

**Chapter 399-30 WAC
PUBLIC WORKS LOANS AND PLEDGES**

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WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

399-30-031	Applications for drinking water state revolving funds and water system acquisition and rehabilitation program financial assistance. [Statutory Authority: RCW 43.155.040(4). WSR 09-04-100, § 399-30-031, filed 2/4/09, effective 3/7/09; WSR 07-05-029, § 399-30-031, filed 2/13/07, effective 3/16/07.] Repealed by WSR 20-04-070, filed 2/3/20, effective 3/5/20. Statutory Authority: RCW 43.155.040(5).
399-30-042	Application evaluation procedure and board deliberations—Capital planning support. [Statutory Authority: RCW 43.155.040(4). WSR 09-04-100, § 399-30-042, filed 2/4/09, effective 3/7/09; WSR 07-05-029, § 399-30-042, filed 2/13/07, effective 3/16/07. Statutory Authority: RCW 43.155.040(5). WSR 01-09-014, § 399-30-042, filed 4/6/01, effective 5/7/01. Statutory Authority: RCW 43.155.040 (4) and (5). WSR 98-24-010, § 399-30-042, filed 11/19/98, effective 12/20/98. Statutory Authority: RCW 43.155.040(4). WSR 92-03-052, § 399-30-042, filed 1/13/92, effective 2/13/92. Statutory Authority: RCW 43.155.040. WSR 88-17-080 (Order 88-03), § 399-30-042, filed 8/22/88.] Repealed by WSR 20-04-070, filed 2/3/20, effective 3/5/20. Statutory Authority: RCW 43.155.040(5).
399-30-050	Recommendations to the legislature for construction loans. [Statutory Authority: RCW 43.155.040(4). WSR 07-05-029, § 399-30-050, filed 2/13/07, effective 3/16/07. Statutory Authority: RCW 43.155.040 (4) and (5). WSR 98-24-010, § 399-30-050, filed 11/19/98, effective 12/20/98. Statutory Authority: RCW 43.155.040(4). WSR 92-03-052, § 399-30-050, filed 1/13/92, effective 2/13/92. Statutory Authority: RCW 43.155.040. WSR 89-10-041 (Order 89-01), § 399-30-050, filed 4/28/89. Statutory Authority: 1985 c 446 § 10. WSR 85-24-072 (Order 85-17), § 399-30-050, filed 12/4/85.] Repealed by WSR 20-04-070, filed 2/3/20, effective 3/5/20. Statutory Authority: RCW 43.155.040(5).

WAC 399-30-010 Purpose. (1) The public works board provides financial assistance to local governments from the public works assistance account or other sources to assist local governments in financing public works projects. The board may also pledge money to the repayment of all or a portion of the principal or interest on obligations issued by local governments to finance public works projects.

(2) The purpose of this chapter is to describe how local governments may apply to the board for financial assistance, and to provide for the review of the applications.

(3) The public works board provides technical assistance, including training and other services provided to local governments to help such local governments plan, apply, and qualify for loans and financing guarantees from the board, and help local governments improve their ability to plan for, finance, acquire, construct, repair, replace, rehabilitate, and maintain public facilities.

[Statutory Authority: RCW 43.155.040(4). WSR 07-05-029, § 399-30-010, filed 2/13/07, effective 3/16/07. Statutory Authority: RCW 43.155.040 (4) and (5). WSR 98-24-010, § 399-30-010, filed 11/19/98, effective

12/20/98. Statutory Authority: 1985 c 446 § 10. WSR 85-24-072 (Order 85-17), § 399-30-010, filed 12/4/85.]

WAC 399-30-020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Board" means the public works board.

(2) "Capital facility plan" means a capital facility plan required by the Growth Management Act under chapter 36.70A RCW or, for local governments not fully planning under the Growth Management Act, a plan required by the public works board.

(3) "Department" means the department of commerce.

(4) "Financing guarantees" means the pledge of money in the public works assistance account, or money to be received by the public works assistance account, to the repayment of all or a portion of the principal of or interest on obligations issued by local governments to finance public works projects.

