



ate. Subsequent to a call, a priority array may be adopted. The array will be published and will list all approved applications.

Special funding programs or a special call for projects may be made by the board as funds allow.

[Statutory Authority: Chapter 47.26 RCW. 07-18-050, § 479-05-011, filed 8/30/07, effective 9/30/07.]

**WAC 479-05-012 Emergent nature project submission and limitations.** An eligible agency may request the transportation improvement board consider a project for funding outside of the normal call for projects. To be considered as emergent nature, a project must demonstrate the following:

- (1) There has been a significant change in the location or development of traffic generators in the area of the project.
- (2) The work proposed is necessary to avoid or reduce serious traffic congestion in the area of the project in the near future.
- (3) A partially funded project that, if completed, would enable a community to secure an unanticipated economic development opportunity.
- (4) Other funding sources the local agency has applied for or secured for the project.
- (5) The funding of the project would not adversely impact currently funded projects.

The agency may be asked to make a presentation to the board on the project.

[Statutory Authority: Chapter 47.26 RCW. 07-18-050, § 479-05-012, filed 8/30/07, effective 9/30/07.]

**WAC 479-05-013 Urban project transfer for completion.** If an urban project meets the criteria of both the urban arterial trust account (UATA) and transportation improvement account (TIA), the funding source for the project may be transferred from one account to the other as the board deems necessary to ensure project completion.

[Statutory Authority: Chapter 47.26 RCW. 07-18-050, § 479-05-013, filed 8/30/07, effective 9/30/07.]

**WAC 479-05-020 Six-year transportation plan.** Projects selected in the priority array must be included in the local agency's six-year transportation plan prior to receiving authorization to proceed on the project.

[Statutory Authority: Chapter 47.26 RCW. 07-18-050, § 479-05-020, filed 8/30/07, effective 9/30/07. Statutory Authority: Chapters 47.26 and 47.66 RCW. 99-24-038, § 479-05-020, filed 11/23/99, effective 12/24/99.]

**WAC 479-05-030 A registered professional engineer must be in charge.** All projects using UATA or TIA funds will be supervised by a professional engineer registered in the state of Washington.

[Statutory Authority: Chapter 47.26 RCW. 07-18-050, § 479-05-030, filed 8/30/07, effective 9/30/07. Statutory Authority: Chapters 47.26 and 47.66 RCW. 99-24-038, § 479-05-030, filed 11/23/99, effective 12/24/99.]

**WAC 479-05-040 Value engineering study requirements.** A value engineering study is required for urban projects with total cost exceeding two and one-half million dollars or when determined by the executive director to be in the best interest of the project.

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The value engineering study requirement is completed when the local agency submits the recommendation report to TIB. TIB may consider what recommendations are accepted or rejected when evaluating any funding increase or scope change request.

[Statutory Authority: Chapters 47.26 and 47.66 RCW. 08-10-012, § 479-05-040, filed 4/24/08, effective 5/25/08. Statutory Authority: Chapter 47.26 RCW. 07-18-050, § 479-05-040, filed 8/30/07, effective 9/30/07. Statutory Authority: Chapters 47.26 and 47.66 RCW. 99-24-038, § 479-05-040, filed 11/23/99, effective 12/24/99.]

**WAC 479-05-041 When a value engineering study may be waived.** If the project meets one of the following criteria, the study is automatically waived:

- (1) Project receives less than twenty percent in TIB funds; or
- (2) Project is construction only.

The executive director has the discretion to waive the value engineering study requirement if the total project cost is less than five million dollars.

The board has the discretion to waive the value engineering study requirement on any project.

[Statutory Authority: Chapter 47.26 RCW. 07-18-050, § 479-05-041, filed 8/30/07, effective 9/30/07.]

**WAC 479-05-051 Project phases.** Projects authorized by the board are divided into the following phases:

- (1) Design phase – documents that must be received prior to phase approval include:
  - (a) Signed funding status form confirming that the funding partners are fully committed;
  - (b) Page from the adopted six-year transportation plan which lists the project;
  - (c) Signed fuel tax agreement; and if applicable
  - (d) Consultant agreement (small city arterial and small city sidewalk programs only).
- (2) Bid phase – documents that must be received prior to phase approval include:
  - (a) Signed bid authorization form that contains:
    - (i) Plans and specification package;
    - (ii) Written confirmation of funding partners; and
    - (iii) Confirmation that full funding is available for the project;
  - (b) Signed confirmation that right of way is acquired or possession and use agreement is in place;
  - (c) Engineer's estimate is in final format; and if applicable:
    - (i) Consultant agreement (small city arterial and small city sidewalk programs only);
    - (ii) Certification that a cultural resource assessment was completed;
    - (iii) Traffic signal warrants.
- (3) Construction phase – documents that must be received prior to phase approval include:
  - (a) Updated cost estimate form signed by a local agency official and the project engineer;
  - (b) Bid tabulations; and
  - (c) Description of cost changes.
  - (4) Project closeout phase – documents that must be received prior to phase approval include:

- (a) Updated cost estimate form signed by a local agency official and the project engineer;
- (b) Final summary of quantities; and
- (c) Accounting history signed by a local agency official or the financial manager.

