and any modifications or subsequent revisions thereof. To the maximum extent feasible, this procedural guide should be followed by state agencies and local public bodies in acquiring real property for federally-assisted programs. [Order 74-05, § 365-24-960, filed 10/9/74.]

### Chapter 365-26 WAC

#### REGULATIONS REGARDING ADVANCED FINANCIAL SUPPORT PAYMENTS FOR THE DEVELOPMENT OF COMPREHENSIVE TRANSIT PLANS

##### WAC

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365-26-310	Review of comprehensive transit plan of public transportation benefit area.

**WAC 365-26-010 General purpose and applicability.** (1) Purpose: These regulations are to assist county transportation authorities and public transportation benefit areas in the development of comprehensive transit plans consistent with chapter 270, Laws of 1975 1st ex. sess. and local developmental goals. The comprehensive transit plans are intended to lead to the development and management of regional public transit systems which are energy-efficient, provide viable transportation alternatives, offer availability to all elements of the public, and are responsive to the public need.



(2) Applicability: These regulations apply only to county transportation authorities created pursuant to chapter 36.57 RCW and to public transportation benefit areas created pursuant to chapter 270, Laws of 1975 1st ex. sess. [Order 75-5, § 365-26-010, filed 12/31/75, 4:25 p.m.]

**WAC 365-26-015 Definitions.** (1) "Agency" means the Washington State Planning and Community Affairs Agency.

(2) "Comprehensive transit plan" means the official document required of every county transportation authority pursuant to RCW 36.57.070 and of every public transportation benefit area pursuant to RCW 36.57A.060.

(3) "County transportation authority" means an entity created pursuant to chapter 36.57 RCW.

(4) "Director" means the Director of the Agency and any persons to whom said director has delegated powers and duties under the Act and these regulations.

(5) "Population" means the number of residents as shown by the figures released for the most recent official state, federal, or county census, or population determination made by the Office of Program Planning and Fiscal Management.

(6) "Public transportation benefit area" means an entity created pursuant to chapter 270, Laws of 1975 1st ex. sess. [Order 75-5, § 365-26-015, filed 12/31/75, 4:25 p.m.]

**WAC 365-26-110 Application for advanced financial support payment.** (1) Eligible applicants: Any county transportation authority established pursuant to chapter 36.57 RCW and any public transportation benefit area established pursuant to chapter 270, Laws of 1975 1st ex. sess. is eligible to receive a one-time advanced financial support payment from the Agency upon submission to the Agency of an application containing the information specified in subsection (2) hereof.

(2) Contents of application: No particular form is hereby specified for an application for an advanced financial support payment. The application for such payment, however, must be addressed to the director, signed by the chief executive officer of the applicant, and include the following information and related materials:

(a) A copy of a minute entry or resolution of the applicant authorizing or directing that body, or a designated individual acting for that body, to apply for such payment;

(b) In the event the applicant is a public transportation benefit area, a map drawn to a scale of not less than one inch to one-half mile, indicating the precise boundaries of any unincorporated areas within the public transportation benefit area together with a list of any cities located within the public transportation benefit area;

(c) An estimate of the population of the applicant;

(d) A proposed budget indicating, at a minimum, the following information:

(i) Proposed expenditures by the following objects: Salaries and wages, personal services contracts, goods

and services, travel, equipment, employee benefits, and capital outlays;

(ii) Full time equivalent (FTE) staff years; and

(iii) Budget period and anticipated period of planning project, if different; and

(e) A description of the methods anticipated to be used to secure citizen participation in the comprehensive transit planning process; such methods must ensure a reasonable opportunity is provided for input to be made by racial and ethnic minorities; low-income, elderly and handicapped individuals; parents of school age children; and other citizens as well as major employers, and retail shopping interests. [Order 75-5, § 365-26-110, filed 12/31/75, 4:25 p.m.]

**WAC 365-26-120 Office response to application.** The Agency shall respond to applications on a "first-come, first-served" basis. Therefore, upon receipt of an application for an advanced financial support payment, the Agency shall:

(1) Determination of completeness: Determine whether or not the application contains or includes all of the information or material required by WAC 365-26-110(2). In the event an application is incomplete, the applicant shall be notified within seven days of receipt of such application by the Agency, of the application's deficiencies and that further Agency processing of the application is being suspended until the Agency receives a properly completed application;

(2) Determination of population: Request the Office of Program Planning and Fiscal Management to determine the population of the applicant: *Provided, however*, where the sum of the populations of the incorporated areas within the applicant's jurisdiction exceeds 50,000 people, according to the most recently published estimate of the Office of Program Planning and Fiscal Management, such request will not be made; the Agency shall, instead, proceed [proceed] to allocate the maximum amount allowable to said applicant; and

(3) Allocation of funds: Allocate for distribution to the applicant as an advanced financial support payment the product of one dollar times the applicant's population as determined by the Office of Program Planning and Fiscal Management or the Agency: *Provided, however*, under no circumstances will the amount allocated exceed the sum of fifty thousand dollars per applicant. [Order 75-5, § 365-26-120, filed 12/31/75, 4:25 p.m.]

**WAC 365-26-130 Conditions of advanced financial support payments.** (1) Payment constitutes a loan: Funds received by county transportation authorities or public transportation benefit areas as advanced financial support payments constitute loans. Such a loan shall be repaid to the Agency by the recipient thereof not later than two years after the date such recipient received the advanced financial support payment: *Provided, however*, repayment shall not be necessary in the event the voters in the appropriate county or public transportation benefit area fail to levy and collect taxes authorized under chapter 270, Laws of 1975 1st ex. sess. within two years after the date such advanced financial support payment was received.



(2) **Obligation to develop a comprehensive transit plan:** Following receipt of the advanced financial support payment, the county transportation authority or public transportation benefit area shall undertake and complete the development of a comprehensive transit plan that meets the specifications contained in WAC 365-26-200 through 365-26-290, as well as specifications adopted by the Office subsequent to receipt of such payment by a recipient. In the development of such plan, a county transportation authority and public transportation benefit area shall ensure a reasonable opportunity for the receipt of citizen input and participation in the planning process is provided to racial and ethnic minorities; low income, elderly, and handicapped individuals; parents of school-aged children, and other citizens as well as major employers and retail shopping interest.

(3) **Payment may constitute matching contribution:** Any payment received pursuant to this chapter may be used as all or any portion [portion] of a matching contribution required for the receipt of federal funds, provided federal law and applicable regulations allow such payment as a matching contribution, and provided, further, such federal funds are used to assist the recipient in the development of a comprehensive transit plan.

(4) **Notice of election:** The chief executive officer of a recipient of an advanced financial support payment or his/her designee shall inform the director of the date(s) chosen for a popular election(s) on taxation authorized by chapter 270, Laws of 1975 1st ex. sess. to finance public transportation in the recipient's jurisdiction, in advance of such election(s), as well as the results of such election(s) within ten days after such date(s).

(5) **Required election:** An election to determine whether or not taxes authorized by chapter 270, Laws of 1975 1st ex. sess. will be levied and collected in the county or public transportation benefit area must be held within two years of the receipt of an advanced financial support payment. [Order 75-5, § 365-26-130, filed 12/31/75, 4:25 p.m.]

**WAC 365-26-200 Required elements of comprehensive transit plan.** A comprehensive transit plan prepared pursuant to RCW 36.57.070; RCW 36.57A.060; and WAC 365-26-130(2) shall contain the elements described in WAC 365-26-210 through 365-26-290. [Order 75-5, § 365-26-200, filed 12/31/75, 4:25 p.m.]

**WAC 365-26-210 Capital improvements element.** The capital improvements element of the comprehensive transit plan shall identify anticipated capital improvements including the number, types, and passenger seating capacities of in-revenue-service vehicles, non-revenue equipment; and the number, types, and distribution of any proposed terminals, stations, shelters, benches, parking facilities for potential system users, and garage and related vehicle maintenance facilities. *Sites* for fixed facilities, however, need not be identified. Capital improvements shall be identified for the first five years of operation; the priorities and phasing of the acquisition of such improvements shall also be identified. [Order 75-5, § 365-26-210, filed 12/31/75, 4:25 p.m.]

**WAC 365-26-220 Level of service element.** The level of service element of the comprehensive transit plan shall contain the following information:

- (1) User characteristics;
- (2) Trip characteristics;
- (3) Where scheduled service is anticipated in the plan, the frequency that in-revenue-service vehicles would pass selected points along proposed routes; and where a demand-responsive service is anticipated in the plan, the frequency that in-revenue-service vehicles would serve selected neighborhoods;
- (4) The days and hours of service operations;
- (5) The proposed means of facilitating public use of the proposed system detailed in terms of timing and physical distribution; such means should include consideration of the following:
  - (a) Shelters or benches;
  - (b) Signing for loading and unloading locations;
  - (c) Public timetables that are easy to understand, where scheduled service is proposed;
  - (d) Telephone information;
  - (e) Advertisements in news media;
  - (f) Measures to facilitate the getting on to and off of the transit vehicles;
  - (g) Measures to review, update, and make available public information about the frequency of service and transit routes; and
  - (h) The opportunity for temporary storage of personal packages or belongings on transit vehicles; and
- (6) The location within the proposed transit service area of the following items: employment centers, employing more than 50 persons; governmental facilities; and shopping centers with five or more shopping opportunities. [Order 76-05, § 365-26-220, filed 11/17/76; Order 75-5, § 365-26-220, filed 12/31/75, 4:25 p.m.]

**WAC 365-26-230 System funding for initial year of operation element.** The comprehensive transit plan element dealing with system funding for the initial year of operation shall include, but need not be limited to, the following information:

- (1) An itemized statement of the estimated costs of setting up and operating the recommended public transit system during the first twelve months of operation; such statement shall include, but not be limited to, separate cost estimates for the following items:
  - (a) Vehicles, by type of vehicle;
  - (b) Optional features for acquired vehicles, for each type of vehicle;
  - (c) External passenger-related facilities such as shelters, benches, signing, and parking facilities;
  - (d) Garage, and vehicle maintenance facilities and equipment;
  - (e) Advertising;
  - (f) The number of administrative staff positions and the aggregate costs for such staff;
  - (g) The number of drivers and maintenance employees and the aggregate costs for such staff;
  - (h) Vehicle maintenance equipment operating costs, and plant maintenance costs;

(i) Vehicle fuel consumption rated per mile traveled by type of vehicle, total energy consumption of all system vehicles, and total energy fuel costs for all system vehicles;

(j) Limits of, and cost of collision, liability, and medical insurance; and

(k) The information requested in subsections (g), (h), and (j) of this section need not be included in the plan until contract negotiations, if any, are finalized.

(2) Passenger fare levels, estimated public transit patronage, and estimated fare box revenue;

(3) The amount of federal assistance for facilities and equipment acquisition; (It may be assumed that the urban mass transportation administration of the U.S. Department of Transportation will provide financial assistance equal to 80% of the cost of all eligible equipment and facilities, provided such equipment facilities are used primarily within a recognized "urban area" having a population of 5,000 or more.)

(4) The amount of long term loans for the purchase of facilities and equipment; (It may be assumed the Farmer's Home Administration of the U.S. Department of Agriculture will make such loans available to all units of general purpose government having populations of less than 10,000, and to all unincorporated areas outside a recognized "urban area.")

(5) Whether any of the following sources of local public transit subsidy are anticipated to assist in the funding of the proposed system:

(a) Household tax authorized by chapter 35.95 RCW;

(b) Business and occupation tax authorized by chapter 35.95 RCW; or

(c) The .1%, .2%, or .3% sales and use tax in lieu of the household tax and business and occupation tax referenced immediately above; together with the rate(s) for any levied tax identified above and the estimated revenues from any such sources anticipated to be collected; (Assumptions made in order to estimate such revenues should be identified.)

(6) The amount of any state matching funds assumed. (Such amount shall equal the sum of either one state dollar for each local dollar anticipated to be collected, as identified in WAC 365-26-230(5), or the amount of the motor vehicle excise tax mass transit levy authorized under RCW 35.58.272-35.58.279, whichever is less; minus the amount advanced by the Agency to a county transportation authority or public transportation benefit area for the development of a comprehensive transit plan pursuant to this chapter.) [Order 76-05, § 365-26-230, filed 11/17/76; Order 75-5, § 365-26-230, filed 12/31/75, 4:25 p.m.]

**WAC 365-26-240 System of funding for the second through fifth years of operation element.** The comprehensive transit plan element regarding system funding for the second through fifth years of operation shall contain the following information for each of those years:

(1) The estimated capital, maintenance, and operating costs of each aspect of the proposed public transit system identified as required in WAC 365-26-230(1) for the first year of operation as well as capital improvement

program costs for streets and roads channelization or special identification for public transit use, and an identification of the proposed service life of all equipment acquired or proposed to be acquired; and

(2) The proposed sources of revenue and amounts of revenue, loans, and federal and state assistance to be used to offset such costs. [Order 75-5, § 365-26-240, filed 12/31/75, 4:25 p.m.]

**WAC 365-26-250 Relation to nearby transit operations element.** The comprehensive transit plan element regarding the proposed system's relation to nearby transit operations shall contain the following information:

(1) An identification of any existing public or private transit operations and affiliated facilities serving any area within the jurisdiction of the county transportation authority, public transportation benefit area, or within three road miles of either; such identified operations shall include, at a minimum, the following:

(a) Taxicab or jitney service,

(b) Auto transportation companies holding and operating pursuant to certificates of public convenience and necessity from the Washington Utilities and Transportation Commission;

(c) Air passenger service;

(d) Rail passenger service;

(e) Municipally operated public transit service;

(f) School pupil transportation; and

(g) Specialized transportation service for elderly, handicapped, or low income persons;

(2) An explanation of how the proposed public transit service is intended to integrate with and affect the use of services identified in WAC 365-26-250(1);

(3) The identification and description, along any route proposed in a plan for public transit operations by a county transportation authority or public transportation benefit area, of related transportation facilities such as streets, roads, sidewalks, and public off-street parking. [Order 76-05, § 365-26-250, filed 11/17/76; Order 75-5, § 365-26-250, filed 12/31/75, 4:25 p.m.]

**WAC 365-26-260 Prospects for geographic expansion of service area element.** The comprehensive transit plan of a public transportation benefit area shall include as a separate element consideration of the prospective enlargement of the transit service area (including areas located in adjacent counties) as well as consolidation of transit operations of the public transportation benefit area with municipal public transit systems. [Order 75-5, § 365-26-260, filed 12/31/75, 4:25 p.m.]