(5) "Local governments" means cities, towns, counties, special purpose districts, and any other municipal corporations or quasi-municipal corporations in the state excluding school districts and port districts.

(6) "Public works project" means a project of a local government for the planning, acquisition, construction, repair, reconstruction, replacement, rehabilitation, or improvement of streets and roads, bridges, water systems, storm or sanitary sewer systems, lead remediation of drinking water systems, and solid waste/recycling systems. A planning project may include the compilation of biological, hydrological, or other data on a county, drainage basin, or region necessary to develop a base of information for a capital facility plan.

(7) "Solid waste or recycling project" means remedial actions necessary to bring abandoned or closed landfills into compliance with regulatory requirements and the repair, restoration, and replacement of existing solid waste transfer, recycling facilities, and landfill projects limited to the opening of landfill cells that are in existing and permitted landfills.

(8) "Emergency public works project" means a public works project made necessary by a natural disaster, or an immediate and emergent threat to the public health and safety due to unforeseen or unavoidable circumstances.

(9) "Value planning" means a uniform approach to assist in decision making through systematic evaluation of potential alternatives to solving an identified problem.

[Statutory Authority: RCW 43.155.040(5). WSR 20-04-070, § 399-30-020, filed 2/3/20, effective 3/5/20. Statutory Authority: RCW 43.155.040(4) and (5). WSR 98-24-010, § 399-30-020, filed 11/19/98, effective 12/20/98. Statutory Authority: RCW 43.155.040. WSR 89-10-041 (Order 89-01), § 399-30-020, filed 4/28/89. Statutory Authority: 1985 c 446 § 10. WSR 85-24-072 (Order 85-17), § 399-30-020, filed 12/4/85.]

WAC 399-30-024 Maximum award. This section implements RCW 43.155.070. The maximum amount of funding that the board may provide for any jurisdiction is ten million dollars per biennium. This includes all three funding types (construction, emergency and preconstruction) combined.

- (1) Construction, the maximum is a ten million dollar award per jurisdiction per biennium limit.
- (2) Preconstruction, the maximum is one million dollars per project.
- (3) Emergency, the maximum is one million dollars per project.

[Statutory Authority: RCW 43.155.040(5). WSR 20-04-070, § 399-30-024, filed 2/3/20, effective 3/5/20.]

WAC 399-30-025 Public works financing powers—Establishment of interest rates—Competitive bids on projects. (1) In order to aid the financing of public works projects, the board may:

(a) Make loans or grants to local governments from the public works assistance account or other funds and accounts for the purpose of assisting local governments in financing public works projects. Money received from local governments in repayment of loans made under this section shall be paid into the public works assistance account for uses consistent with this chapter.

(b) Pledge money in the public works assistance account, or money to be received by the public works assistance account, to the repayment of all or a portion of the principal of or interest on obligations issued by local governments to finance public works projects. The board shall not pledge any amount greater than the sum of money in the public works assistance account plus money to be received from the payment of the debt service on loans made from that account, nor shall the board pledge the faith and credit or the taxing power of the state or any agency or subdivision thereof to the repayment of obligations issued by any local government.

(c) Create such subaccounts in the public works assistance account as the board deems necessary to carry out the purposes of this chapter.

(d) Provide a method for the allocation of loans, grants, and financing guarantees and the provision of technical assistance under this chapter.

(2) When establishing interest rates for loan programs authorized in this chapter for projects which are supported by a rate base of at least fifty thousand equivalent residential units, the board must base interest rates on the average daily market interest rate for tax-exempt municipal bonds as published in the bond buyer's index for the period from sixty to thirty days before the start of the application cycle.

(a) For projects with a repayment period over five and twenty years, the rate must be fifty percent of the market rate.

(b) For projects with a repayment period of five and under years, the rate must be twenty-five percent of the market rate.

(c) For any year in which the average daily market interest rate for tax-exempt municipal bonds for the period from sixty to thirty days before the start of an application cycle is nine percent or greater, the board may cap interest rates at four percent for projects with a repayment period between five and twenty years and at two percent for projects with a repayment period under five years.