[Statutory Authority: Chapter 47.26 RCW. 07-18-050, § 479-05-051, filed 8/30/07, effective 9/30/07.]

**WAC 479-05-052 Project modification and scope change.** The executive director may approve scope changes except the following which require the board's approval:

- (1) A change in the project limits with a request for an increase in funding beyond the executive director's administrative authority in WAC 479-01-060;
- (2) Adding or decreasing through lanes;
- (3) Adding or eliminating grade separations;
- (4) Reducing limits greater than one hundred lineal feet;
- (5) Inclusion or exclusion of major project element that may be considered a scope change by the executive director; or
- (6) Changes to project components that were used to rate the project.

[Statutory Authority: Chapter 47.26 RCW. 07-18-050, § 479-05-052, filed 8/30/07, effective 9/30/07.]

**WAC 479-05-060 Methods of construction.** All construction using UATA or TIA funds shall be advertised, competitively bid and contracted, except:

- (1) Utility and railroad relocations and adjustments;
- (2) Government force work;
- (3) Work eligible from the small works roster; and
- (4) Local agencies may be otherwise exempt from bidding requirements if so authorized by an applicable statute contained in chapter 36.77, 35.22, 35.23, or 35.27 RCW.

[Statutory Authority: Chapter 47.26 RCW. 07-18-050, § 479-05-060, filed 8/30/07, effective 9/30/07. Statutory Authority: Chapters 47.26 and 47.66 RCW. 99-24-038, § 479-05-060, filed 11/23/99, effective 12/24/99.]

**WAC 479-05-080 Standard specifications.** The current edition of the *Standard Specifications for Road, Bridge, and Municipal Construction* or equivalent, will be used as the standard for construction of board funded projects.

[Statutory Authority: Chapter 47.26 RCW. 07-18-050, § 479-05-080, filed 8/30/07, effective 9/30/07. Statutory Authority: Chapters 47.26 and 47.66 RCW. 99-24-038, § 479-05-080, filed 11/23/99, effective 12/24/99.]

**WAC 479-05-100 Utility adjustments or relocations.** Utility adjustments or relocations may be reimbursed using the following criteria:

- (1) If it is a direct cost for utility adjustments that are owned by the local government;
- (2) If the utility provider owns the property in fee title; or
- (3) If the utility franchise agreement requires the local agency to pay for those utility adjustments or relocations required by state or local government.

Upgrading of utilities is not eligible for reimbursement by UATA or TIA funds.

If the proposed work will cause a significant change in scope, the agency must seek board approval.

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[Statutory Authority: Chapter 47.26 RCW. 07-18-050, § 479-05-100, filed 8/30/07, effective 9/30/07. Statutory Authority: Chapters 47.26 and 47.66 RCW. 99-24-038, § 479-05-100, filed 11/23/99, effective 12/24/99.]

**WAC 479-05-101 Railroad adjustments or relocation.** Railroad adjustments or relocations may be reimbursed using the following criteria:

- (1) TIB will reimburse the local agency for reasonable and necessary costs.
- (2) There is a direct impact within the project limits.

Improvements beyond the necessary replacement costs to mitigate the impacts of the project will not be reimbursed.

[Statutory Authority: Chapter 47.26 RCW. 07-18-050, § 479-05-101, filed 8/30/07, effective 9/30/07.]

**WAC 479-05-120 Street illumination and traffic control devices.** Traffic control devices for an approved project may be purchased and installed under RCW 35.22.620(3), 35.23.352(1), and 36.77.065(3) by:

- (1) The contractor for the construction phase of the project; or
- (2) Local agency employees.

UATA or TIA funds may be used in the costs to underground service connections for street illumination and traffic signal services within the approved project scope.

[Statutory Authority: Chapter 47.26 RCW. 07-18-050, § 479-05-120, filed 8/30/07, effective 9/30/07. Statutory Authority: Chapters 47.26 and 47.66 RCW. 99-24-038, § 479-05-120, filed 11/23/99, effective 12/24/99.]

**WAC 479-05-130 Project landscaping and aesthetic improvements.** Cost of landscaping and aesthetic improvements is limited to three percent of the total eligible authorized project costs.