**WAC 365-26-270 Minorities, elderly, handicapped, and low income people transportation service element.** The comprehensive transit plan shall include as a separate element an explanation of how the proposed public transit system will be made both accessible and available to elderly, handicapped, racial and ethnic minorities, and low income people located within the transit service area. Such explanation shall detail:

(1) Any modifications to be made to:

(a) Transit vehicles, themselves, to facilitate passenger loading, unloading, or use;

- (b) Signing for loading and unloading locations;
  - (c) The physical design of transit stops to facilitate the loading and unloading of handicapped passengers;
  - (d) Routing;
  - (e) Telephone information; and
  - (f) Advertising;
- (2) Any community relations programs to be undertaken for the benefit of such individuals. [Order 75-5, § 365-26-270, filed 12/31/75, 4:25 p.m.]

**WAC 365-26-280 Citizen participation element.** The comprehensive transit plan citizen participation element shall identify the on-going mechanisms through which citizens shall be consulted by the county transportation authority or public transportation benefit area regarding the frequency of transit service, the location of routes, and the needs of that planning entity, as described in its capital improvement program; such mechanisms may include, but need not be limited to surveys, questionnaires, polls, and advisory committees. County transportation authorities and public transportation benefit areas shall ensure that they receive input through such mechanisms on a continuing and continuous basis, providing at least biennial contact with racial and ethnic minorities, as well as low income, elderly, and handicapped individuals, parents of school age children, major employers, and retail shopping interests. [Order 75-5, § 365-26-280, filed 12/31/75, 4:25 p.m.]

**WAC 365-26-290 Coordinated planning element.** The comprehensive transit plan coordinated planning element shall include the following information:

- (1) An explanation of how the development of the plan, itself, and any updated portions will be coordinated with the facilities planning (roads, streets, sidewalks, and buildings) of cities and counties participating in the activities and governance of the county transportation authority or public transportation benefit area;
- (2) A commitment in writing by the officials of the county transportation authority or public transportation benefit area that a copy of the comprehensive transit plan and any updated portions thereof shall be supplied within 30 days of the official adoption thereof to the chief executives of every unit of general purpose local government located in whole or in part within the jurisdiction of that planning entity; every areawide comprehensive planning organization, planning department, and engineering or public works department of any unit of general purpose local government, located in whole or in part within the jurisdiction of that planning entity; the Agency; and the district engineer and planning engineer of the State Department of Highways;
- (3) Documentary evidence that the comprehensive transit plan conforms to and supports the adopted goals, objectives, and policies for physical and social development of every unit of general purpose local government that it is member of, or a participant in the activities and governance of a county transportation authority or public transportation benefit area, as well as every areawide comprehensive planning organization that is located in whole or in part within the jurisdiction of that

transit service planning entity. [Order 75-5, § 365-26-290, filed 12/31/75, 4:25 p.m.]

**WAC 365-26-300 Submission of comprehensive transit plans to agency.** A county transportation authority or public transportation benefit area shall assemble into a single written document all of the material prepared by it pursuant to WAC 365-26-200 and transmit such material to the Agency. [Order 75-5, § 365-26-300, filed 12/31/75, 4:25 p.m.]

**WAC 365-26-310 Review of comprehensive transit plan of public transportation benefit area.** (1) Within 60 days of the receipt thereof, the Agency shall review any comprehensive transit plan submitted by a public transportation benefit area. The Agency shall determine whether or not such comprehensive transit plan can be "approved" on the basis of the following standards:

- (a) The capital improvement program and anticipated upgrading costs are offset by the proposed system funding;
- (b) The comprehensive transit plan as submitted contains all of the material required by WAC 365-26-200;
- (c) Such plan is consistent with the public transportation coordination criteria adopted pursuant to the Urban Mass Transportation Act of 1964, as amended as of July 1, 1975.
- (2) In the event such plan is approved, the Agency shall certify to the State Treasurer that a public transportation benefit area that submitted a reviewed and approved plan is eligible to receive the motor vehicle excise tax proceeds authorized pursuant to RCW 35.58-.273, as now or hereafter amended, in the manner prescribed by chapter 82.44 RCW, as now or hereafter amended.
- (3) In the event of a comprehensive transit plan is disapproved and a public transportation benefit area is determined to be ineligible to receive such motor vehicle tax proceeds, the Agency shall provide written notice to such entity within 30 days as to the reasons for the plan disapproval and the entity's ineligibility, together with notice that such public transportation benefit area may resubmit a corrected plan at any time. [Order 75-5, § 365-26-310, filed 12/31/75, 4:25 p.m.]

**Chapter 365-31 WAC**

**ORGANIZATION AND GENERAL PROCEDURES OF THE PLANNING AND COMMUNITY AFFAIRS AGENCY'S LAW AND JUSTICE PLANNING OFFICE AND THE GOVERNOR'S COMMITTEE ON LAW AND JUSTICE**

**WAC**

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**PART 0  
GENERAL PROVISIONS**

**WAC 365-31-010 Definitions.** As used in chapters 365-31 through 365-39 of the Washington Administrative Code:

(1) "1973 Act" means the Crime Control Act of 1973, Public Law 93-83, as now or hereafter amended.

(2) "1974 Act" means the Juvenile Justice and Delinquency Prevention Act of 1974, Public Law 93-415, as now or hereafter amended.

(3) "Governor's Committee" means the Governor's Committee on Law and Justice created by Executive Order 75-04 pursuant to the 1973 Act and LEAA regulations.

(4) "Juvenile Justice Advisory Committee" means the advisory committee appointed by the Governor on August 4, 1975, pursuant to P.L. 93-415 and LEAA regulations.

(5) "LEAA" means the United States Department of Justice's Law Enforcement Assistance Administration.

(6) "LEAA regulations" means all regulatory material promulgated by LEAA pursuant to the 1973 and

1974 Acts, including but not limited to LEAA guidelines, guideline manuals, bulletins, instructions, general counsel opinions, and forms which grantees and their subgrantees and contractors are to conform with or otherwise utilize as a consequence of the application for or receipt of funds provided pursuant to the 1973 and 1974 Acts.

(7) "LJPO" means the Law and Justice Planning Office of the Washington State Office of Community Development; it is the entity through which the SPA carries out the state's law and justice planning and programming functions and responsibilities.

(8) "Local planning body" means a unit of local government or agency thereof that carries out planning activities for law and justice purposes for a geographic area smaller than a law and justice planning region recognized by the LJPO; for the purposes of these rules a local planning body shall be treated as a regional planning body.

(9) "Regional planning body" means a unit of local government or combination or agency thereof that carries out planning activities for law and justice purposes pursuant to the 1973 and 1974 Acts for a geographic area recognized by the LJPO.

(10) "SPA" means the State Planning Agency established pursuant to the 1973 and 1974 Acts and designated by the Governor in Executive Order 75-04.

(11) "Subgrantee" means a state agency or a unit of general local government or any combination thereof that receives funds from the SPA pursuant to the 1973 or 1974 Act.

(12) "Task Force" means a working, task-oriented, or advisory group related to the SPA or Governor's Committee as further defined in the document or action establishing such group. [Order 76-01, § 365-31-010, filed 2/13/76; Order 75-01, § 365-11-010 (codified as § 365-31-010), filed 4/29/75.]

**WAC 365-31-020 Rules of interpretation.** (1) All adjectives and adverbs such as "adequate", "approved", "qualified", "reasonable", "reputable", "satisfactory", "sufficiently", or "suitable", used in chapters 365-31 through 365-39 WAC to qualify a person, procedure, process or otherwise shall be as determined by the Director of the Planning and Community Affairs Agency or his designee, subject to such appeal process as is appropriate.

(2) Where the word "shall" is used in chapters 365-31 through 365-39 WAC, the subject rule or action to which the word relates is mandatory.

(3) Where the word "should" is used in chapters 365-31 through 365-39 WAC, it indicates suggestion or recommendation but not a requirement.

(4) Where the word "may" is used in chapters 365-31 through 365-39 WAC, the action or rule to which the word relates is permissive or discretionary.

(5) Words importing the singular number may also be applied to the plural of persons and things; words importing the plural may be applied to the singular; and words importing the masculine gender or relating to a man may also be extended to the feminine gender and be

considered to relate equally to a woman. [Order 75-01, § 365-31-020, filed 4/29/75.]

## PART I BYLAWS OF THE GOVERNOR'S COMMITTEE

**WAC 365-31-110 Officers of the Governor's Committee.** (1) The presiding officer of the Governor's Committee, denominated the "Chairman" shall be appointed by the Governor. The Chairmen shall call and preside over all meetings of the Governor's Committee, appoint the presiding officers and members of subcommittees and task forces of the Governor's Committee except as specifically provided herein and do all such other things as are appropriate for or delegated to such officer by the Governor's Committee.

(2) A Vice-Chairman, appointed by the Chairman of the Governor's Committee, shall preside at the meetings of the Governor's Committee in the absence of the Chairman as well as act for the Chairman and Governor's Committee under their direction.

(3) An Acting Vice-Chairman, appointed by the LJPO Administrator shall preside at meetings of the Governor's Committee in the absence of both the Chairman and Vice-Chairman. [Order 75-01, § 365-31-110, filed 4/29/75.]

**WAC 365-31-120 Meetings of the Governor's Committee, subcommittees, advisory committees, and task forces.** (1) The Governor's Committee shall meet at least quarterly, at the call of its Chairman or upon request of any three members of the Governor's Committee.

(2) Subcommittees, advisory committees, and task forces shall meet upon the call of their respective presiding officers.

(3) All meetings of the Governor's Committee, subcommittees, advisory committees, and task forces shall be considered open public meetings under the provisions of chapter 42.30 RCW, except executive sessions permitted by RCW 42.30.110. Written notice of the time and place of any meeting shall be sent to all members of the committee, subcommittee, advisory committee, or task force that is to meet and any other persons as deemed appropriate by the LJPO Administrator, at least five days prior to the meeting date, except in the case of an emergency meeting specifically called as such by the presiding officer of the respective committee, subcommittee, advisory committee, or task force that is to meet, in which case, the provisions of RCW 42.30.080 shall apply. [Order 76-01, § 365-31-120, filed 2/13/76; Order 75-01, § 365-31-120, filed 4/29/75.]

**WAC 365-31-130 Absences of members from meetings.** Any member who misses three consecutive meetings will have that fact called to his attention by the Chairman of the Governor's Committee, with the request that the member reconsider his ability to continue as a member. The Chairman shall also advise the Governor of situations regarding absenteeism which he deems appropriate to call to the attention of the Governor. [Order 75-01, § 365-31-130, filed 4/29/75.]

**WAC 365-31-140 Quorum.** A quorum for the transaction of business shall constitute not fewer than one-third of the members appointed. The members present at a meeting at which a quorum is not present may elect to proceed with the business of the meeting subject to ratification of all action taken whenever a quorum is next present at a meeting. [Order 75-01, § 365-31-140, filed 4/29/75.]

**WAC 365-31-150 Participation and discussion during Governor's Committee meetings, rules of order, and forms of action.** (1) Only duly appointed members of the Governor's Committee, and such other persons as are recognized by the Chairman shall be permitted to participate in the discussion of any matter before the Governor's Committee unless otherwise authorized by a majority of the members of the Governor's Committee present and voting. Any person wishing to participate in such discussion shall notify the LJPO Administrator, in writing, not less than three days prior to the meeting at which such discussion will be held.

(2) The business of the Governor's Committee shall be conducted in accordance with *Robert's Rules of Order*, New Edition, unless such rules are suspended or unless otherwise provided for by these rules.

(3) The Governor's Committee shall act by the adoption of a motion or a resolution. [Order 76-01, § 365-31-150, filed 2/13/76; Order 75-01, § 365-31-150, filed 4/29/75.]

**WAC 365-31-160 Voting procedures.** (1) Voting during meetings of the Governor's Committee may be by voice, unless a division or recorded vote is called for by a member of the Governor's Committee. A member shall be entitled to have his/her vote recorded regardless of the form of voting; the votes of all members will be recorded upon a request therefor by any member of the Governor's Committee.

(2) The Chairman shall have the same voting rights as any other member of the Governor's Committee.

(3) Only duly appointed members of the Governor's Committee shall be permitted to vote on any issue before the Governor's Committee; no proxies shall be permitted.

(4) Action by the Governor's Committee will be determined by a simple majority vote. [Order 76-01, § 365-31-160, filed 2/13/76; Order 75-01, § 365-31-160, filed 4/29/75.]

**WAC 356-31-170 Minutes.** (1) A record shall be kept of the activities and deliberations of the Governor's Committee and summarized in minutes which shall be distributed to all members of the Governor's Committee as soon as practicable following each meeting.

(2) Non-members of the Governor's Committee who have been authorized to participate in a discussion during a meeting of the Governor's Committee shall also be provided copies of the minutes of such meeting.

(3) The minutes of a meeting shall be presented for correction and approval at the next subsequent meeting of the Governor's Committee. [Order 76-01, § 365-31-

170, filed 2/13/76; Order 75-01, § 365-31-170, filed 4/29/75.]

**WAC 365-31-180 Subcommittees, advisory committees, and task forces.** (1) Administrative Subcommittee:

(a) The membership of the Administrative Subcommittee shall consist of the Chairman and Vice-Chairman of the Governor's Committee; the presiding officers of the Planning and Standards Subcommittees, and the Juvenile Justice Advisory Committee or their designees; and three other members of the Governor's Committee appointed by the Chairman.

(b) The Administrative Subcommittee shall:

(i) Consult with the SPA as appropriate on personnel and administrative matters relating to the effective and efficient operations of the LJPO.

(ii) Consult with the LJPO Administrator on meeting schedules necessary for the accomplishment of the objectives of the Governor's Committee.

(2) Planning Subcommittee:

(a) The membership of the Planning Subcommittee shall consist of such members of the Governor's Committee as are appointed to it by the Chairman of the Governor's Committee as well as those non-members of the Governor's Committee as are appointed to it by the Chairman of the Governor's Committee and the Director of the SPA, for either general or specialized functions, to serve at their pleasure.

(b) The Planning Subcommittee shall:

(i) Subject to review and acceptance by the Governor's Committee, adopt guidelines for the development, review, and modification of annual state and regional law and justice plans; and

(ii) Review and make recommendations to the Governor's Committee for action on regional and state agency plans.

(3) Standards Subcommittee:

(a) The membership of the Standards Subcommittee shall consist of such members of the Governor's Committee as are appointed to it by the Chairman of the Governor's Committee as well as those non-members of the Governor's Committee as are appointed to it by the Chairman of the Governor's Committee and the Director of the SPA, for either general or specialized functions, to serve at their pleasure.