(d) The board may also provide reduced interest rates, extended repayment periods, or grants for projects that meet financial hardship criteria as measured by the affordability index or similar standard measure of financial hardship. The board may provide reduced interest

rates, extended repayment periods, or grants for projects that are supported by a rate base of less than fifty thousand equivalent residential units.

(3) All local public works projects aided in whole or in part under the provisions of this chapter shall be put out for competitive bids, except for emergency public works under RCW 43.155.065 for which the recipient jurisdiction shall comply with this requirement to the extent feasible and practicable. The competitive bids called for shall be administered in the same manner as all other public works projects put out for competitive bidding by the local governmental entity aided under this chapter.

[Statutory Authority: RCW 43.155.040(5). WSR 20-04-070, § 399-30-025, filed 2/3/20, effective 3/5/20.]

WAC 399-30-030 Applications for construction and preconstruction financial assistance. (1) Any local government in the state of Washington may apply for financial assistance to assist in financing critical public works projects.

(2) All applicants must meet the following conditions:

(a) Applicant cities and counties must be imposing a real estate excise tax under RCW 82.46.010(2) at a rate of at least one-quarter of one percent;

(b) Applicant local governments must have developed a long-term plan for financing public works needs as further described in the loan application package under "capital facilities planning."

(3) Direct costs eligible for public works financial assistance are those costs directly attributable to a specific project and include:

(a) Work done by employees of the applicant, or by other government employees under an interlocal agreement or contract limited to: Engineering, environmental review, design activities, acquisition of rights of way or property, construction inspection activities, roadway seal coating (if bids from private sector contractors have been solicited and compared with the interlocal agreement proposal), and the cleaning, sterilization, or bacteriological testing of water system components prior to public use.

(i) Salaries and wages (at actual or average rates) covering productive labor hours of the local government employees (excluding the administrative organization of the operating unit involved). The cost of services rendered by employees generally classified as administrative are considered a direct cost only when such employees are assigned for short periods of time to perform on a full-time basis the types of services described above and when similar procedures are followed;

(ii) Employee benefits relating to direct labor are considered a direct cost of construction projects. The following items may be included as employee benefits:

- (A) F.I.C.A. (Social Security) - employer's share;
- (B) Retirement benefits;
- (C) Hospital, health, dental, and other welfare insurance;
- (D) Life insurance;
- (E) Industrial and medical insurance;
- (F) Vacation;
- (G) Holiday;
- (H) Sick leave; and

(I) Military leave and jury duty.

Employee benefits must be calculated as a percentage of direct labor dollars. The computation of predetermined percentage rates to be applied to current labor costs must be based on the average of total employee benefits and total labor costs for the prior fiscal year and adjusted by known current year variations.

(b) Contract engineering, planning, legal, and financial planning services. The board reserves the right to declare ineligible legal costs that are unreasonable and disproportionate to the project.

(c) Right of way acquisition costs including:

(i) Purchase of land and easements acquired for and devoted to the project;

(ii) Purchase of improvements;

(iii) Adjustment or reestablishment of improvements;

(iv) Salaries, expenses or fees of appraisers, negotiators or attorneys;

(v) Removal or demolition of improvement;

(vi) Other direct costs in connection with the acquisition. Amounts received from the sale of excess real property or improvements and from any rentals will be reduced from the direct cost.

(d) Contract construction work.

(e) Direct vehicle and equipment charges at the actual rental cost paid for the equipment or, in the case of city or county-owned equipment, at the rental rates established by the local government's "equipment rental and revolving fund" following the methods prescribed by the division of municipal corporations. However, such costs must be charged on a uniform basis to equipment used for all projects regardless of the source of funding. Cities with a population of eight thousand or less not using type of fund are allowed the same rates as used by the department of transportation.

(f) Direct materials and supplies.

(i) An overhead rate or "loading factor" is not considered an appropriate additive to the actual cost of materials and supplies used on construction projects unless the factor is readily and properly supportable by the governmental unit's accounting records.

