

Chapter 136-170 WAC

EXECUTION OF A CRAB/COUNTY CONTRACT

WAC

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WAC 136-170-010 Purpose and authority. RCW 36.79.060 authorizes the county road administration board to adopt rules to implement the rural arterial program (RAP). This chapter describes the individual project contract between the county road administration board and a county (CRAB/county contract) to be used to administer each approved RAP project.

[Statutory Authority: Chapter 36.79 RCW. 99-01-021, § 136-170-010, filed 12/7/98, effective 1/7/99. Statutory Authority: RCW 36.78.070 and 36.79.060. 96-17-013, § 136-170-010, filed 8/12/96, effective 9/12/96. Statutory Authority: RCW 36.79.060. 94-16-112, § 136-170-010, filed 8/2/94, effective 9/2/94. Statutory Authority: Chapter 36.78 RCW. 84-16-065 (Order 56), § 136-170-010, filed 7/30/84.]

WAC 136-170-020 Notification of counties. The county road administration board shall, within ten days of its RAP project approval meeting, notify each county having an approved project of such approval and of the amount of RATA funds allocated to each approved project. The county road administration board shall offer a contract for each such approved project setting forth the terms and conditions under which RATA funds will be provided.

[Statutory Authority: Chapter 36.79 RCW. 99-01-021, § 136-170-020, filed 12/7/98, effective 1/7/99. Statutory Authority: Chapter 36.78 RCW. 84-16-065 (Order 56), § 136-170-020, filed 7/30/84.]

WAC 136-170-030 Terms of CRAB/county contract. (1) For projects for which RATA funds are allocated before July 1, 1995, the CRAB/county contract shall include, but not be limited to, the following provisions:

(a) The contract shall be valid and binding (and the county shall be entitled to receive RATA funds) only if such contract is signed and returned to the county road administration board within forty-five calendar days of its mailing by the county road administration board.

(b) The county certifies that it is in compliance with the provisions of chapter 136-150 WAC.

(c) The project will be constructed in accordance with the scope, design and project limits as described in the final prospectus and in accordance with the plans and specifications approved by the county engineer.

(d) The county will notify the county road administration board when a construction contract has been awarded and/or when construction has commenced, and when the project has been completed.

(e) The county road administration board will reimburse counties on the basis of monthly progress payment vouchers

received and approved on individual projects in the order in which they are received in the county road administration board office, subject to the availability of RATA funds apportioned to the region or subject to a minimum regional balance determined by the CRABoard for the purposes of cash flow; provided however, that if insufficient RATA funds are available or the legislature fails to appropriate sufficient RATA funds, payment of vouchers may be delayed or denied.

(f) The county will reimburse the RATA in the event a project postaudit reveals ineligible expenditure of RATA funds.

(2) For projects for which RATA funds are allocated on or after July 1, 1995, the CRAB/county contract shall include, but not be limited to, the following provisions:

(a) The contract shall be valid and binding, and the county shall be entitled to receive RATA funding in accordance with the vouchering/payment process as described in chapter 136-180 WAC, only if the contract is properly signed and returned to the county road administration board within forty-five calendar days of its mailing by the county road administration board.

(b) The county certifies that it is in compliance with the provisions of chapter 136-150 WAC.

(c) The project will be constructed in accordance with the scope, design and project limits as described in the final prospectus and in accordance with the plans and specifications approved by the county engineer, and, if applicable, the phased construction plan submitted by the county engineer to the county road administration board.

(d) The county will notify the county road administration board:

(i) If a single construction contract is intended to fully complete the project, at the time of project advertisement, construction contract, and when the project has been completed. Should the small works roster process be utilized, then the initial notice must occur prior to initiating the contractor selection process.

(ii) If county forces are utilized to fully complete the project, at the time of project notice, as required in RCW 36.77.070, commencement of construction activities, and when the project has been completed.

(iii) If the project applies a phased construction methodology, at those times described in a phased construction plan, consistent with subsection (3) of this section.

(e) The county road administration board will reimburse counties on the basis of monthly progress payment vouchers received and approved on individual projects in the order in which they are received in the county road administration board office, subject to the availability of RATA funds apportioned to the region; or subject to a minimum regional balance determined by the CRABoard for the purposes of cash flow; provided however, that if insufficient RATA funds

are available or the legislature fails to appropriate sufficient RATA funds, payment of vouchers may be delayed or denied. Counties are ineligible to receive RATA funded construction cost reimbursements prior to satisfaction of the initial project notice requirement described in subsection (2)(d) of this section.

(f) The county will reimburse the RATA in the event a project postaudit reveals ineligible expenditures of RATA funds.

(g) The county may be required to reimburse the RATA in the event of early termination in accordance with the provisions of chapter 136-167 WAC.

(h) The county agrees to amend the contract in cases where:

(i) Additional RATA funds have been requested and approved under chapter 136-165 WAC;

(ii) Other relief from the original scope, design or project limits has been approved by the county road administration board under chapter 136-165 WAC; or

(iii) A project has been terminated without full RATA reimbursement under WAC 136-167-030(2).

(i) The county agrees to provide periodic project development progress reports as requested by the county road administration board.

(3) Counties may implement a phased construction methodology in the completion of RATA funded projects. A phased construction methodology is described as the process to implement multiple construction contracts through competitive bid and award, contracts awarded through exercise of the small works roster process, or construction by county forces, or a combination of two or more of these three methods, in order to complete a single RATA funded project. If a county elects to use phased construction methodology, construction of at least one of the project phases must commence by the lapsing date and all remaining phases must commence within two years of commencement of the first phase. In the event the county fails to meet either of these timelines, repayment of expended RATA funds for all phases of the project will be required unless waived by the county road administration board in keeping with the provisions of this section.