(b) The Standards Subcommittee shall:

(i) Recommend criminal justice standards and goals to the Governor's Committee for approval; and

(ii) Conduct public hearings on standards and goals in accordance with procedures approved by the Governor's Committee.

(4) Juvenile Justice Advisory Committee:

(a) The membership of the Juvenile Justice Advisory Committee shall consist of members appointed by the Governor pursuant to the 1974 Act.

(b) The Juvenile Justice Advisory Committee shall:

(i) Prepare and recommend to the Governor's Committee, guidelines in the area of juvenile justice for the development, review, and modification of annual state and regional law and justice plans, as provided for by the 1974 Act.

(ii) Review existing juvenile justice and delinquency prevention programs and make appropriate recommendations on the establishment of funding priorities and appropriate projects for improving the juvenile justice system.

(iii) Make additional recommendations relating to the juvenile justice system as may be appropriate for consideration and action by the Governor's Committee.

(5) Task Forces: Except as otherwise required by statute, special task forces may be created by action of the Governor's Committee in order to advise the Governor's Committee on particular aspects of law enforcement, juvenile delinquency prevention, or criminal or juvenile justice systems, or to otherwise assist the Governor's Committee in its functions and responsibilities. Members of such task forces shall be appointed by the Chairman of the Governor's Committee and the Director of the SPA and shall serve for such terms (not exceeding one year) as may be designated by the appointing authorities. Such task force members may be reappointed for succeeding terms.

(6) Policies and rules relating to the calling of, frequency, openness to the public, and opportunity for participant discussion during meetings; member's absences; quorums; rules of order; forms of action; voting procedures; and minutes for the subcommittees, advisory committees, and the task forces shall be essentially the same as for the Governor's Committee unless clearly inappropriate or specified otherwise in these bylaws or other rules or procedures adopted by the Governor's Committee. [Order 76-01, § 365-31-180, filed 2/13/76; Order 75-01, § 365-31-180, filed 4/29/75.]

## PART II FUNCTIONS OF THE LJPO

**WAC 365-31-210 Law and justice planning office staff role and function.** Pursuant to Executive Order 75-04, the LJPO, through its Administrator, Deputy Administrator, and other staff, together with additional SPA employees as designated by the Director of the SPA, carries out the following functions and responsibilities with respect to the law and justice planning program of the State of Washington.

(1) Consistent with the LEAA planning guidelines, develop proposed regional law and justice planning guidelines for review, modification, and approval by the Planning Subcommittee, describing the methodology and policies that will govern the submission to the SPA of regional law and justice plans;

(2) Establishes and maintains communications with state agencies, units of general local government, regional planning offices, and other entities and officials thereof to advise them of the policies, goals and objectives of the Governor's Committee to ensure that effective planning occurs at the local, regional and state levels;

(3) Reviews regional and state agency plans and provides necessary information to the Governor's Committee to enable the Governor's Committee to take appropriate action;



(4) Obtains the necessary statistical and problem definition information from regional and state agency plans as well as information from the criminal justice community to assist in the development of the annual state comprehensive plan;

(5) From information contained within the regional and state agency plans as well as other pertinent sources, prepares the annual state comprehensive plan for review, modification, and action by the Governor's Committee.

(6) Reviews grant applications submitted by applicant state agencies, units of general local government, combinations thereof, and other entities, for compliance with program, fiscal, and evaluation requirements; state plan requirements; and SPA application procedures, all pursuant to procedures described in WAC 365-31-310 and 365-31-320;

(7) Negotiates and assists in the correction of deficiencies in applications and projects through on-site visits, correspondence, and telephone contacts with project directors, regional planners, and state and local governmental officials;

(8) Prepares grant award contracts consistent with approved applications and established policies;

(9) Prepares and presents to the LJPO Hearing and Review Committee recommendations on issues not successfully negotiated pursuant to WAC 365-31-210(7);

(10) Maintains on-going contact with local and state agency representatives for the purpose of ensuring compliance by subgrantees with the approved grant award contracts;

(11) Assists regional and state agency personnel to assure compliance with contract provisions, LEAA regulations, or SPA regulations or administrative procedures;

(12) Prepares special reports requested by the Office of the Governor, the Governor's Committee, the Director of the SPA or the LJPO Administrator for presentations as deemed appropriate;

(13) Keeps the Governor's Committee, state agencies, and regional planning offices informed of significant new developments and problems relating to emerging and developing goals and objectives and makes recommendations for resolution of such problems;

(14) Presents to the Governor's Committee grant applications regarding which LJPO action has been appealed, as well as other pertinent issues considered by the LJPO Hearing and Review Committee pursuant to WAC 365-31-350; and

(15) Performs other duties and responsibilities as required. [Order 76-01, § 365-31-210, filed 2/13/76; Order 75-01, § 365-31-210, filed 4/29/75.]

**PART III**

**ADMINISTRATIVE PROCEDURES OF THE SPA REGARDING APPLICATIONS FOR FUNDING OF ACTION (IMPLEMENTATION) PROJECTS, AND APPEALS FROM SPA DECISIONS REGARDING SUCH APPLICATIONS AND PROJECTS**

**WAC 365-31-310 Administrative review of LJPO action grant applications.** When a LJPO action (implementation) grant application is received by the SPA, it

shall be routed to the LJPO control desk for a conformance review. In the event the application is found to be non-conforming under WAC 365-37-110 *et seq.*, it shall be returned immediately to the applicant together with an explanation of the non-conformity. In the event the application is characterized as conforming, it then shall be reviewed regarding fiscal, evaluation, and equal employment compliance aspects. A statement of findings may be attached to the application by the reviewer following each of these reviews, after which the application shall be forwarded to an assigned LJPO program manager for further processing. [Order 76-01, § 365-31-310, filed 2/13/76.]

**WAC 365-31-320 Program review of application.**

(1) Upon receipt of an action grant application, the program manager shall evaluate whether or not the project described therein should be funded. In the event the proposed project can be recommended for funding, the application shall be submitted to the LJPO Administrator for approval.

(2) A program manager shall recommend a project *not* be funded where:

(a) The proposed project does not fit within an established program area in the applicable state comprehensive plan;

(b) The application does not conform with technical requirements of the SPA, particularly budget detail requirements;

(c) The applicant has failed to supply sufficient information in the application, either initially or upon staff request, to permit the proposed project to be properly evaluated;

(d) A similar project funded previously under similar circumstances has been found unsuccessful for substantive reasons;

(e) Sufficient funds do not exist in the appropriate program area;

(f) Issues related to the application or project cannot be resolved within the 90 days following receipt by the LJPO of the application;

(g) The applicant has failed to respond to audit findings and LJPO requests for resolution of audit exceptions on other LJPO grants, in a manner satisfactory to the LJPO;

(h) The application fails to comply with the current project continuation funding policy; or

(i) The proposed project generally lacks merit.

In the event the proposed project cannot be recommended for funding, the assigned program manager will recommend changes to the applicant and provide appropriate technical assistance to the applicant if it desires to modify its application in order to receive a recommendation for funding. [Order 76-01, § 365-31-320, filed 2/13/76.]

**WAC 365-31-330 Eligible appellants of SPA action on grant applications—Permissible subject matter of appeal.** Only the following persons or entities may appeal to the LJPO Hearing and Review Committee, the SPA's decision (i) to fund a proposed project, (ii) to not



fund a proposed project, (iii) to attach a special condition to a funded proposed project, or (iv) to consider an application as non-conforming:

(1) The applicant (but not its subcontractors or subgrantees);

(2) Any other person or entity having a constitutional or statutory right claimed to have been infringed or interfered with by the SPA or the applicant. [Order 76-01, § 365-31-330, filed 2/13/76.]

**WAC 365-31-340 LJPO Hearing and Review Committee.** (1) Composition: The membership of the LJPO Hearing and Review Committee shall be appointed by the Chairman of the Governor's Committee, and shall include at least one member of the Governor's Committee.

(2) Functions: The LJPO Hearing and Review Committee shall:

(a) Review and take action on the funding of a proposed project described in an application submitted to it by the LJPO Administrator pursuant to WAC 365-31-350;

(b) Review and take action on the funding of proposed action projects described in applications submitted to it by the LJPO Administrator in response to specific announcements of the availability of funds for reallocation; and

(c) Undertake other appropriate activity as assigned by the Governor's Committee Chairman or the LJPO Administrator. [Order 76-01, § 365-31-340, filed 2/13/76.]

**WAC 365-31-350 Notice and scheduling of appeals to LJPO Hearing and Review Committee.** Any person or entity having authority to appeal an SPA decision pursuant to WAC 365-31-330, must notify, in writing, the LJPO Administrator of the appeal within 15 days after the date of the SPA decision, explaining in detail the eligibility of the intended appellant to appeal, the remedy desired, and the reasons therefor. Upon receipt of said notice and verification of the intended appellant's eligibility to appeal, the LJPO Administrator shall place such appeal on the agenda of the next regularly scheduled meeting of the LJPO Hearing and Review Committee and promptly notify the appellant and such other individuals as he deems appropriate of the date, time, and location of the hearing. The Chairman of the LJPO Hearing and Review Committee may schedule special meetings for hearing appeals upon 10 days notice to the LJPO Administrator and the appellant. [Order 76-01, § 365-31-350, filed 2/13/76.]

**WAC 365-31-360 LJPO Hearing and Review Committee operation.** (1) No hearing scheduled before the LJPO Hearing and Review Committee shall be considered to be a "contested case" under chapter 34.04 RCW. Nevertheless, the following procedures shall be utilized by that committee to provide an established order for its operations:

(2) Presentations to members of the LJPO Hearing and Review Committee in connection with an appeal

sought under this part of chapter 365-31 WAC shall be made in the following order:

(a) The appellant;

(b) The applicant, if different from the appellant;

(c) The LJPO staff;

(d) Answers to questions of committee members by the appellant, applicant, and staff; and

(e) Rebuttal or closing arguments; Provided, the Chairman of the LJPO Hearing and Review Committee may direct a different order to suit the convenience of the committee or the participants in the hearing.

(3) In all proceedings before the LJPO Hearing and Review Committee, the Chairman of that committee shall have the right, in his/her discretion to limit not only the number of people making presentations or witnesses testifying upon any subject or proceeding before the committee, but also the length of time allowed for presentations and the giving of testimony, provided sufficient testimony has been received to enable the committee to render a fair and impartial decision.

(4) Formal rules of evidence shall not apply to matters coming before the LJPO Hearing and Review Committee.

(5) No verbatim record shall be kept of the proceedings of the LJPO Hearing and Review Committee; a member of the LJPO staff designated by the LJPO Administrator, however, shall record a summary of the testimony presented to the committee as well as questions asked by committee members and the responses given thereto. Such summary, together therewith the written submittals of persons participating in the hearing shall constitute the record of the committee's proceedings in connection with an appeal.

(6) Implementation of the SPA's decision being appealed shall not be stayed during such appeal. [Order 76-01, § 365-31-360, filed 2/13/76.]

**WAC 365-31-370 LJPO Hearing and Review Committee action.** Whenever the LJPO Hearing and Review Committee has completed its review of a matter presented to it pursuant to WAC 365-31-340(2)(a) or (b), it shall either:

(a) Approve funding of the proposed project with or without special conditions;

(b) Recommend that changes be made in the application, in which event the application shall be returned to the program manager for appropriate action on recommended changes; or

(c) Deny funds requested by the application for one or more of the reasons set forth in WAC 365-21-320(2). Within seven days of the LJPO Hearing and Review Committee's action on an appeal, the LJPO Administrator or his designee shall notify the appellant and applicant (if different) of the action taken by the LJPO Hearing and Review Committee, the reasons therefor, and their opportunity to appeal the decision of the LJPO Hearing and Review Committee to the Governor's Committee in accordance with the procedures set forth in WAC 365-37-510 *et seq.* [Order 76-01, § 365-31-370, filed 2/13/76.]

**PART IV**  
**ADMINISTRATIVE PROCEDURES OF THE SPA**  
**REGARDING THE EVALUATION AND FUNDING**  
**OF REGIONAL PLANS, AND APPEALS FROM**  
**SPA DECISIONS REGARDING SUCH PLANS**

**WAC 365-31-410 Regional plan evaluation process.**

(1) Selected LJPO staff members shall review all submitted annual regional plans for crime control and the administration of justice, and all requested portions thereof, including projects proposed therein and evaluate whether or not they meet standards and requirements contained in the appropriate annual SPA instructions and planning guidelines. In the course of such evaluation, each plan, plan portion, and project described therein shall be measured against criteria and given an evaluation ranking described in WAC 365-31-420. Such review, evaluation, and ranking shall be completed in a timely manner to assist regional planning bodies to complete necessary planning and administrative work within the time frame specified by the SPA in its annual instructions and planning guidelines.

(2) Following its preparation, the SPA evaluation shall be made available to the submitting regional planning body. Selected LJPO plan reviewers shall subsequently meet with the regional planning body's planner and others s/he shall select to discuss the evaluation and to resolve noted problems in order to work to not only change any "not acceptable" determinations to a more favorable determination, but also to eliminate or modify as mutually agreed, any conditions to be attached to projects included in the plan, or modify to make "acceptable" or "conditionally acceptable" any project otherwise determined to be "not acceptable" by the plan reviewers. [Order 76-01, § 365-31-410, filed 2/13/76.]

**WAC 365-31-420 Evaluation criteria and rankings.**

(1) Plans and projects described therein shall be evaluated and ranked on the basis of a subjective determination as to their responsiveness to the annual SPA instructions and planning guidelines. The following is a non-inclusive list of potential problems plans or projects; in the event such a problem is found in a plan or project it may be ranked in a less favorable position than a plan or project without such problem: Failure of the plan to evidence use of a rational planning process; utilization of an unacceptable process for the selection of goals, subgoals, strategies, or projects; failure of a plan to constitute a determined effort to reduce crime through the linking of projects; failure of a plan to indicate the crime situation in a region or how the criminal justice system in the region deals with crimes; failure of a plan to delineate specific crime reduction goals and subgoals and the obstacles to achieving these goals and subgoals; failure of a plan to include a discussion of which problems identified as existing in the region will be addressed by projects, and a defense of that problem-solving decision based upon the crime and system analysis included in the plan; failure of the plan to indicate the relationship between the problems selected to be addressed and the incidents of crime and/or delinquency in the region; failure of the plan to state problems in a manner which

does not indicate or call for a specific type of response; failure of a plan to follow the format prescribed by the SPA for such plan; failure of a plan to include the minimum content required by the SPA in its annual instructions and planning guidelines; difficulty in evaluating or measuring project success; statistical unsubstantiation of proposed project; failure to indicate the method and criteria utilized to prioritize projects described in the plan.