(ii) The cost, or reasonable estimate thereof, of materials paid for as contract estimate items, but not used, will be considered a reduction of direct costs. Any material that is salvaged in connection with a project will be assigned a reasonable value and considered a reduction of direct costs.

(iii) Wetland plants and other materials used for wetland planting, wildlife habitat, or fish habitat may be provided to a public or nonprofit organization without a reduction of direct costs.

(g) Interdepartmental charges for work performed by the local government for the benefit of specific construction projects is limited to direct costs plus an allocation of indirect costs based on ten percent of direct labor dollars, excluding employee benefits.

(h) Other direct costs incurred for materials or services acquired for a specific project are eligible for participation by public works loan or grant funds and may include, but are not limited to such items as:

(i) Public communication plans and activities;

(ii) Telephone charges;

(iii) Reproduction and photogrammetry costs;

(iv) Video and photography for project documentation;

(v) Computer usage;

(vi) Printing and advertising; and

(vii) Value engineering and performance audits.

(4) Other than work identified in subsection (3)(a) of this section, no government employee labor related costs, including force account work, are eligible for financing assistance or to be considered as local match under this chapter.

(5) Applications must be submitted on forms provided by the board for the current funding cycle.

(6) A responsible official of the applicant jurisdiction must certify each application for financial assistance. The official must also provide the board with additional materials or information in support of the application when requested by the board or its staff.

[Statutory Authority: RCW 43.155.040(5). WSR 20-04-070, § 399-30-030, filed 2/3/20, effective 3/5/20. Statutory Authority: RCW 43.155.040(4). WSR 07-05-029, § 399-30-030, filed 2/13/07, effective 3/16/07. Statutory Authority: RCW 43.155.040(5). WSR 01-09-014, § 399-30-030, filed 4/6/01, effective 5/7/01. Statutory Authority: RCW 43.155.040 (4) and (5). WSR 98-24-010, § 399-30-030, filed 11/19/98, effective 12/20/98. Statutory Authority: RCW 43.155.040(4). WSR 92-03-052, § 399-30-030, filed 1/13/92, effective 2/13/92. Statutory Authority: 1985 c 446 § 10. WSR 85-24-072 (Order 85-17), § 399-30-030, filed 12/4/85.]

WAC 399-30-032 What are the requirements for meeting the Growth Management Act under RCW 43.155.070? (1) "Compliance with the Growth Management Act" means that at the time of application for financial assistance:

(a) A local government that is required to or chooses to plan under RCW 36.70A.040 has adopted a comprehensive plan and development regulations in conformance with the requirements of chapter 36.70A RCW, after it is required that the comprehensive plan and development regulations be adopted; and

(b) The local government has not been found out of compliance by a growth management hearings board; or

(c) A growth management hearings board has found a local government in compliance with the requirements of chapter 36.70A RCW, after previously finding the local government was not in compliance.

(2) Exceptions based on "public health need" or "substantial environmental degradation" shall not be used as a method to provide unrestricted access to financial assistance for local governments not in compliance with the law.

(3) Applicants that are not in conformance with GMA requirements because their periodic update is overdue, have five months after the date award has been offered to come into conformance.

[Statutory Authority: RCW 43.155.040(5). WSR 20-04-070, § 399-30-032, filed 2/3/20, effective 3/5/20. Statutory Authority: RCW 43.155.040(4). WSR 07-05-029, § 399-30-032, filed 2/13/07, effective 3/16/07; WSR 99-09-020, § 399-30-032, filed 4/14/99, effective 5/15/99.]

WAC 399-30-033 How will the board address a "public health need" under RCW 43.155.070? "Public health need" means that a situation exists that causes or is about to cause a real, documented, acute public health need related to the state's air, water, or soil that contrib-

utes to injuries or deaths on public highways, or risk of a public health emergency due to contaminated domestic water, the failure of a sanitary sewer system, storm sewer system, or solid waste or recycling system; and the problem generally involves a discrete area including, but not limited to, a county, city, subdivision, or an area serviced by on-site wastewater disposal systems.