- (1) Landscaping includes:
  - (a) Cost of trees, shrubs, sod, and other plant material.
  - (b) Top soil and bark.
  - (c) Irrigation and tree grates.
  - (d) Labor for installation.
- (2) Aesthetic improvement includes:
  - (a) Ornamental lighting.
  - (b) The local agency share of the cost of undergrounding of utilities.
  - (c) Public art.
  - (d) Special surfacing treatments (stamped concrete, pavers).
  - (e) Labor for installation.
- (3) Items not considered landscaping or aesthetic improvements are:
  - (a) Erosion control treatments.
  - (b) Wetland mitigation (plantings) required by federal or state regulations.
  - (c) Property restoration.

Requests for increases in landscaping and related costs are subject to WAC 479-05-201, 479-05-202, and 479-05-203. Landscaping costs in excess of the three percent limit may be paid for by funding sources other than TIB funds.

[Statutory Authority: Chapter 47.26 RCW. 07-18-050, § 479-05-130, filed 8/30/07, effective 9/30/07. Statutory Authority: Chapters 47.26 and 47.66 RCW. 99-24-038, § 479-05-130, filed 11/23/99, effective 12/24/99.]

**WAC 479-05-131 Mitigation costs and limitations.** Mitigation costs may include:

- (1) Sound walls/berms: Unless required by specific regulations, TIB will not participate in this cost.
- (2) Superfund sites: TIB funds will not participate in the cost of cleanup.
- (3) Bridges: Bridge designs exceeding the most cost effective are not eligible for participation.
- (4) Wetlands: Mitigation in excess of what is required by federal or state requirements is not eligible to be reimbursed.

UATA or TIA funds may not be used for excessive design, mitigation beyond federal or state requirements, or other unusual project features.

[Statutory Authority: Chapter 47.26 RCW. 07-18-050, § 479-05-131, filed 8/30/07, effective 9/30/07.]

**WAC 479-05-140 Acquisition of rights of way.** Right of way for board funded projects shall be acquired in accordance with chapters 8.26 RCW and 468-100 WAC. Reimbursement of right of way acquisition costs are eligible within the design phase of the project.

At bid phase, right of way acquisitions should be completed and certified. If all right of way cannot be certified, the local agency must have possession and use agreements for the remaining parcels.

[Statutory Authority: Chapter 47.26 RCW. 07-18-050, § 479-05-140, filed 8/30/07, effective 9/30/07. Statutory Authority: Chapters 47.26 and 47.66 RCW. 99-24-038, § 479-05-140, filed 11/23/99, effective 12/24/99.]

**WAC 479-05-141 What is eligible for reimbursement of right of way costs.** Only the square footage needed for the roadway is eligible to be reimbursed, unless:

- (1) It is deemed by TIB to be in the best interest of the project to purchase the entire parcel;
  - (2) An entire parcel take is required by local resolution;
- or
- (3) An uneconomic remnant will remain.

If after the completion of the project, the uneconomic remnant is sold, transferred, or rezoned to make it an economic remnant, the proceeds of any sale will be placed back in the local agency's motor vehicle fund to be used for road improvement purposes only.

In the event the project is not built, TIB funds expended for right of way may be requested to be refunded to the board.

[Statutory Authority: Chapter 47.26 RCW. 07-18-050, § 479-05-141, filed 8/30/07, effective 9/30/07.]

**WAC 479-05-170 Reimbursement of engineering costs.** Design and construction engineering costs eligible for reimbursement are limited to twenty-five percent of the approved contract bid amount, excluding special studies or right of way costs.

Surveying and materials testing costs, even if they are part of the contract costs, are considered part of construction engineering and are subject to the twenty-five percent limit. Exceptions to the twenty-five percent engineering limit may be considered for small city projects when an unforeseen issue arises that is beyond the control of the local agency. The local agency may request an increase through WAC 479-05-202 processes.

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[Statutory Authority: Chapter 47.26 RCW. 07-18-050, § 479-05-170, filed 8/30/07, effective 9/30/07. Statutory Authority: Chapters 47.26 and 47.66 RCW. 99-24-038, § 479-05-170, filed 11/23/99, effective 12/24/99.]

**WAC 479-05-171 Reimbursement of cultural resource assessment costs for TIB funded projects.** If a cultural resource assessment is required by the state department of archaeology and historical preservation, TIB will reimburse the normal costs required for the assessment. The assessment is considered part of design engineering, is not a special study, and not included in the twenty-five percent limitation in WAC 479-05-170.

[Statutory Authority: Chapter 47.26 RCW. 07-18-050, § 479-05-171, filed 8/30/07, effective 9/30/07.]

**WAC 479-05-201 When an agency may request an increase in TIB funds.** Local agencies may request an increase in funds at the bid, construction, and project closeout phases.

[Statutory Authority: Chapter 47.26 RCW. 07-18-050, § 479-05-201, filed 8/30/07, effective 9/30/07.]