(2) Plans will be ranked according to the following standards:

(a) "Exceptional": Plans viewed by the LJPO staff as exceeding all guideline requirements; all requested projects recommended for funding.

(b) "Good": Plans viewed by the LJPO staff as meeting nearly all guideline requirements; nearly all projects recommended for funding.

(c) "Acceptable": Plans viewed by the LJPO staff as not satisfactorily meeting a number of guideline requirements; a number of projects not recommended for funding.

(d) "Not Acceptable": Plans viewed by the LJPO staff as not having demonstrated a satisfactory response to a majority of the guideline requirements; a significant number of projects not recommended for funding.

(3) Projects will be ranked according to the following standards:

(a) "Acceptable": Demonstrating the project has met all requirements.

(b) "Acceptable with Conditions": Demonstrating the project has failed to adequately meet one or more requirements that must be responded to within the actual grant applications.

(c) "Not Acceptable": Demonstrating the project has either not met a majority of the requirements or has not provided adequate plan justification for funding during the planning year. [Order 76-01, § 365-31-420, filed 2/13/76.]

**WAC 365-31-430 Notice and scheduling of Planning Subcommittee consideration of regional plans—**  
**Appeals to Planning Subcommittee of SPA Decisions on plans.**

(1) The LJPO Administrator or his designee shall consult with the Chairman of the Planning Subcommittee and schedule a meeting of that subcommittee to consider the regional plans. The LJPO Administrator or his designee shall notify each regional planner of the date, time, and location of the meeting at which the plan for his/her region will be discussed, at least 7 days prior to such date. Such meeting shall be held following the meeting described in WAC 365-31-410(2), and the timely submission to the SPA of any plan modifications.

(2) Any person or entity having the authority under WAC 365-31-440 to appeal to the Planning Subcommittee a decision of the SPA regarding a plan, must notify, in writing, the LJPO Administrator of the appeal within 15 days after the date of the SPA decision, explaining in detail the eligibility of the intended appellant to appeal, the remedy desired, and the reasons therefor.

(3) Upon receipt of notice of appeal and verification of the intended appellant's eligibility to appeal, the LJPO Administrator or his designee shall schedule an opportunity for the appellant to make a presentation to

the Planning Subcommittee during its consideration of the plan subject to the appeal. [Order 76-01, § 365-31-430, filed 2/13/76.]

**WAC 365-31-440 Eligible appellants of SPA action on plan—Permissible subjects of appeal.** Only the following persons or entities may appeal to the Planning Subcommittee the SPA's evaluation and ranking of a plan or project described therein:

- (1) The applicant regional planning body; or
- (2) Any other person or entity having a constitutional or statutory right claimed to have been infringed or interfered with by the SPA or the applicant regional planning body. [Order 76-01, § 365-31-440, filed 2/13/76.]

**WAC 365-31-450 Planning Subcommittee operation when considering plans.** The provisions of WAC 365-31-180(6) shall apply to meetings of the Planning Subcommittee at which plans are considered. Planning Subcommittee consideration of a regional law and justice plan shall not be considered to be a "contested case" under chapter 34.04 RCW. Nevertheless, the following procedures shall be utilized by that subcommittee to provide an established order for its operations during such plan consideration:

(2) Presentations to members of the Planning Subcommittee in connection with an appeal sought under this part of chapter 365-31 WAC shall be made in the following order:

- (a) The LJPO staff;
- (b) The appellant;
- (c) The regional planning body, if different from the appellant;
- (d) Answers to questions of committee members by the appellant, regional planning body, and LJPO staff; and
- (e) Rebuttal or closing arguments; Provided, the Chairman of the Planning Subcommittee may direct a different order to suit the convenience of subcommittee or the participants in the meeting.

(3) In all plan review appeal proceedings before the Planning Subcommittee, the Chairman of that subcommittee shall have the right, in his/her discretion to limit not only the number of people making presentations or witnesses testifying upon any subject or proceeding before the subcommittee, but also the length of time allowed for presentations and the giving of testimony, provided sufficient testimony has been received to enable to subcommittee to render a fair and impartial decision.

(4) Formal rules of evidence shall not apply to plan review appeal matters coming before the Planning Subcommittee.

(5) No verbatim record shall be kept of the proceedings of the Planning Subcommittee; a member of the LJPO staff designated by the LJPO Administrator, however, shall record a summary of the testimony presented to the subcommittee as well as questions asked by subcommittee members and the responses given thereto. Such summary, together therewith the written submittals of persons participating in the meeting shall constitute the record of the subcommittee's proceedings in connection with an appeal of an SPA plan review and

evaluation decision. [Order 76-01, § 365-31-450, filed 2/13/76.]

**WAC 365-31-460 Planning Subcommittee action on regional plans.** Following the presentation of the regional plan by the LJPO staff and any appeal presentation, the Planning Subcommittee shall either confirm the SPA evaluation decisions made regarding a regional plan and the projects described therein, or shall modify the evaluation and ranking determination by assigning its own evaluation rank as described in WAC 365-31-420(2) and (3), and describing any special conditions to be imposed on named projects. The LJPO Administrator or his designee shall provide written confirmation to the affected regional planning body of the Planning Subcommittee's decision regarding a regional plan, together with the reasons therefor, within several days of final action by that subcommittee on such plan. [Order 76-01, § 365-31-460, filed 2/13/76.]

**WAC 365-31-470 Appeal of Planning Subcommittee decision regarding a regional plan.** Any appellant may appeal to the Governor's Committee a decision of the Planning Subcommittee that either confirms the SPA evaluation decisions regarding a regional plan or modifies the SPA evaluation and ranking determination. The procedures set forth in WAC 365-37-510 *et seq.* shall apply to such appeals. [Order 76-01, § 365-31-470, filed 2/13/76.]

## Chapter 365-33 WAC

### COMPREHENSIVE STATE PLANS FOR LAW ENFORCEMENT AND THE ADMINISTRATION OF JUSTICE

#### WAC

365-33-730	Adoption of 1973 state Plan.
365-33-740	Adoption of 1974 Plan.
365-33-750	Adoption of 1975 Plan.
365-33-760	Adoption of 1976 Plan.

**WAC 365-33-730 Adoption of 1973 state Plan.** The SPA hereby adopts the *Grant Award Program Information of the Comprehensive Plan for Law Enforcement and the Administration of Justice* and the *Comprehensive Plan for Law Enforcement and the Administration of Justice Existing Systems and Multi-Year Plan*, in two volumes, together with modifications submitted to LEAA as required by its Grant Award Notice (all hereinafter referred to as the 1973 Plan) which publication is hereby incorporated by this reference as though fully set forth in full and at length. The 1973 Plan describes the intended utilization by the SPA and its subgrantees of LEAA grant funds and state and local matching funds during the period from July 1, 1972, through June 30, 1975. [Order 75-01, § 365-33-730, filed 4/29/75.]

**WAC 365-33-740 Adoption of 1974 Plan.** The SPA hereby adopts the *Comprehensive Plan for Law Enforcement and the Administration of Justice (Annual Action Program, Existing Systems)*, (hereinafter referred to as the 1974 Plan), including a one-page errata

sheet dated July 15, 1974, regarding page IV-3, which publication is hereby incorporated by this reference as though fully set forth in full and at length. The 1974 Plan describes the intended utilization by the SPA and its subgrantees of LEAA grant funds and state and local matching funds during the period from July 1, 1973, through June 30, 1976. [Order 75-01, § 365-33-740, filed 4/29/75.]

**WAC 365-33-750 Adoption of 1975 Plan.** The SPA hereby adopts the *Comprehensive Plan for Criminal Justice and the Administration of Justice (Annual Action Program, Existing Systems)*, (hereinafter referred to as the 1975 Plan), which publication is hereby incorporated by this reference as though set forth in full and at length. The 1975 Plan describes the intended utilization by the SPA and its subgrantees of LEAA grant funds and state and local matching funds during the period from July 1, 1974, through June 30, 1977. [Order 76-01, § 365-33-750, filed 2/13/76.]

**WAC 365-33-760 Adoption of 1976 Plan.** The SPA hereby adopts the *Comprehensive Plan for Criminal Justice (Annual Action Program, Existing Systems)*, (hereinafter referred to as the 1976 Plan), which publication is hereby incorporated by this reference as though set forth in full and at length. The 1976 Plan describes the intended utilization by the SPA and its subgrantees of LEAA grant funds and state and local matching funds during the period from July 1, 1975, through June 30, 1978. [Order 76-01, § 365-33-760, filed 2/13/76.]

#### Chapter 365-35 WAC

#### FINANCIAL GUIDELINES REGARDING GRANTS OF LAW AND JUSTICE FUNDS AND MATCHING CONTRIBUTIONS REQUIRED OF SUBGRANTEES

##### WAC

- 365-35-010 Adoption of Financial Guidelines of the SPA.  
365-35-900 Resolution of conflicts between LEAA regulations and LJPO FINANCIAL GUIDELINES and other sections of this chapter.

**WAC 365-35-010 Adoption of financial guidelines of the SPA.** The SPA hereby adopts the LJPO manual entitled State of Washington *Financial Guidelines* which publication is hereby incorporated by this reference as though fully set forth in full and at length as now or hereafter amended. The *Financial Guidelines* manual is a reference source and guide for financial questions arising in the administration of planning and action subgrants under Parts B, C, and E, of Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by the Omnibus Crime Control Act of 1970, and 1973 Act. The *Financial Guidelines* manual is based on LEAA Guideline Manuals M 7100.1A "Financial Management for Planning and Action Grants" issued April 30, 1973, and M 1700.6 "Grant Managers Procurement Manual" issued February 7, 1973, both as modified from time to time by LEAA. [Order 75-01, § 365-35-010, filed 4/29/75.]

**WAC 365-35-900 Resolution of conflicts between LEAA regulations and LJPO FINANCIAL GUIDELINES and other sections of this chapter.** In the event of any conflict or inconsistency between LEAA regulations and the LJPO *FINANCIAL GUIDELINES* or other sections of chapters 365-30 through 365-39 WAC, the LEAA regulations shall be controlling except in those instances in which the LJPO *FINANCIAL GUIDELINES* or those other sections of those specified chapters set forth a higher or more restrictive standard of performance. [Order 75-01, § 365-35-900, filed 4/29/75.]

#### Chapter 365-37 WAC

#### SPECIAL POLICIES AND PROCEDURES OF THE GOVERNOR'S COMMITTEE ON LAW AND JUSTICE AND THE STATE PLANNING AGENCY FOR LAW AND JUSTICE

##### WAC

##### PART 0

##### STANDARD OF PERFORMANCE ESTABLISHED FOR SUBGRANTEES

- 365-37-010 Administration of law and justice program in accordance with applicable federal legislation and rules—Conformance with such federal legislation and regulations required of all subgrantees.

##### PART I

##### CHARACTERIZATION OF APPLICATIONS AS "CONFORMING" AND SPA ACTION RESULTING THEREUPON

- 365-37-110 Requirement that applications be "conforming" to necessitate SPA action within 90 days of receipt.  
365-37-120 Criteria for determining whether or not an application is "conforming".  
365-37-130 Conditional approval of application.

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- 365-37-210 Submission date for application for initial or continuation funding.  
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##### PART III

##### PROJECT PERIOD EXTENSIONS

- 365-37-310 Authorization for the granting of project period extensions for operating projects—Maximum period of extension.  
365-37-320 Circumstances under which project period extensions may be granted.  
365-37-330 Circumstances under which a grant contract project period will not be extended.  
365-37-340 Procedure for requesting and granting a project period extension.

##### PART IV

##### MAXIMUM PROJECT FUNDING PERIOD

- 365-37-410 Maximum project funding period—Exceptions.

##### PART V

##### APPEALS FROM SPA—PLANNING SUBCOMMITTEE, AND LJPO HEARING AND REVIEW COMMITTEE DECISIONS

- 365-37-510 Governor's Committee as appellate forum.  
365-37-520 Eligible appellants—Decisions that may be appealed.  
365-37-530 Notice and scheduling of appeals to Governor's Committee.  
365-37-540 Submission of material to Governor's Committee for consideration in an appeal.  
365-37-550 Appeal consideration procedures.

365-37-560	Governor's Committee action on appeals.
365-37-570	Notice of Governor's Committee decision and right to appeal to Governor.
365-37-580	Procedure applicable to petition to Governor for reconsideration of Governor's Committee Decision—Action by Governor on petition.

**PART 0  
STANDARD OF PERFORMANCE ESTABLISHED  
FOR SUBGRANTEES**

**WAC 365-37-010 Administration of law and justice program in accordance with applicable federal legislation and rules—Conformance with such federal legislation and regulations required of all subgrantees.** The SPA, as the grantee of LEAA is obligated to ensure that all recipients of financial assistance provided pursuant to the 1973 and 1974 Acts, including the SPA, itself, and its subgrantees, conform to the provisions of the 1973 and 1974 Acts and all LEAA regulations. All subgrantees of the SPA and their subcontractors and subgrantees are required to conform to, and administer law and justice grants awarded by the SPA in accordance with all applicable LEAA regulations as now or hereafter promulgated, issued, or amended; *Provided, However*, where the SPA's rules, regulations, and administrative instructions to subgrantees are more restrictive or require a higher standard of performance, response, or action than would be required by LEAA, conformance with the SPA's rules, regulations and administrative instructions is required of all subgrantees. [Order 75-01, § 365-37-010, filed 4/29/75.]

**PART I  
CHARACTERIZATION OF APPLICATIONS AS  
"CONFORMING" AND SPA ACTION RESULTING  
THEREUPON**

**WAC 365-37-110 Requirement that applications be "conforming" to necessitate SPA action within 90 days of receipt.** Section 303(a)(15) of the 1973 Act requires the SPA to approve or disapprove, in whole or in part, any application by a unit of general local government or combination of such units no later than 90 days after receipt thereof by the SPA. Since it is not unreasonable to expect that grant applications will be prepared in a manner consistent with the SPA's administrative requirements applicable at the time of the submission of the application, whenever any of the criteria listed in WAC 365-37-120 are not met, the application will be denied as a non-conforming application; in such case, the 90-day requirement will not apply. In the event an application is denied as a non-conforming application, the applicant shall be provided written notice of the denial of the application together with the reasons therefor within 30 days of such denial. [Order 75-01, § 365-37-110, filed 4/29/75.]