In determining whether a project is necessary to address a public health need, the board shall consider the following factors:

(1) For bridge or road projects - Whether injury or fatal injury motor or nonmotorized vehicle traffic collisions at a specific site, roadway control section, or area have occurred at a rate to be in the top five percent of all such collisions within the applicant jurisdiction for the most recent three-year period; and whether the proposed public works project will eliminate or reduce the likelihood of such vehicle collisions. Applicants applying under this subsection may utilize jurisdiction-wide accident data, or break the data down into arterial or nonarterial roads, intersection or nonintersection, and for intersections, whether they are signalized or non-signalized.

(2) For domestic water projects - Whether a drinking water system regulated by the department of health has been contaminated or is in imminent danger of being contaminated to the extent of creating a public health risk and; whether the proposed public works project will eliminate or reduce the chance of contamination.

(3) For sanitary sewer projects - Whether failure of existing wastewater system or systems, including on-site systems, has resulted in contamination being present on the surface of the ground in such quantities and locations so as to create a potential for public contact; or whether contamination of a commercial or recreational shellfish bed so as to create a public health risk associated with the consumption of the shellfish, or contamination of surface water so as to create a public health risk associated with recreational use; and whether the proposed public works project will eliminate or reduce the danger of such public health risk.

(4) For storm sewer projects - Whether failure of an existing storm sewer system has caused or is in imminent danger of causing localized flooding which disrupts critical public services; causes disease, illness, or attraction of rodents so as to create a public health risk; or contamination of a commercial or recreational shellfish bed so as to create a public health risk associated with the consumption of the shellfish, or contamination of surface water so as to create a public health risk associated with recreational use and; whether the proposed public works project will eliminate or reduce the danger of localized flooding which disrupts critical public services or causes a public health risk.

(5) For solid waste or recycling projects - Whether failure of an existing solid waste or recycling system has caused or is in danger of causing groundwater contamination; causes disease, illness, or attraction of rodents so as to create a public health risk and; whether the proposed public works project will eliminate or reduce the danger of such public health risk.

(6) For all projects - Whether more efficient operation of an existing system, changing public access, or modifying other regulatory standards (e.g., reduced speed limits, water conservation measures, rodent control, restricted shellfish harvesting) is likely to provide the same or similar level of resolution.

(7) For all projects - Whether the public health problem is caused by failure to maintain or periodically replace, reconstruct, or rehabilitate a public works system.

(8) For all projects - Other factors the board finds on the record are significant in light of facts and circumstances unique to the project.

(9) The factors enumerated in subsection (1) of this section must be addressed in a letter of request, with supporting documentation, addressed to the chair of the board and signed by the public official who signed the application for financial assistance.

(10) The factors enumerated in subsections (2) through (5) of this section must be addressed in a letter of request, with supporting documentation, addressed to the secretary of the Washington state department of health and signed by the public official who signed the application for financial assistance. A determination of a public health need may be made by the secretary, or designee, and addressed to the same public official. The board will consider the determination of the secretary. The board will also consider information presented on factors enumerated in subsections (6) through (8) of this section, which must be documented in a manner acceptable to the board.

[Statutory Authority: RCW 43.155.040(4). WSR 07-05-029, § 399-30-033, filed 2/13/07, effective 3/16/07; WSR 99-09-020, § 399-30-033, filed 4/14/99, effective 5/15/99.]

WAC 399-30-034 How will the board address "substantial environmental degradation" as found in RCW 43.155.070? "Substantial environmental degradation" means a situation causes or is about to cause real, documented, substantial environmental degradation that contributes to violations of the state's air quality, water quality, or soil contaminate standards, interferes with beneficial uses of the air, water, or land, and the problem generally involves a discrete area including, but not limited to, a county, city, subdivision, or an area serviced by on-site wastewater disposal systems.

In determining whether a project is necessary to address substantial environmental degradation, the board shall consider the following factors:

(1) For bridge and road projects - Whether motorized or nonmotorized vehicle traffic has caused substantial environmental degradation of the air, water, or soils of the state at the site for which a proposed public works project is the subject of a financial assistance application, and; whether the proposed public works project will eliminate or reduce the chance of such vehicle-caused critical substantial environmental degradation.

