

Coordinating the Planning Process with State and Local Governments

Pursuant to Executive Order for Restoring the Rule of Law and Federalism by Ensuring Coordination with State and Local Governments

1. Purpose:

This Planning Policy provides procedural guidance on how to coordinate the preparation, amendment and revision of all plans, policies and programs carried out by the Federal agencies with State and local governments.

2. Objectives:

Federal agencies are required to prepare plans for land and resource management, infrastructure, and other responsibilities as directed by Federal law. This policy ensures that Federal agencies coordinate throughout the process with State and local governments that have planning authority or special expertise for the purpose of preparing plans that are consistent with State and local objectives, plans, policies and programs.

3. Authority:

The Federal Land Policy and Management Act (FLPMA) 43 U.S.C. §§ 1701-1784, National Forest Management Act (NFMA), 16 U.S.C. §§ 1600-1614, National Environmental Policy Act (NEPA) 42 U.S.C. §§ 4321-4370e, and their corresponding regulations, as well as Presidential Executive Order [insert #] require the preparation of management plans and environmental analysis of alternatives in coordination with State and local governments. This authority includes coordination of all plans, policies and programs that require a NEPA analysis.

4. Policy:

Federal agencies shall coordinate the preparation, amendment and revision of all plans, policies and programs with State and local governments that have planning responsibilities or special expertise within the area affected by the plan, policy or program.

5. Procedures:

Phase 1: Initial Planning Phase

The goal of coordinating with State and local governments in the initial planning phase is to promptly identify any restrictions, limitations or conflicts that could affect the development of a plan and how it may be implemented. By doing this at the beginning of the planning process, potential conflicts can be identified early and addressed, therefore making the planning process more efficient and cost effective. An additional goal is to seek agreement on the fundamental principles guiding the plan so that all parties understand the plan objectives at the beginning of the process, avoiding future conflicts.

1. Notify any affected States and all local governments (counties, cities, and special districts) in the planning area in writing at least 120 days prior to initiating a formal planning process. The letter shall include:
 - a. Proposed planning criteria;
 - b. Proposed purpose and need statement;
 - c. Authority under which plan is being prepared;
 - d. A copy of Presidential Executive Order [insert#] and this Planning Policy;
 - e. Proposed timeline and process for plan preparation; and
 - f. A request for a copy of current plans, policies and programs that may be relevant to the Federal plan being developed.
2. Schedule government-to-government coordination meetings with those States and local governments that indicated in writing they will be coordinating on the plan, policy or program with the Federal agency. These meetings will be conducted in accordance with Section 2 of Presidential Executive Order [insert #].
3. Prior to the initial coordination meeting with a State or local government, the agency shall review the plans, policies and programs provided by the State or local governments, and identify any potential restrictions or conflicts that should be addressed during the Federal plan development process.
4. During the coordination meetings, the agencies will seek input from the coordinating State and local governments and work toward an agreement on:
 - a. Elements of the planning criteria;
 - b. The purpose and need statement; and
 - c. Identification of potential restrictions or conflicts that may impact the Federal plan, program or project.
5. An official record shall be kept of the discussion during and decisions made during the coordination meetings. This record may be the official minutes of the coordinating State or local government or a transcript of the meeting. The record of the coordination meetings will be considered a part of the administrative record of the Federal planning process and be accessible by the public.
6. At the end of the 120-day period, and after the agency has made a reasonable effort to reach agreement on the planning criteria, purpose and need statement, and potential planning conflicts, the agency shall publish notice in the Federal Register that it is initiating the planning process. This notice shall include:

- a. The proposed planning criteria;
- b. The purpose and need statement;
- c. Potential restrictions or limitations the plan must consider;
- d. Potential planning conflicts with state and local governments; and,
- e. Background information on the plan, policy or program being proposed, as may be required by law or agency rule.

Phase 2: Scoping

The goal of coordination with State and local governments during the scoping process is, first, to identify the objectives of States and local governments as reflected in their land and resource use plans, policies, and programs which are germane to the Federal planning decision under consideration to ensure that these objectives are considered during the planning process. In addition, coordination should be used to identify social and economic impacts that may result from the Federal agency's planning decision, including the potential impact on local economies, community values and traditions, and quality of life.