**WAC 365-37-120 Criteria for determining whether or not an application is "conforming".** An application will be considered "conforming" and thereby subject to

required SPA action within 90 days of its receipt by the SPA where:

(1) The application is submitted to the SPA in accordance with the time requirements specified in WAC 365-37-210 and 365-37-220.

(2) The request for funds and project description have been submitted on the application form provided by the SPA;

(3) A minimum of one original and one copy of the application, together with a copy of the federal A-95 form attached to each, have been submitted to the SPA, indicating the applicant requests federal financial assistance and has appropriately notified the regional clearinghouse;

(4) All information required by the application and instructions is provided in full;

(5) All signatures and endorsements required in the application and instructions are provided;

(6) The amount requested in the application conforms to the approved annual action plan; or, in the case of a project to be funded with reallocated funds, the project conforms to any special criteria established as a condition of funding by the Governor's Committee, or by the Chairman of the Governor's Committee in the event no meeting of the Governor's Committee is scheduled prior to the date by which such funds must be allocated and obligated; and

(7) The applicant has submitted other data as deemed necessary by the SPA to bring the application into compliance with written state and federal requirements promulgated in accordance with chapter 34.04 RCW. [Order 76-01, § 365-37-120, filed 2/13/76; Order 75-01, § 365-37-120, filed 4/29/75.]

**WAC 365-37-130 Conditional approval of application.** The SPA may consider an application as "conforming" and accept it for further processing subject to the compliance by the applicant with special conditions specified in writing by the SPA; upon failure of the applicant to comply with any such special condition, the application shall be characterized as "non-conforming", and, consequently denied. [Order 75-01, § 365-37-130, filed 4/29/75.]

**PART II  
SUBMISSION DATES FOR APPLICATIONS FOR  
FUNDING**

**WAC 365-37-210 Submission date for application for initial or continuation funding.** A grant application must be received by the SPA not less than 90 days prior to the anticipated project period beginning date. This requirement applies to both applications for new programs as well as those applications seeking continuation funding for existing programs. Lack of compliance with this 90-day time requirement shall result in the discontinuation of funding between the end of the current project period and the beginning of the subsequent project period unless waived by the LJPO Administrator for good cause. [Order 75-01, § 365-37-210, filed 4/29/75.]

**WAC 365-37-220 Date after which applications for reallocation funds will be accepted.** No application requesting funding for a project from reallocated funds may be submitted to the SPA until such time as the applicant region or entity has been notified by the SPA by mail that reallocated funds are available for award. [Order 76-01, § 365-37-220, filed 2/13/76; Order 75-01, § 365-37-220, filed 4/29/75.]

### PART III PROJECT PERIOD EXTENSIONS

**WAC 365-37-310 Authorization for the granting of project period extensions for operating projects—Maximum period of extension.** A grant contract project period may be extended by action of the LJPO Administrator or his designee under the circumstances listed in WAC 365-37-320. [Order 75-01, § 365-37-310, filed 4/29/75.]

**WAC 365-37-320 Circumstances under which project period extensions may be granted.** A project period may be extended where:

(1) All procedures set forth in WAC 365-37-340 have been followed regarding the request for a project period extension; and

(2) The project for which an extension is requested can meet all the fiscal requirements appropriate to an original grant request (i.e., funds are available, the project can be completed within the appropriate fiscal year, etc.); and

(3) (a) The project was not started on the agreed beginning date for good reasons; or

(b) Project goals specified and quantified in the original grant application cannot be reached by the agreed upon completion date, but are likely to be achieved during a reasonable extension period. [Order 75-01, § 365-37-320, filed 4/29/75.]

**WAC 365-37-330 Circumstances under which a grant contract project period will not be extended.** A grant contract project period will not be extended where:

(1) The subgrantee has submitted to the SPA a request for continuation funding for the project; or

(2) The project period has been extended once previously; or

(3) The original intent of the project has been accomplished and the purpose of the extension would be only to continue the expenditure of funds allocated for the project. [Order 75-01, § 365-37-330, filed 4/29/75.]

**WAC 365-37-340 Procedure for requesting and granting a project period extension.** As soon as it becomes evident that project goals cannot be achieved by the completion date established in the grant contract, an extension may be requested. Such request, however, must be made at least 30 days prior to the last established project completion date.

(2) The request for a project period extension must be in writing, signed by the subgrantee's signing authority, and must clearly indicate the reasons why the extension

is needed, particularly referencing which of the circumstances listed in WAC 365-37-320 exist.

(3) Upon receipt of the request for a project period extension, the LJPO Administrator or his designee will review the request, and, if additional information is needed to support the request, will contact the subgrantee, specifying the additional information which must be provided; action by the SPA on the requested project period extension will be suspended until such time as the subgrantee provides the additional requested information.

(4) In the event the LJPO Administrator or his designee concurs with the need for a project period extension, a Grant Adjustment Notice indicating the change in the project period will be prepared and signed by an appropriate SPA representative, and will then be mailed to the subgrantee. In the event the LJPO Administrator or his designee does not concur with the need for extension, a letter to the subgrantee, notifying it that a project period extension has not been recommended and specifying the reasons for such action, shall be prepared for and signed by the LJPO Administrator or his designee. [Order 76-01, § 365-37-340, filed 2/13/76; Order 75-01, § 365-37-340, filed 4/29/75.]

### PART IV MAXIMUM PROJECT FUNDING PERIOD

**WAC 365-37-410 Maximum project funding period—Exceptions.** No project shall receive funding from the SPA for more than three years except: (1) a criminal justice training project; or

(2) a project that requires such a considerable percentage of available funds that the SPA determines it is inadvisable to attempt to fully fund the project within the three year period; or

(3) A project that the SPA determines would be impossible or inadvisable to complete within the three year period. In the event an applicant desires or needs funding from the SPA for a project for more than three years, it must indicate that desire or need in its initial application. [Order 75-01, § 365-37-410, filed 4/29/75.]

### PART V APPEALS FROM SPA—PLANNING SUBCOMMITTEE AND LJPO HEARING AND REVIEW COMMITTEE DECISIONS

**WAC 365-37-510 Governor's Committee as appellate forum.** (1) The Governor's Committee, in addition to performing the functions specified elsewhere in these rules, shall serve as the body which shall hear and decide appeals from actions of the Planning Subcommittee and the LJPO Hearing and Review Committee, as well as the SPA in connection with reimbursement suspensions or contract compliance issues or terminations.

(2) For the purposes of hearing appeals pursuant to this part, a quorum for a meeting of the Governor's Committee shall be a majority of the members.



(3) Where not inconsistent with the provisions of this part, the procedures and processes established for the operation of the Governor's Committee in WAC 365-31-150 through 365-31-170 shall apply to the consideration of appeals by the Governor's Committee under this part.

(4) No action of the Governor's Committee regarding an appeal shall be effective unless a minimum of eight members concur therein. [Order 76-03, § 365-37-510, filed 3/26/76; Order 76-01, § 365-37-510, filed 2/13/76.]

**WAC 365-37-520 Eligible appellants—Decisions that may be appealed.** (1) Decisions by the SPA that are appealable to the LJPO Hearing and Review Committee by eligible appellants under WAC 365-31-330, and to the Planning Subcommittee by eligible appellants under WAC 365-31-440 may be appealed to the Governor's Committee.

(2) A Subgrantee that has had its reimbursement payments suspended or contract terminated by the SPA for violation of any of the special conditions, covenants, agreements, or stipulations of such contract may appeal to the Governor's Committee the SPA's decision to suspend the reimbursement payments or terminate the contract.

(3) Any other person or entity that claims to have had a constitutional or statutory right infringed or interfered with by the SPA's suspension of reimbursement payments to a Subgrantee or termination of a contract with a Subgrantee may appeal such SPA action to the Governor's Committee. [Order 76-03, § 365-37-520, filed 3/26/76; Order 76-01, § 365-37-520, filed 2/13/76.]

**WAC 365-37-530 Notice and scheduling of appeals to Governor's Committee.** (1) An appellant must notify the LJPO Administrator of its intention to appeal to the Governor's Committee a decision made by the SPA, the LJPO Hearing and Review Committee, or the Planning Subcommittee within 15 days after the date of the decision subject to appeal. Such notice must be in writing, and must detail the application number assigned by the SPA (if applicable), the date of the action subject to appeal, what the appellant contends was the objectionable action, the remedy sought, and the reasons therefor. The time limit specified herein shall be strictly construed.

(2) Upon receipt of a notice of appeal within the time specified in WAC 365-37-530(1) the LJPO Administrator or his designee shall consult with the Chairman of the Governor's Committee and schedule a meeting of the Governor's Committee to consider such appeal: *Provided*, however, such meeting shall not be scheduled more than 45 days or less than 10 days after the date the notice of appeal was received. Immediately following the scheduling of such meeting, the LJPO Administrator or his designee shall notify, in writing, the appellant, as well as all participating in any hearing before the Planning Subcommittee or LJPO Hearing and Review Committee at which the subject appeal was previously considered, of the date, time, and location of the Governor's Committee meeting at which the appeal will be

considered. [Order 76-03, § 365-37-530, filed 3/26/76; Order 76-01, § 365-37-530, filed 2/13/76.]

**WAC 365-37-540 Submission of material to Governor's Committee for consideration in an appeal.** Any written material to be provided members of the Governor's Committee in connection with an appeal must be sent to the SPA and received by it not less than 10 days prior to the date set for consideration of such appeal to enable it to redistribute such material in a timely fashion. Material not received by the SPA by the specified date may neither be received nor considered by members of the Governor's Committee. [Order 76-01, § 365-37-540, filed 2/13/76.]

**WAC 365-37-550 Appeal consideration procedures.** (1) An appeal to the Governor's Committee shall not be considered a "contested case" under chapter 34.04 RCW.

(2) The Governor's Committee shall review the decision appealed from on the basis of the record prepared in connection with the appeal before the LJPO Hearing and Review Committee or Planning Subcommittee (if applicable) and additional presentations made to it by the appellant and the LJPO staff. Presentations to the Governor's Committee shall be made in the following order unless the Chairman directs a different order to suit the convenience of the committee or the participants in the appeal:

(a) LJPO staff presentation regarding the plan, application, project, or grant contract; the SPA action thereon, including the reasons for such action; the appellant's contentions during the Planning Subcommittee or LJPO Hearing and Review Committee's consideration (if any) of the appeal; and the decision (if any) of the Planning Subcommittee or LJPO Hearing and Review Committee;

(b) Appellant presentation;

(c) Questions from committee members and responses thereto by the LJPO staff and the appellant;

(d) Closing statements by the LJPO staff and the appellant.

(3) In any appeal from a decision of the Planning Subcommittee, LJPO Hearing and Review Committee, or SPA, the Chairman of the Governor's Committee shall have the right to limit not only the number of people making presentations or witnesses testifying upon any subject or proceeding before the Governor's Committee, but also the length of time allowed for presentations and the giving of testimony, provided sufficient testimony has been received to enable the Governor's Committee to render a fair and impartial decision.

(4) Formal rules of evidence shall not apply to the Governor's Committee's consideration of appeals from the Planning Subcommittee, LJPO Hearing and Review Committee, or SPA.

(5) No verbatim record shall be kept of the proceedings of the Governor's Committee when hearing appeals under this part; a member of the LJPO staff designated by the LJPO Administrator, however, shall record a summary of the testimony presented to the Governor's Committee as well as questions asked by committee

members and the responses given thereto. Such summary, together with the written submittals of participants in the appeal shall constitute the record of Governor's Committee proceedings in connection with the appeal. [Order 76-03, § 365-37-550, filed 3/26/76; Order 76-01, § 365-37-550, filed 2/13/76.]

**WAC 365-37-560 Governor's Committee action on appeals.** Following its consideration of the material presented to it pursuant to WAC 365-37-550(1), the Governor's Committee,

(1) In connection with an appeal of an LJPO Hearing & Review Committee decision regarding an action (implementation) project, shall

(a) Approve funding of the proposed project, with or without special conditions; or

(b) Recommend that changes be made in the application; or

(c) Deny funds requested by the application, for one or more of the reasons set forth in WAC 365-31-320(2); or

(2) In connection with an appeal of a Planning Subcommittee decision regarding a regional planning body's plan, shall

(a) Describe any special conditions to be imposed on planning jurisdictions, plans, or named projects, and either

(b) Confirm the remainder of the Planning Subcommittee's evaluation decision made regarding the regional plan and the projects described therein; or

(c) Modify the evaluation and ranking determination by assigning its own evaluation rank as described in WAC 365-31-420(2). [Order 76-03, § 365-37-560, filed 3/26/76; Order 76-01, § 365-37-560, filed 2/13/76.]

**WAC 365-37-570 Notice of Governor's Committee decision and right to appeal to Governor.** Within seven days of the Governor's Committee action on an appeal, the LJPO Administrator or his designee shall notify the appellant of the Governor's Committee action, the reasons therefor, and its opportunity to appeal the decision of the Governor's Committee to the Governor in accordance with the procedures set forth in WAC 365-37-580. [Order 76-03, § 365-37-570, filed 3/26/76.]

**WAC 365-37-580 Procedure applicable to petition to Governor for reconsideration of Governor's Committee Decision—Action by Governor on petition.** (1) The decision of the Governor's Committee pursuant to WAC 365-37-560 may be appealed to the Governor by the filing of a petition for reconsideration within 30 days after the date of such decision. Such petition shall be in writing, addressed to the Governor, and shall specify in detail the name and address of the petitioner; the application or contract number assigned by the SPA (if applicable); the history of the action subject to appeal before the SPA, Planning Subcommittee, or LJPO Hearing and Review Committee, and Governor's Committee; what the petitioner contends was the objectionable action taken by the Governor's Committee; the remedy sought; and the reasons therefor. A copy of such

petition shall be sent to the LJPO Administrator within the same period of time allowed for the petitions to be sent to the Governor. Any written argument in support of or against such petition shall be provided the Governor within 45 days after the date of the decision that is the subject of the petition for reconsideration. The time limits specified herein shall be strictly construed.

(2) Upon receipt of the copy of the petition for reconsideration, the LJPO Administrator shall provide to the Governor a copy of the record of the Governor's Committee consideration and action on the matter subject to the petition.