(2) For domestic water projects - Whether a drinking water system regulated by the department of health has caused substantial environmental degradation of the air, water, or soil of the state including, but not limited to: Causing disease or illness to humans, the attraction of rodents, or the killing of fish and shellfish that reside in the waters of the state, and; whether the proposed public works project will eliminate or reduce the chance of substantial environmental degradation.

(3) For sanitary sewer projects - Whether failure of an existing wastewater system, including individual on-site systems, has caused substantial environmental degradation of the air, water, or soil of the state including, but not limited to: Causing disease or illness to

humans, the attraction of rodents, or the killing of fish and shellfish that reside in the waters of the state, and; whether the proposed public works project will eliminate or reduce such substantial environmental degradation.

(4) For storm sewer systems - Whether failure of an existing storm sewer system has caused substantial environmental degradation of the air, water, or soil of the state including, but not limited to: Causing disease or illness to humans, the attraction of rodents, or the killing of fish and shellfish that reside in the waters of the state, and; whether the proposed public works project will eliminate or reduce such substantial environmental degradation.

(5) For solid waste or recycling projects - Whether failure of an existing solid waste system or recycling system has caused substantial environmental degradation of the air, water, or soil of the state including, but not limited to: Causing disease or illness to humans, the attraction of rodents, or the killing of fish and shellfish that reside in the waters of the state, and; whether the proposed public works project will eliminate or reduce such substantial environmental degradation.

(6) For all projects - Whether more efficient operation of an existing system, changing public access, or modifying other regulatory standards (e.g., reduced speed limits, water conservation measures, rodent control, restricted shellfish harvesting) is likely to provide the same or similar level of resolution.

(7) For all projects - Whether the substantial environmental degradation is caused by failure to maintain or periodically replace, reconstruct, or rehabilitate a public works system.

(8) For all projects - Other factors the board finds on the record are significant in light of facts and circumstances unique to the project. Fish passage, water quality, or water quantity issues directly impacting salmonid fish survival in a watershed which is designated as a candidate for listing, proposed for listing, threatened listing, or endangered listing under the federal Endangered Species Act may be considered significant and unique to a project.

(9) The factors enumerated in subsections (1) through (5) of this section must be addressed in a letter of request, with supporting documentation, to the director of the Washington state department of ecology and signed by the public official who signed the application for financial assistance. A determination of substantial environmental degradation may be made by the director or designee and addressed to the same public official. The board will consider the determination of the director. The board will also consider information presented on factors enumerated in subsections (6) through (8) of this section, which must be documented in a manner acceptable to the board.

[Statutory Authority: RCW 43.155.040(4). WSR 07-05-029, § 399-30-034, filed 2/13/07, effective 3/16/07; WSR 99-09-020, § 399-30-034, filed 4/14/99, effective 5/15/99.]

WAC 399-30-040 Application evaluation procedure and board deliberations—Construction and preconstruction loan or grant programs.

(1) The board will consider and prioritize, or disapprove, all applications for financial assistance at regular or special meetings of the board. The applicant will be notified of meetings at which its application will be considered.

(2) Applications will be evaluated and prioritized in accordance with the following procedures:

(a) Staff will log in all applications as received.

(b) Staff will review all applications for compliance with the minimum qualification requirements of WAC 399-30-030(2). Jurisdictions whose applications do not meet the minimum qualification requirements will be notified in writing of the disqualification.

(c) Staff will perform an evaluation of all applications which meet the requirements of WAC 399-30-030(2). Applications will be scored according to responses in the application developed and approved by the board.

(d) Staff will provide the board with evaluation and scoring of the applications. All application materials will be available to the board for their deliberations. The board will approve a ranked list of projects based on the information provided to them by the staff and the applications.