(a) In order to be considered phased construction, each phase must:

(i) Be distinct, independent, and nonoverlapping construction activities as to location and type of work;

(ii) Result in separate function and utility;

(iii) Be part of related and sequential construction activities that lead to overall project completion;

(iv) Separately and collectively comply with state laws as to procurement of contract work and use of county forces; and

(v) Not be implemented in a way that would otherwise be considered a split project, as described in WAC 136-170-060, without first obtaining approval as a split project.

(b) In order to satisfy notification requirement of subsection (2)(d) of this section, a phased construction plan must be developed and submitted to the county road administration board at least fifteen calendar days prior to contract bid advertisement, beginning the selection process for a contractor through a small works roster process, or commencement of construction by county forces, whichever occurs first. The phased construction plan must:

(i) Include a description of each construction phase, the contracting method to be employed or that county forces will be used;

(ii) Include an estimated cost and begin and end dates for each construction phase; and

(iii) Describe the relationship between construction phases and ultimate completion of the overall project.

[Statutory Authority: Chapter 36.78 RCW. 11-05-005, § 136-170-030, filed 2/3/11, effective 3/6/11. Statutory Authority: Chapter 36.79 RCW. 01-05-008, § 136-170-030, filed 2/8/01, effective 3/11/01; 99-01-021, § 136-170-030, filed 12/7/98, effective 1/7/99. Statutory Authority: RCW 36.78.070 and 36.79.060. 96-17-013, § 136-170-030, filed 8/12/96, effective 9/12/96. Statutory Authority: RCW 36.79.060. 94-16-112, § 136-170-030, filed 8/2/94, effective 9/2/94. Statutory Authority: Chapter 36.78 RCW. 84-16-065 (Order 56), § 136-170-030, filed 7/30/84.]

WAC 136-170-040 Combining of CRAB/county contracts. In those cases when a county desires to combine two or more adjacent RATA funded projects into a single construction contract, the county, prior to advertising for the construction contract, or prior to commencing construction should any of the projects be scheduled for completion by county forces, must make a formal written request to the county road administration board to combine the projects into a single project, assuring that the original prospectus work will be accomplished as originally proposed or as previously revised by the county road administration board, regardless of the applicable maximum project RATA contribution.

Upon receipt of a letter of request to combine, and consideration and approval by the director of the county road administration board, a revised CRAB/county contract will be prepared and sent to the county for its execution and returned in the same manner as for the original contract(s). Projects shall be considered adjacent if they have a common terminus.

[Statutory Authority: Chapter 36.78 RCW. 09-23-044, § 136-170-040, filed 11/9/09, effective 12/10/09. Statutory Authority: Chapter 36.79 RCW. 08-16-044, § 136-170-040, filed 7/29/08, effective 8/29/08; 99-01-021, § 136-170-040, filed 12/7/98, effective 1/7/99. Statutory Authority: RCW 36.79.060. 94-16-112, § 136-170-040, filed 8/2/94, effective 9/2/94.]

WAC 136-170-050 Combining of RATA funded project with non-RATA funded project. In those cases when a county desires to combine a RATA funded project with one or more non-RATA funded projects, the county, prior to advertising for the construction contract, or prior to commencing construction should any of the projects be scheduled for completion by county forces, shall notify the county road administration board in writing of its plans to combine the projects into a single construction project, assuring in writing that the work items assigned to the RATA funded section will remain distinct and separate through the bid documents and contract plans.

Upon verification that the request is submitted in a timely manner, that the combined project will meet the conditions of the CRAB/county contract and prospectus requirements, and that RATA funded items of work will be sufficiently separated from other work, the CRAB director will respond in writing, to grant the combination.

[Statutory Authority: Chapter 36.78 RCW. 09-23-044, § 136-170-050, filed 11/9/09, effective 12/10/09. Statutory Authority: Chapter 36.79 RCW. 08-16-044, § 136-170-050, filed 7/29/08, effective 8/29/08.]

WAC 136-170-060 Splitting of CRAB/county contracts. (1) A county may split a single rural arterial trust account funded project into multiple adjacent project segments only upon written request and approval by the director of the county road administration board.

(2) The county must submit the request prior to advertising for any construction contract, or prior to commencing any construction by county forces. The request shall contain detailed information prepared by the county engineer demonstrating fulfillment of the original CRAB/county contract selected through the region's project array, including:

(a) The relationship between the original and segmented project termini;

(b) Each segment's distinct and separate utility; and

(c) The planned timing and funding for each segment.

(3) Upon receipt of the county's written request to split a RAP project, the CRAB director will consider and may approve the split.

(4) Upon such approval, a revised CRAB/county contract will be prepared, and sent to the county for its execution and returned in the same manner as for the original contract. The final contract must be fully executed prior to advertisement for contract construction, or if done by county forces, prior to commencing construction.

(5) Failure of a county to sign and return an amended CRAB/county contract within forty-five calendar days of receipt shall nullify any split requests and any other county road administration board actions associated with the split request.

(6) Construction on at least one of the split project segments must commence by the lapsing date of the original project and all remaining portions must proceed to construction within two years of commencement of the first project. In the event the county fails to meet either of these timelines, repayment of expended RATA funds for all portions of the projects will be required unless waived by the county road administration board in keeping with provisions of WAC 136-167-030.

[Statutory Authority: Chapter 36.78 RCW. 11-05-005, § 136-170-060, filed 2/3/11, effective 3/6/11; 09-23-044, § 136-170-060, filed 11/9/09, effective 12/10/09. Statutory Authority: Chapter 36.79 RCW. 08-16-044, § 136-170-060, filed 7/29/08, effective 8/29/08.]