(3) Following the examination by the Governor of the record in the matter and consideration of submitted written argument, the written decision of the Governor and the reasons therefor shall be prepared and delivered or mailed to the petitioner, the Governor's Committee Chairman, and the SPA Director. [Order 76-03, § 365-37-580, filed 3/26/76.]

### Chapter 365-41 WAC

#### REGULATIONS REGARDING ADVANCED FINANCIAL SUPPORT PAYMENTS FOR THE CONDUCT OF PUBLIC TRANSPORTATION FEASIBILITY STUDIES

##### WAC

365-41-010	General purpose and applicability.
365-41-015	Definitions.
365-41-110	Application for advanced financial support payment.
365-41-120	Agency response to application.
365-41-130	Conditions of advanced financial support payments.
365-41-200	Required elements of feasibility study.
365-41-210	Geographical extent.
365-41-220	Identification of related transportation operations.
365-41-230	Estimation of need.
365-41-240	Alternative management schemes.
365-41-250	Alternative funding sources.
365-41-300	Submission of feasibility study to agency.
365-41-310	Submission of municipal resolution to agency.
365-41-320	Submission of municipal ordinance levying and collecting taxes to agency.

**WAC 365-41-010 General purpose and applicability.** (1) Purpose. These regulations are to assist municipalities in determining the extent of residents' needs for public transportation and feasible, viable and suitable means of serving the needs through studies. The studies are intended to lead to informed decisions by municipal legislative bodies relating to their undertaking public transportation activities.

(2) Applicability. These regulations apply to all cities, towns, and counties not associated with county transportation authorities created pursuant to chapter 36.57 RCW, public transportation benefit areas created pursuant to chapter 36.57A RCW, or metropolitan municipal corporations created pursuant to chapter 35.58 RCW performing the function of metropolitan public transportation, all metropolitan municipal corporations created pursuant to chapter 35.58 RCW and authorized to perform the function of metropolitan public transportation, all county transportation authorities created pursuant to chapter 36.57 RCW, and all public transportation benefit areas created pursuant to chapter

36.57A RCW, which have not received an advanced financial support payment to develop a plan pursuant to RCW 36.57A.150. [Order 77-04, § 365-41-010, filed 8/10/77.]

**WAC 365-41-015 Definitions.** (1) "Agency" means the Washington state planning and community affairs agency.

(2) "Director" means the director of the agency and any persons to whom said director has delegated powers and duties under the act and these regulations.

(3) "Land area" means the territory, measured to the nearest tenth of a square mile or square kilometer, located within the corporate boundaries of the applicant municipality.

(4) "Municipality" means any city, town or county not associated with a county transportation authority created pursuant to chapter 36.57 RCW, public transportation benefit area created pursuant to chapter 36.57A RCW, or a municipal corporation created pursuant to chapter 35.58 RCW performing the function of metropolitan public transportation, any metropolitan municipal corporation created pursuant to chapter 35.58 RCW authorized to perform the function of metropolitan public transportation, any county transportation authority created pursuant to chapter 36.57 RCW, or any public transportation benefit area created pursuant to chapter 36.57A RCW, which has not received an advanced financial support payment to develop a plan pursuant to RCW 36.57A.150.

(5) "Population" means the number of residents as shown by the figures released for the most recent official state, federal, or county census, or population determination made by the office of program planning and fiscal management.

(6) "Public transportation services" means scheduled or demand-response service by any type of vehicle on land or water to transport any or all classes of people using either contracted private or public equipment and/or the municipality's own equipment. [Order 77-04, § 365-41-015, filed 8/10/77.]

**WAC 365-41-110 Application for advanced financial support payment.** (1) Eligible applicants. Any municipality is eligible to receive a one-time advanced financial support payment from the agency upon submission to the agency of an application containing the information specified in subsection (2) hereof.

(2) Contents of application. No particular form is hereby specified for an application for an advanced financial support payment. The application for such payment, however, must be addressed to the director, signed by the chief executive officer of the municipality, and include the following information and related materials:

(a) A copy of a minute entry or resolution of the municipality authorizing or directing that body, or a designated individual acting for that body, to apply for such payment;

(b) The amount of land area;

(c) An estimate of the population of the municipality;

(d) A proposed budget indicating, at a minimum, the following information;

(i) Proposed expenditures by the following objects; Salaries and wages, personal services contracts, goods and services, travel, equipment, employee benefits, and capital outlays;

(ii) Full time equivalent (FTE) staff years; and

(iii) Budget period and anticipated period of planning project, if different. [Order 77-04, § 365-41-110, filed 8/10/77.]

**WAC 365-41-120 Agency response to application.**

The agency shall respond to applications on a "first-come, first-served" basis so that state biennial budget constraints can be observed. Therefore, upon receipt on an application for an advanced financial support payment, the agency shall:

(1) Determine whether or not the application contains or includes all of the information or material required by WAC 365-41-110(2). In the event an application is incomplete, the applicant shall be notified within seven days of receipt of such application by the agency, of the application's deficiencies and that further agency processing of the application is being suspended until the agency receives a properly completed application;

(2) Determine the most recent official office of program planning and fiscal management population of the applicant; and

(3) Allocate for distribution to the applicant as the maximum advanced financial support payment one thousand five hundred dollars plus the product of one dollar times the sum of one-tenth the applicant's population and the applicant's nonfederally owned land area: *Provided, however,* That under no circumstances will the amount allocated exceed the sum of thirty-five thousand dollars per applicant. [Order 77-04, § 365-41-120, filed 8/10/77.]

**WAC 365-41-130 Conditions of advanced financial support payments.** (1) Payment constitutes a loan. Funds received by municipalities as advanced financial support payments constitute loans. Such a loan shall be repaid to the agency by the recipient thereof not later than two years after the date such recipient received the advanced financial support payment: *Provided, however,* That repayment shall not be necessary in the event the study is completed within one year after the date such advanced payment was received; within six months of its receipt of the study and its recommendations, the municipal legislative authority passes a resolution adopting or rejecting all or part of the study; a copy of the resolution is transmitted to this office within one week of its adoption; and if the municipal legislative authority or the voters in such municipality do not elect to levy and collect taxes to support public transportation within two years after the date such advanced financial support payment was received.

(2) Obligation to perform a feasibility study. Following receipt of the advanced financial support payment, the municipality shall undertake and complete a feasibility study that meets the specifications contained in WAC 365-41-200 through 365-41-250, as well as specifications adopted by the office subsequent to receipt

of such payment by a recipient. [Order 77-04, § 365-41-130, filed 8/10/77.]

**WAC 365-41-200 Required elements of feasibility study.** A feasibility study prepared pursuant to section 6, chapter 44, Laws of 1977 1st. ex. sess.; and WAC 365-41-130(2) shall, as a minimum, contain the elements described in WAC 365-41-210 through 365-41-250. Based upon the elements described in WAC 365-41-210 through 365-41-250, the study shall reach definite conclusions regarding the feasibility, viability and suitability of public transportation services. A conclusion that public transportation services are not feasible, viable or suitable is acceptable if supported by the study. [Order 77-04, § 365-41-200, filed 8/10/77.]

**WAC 365-41-210 Geographical extent.** The feasibility study shall encompass the transportation needs of the population of the municipality and the population of the territory within fifteen miles of the recipient municipality's corporate boundary. [Order 77-04, § 365-41-210, filed 8/10/77.]

**WAC 365-41-220 Identification of related transportation operations.** (1) The feasibility study shall identify any existing public or private transportation operations and affiliated facilities within the area encompassed in WAC 365-41-210; such identified operations shall include, at a minimum, the following:

- (a) Taxicab or jitney service;
- (b) Auto transportation companies holding and operating pursuant to certificates of public convenience and necessity from the Washington utilities and transportation commission;
- (c) Municipally operated public transit service;
- (d) School pupil transportation; and
- (e) Specialized transportation service for elderly, handicapped, or otherwise disadvantaged persons.

(2) The feasibility study shall identify the numbers of persons transported annually by, the individual passenger tariff schedules of and the fixed routes used by the operations cited in WAC 365-41-220(1). [Order 77-04, § 365-41-220, filed 8/10/77.]

**WAC 365-41-230 Estimation of need.** (1) The feasibility study shall estimate the number of persons who would use public transportation service, if one were available for use within the municipality. In estimating this number, the municipality shall use the questionnaire technique, soliciting opinions and information from at least five percent of the municipality's residents and businesses.

(2) The feasibility study shall identify the most likely places of trip origin and destinations, including employment centers, employing more than fifty persons, governmental facilities and shopping centers with five or more commercial establishments.

(3) The feasibility study shall suggest a number of means to provide public transportation service and recommend the most feasible, viable and suitable, if any. [Order 77-04, § 365-41-230, filed 8/10/77.]

**WAC 365-41-240 Alternative management schemes.** The feasibility study shall detail at least two alternative organizational management schemes for operating a public transportation service. Such schemes shall consider alternative municipal organizations authorized by state law, and examine possible contractual relationships and/or municipal managerial organizational charts. [Order 77-04, § 365-41-240, filed 8/10/77.]

**WAC 365-41-250 Alternative funding sources.** The feasibility study shall identify alternative federal, state and local funding sources for subsidizing public transportation services. [Order 77-04, § 365-41-250, filed 8/10/77.]

**WAC 365-41-300 Submission of feasibility study to agency.** A municipality shall assemble into a single written document all of the material prepared by it pursuant to WAC 365-41-200 and transmit such material to the agency and to its legislative body within thirteen months of the municipality's receipt of the advanced support payment. [Order 77-04, § 365-41-300, filed 8/10/77.]

**WAC 365-41-310 Submission of municipal resolution to agency.** A municipality shall transmit a copy of its legislative resolution adopting or rejecting all or part of the study within seventeen months of its receipt of the advanced support payment. [Order 77-04, § 365-41-310, filed 8/10/77.]

**WAC 365-41-320 Submission of municipal ordinance levying and collecting taxes to agency.** In the event a municipality elects to levy and collect any tax to support public transportation, it shall transmit a copy of its ordinance implementing such tax to the agency within one week of its adoption by the municipal legislative body. [Order 77-04, § 365-41-320, filed 8/10/77.]

#### Chapter 365-42 WAC

#### REGULATIONS REGARDING FINANCIAL SUPPORT TO PRIVATE, NONPROFIT CORPORATIONS FOR CAPITAL ASSISTANCE IN PROVIDING TRANSPORTATION FOR THE ELDERLY AND HANDICAPPED

##### WAC

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**WAC 365-42-010 Definitions.** (1) Unless the language or context indicates that a different meaning is intended, the following terms, and phrases shall, for the purpose of this order, be given the meaning hereafter subjoined to them:

(2) "Agency" shall mean the Washington state planning and community affairs agency;

(3) "Applicant" shall mean any private, nonprofit corporation making application to the agency for funding under the program;

(4) "Contract" shall mean the written agreement entered into by the applicant and the agency for purposes of securing equipment under the rules and regulations of the program;

(5) "Contractor" shall mean any applicant accepted into the program under the terms of the program, that signs a contract of agreement to that effect with the agency;

(6) "Elderly" shall mean all individuals aged sixty years or older.

(7) "Equipment" shall mean vehicles, hydraulic lifts (to be mounted upon appropriately modified vehicles), and FM communication equipment to be used for the provision of direct transportation service to the elderly and handicapped.

(8) "Handicapped" shall mean all individuals who, by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, are unable without special facilities or special planning or design to utilize mass transportation facilities and services as effectively as persons who are not so affected. Handicapped people include:

(a) Ambulatory persons whose capacities are hindered by sensory disabilities such as blindness or deafness; mental disabilities such as mental retardation or emotional illness; physical disabilities which still permit the person to walk comfortably; or a combination of these disabilities;

(b) Semiambulatory persons who require special aids to travel such as canes, crutches, walkers, respirators, or human assistance; and

(c) Nonambulatory persons who must use wheelchairs or wheelchair-like equipment to travel.

(9) "Private, nonprofit corporation" shall mean corporations, and any community chest, fund, foundation, civic league, or other organizations not organized for profit but operated exclusively for the promotion of social welfare, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of

statements) any political campaign on behalf of any candidate for public office. Such organizations shall include as members of their clientele, handicapped and elderly individuals as defined in WAC 365-42-010.

(10) "Program" shall mean the federal capital subsidy grant program authorized under section 16(b)(2) of the Urban Mass Transportation Act of 1964, as amended.

(11) "UMTA" shall mean the urban mass transportation administration of the United States department of transportation. [Order 77-02, § 365-42-010, filed 8/19/77, effective 9/19/77.]

**WAC 365-42-020 Program description.** (1) The program is an UMTA funded grant program that offers capital assistance to states in the form of purchase funds only, to provide equipment for use by nonprofit corporations who provide service to elderly and handicapped persons when existing mass transportation services are unavailable, insufficient, or inappropriate. The cost of the program is shared, with:

(a) The federal share being eighty percent of the total cost, and

(b) The participant share being twenty percent of the total cost. The twenty percent share must be met with cash, the source of which can not be federal, state, or municipal funds.

(2) The program will be administered in the state by the agency, as designated by the governor.

(3) The agency will be responsible for coordinating, administering, monitoring, and publicizing the program and for performing other functions deemed necessary and appropriate.

(4) All questions regarding administration and operation of the program will be referred to the agency for resolution. The agency will decide upon such issues within the guidelines provided by UMTA. [Order 77-02, § 365-42-020, filed 8/19/77, effective 9/19/77.]

**WAC 365-42-030 Purpose.** (1) The purpose of the program is to supplement existing public transportation services for the elderly and handicapped by supporting private, nonprofit organizations by making available direct federal subsidies for the purchase of capital equipment such as vehicles, hydraulic lifts (mounted upon modified vehicles), and for communication equipment to be used exclusively by the elderly and handicapped to improve their transportation opportunities.

(2) The purpose of these rules is to provide the program description and criteria necessary for the agency to administer and monitor the program and its impact upon elderly and handicapped transportation needs. [Order 77-02, § 365-42-030, filed 8/19/77, effective 9/19/77.]

**WAC 365-42-100 Program period.** (1) The beginning date of each individual applicant's participation in the program will be the effective date of the signed contract between the applicant and the agency. The termination of the applicant's participation shall be whenever:

(a) The equipment provided through the program is fully depreciated; and for the purposes of depreciation, the useful life of equipment shall be:

(i) Five years for equipment costing less than thirty thousand dollars and purchased pursuant to the program; and

(ii) Ten years for equipment costing more than thirty thousand dollars and purchased pursuant to the program;

(iii) If the useful life of the equipment is otherwise defined, documentation supportive of this must be provided as proof to the agency.