**WAC 479-05-202 How an agency requests an increase in TIB funds.** Increases in TIB funds may be requested by the lead local agency and submitted to TIB staff through the bid authorization form or updated cost estimate form.

The executive director will consider increase requests up to the levels in WAC 479-01-060.

Increase requests above the executive director administrative authority require board action. The local agency may be asked to prepare and make a presentation to the board justifying the increase.

[Statutory Authority: Chapter 47.26 RCW. 07-18-050, § 479-05-202, filed 8/30/07, effective 9/30/07.]

**WAC 479-05-203 Criteria the board and the executive director use when reviewing increase requests.** The board and executive director will consider the following when reviewing increase requests:

- (1) Whether the granting of the request will obligate funding beyond an acceptable level or will adversely affect authorized funds previously approved by the board.
- (2) Whether the request would fund expansion of the scope of work beyond that approved at design phase.
- (3) Whether the local agency should have anticipated an increase would be necessary at the outset of the project.
- (4) Requests for increases at construction phase will take priority over other phase requests.
- (5) Local agency funding partner ability to contribute to the increased costs.
- (6) Other criteria on a case-by-case basis.

[Statutory Authority: Chapter 47.26 RCW. 07-18-050, § 479-05-203, filed 8/30/07, effective 9/30/07.]

**WAC 479-05-204 If an increase is not approved.** An agency request for an increase in funds may go to either the executive director or the board, as described in WAC 479-05-202, depending on the size of the request:

- (1) If the executive director hears the request and does not approve it, the local agency may:

(a) Proceed with the project, paying for any additional costs with local or other funds;

(b) Withdraw the request for participation;

(c) Request a formal review of the executive director's decision by the board; or

(d) Submit a request to the executive director to reduce the scope of the project as provided in WAC 479-05-052.

(2) If the board hears the request and does not approve it, the local agency may:

(a) Proceed with the project, paying for additional costs;

(b) Withdraw the request for participation; or

(c) Request a scope modification or reduction as provided in WAC 479-05-052.

In either case, the project will need to retain a usable and functional improvement to be granted a scope reduction.

[Statutory Authority: Chapter 47.26 RCW. 07-18-050, § 479-05-204, filed 8/30/07, effective 9/30/07.]

**WAC 479-05-211 When a project is considered delayed.** Projects are considered delayed when one of the following occurs:

(1) Urban corridor program projects do not reach construction phase within five years and six months.

(2) Urban arterial program projects do not reach construction phase within four years and six months.

(3) Projects awarded funding as "construction only" will be considered delayed if construction does not begin within one year of funding becoming available.

(4) All other programs must reach construction phase within two years and six months.

The date funding is made available to the local agency by TIB is the starting point in calculating the delay date.

[Statutory Authority: Chapter 47.26 RCW. 09-09-002, § 479-05-211, filed 4/1/09, effective 5/2/09; 07-18-050, § 479-05-211, filed 8/30/07, effective 9/30/07.]

**WAC 479-05-212 The stages of delayed projects.** For TIB funded projects, there are three stages of delay:

(1) Stage 1 delay - If the project does not meet the project target date per WAC 479-05-211.

(2) Stage 2 delay - If the project does not meet the revised bid date as agreed in Stage 1 delay under WAC 479-05-213(1), or one year after Stage 1 delay.

(3) Stage 3 delay - If the project does not meet the revised bid date as agreed to under Stage 2 delay under WAC 479-05-213(2), or one year after Stage 2 delay.

The executive director has discretion when moving projects from one stage of delay to the next and may consider pending bid dates or other indications or impending progress.

[Statutory Authority: Chapter 47.26 RCW. 07-18-050, § 479-05-212, filed 8/30/07, effective 9/30/07.]

**WAC 479-05-213 Review and consequences of delay.** Delayed projects will be reviewed as follows:

(1) Stage 1 - Agency plan letter. The TIB staff report the delayed project to the board at a regularly scheduled board meeting. The executive director requests a letter from the local agency to respond with a progress plan to get back on schedule.

(2) Stage 2 - Explanation and commitment. The local agency provides TIB staff with an explanation of why the

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project continues to be delayed and a commitment date which is acceptable to the executive director or board.

(3) Stage 3 - Hearing. If the agency misses the agreed upon date(s) or deadlines set in the Stage 2 review, the agency will be provided a hearing in front of the board at the next regularly scheduled meeting. The result of the hearing will include an absolute date for resolution which is agreed to by the board.

If the local agency does not meet the absolute date for resolution as agreed to by the board in the Stage 3 hearing, the project may be suspended or the agency may be requested to withdraw the project and reapply for funding in a later application cycle.

[Statutory Authority: Chapter 47.26 RCW. 07-18-050, § 479-05-213, filed 8/30/07, effective 9/30/07.]