1. Once official notice of the development, revision or amendment of a plan, or initiation of a program or project has been published in the Federal Register, the agency shall begin the public scoping process and continue coordinating the plan with State and local governments.
2. As part of the scoping process, Federal agencies shall schedule follow-up government-to-government coordination meetings. During these meetings, the agency shall identify the relevant local data that should be acquired and considered during the plan development process. These include:
 - a. Local economic information;
 - b. Key industries necessary to support the local economy;
 - c. Long-range infrastructure plans such as proposed schools, water developments, fire stations, community development projects, parks, protection of historic sites, conservation plans, etc.; and,
 - d. Long-range objectives and goals of the State and local planning authorities.
3. Public scoping meetings do not replace government-to-government coordination meetings. However, the information gathered from the public process can be used to better inform the agencies and further discuss key concerns, conflicts or impacts with State and local governments during coordination meetings. This will allow Federal agencies to more efficiently identify and narrow the issues relevant for analysis and resolution.

4. Cooperating agency meetings, which are for preparing the environmental analysis, do not replace government-to-government coordination meetings where consistency between plans is met. However, State and local governments may also choose to participate in the cooperating agency process.

Phase 3: Development of Alternatives and Analysis of the Effects of the Action

The object of coordination with State and local governments during the development of alternatives and analysis of the effects of the action is to ensure that the key impacts identified by coordinating governments are carried forward in the analysis and that at least one alternative is developed that is consistent with the coordinating governments' objectives, plans, policies and programs.

1. During the development of alternatives and the analysis of how each alternative would impact the natural and human environment, agencies shall:
 - a. Identify the impacts of greatest concern to the State and local governments, understanding that their governing responsibility is to protect the health, safety and general welfare of their citizens, and they therefore may have essential information concerning the impacts on the natural and human environment.
 - i. Agencies should request a list of the significant impacts in writing from State and local governments, which shall include a brief explanation of each impact and why an analysis of each impact is important to the State and local governments; and
 - ii. The impacts identified by State and local governments should be carried forward for analysis, along with the other impacts on the natural and human environment identified by the agency, and used to compare the effects of the alternative under consideration.
 - b. Include in the draft environmental analysis a review of the land and resource use objectives, plans, policies and programs of State and local governments. The results of this review shall be disclosed and discussed in the draft environmental analysis. The review shall include:
 - i. Consideration of the objectives of State and local governments, as expressed in their plans, policies and programs;
 - ii. An assessment of the interrelated impacts of these plans, policies, and programs, including any conflicts;
 - iii. A determination of how the proposed Federal action should be modified to address the impacts identified; and
 - iv. Identification of any conflicts between the proposed action and the plans, policies and programs of State and local governments and consideration of how such conflicts can be eliminated or minimized.

- c. Work to resolve conflicts between the proposed action and the objectives, plans and policies of State and local governments. One or more alternatives shall be developed and carried forward for rigorous analysis that eliminates or minimizes conflicts between the proposed action and the plans, policies and programs of the State and local governments. This alternative shall be identified as such in the public document.
- d. Provide State and local governments with a written review document at least 60 days prior to the public comment period. If the State or a local government identifies any additional conflicts, these conflicts will be provided to the agency in writing within the 60-day period. Any additional conflicts that are identified shall be incorporated into the draft document released for public comment.
- e. When a preferred alternative is being selected, Federal agencies shall work to select an alternative that meets the purpose and need of the proposed action while eliminating or minimizing conflicts with the plans, policies and programs of the State and local governments.
- f. In alternatives where conflicts between State and local plans cannot be resolved, the public document must explain why the conflicts cannot be resolved so that the public and decisions-makers can take this into account when commenting on the different alternatives.

Phase 4: Plan Finalization Phase

The goal of coordination with State and local governments during the plan finalization phase is to harmonize the final plan and resolve any remaining conflicts between the coordinating government's plans, policies and programs and the preferred alternative.

- 1. Following completion of the final analysis of impacts on the natural and human environment and identification of the preferred alternative, the Federal agency will allow the coordinating governments 60 days to review the final plan and identify any unresolved conflicts. Included in the Federal agency's analysis should be a description of the efforts that have been made to coordinate, and a description of any conflicts between the proposed action and the plans, policies and programs of State and local governments and how such conflicts have been addressed. If a State or local government finds additional unresolved conflicts, these should be submitted to the agency in writing within the 60-day review period.
- 2. A coordination meeting should be promptly scheduled to discuss any remaining conflicts and how they may be resolved. During the meeting the agency shall:
 - a. Discuss mitigation actions that can be taken and at what stage (i.e. plan modification or plan implementation); and
 - b. Identify conflicts that cannot be mitigated and provide a reasonable explanation as to why they cannot be mitigated.

3. Both the mitigated action and the explanation of those issues that cannot be resolved must be clearly stated in the final plan that is released to the public and decision-makers for public comment.
4. All meeting minutes, written reports and other materials concerning coordination with State and local governments shall be considered a part of the formal administrative record.
5. Once the plan has been officially approved by the Federal agency, coordination shall continue with the State and local governments through the implementation phase in accordance with the Management Activities Policy.