(b) The proportionate federal share of the insurance proceeds, if the equipment is a total loss, or of the value of such equipment is returned to the agency; or

(c) The program contract is terminated, whichever is earlier.

(2) At the end of useful life, and upon notification to the agency and UMTA, the equipment shall become the sole property of the contractor, and such contractor shall be under no further obligation to refund to UMTA any amount of the federal funds utilized to assist in the purchase of such program equipment. [Order 77-02, § 365-42-100, filed 8/19/77, effective 9/19/77.]

**WAC 365-42-110 Qualification criteria.** To establish their qualifications for the program, the applicant organizations shall meet the following criteria:

(1) The applicant shall be a private, nonprofit organization meeting the requirements defined by sections 501(c)(3) and (4) of the United States Internal Revenue Service Code. Certification of nonprofit classification shall be provided by means of:

(a) A copy of the determination letter from the internal revenue service; or

(b) A copy of the application for determination to the internal revenue service; and

(c) A copy of the most recent annual report as legally required, to be made to the secretary of state of Washington.

(2) The applicant organization shall be serving the needs of the elderly and/or handicapped. Applicants shall provide certification supporting their proposed service from local social service planning agencies that indicates that such proposed service is in concert with relevant existing county plans.

(3) Where public transportation is available, the applicant shall provide certification that the existing public transportation system can not provide the necessary service within a period of two years.

(4) The applicant shall provide proof of eligibility to insure drivers and equipment.

(5) The applicant shall provide certification that it has available the necessary resources to produce the twenty percent hard matching funds, and to implement and operate the service at the prescribed levels.

(6) The applicant shall provide evidence that it has satisfactory control over the operation or use of the requested equipment.

(7) The applicant shall provide certification assuring compliance with Title VI of the Civil Rights Act of 1964.

(8) In areas served by other private, nonprofit organizations holding certificates of convenience and necessity issued by the Washington utilities and transportation

commission, the applicant shall provide certification that the current holders of the certificate can not provide the requested service. [Order 77-02, § 365-42-110, filed 8/19/77, effective 9/19/77.]

**WAC 365-42-200 Application procedures.** To apply for consideration within the program, the applicant shall submit the following information:

(1) The legal name of the applicant, its mailing address, business phone number, and the name of the project director;

(2) A description delineating the geographic service area of the proposed service;

(3) A description of the number and characteristics of the client market and demand;

(4) A description of the shortcomings associated with existing services and how the new service will overcome them;

(5) A description of how transportation is currently being provided to elderly and/or handicapped clients by the applicant, as well as by other private, nonprofit organizations serving the same geographic service area;

(6) A description of the benefits to be derived from the proposed service by the elderly and/or handicapped;

(7) A description of the number and type of vehicles to be provided;

(8) A description of the type of transportation service to be provided;

(9) A description of how the equipment is intended to be used (i.e., replace existing vehicles, add to existing fleet, start new service);

(10) A description identifying any plans to combine and/or coordinate with existing public transportation services;

(11) A description of the specific sources and amounts of resources anticipated to be used to finance the operating costs of the equipment. The description shall reflect estimates for drivers' salaries, insurance, fuel and maintenance, and should cover the next two years of operations;

(12) A description identifying any plans and describing all efforts to combine and/or coordinate with private-for-profit operators; and

(13) Evidence that the applicant meets all the relevant qualification criteria identified in WAC 365-42-110.

Guidelines to assist the applicant in preparing the application shall be produced by the agency and made available to potential applicants upon request to the agency commencing January 1, each year. The deadline for receiving eligible applications shall be the 15th of April of each year. [Order 77-02, § 365-42-200, filed 8/19/77, effective 9/19/77.]

**WAC 365-42-210 Evaluation of applications.** The evaluation mechanism designed for the program, and to be used in the selection process, shall consist of the following:

(1) A four person panel shall review and rate each of the application requests. The panel shall consist of one representative from the agency; one representative selected by the agency; one representative from the state office on aging, department of social and health services;



and one representative serving on behalf of private, non-profit organizations serving handicapped persons; and

(2) A rating process that will rely upon the evaluation of each application by the evaluation panel. Each member of the panel shall review each application individually. Five criteria shall be used for the purpose of the rating process and each application shall be rated on the following scale for each criteria: 3 – Excellent; 2 – Good; 1 – Adequate; 0 – Poor. Each application shall therefore have five separate ratings from each panel member; one rating each based upon how well the applicant meets each of the following criteria as determined by each panel member:

(a) How much previous experience the applicant has in providing transportation to the elderly and/or handicapped. (Criteria 1)

(b) How much cooperative planning and coordination has been done by the applicant with other private, non-profit service organizations, and other transportation providers serving the elderly and/or handicapped in the same geographic area. (Criteria 2)

(c) How secure the fiscal capability of the applicant is to maintain proposed service levels for two years. (Criteria 3)

(d) How relevant and consistent the proposed service is to existing government-sponsored programs serving the same client groups. (Criteria 4)

(e) What level and volume of service is proposed by the applicant in the application. (Criteria 5);

(3) Weights assigned to each of the criteria identified in WAC 365-42-210(2) to measure the relative importance of each in the evaluation process. The weights assigned shall be percentages that when summed total to one hundred percent. The weights for each criteria are as follows:

(a) Criteria 1 – 10%

(b) Criteria 2 – 25%

(c) Criteria 3 – 15%

(d) Criteria 4 – 20%

(e) Criteria 5 – 30%

(4) A weighting process that permits ranking the applications. At the conclusion of the rating process, the agency shall compute a mean value for each criteria for each application. This mean shall vary between zero and three. For each application the mean rating score shall be multiplied with the assigned weight and the product for each criteria will be summed for each application. This final sum shall be divided by three to produce a score between zero and one hundred. The resultant score of each application, when compared to the others, shall provide the means for ranking the applicants;

(5) Selection of the preliminary candidates for the program shall depend upon the score each receives in the evaluation process. All scores of sixty or higher shall be considered as preliminary candidates for funding;

(6) The agency shall be responsible for contacting the relevant agencies and coordinating the selection of the evaluation panel members. [Order 77-02, § 365-42-210, filed 8/19/77, effective 9/19/77.]

**WAC 365-42-220 Coordination.** Based upon their evaluation score, the preliminary candidates for the program will be selected. Final selection of applicants shall depend upon the successful completion of the following coordination activities:

(1) The agency shall arrange for a public meeting for each application. At these meetings the applicant shall describe the services proposed to meet the special needs of the elderly and/or handicapped within the identified geographic service area. All private transit and paratransit operators within the service area shall be invited to the hearing and shall have opportunity to comment upon the proposed services. A quorum (three) of the evaluation panel shall be present to monitor the proceedings of the meetings.

(2) The agency shall comply with state agency A-95 Review procedures pursuant to state agreements and federal regulations.

(3) Program projects in the Seattle, Everett, Tacoma, Vancouver, Spokane, Yakima, and the Tri-Cities areas shall be included as an annual element of the transportation improvement program. Such projects shall meet all the requirements of the UMTA/Federal Highway Administration joint planning and programming regulations. The applicant shall notify the appropriate designated Metropolitan Planning Organization of their intent to apply. In the event the Metropolitan Planning Organization shall fail to include the proposed applicant in the regional transportation improvement program, such application shall be eliminated from further consideration.

(4) A transportation development program shall be prepared for proposed service areas for all program applicants located in all other areas of the state. The principal responsibility for preparing such program shall reside with the operating public transit system. Where no public transit system is operating, the agency, in consultation with local agencies, shall participate directly in the development of this program.

(5) All applicants shall apply for and must receive a Certificate of Convenience and Necessity from the Washington utilities and transportation commission pursuant to RCW 81.68.040 and WAC 480-30-030.

(6) If major conflicts develop involving any of the above processes, their resolution shall be the responsibility of the applicant. The agency shall be available to advise and coordinate the resolution process. [Order 77-02, § 365-42-220, filed 8/19/77, effective 9/19/77.]

**WAC 365-42-230 Selection.** At the completion of the evaluation process, the selection of the applicants to receive the grants shall be made. Selection shall be made based upon the following:

(1) Applicant achieving the minimum score in the weighting process (WAC 365-42-210(5));

(2) Applicant successfully completing all aspects of the application process; and

(3) Applicant receiving approval from a majority of the evaluation panel membership.

Upon acceptance of an individual applicant's request, the agency shall notify, in writing, the applicant of its

acceptance. [Order 77-02, § 365-42-230, filed 8/19/77, effective 9/19/77.]

**WAC 365-42-240 State application.** Upon completion of the selection process, the agency, in accordance with UMTA guidelines, shall prepare a state-wide application for submittal to UMTA. Such application shall include the application of each successful applicant and will be the aggregate of the state's request. [Order 77-02, § 365-42-240, filed 8/19/77, effective 9/19/77.]

**WAC 365-42-300 Contract.** Upon acceptance by UMTA of the state application, each applicant shall enter into a contract arrangement with the agency. Such Contract shall as a minimum detail:

- (1) Responsibilities of the applicant and the agency;
- (2) The funding involved;
- (3) The specifications of the equipment requested; and
- (4) The term of the agreement. [Order 77-02, § 365-42-300, filed 8/19/77, effective 9/19/77.]

**WAC 365-42-310 Surplus funds.** Should there be funds in a given contract year above and beyond the total allocated to that year's contractors, the agency shall make such funds available under the following conditions:

- (1) Only contractors holding contracts for the same year as the funds are available shall be eligible to apply for the additional funds;
- (2) The agency shall notify the contractors, in the order of their priority determined by the evaluation process, of the additional funding. The contractors shall notify the agency in writing of their wish to use the additional funds;
- (3) The notification process of the agency shall continue until all the funds have been allocated or until all eligible contractors have been notified and have responded. [Order 77-02, § 365-42-310, filed 8/19/77, effective 9/19/77.]

**WAC 365-42-320 Equipment purchasing.** (1) The equipment specifications may be submitted by the contractor and shall be subject to review by the agency, and where discrepancies occur, their resolution shall be determined by the agency.

(2) The purchase of all program equipment pursuant to the contract shall be undertaken by the agency on behalf of the contractor through the agency's purchasing agent, the state department of general administration, in accordance with applicable state law and procedures and the standards set forth in Federal Management Circular 74-7, Attachment "O". [Order 77-02, § 365-42-320, filed 8/19/77, effective 9/19/77.]

**WAC 365-42-330 UMTA interest.** The financial interest of UMTA in the program equipment shall be equivalent to the useful life of the equipment as defined in WAC 365-42-100(1). [Order 77-02, § 365-42-330, filed 8/19/77, effective 9/19/77.]

**WAC 365-42-340 Equipment acceptance.** The contractor shall inspect upon delivery the program equipment purchased pursuant to the contract. Upon receipt and acceptance of the program equipment, the contractor agrees that it shall be conclusively presumed, as between the agency and the contractor, that the contractor has fully inspected and acknowledged that such equipment is in good condition and repair, and that the contractor is satisfied with such equipment. Such acceptance of program equipment shall be acknowledged in writing to the agency identifying the date and specifying the equipment. [Order 77-02, § 365-42-340, filed 8/19/77, effective 9/19/77.]

**WAC 365-42-350 Vehicle registration and licensing.** Upon acceptance of the program equipment, registration and licensing will be subject to existing state laws.

(1) The contractor shall register for title purposes and maintain appropriate licensing for all program equipment during the term of the program.

(2) Title to the program equipment shall be in the name of the contractor and shall contain the notation: "This vehicle was purchased in part with federal funds." [Order 77-02, § 365-42-350, filed 8/19/77, effective 9/19/77.]

**WAC 365-42-360 Equipment use.** Program equipment shall be used for the exclusive provision of transportation service to the elderly and/or handicapped. Such service shall:

(1) Be confined to a geographical area approved by the evaluation panel and delineated by the Certificate of Convenience and Necessity, as defined in WAC 480-30-030; and

(2) In emergency situations, beyond such geographical area, subject to individual trip approval by the Washington utilities and transportation commission. The contractor shall notify the agency, in writing, of any such emergency trip within seven days after its occurrence. [Order 77-02, § 365-42-360, filed 8/19/77, effective 9/19/77.]

**WAC 365-42-370 Maintenance.** (1) The contractor shall, at its own expense, maintain the program equipment and facilities at a high level of cleanliness, safety, and mechanical soundness, reasonable wear and tear expected.

(a) Detailed maintenance and inspection schedules will be provided for each vehicle and related equipment by the equipment manufacturer when available; and

(b) Each contractor shall provide certification that the equipment shall be maintained in accordance with such schedules.

(2) Failure on the part of the contractor to maintain proper maintenance schedules shall result in the withdrawal of UMTA financial support to the contractor and the termination of the contractor's participation in the program. [Order 77-02, § 365-42-370, filed 8/19/77, effective 9/19/77.]

**WAC 365-42-380 Inspections.** The contractor shall permit the agency, the comptroller general of the United States, and/or the secretary of the United States department of transportation, or their authorized representatives, to enter upon the contractor's premises and to inspect any and all program equipment, and all relevant program data and records. Such inspections shall include auditing the books, records, and accounts of the contractor pertaining to the program to confirm the existence, condition, and proper maintenance of the program equipment.

The agency shall carry out unscheduled, on-site inspections to examine operations of individual contractors. [Order 77-02, § 365-42-380, filed 8/19/77, effective 9/19/77.]

**WAC 365-42-390 Reports.** The contractor shall keep satisfactory written records with regard to the use of project equipment and shall submit the following reports to the agency:

(1) Monthly reports shall be prepared describing the current usage of program equipment. Such reports shall include the number of rides provided, miles traveled, hours of equipment usage, details concerning all repairs and preventive maintenance performed on the program equipment and other data deemed relevant by the agency and by UMTA. Such reports shall be of a form designated by the agency, and the form shall be made available to the contractor.

(2) An annual certification that the program equipment is being used in the manner defined by the contract.

(3) In the event any portion of the program equipment is damaged and the repair of such damage will cost one hundred dollars or more, the contractor shall notify the agency within seven days after the occasion of the damage including the circumstances thereof. Such report shall include the contractor's intention regarding repairs to the equipment, and certification that such repairs are being made.

(4) If the program equipment is not used in the prescribed manner, but is used in a manner not provided for in the contract, or is withdrawn from transportation service, the contractor shall immediately notify the agency, and shall dispose of such equipment in accordance with UMTA procedures and as directed by the agency.

(5) The contractor shall prepare a policy statement specifying how it shall determine the eligibility of the public to use the program equipment. Such policy statement shall include a means by which the contractor shall prioritize use of such equipment. Such policy statement shall describe the screening process to be used to determine eligibility to use the program equipment. Such policy statement shall be submitted to the agency for approval by September 1 of the year when operations are initiated with program equipment, or within thirty days of receipt of such equipment. All proposed changes to such policy statement shall be submitted to the agency in writing, and shall be subject to the approval of the agency.

(6) The contractor shall also submit to the agency upon request such other information as the agency requires to assure compliance with the contract and with reporting requirements imposed on the agency by UMTA. [Order 77-02, § 365-42-390, filed 8/19/77, effective 9/19/77.]

**WAC 365-42-410 Insurance.** (1) The contractor, at its own expense, shall obtain automobile liability insurance providing the following minimum coverage:

(a) One hundred thousand dollars per person, three hundred thousand dollars per accident for bodily injury, and fifty thousand dollars per accident for property damage; or

(b) An "umbrella" policy providing at least comparable coverage.

(2) The insurance policy shall name the contractor as insured, and it may not be cancelled or altered without at least thirty days prior written notice to the agency and to the contractor. In the event of damage to the program equipment the following situations apply:

(a) If the damage to equipment is not a total loss, payments made for damage shall be paid directly to the contractor;

(b) If the equipment is a total loss, the insurance proceeds shall be paid directly to the agency; and

(c) If the loss occurs under circumstances in which the contractor is not in violation of the terms of the policy, and if the contractor has otherwise fulfilled its obligations under its contract, the agency will either pay to the contractor its proportionate share of any such insurance proceeds received by the agency as the result of such loss or shall take such other action with respect to such proceeds as UMTA shall allow under the circumstances. [Order 77-02, § 365-42-410, filed 8/19/77, effective 9/19/77.]

**WAC 365-42-420 Indemnity.** The contractor shall protect, indemnify, and save the state harmless from and against any damage, cost, claim, cause of action, proceeding, or liability, including legal expense, for injury or death to persons, as to damage or destruction of property, or otherwise, arising from the use, maintenance, and operation of the program equipment by the contractor, or its employees or contractors. [Order 77-02, § 365-42-420, filed 8/19/77, effective 9/19/77.]

**WAC 365-42-430 Risk of loss or damage.** The contractor shall assume all risk of loss and damage to the program equipment from any cause. In the event of loss or damage to the program equipment, the contractor, at the option of the agency, shall:

(1) Place the same in good repair; or

(2) Replace the same with like program equipment in good repair, which program equipment shall thereupon become subject to the contracted agreement; or

(3) Return the program equipment to the agency for its disposal, assign the title of the program equipment at the agency's option, and terminate the contract arrangement. [Order 77-02, § 365-42-430, filed 8/19/77, effective 9/19/77.]

**WAC 365-42-440 Disposal of equipment.** (1) In the event that UMTA, the agency, or the contractor should choose to terminate a contract, the program equipment directly associated with that contract shall be disposed of in accordance with Federal Management Circular 74-7, Attachment "N". The relevant equipment shall be disposed of in the following order of priority:

- (a) Fourth party contractors and assignees, if any, that are currently serving the same clientele;
- (b) Other program recipients serving the same local community;
- (c) Other program recipients serving the same county;
- (d) Other program recipients operating in the state;
- (e) Other UMTA grant recipients operating in the state;
- (f) Recipients of grants from other federal agencies operating in the state.

(2) If the state has no further need for the equipment in any of its federal grant programs, the property may be used by the state for its own official activities in accordance with procedures outlined in Federal Management Circular 74-7, Attachment "N", section 4, a, (2)(a) and the following.

The benefitting organization shall compensate the original contractor by reimbursing it with an amount equal to twenty percent of its fair market value. [Order 77-02, § 365-42-440, filed 8/19/77, effective 9/19/77.]

**WAC 365-42-510 Accounting records.** The contractor shall establish and maintain, in accordance with requirements established by the agency or good accounting practice, separate accounts for the program, either independently or within its existing accounting system, to be known as the project account.

(1) All charges to the project account shall be supported by properly executed invoices, contracts, or vouchers evidencing in proper detail the nature and propriety of the charges, in accordance with the rules of proper accounting practice.

(2) Any check or order drawn by the contractor with respect to any item which is or will be chargeable against the project account shall be drawn only in accordance with a properly signed voucher then on file in the office of the contractor stating in proper detail the purposes for which such check or order is drawn.

(3) All checks, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to the program shall be clearly identified, readily accessible, and to the extent feasible, kept separate and apart from all other such documents. [Order 77-02, § 365-42-510, filed 8/19/77, effective 9/19/77.]

**WAC 365-42-610 Safety.** To ensure the continued safe use of program equipment the following conditions shall apply:

(1) The contractor shall ensure that all drivers of vehicles with a capacity rating greater than fifteen persons shall have an "intermediate endorsement" upon their drivers' licenses.

(2) The contractor shall ensure that every driver shall have successfully completed instruction equivalent to the Red Cross multi-media course for first aid training.

(3) Suitable signs shall be conspicuously posted inside the vehicle, stating that smoking will not be permitted within the vehicle.

(4) The contractor shall ensure that all program vehicles are operated in a safe, prudent manner and that all drivers comply with existing state laws regarding the operation of motor vehicles on the streets, roads, and highways of the state.

(5) All motor vehicles constituting program equipment shall comply with the motor vehicle safety standards as established by the United States department of transportation to include the following:

(a) Certification that the horsepower of the vehicle is adequate for the speed range and terrain in which it will be operating.

(b) Certification that the vehicle meets the minimum, current federal environmental protection agency air pollution standards.

(c) Certification that the vehicle is equipped with a standard, twenty-four unit first aid kit comparable to those used by the American Red Cross and subject to the approval of the agency. [Order 77-02, § 365-42-610, filed 8/19/77, effective 9/19/77.]

**WAC 365-42-710 Termination.** The contract can be terminated for the following reasons:

(1) The agency may, with the concurrence of UMTA, terminate the contract if both parties agree that continuation would not produce beneficial results commensurate with the further expenditure of funds.

(2) The agency may, by written notice to the contractor, terminate the contract for any of the following reasons:

(a) The contractor discontinues the use of the program equipment during its useful life for the purpose of providing transportation services to the elderly and handicapped;

(b) The contractor takes any action pertaining to this agreement without the approval of the agency and which under the procedures of the contract would have required the approval of the agency;

(c) The commencement, prosecution or timely completion of the program by the contractor is, for any reason, rendered improbable, impossible, or illegal;

(d) The contractor takes any affirmative action of insolvency or files any petition under any bankruptcy, reorganization, insolvency, or moratorium law, or any law for the relief of, or relating to, debtors;

(e) Any involuntary petition under any bankruptcy statute is filed against the contractor, or a receiver or trustee is appointed to take possession of the property of the contractor, unless such petition or appointment is set aside or withdrawn or ceases to be in effect within thirty days of the date of the filing or appointment;

(f) Any policy of insurance relating to program equipment agreed to be paid for by the contractor expires or is canceled or ceases to be in force according to the original terms of such insurance, or of any extension; or

(g) The contractor is in breach of any provision of the contract.

(3) Upon termination of the contract under the provisions of this section, the contractor shall dispose of the program equipment in accordance with UMTA procedures as identified in WAC 365-42-440. [Order 77-02, § 365-42-710, filed 8/19/77, effective 9/19/77.]

### Chapter 365-43 WAC

## REGULATIONS REGARDING PASS-THROUGH OF U.S. URBAN MASS TRANSPORTATION ADMINISTRATION FUNDS FOR PUBLIC TRANSPORTATION TECHNICAL STUDIES

### WAC

365-43-010	General purpose and applicability.
365-43-015	Definitions.
365-43-110	Application for technical study grant.
365-43-120	Agency response to application.
365-43-200	Application prioritization criteria.

**WAC 365-43-010 General purpose and applicability.** (1) Purpose: These regulations are to assist local public agencies not located within standard metropolitan statistical area counties in applying for funds for studies relating to public transportation. These studies are intended to assist these local public agencies in meeting U.S. Urban Mass Transportation Administration planning requirements for further federal public transportation assistance and in assessing their own needs for public transportation.

(2) Applicability: These regulations apply to all cities, towns, counties, regional councils of government authorized to conduct planning studies pursuant to RCW 35.63.070, 36.70.060, or chapter 39.34 RCW, all metropolitan municipal corporations created pursuant to chapter 35.58 RCW and authorized to perform the function of metropolitan public transportation, all county transportation authorities created pursuant to chapter 36.57 RCW, all public transportation benefit areas created pursuant to chapter 36.57A RCW, and all Indian tribes recognized by the U.S. Government, not located within standard metropolitan statistical area counties. [Order 77-03, § 365-43-010, filed 8/19/77, effective 9/19/77.]

**WAC 365-43-015 Definitions.** (1) "Agency" means the Washington state planning and community affairs agency.

(2) "Director" means the director of the agency and any persons to whom said director has delegated powers and duties under the act and these regulations.

(3) "Local public agency" means any city, town, or county not associated with a county transportation authority created pursuant to chapter 36.57 RCW, public transportation benefit area created pursuant to chapter 36.57A RCW, or metropolitan municipal corporation created pursuant to chapter 35.58 RCW performing the function of metropolitan public transportation, any metropolitan municipal corporation created pursuant to chapter 35.58 RCW authorized to perform the function of metropolitan public transportation, any county transportation authority created pursuant to chapter 36.57

RCW, any public transportation benefit area created pursuant to chapter 36.57A RCW, any regional councils of government authorized to conduct planning studies pursuant to RCW 35.63.070, 36.70.060, or chapter 39.34 RCW, or any Indian tribe recognized by the U.S. Government, not located within a standard metropolitan statistical area county.

(4) "Public transportation services" means scheduled or demand response services by any type of vehicle on land or water to transport any or all classes of people, using either contracted private or public equipment and/or the local public agency's own equipment.

(5) "Standard metropolitan statistical area county" means any county area so designated by the U.S. Bureau of Census, and, as a minimum, shall include the following counties: King; Pierce; Spokane; Snohomish; Yakima; Clark; Benton; and Franklin.

(6) "Technical study grant" means an obligation of UMTA funds by the agency to a local public agency for planning of public transportation services.

(7) "UMTA" means the Urban Mass Transportation Administration of the U.S. Department of Transportation. [Order 77-03, § 365-43-015, filed 8/19/77, effective 9/19/77.]

**WAC 365-43-110 Application for technical study grant.** (1) Eligible applicants: Any local public agency is eligible to receive a technical study grant from the agency upon submission to the agency of an application containing the information specified in subsection (2) hereof.

(2) Contents of application: No particular form is hereby specified for any application for a technical study grant. The application for such grant, however, shall be addressed to the director, signed by the chief executive officer of the local public agency, and include the following information and related materials:

(a) A copy of a minute entry or resolution of the local public agency authorizing or directing that body, or a designated individual acting for that body, to apply for such grant;

(b) A brief description of the scope of work for which such grant would be used; and

(c) An indication of the dollar amount of the grant for which the application is being made, including a twenty (20) percent matching share of local funds or in-kind services.

(3) Application period. The agency shall accept applications received only during the month of March of each year; the last date for receipt of applications shall be March 31 of each year. During the month of January of each year, the agency shall "remind" local public agencies of the application period using the Association of Washington Cities and the Washington Association of Counties newsletters and the A-95 Project Notification Process, as available. In the event the agency is notified by UMTA that funds for technical study grants are not forthcoming, the agency shall cancel the application period in the same manner in which it would "remind" local public agencies. [Order 77-03, § 365-43-110, filed 8/19/77, effective 9/19/77.]

**WAC 365-43-120 Agency response to application.** Upon receipt of an application for a technical study grant, the agency shall:

(1) Determine whether or not the applicant is eligible to receive a technical study grant pursuant to WAC 365-43-110(1). In the event an applicant is ineligible, the applicant shall be notified immediately. Further agency processing of the application shall be terminated.

(2) Determine whether or not the application contains or includes all of the information required by WAC 365-43-110(2). In the event an application is incomplete, the applicant shall be notified within seven days of receipt of such application by the agency, of the application's deficiencies and that further agency processing of the application is being suspended until the agency receives a properly completed application. Further agency processing of the application shall be terminated in the event a properly completed application is not received by April 15 of the year of application.

(3) Review the application pursuant to the criteria established in WAC 365-43-200. In the event the agency determines that the scope of work supplied by the applicant pursuant to WAC 365-43-110(2)(b) does not sufficiently meet the purposes of WAC 365-43-010(1), the agency may suggest, or ask the applicant to resubmit, a revised scope of work pursuant to WAC 365-43-110(2)(b). Further agency processing of the application shall be terminated in the event such revised scope of work is not received by April 15 of the year of application. The agency shall consider only one such revised scope of work.

(4) Evaluate the application's cost information provided for in WAC 365-43-110(2)(c). Such evaluation shall be made based upon the agency's experience in providing similar grants. The intent of such evaluation shall be to establish or verify a grant dollar amount which shall be commensurate to the work proposed to be undertaken by the applicant.

(5) Prioritize all applications based upon the criteria established in WAC 365-43-200. Only applications being processed on April 15 of the year of application shall be prioritized.

(6) Recommend to UMTA that those applications receiving highest priorities as determined pursuant to subsection (5) above be funded. Applications shall be recommended in decreasing order of such priorities until the entire UMTA technical studies grant allotment to the agency for grants to local public agencies is allocated. All applicants shall be notified of either their applications recommendation or rejection by June 1 of the year of application. [Order 77-03, § 365-43-120, filed 8/19/77, effective 9/19/77.]

**WAC 365-43-200 Application prioritization criteria.** The agency shall give first consideration to applications from local public agencies authorized to carry out physical projects and shall use the following criteria in prioritizing application from local public agencies for technical study grants:

(1) Transit development programs. The agency shall give highest priority to applications designed to culminate in a transit development program for submittal to

UMTA. Such transit development program shall consider a program period of five years and shall contain elements necessary to satisfy UMTA certification requirements.

(2) Special studies. The agency shall give second highest priority to applications seeking to plan for special projects such as: elderly and/or handicapped persons transportation and preliminary engineering for building construction.

(3) Feasibility studies. The agency shall give third priority to applications seeking to test the feasibility of a need for new public transportation services.

(4) Updates. The agency shall give last priority to applications seeking to update transit development programs within three years of the program's having been prepared through a technical study grant. [Order 77-03, § 365-43-200, filed 8/19/77, effective 9/19/77.]