(e) The board may adjust the ranked list in consideration of the following factors:

(i) Geographical balance;

(ii) Economic distress;

(iii) Type of projects;

(iv) Type of jurisdiction;

(v) Past management practices of the applicant, including, but not limited to, late loan payments, loan defaults, audit findings, or inability to complete projects within the time allowed by loan agreement;

(vi) Other criteria that the board considers advisable.

(f) Staff will verify critical information on each project as required by the board.

(g) In order to ensure fairness to all jurisdictions with applications pending before the board, the board will not accept oral or written testimony from any applicant while deliberating loan priorities, other than specific responses to information requests initiated by the board as provided in (h) of this subsection.

(h) The board may consult with officials of jurisdictions having projects submitted for funding on any issue it wishes to address.

(3) The board must develop a process to prioritize applications and funding of loans and grants for public works projects submitted by local governments. The board must consider, at a minimum and in any order, the following factors in prioritizing projects:

(a) Whether the project is critical in nature and would affect the health and safety of many people;

(b) The extent to which the project leverages other funds;

(c) The extent to which the project is ready to proceed to construction;

(d) Whether the project is located in an area of high unemployment, compared to the average state unemployment;

(e) Whether the project promotes the sustainable use of resources and environmental quality, as applicable;

(f) Whether the project consolidates or regionalizes systems;

(g) Whether the project encourages economic development through mixed-use and mixed-income development consistent with chapter 36.70A RCW;

(h) Whether the system is being well managed in the present and for long-term sustainability;

(i) Achieving equitable distribution of funds by geography and population;

(j) The extent to which the project meets the following state policy objectives:

- (i) Efficient use of state resources;
- (ii) Preservation and enhancement of health and safety;
- (iii) Abatement of pollution and protection of the environment;
- (iv) Creation of new, family-wage jobs, and avoidance of shifting existing jobs from one Washington state community to another;
- (v) Fostering economic development consistent with chapter 36.70A RCW;

(vi) Efficiency in delivery of goods and services and transportation; and

(vii) Reduction of the overall cost of public infrastructure;

(k) Whether the applicant sought or is seeking funding for the project from other sources; and

(l) Other criteria that the board considers necessary to achieve the purposes of this chapter.

(4) After January 1, 2010, any project designed to address the effects of stormwater or wastewater on Puget Sound may be funded under this section only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

(5) For projects involving repair, replacement, or improvement of a wastewater treatment plant or other public works facility for which an investment grade efficiency audit is reasonably obtainable, the public works board must require as a contract condition that the project sponsor undertake an investment grade efficiency audit. The project sponsor may finance the costs of the audit as part of its public works assistance account program loan or grant.

(6) Existing debt or financial obligations of local governments may not be refinanced under this chapter. Each local government applicant must provide documentation of attempts to secure additional local or other sources of funding for each public works project for which financial assistance is sought under this chapter.

(7) Applicants will be notified in writing of board decisions.

[Statutory Authority: RCW 43.155.040(5). WSR 20-04-070, § 399-30-040, filed 2/3/20, effective 3/5/20. Statutory Authority: RCW 43.155.040(4). WSR 09-04-100, § 399-30-040, filed 2/4/09, effective 3/7/09; WSR 07-05-029, § 399-30-040, filed 2/13/07, effective 3/16/07. Statutory Authority: RCW 43.155.040(5). WSR 01-09-014, § 399-30-040, filed 4/6/01, effective 5/7/01. Statutory Authority: RCW 43.155.040(4) and (5). WSR 98-24-010, § 399-30-040, filed 11/19/98, effective 12/20/98. Statutory Authority: RCW 43.155.040(4). WSR 95-11-093, § 399-30-040, filed 5/19/95, effective 6/19/95; WSR 93-22-015, § 399-30-040, filed 10/26/93, effective 11/26/93; WSR 92-03-052, § 399-30-040, filed 1/13/92, effective 2/13/92. Statutory Authority: RCW 43.155.040. WSR 88-10-009 (Order 88-02), § 399-30-040, filed 4/22/88; WSR 87-17-013 (Order 87-16), § 399-30-040, filed 8/10/87; WSR 86-18-009 (Resolution No. 86-12), § 399-30-040, filed 8/21/86. Statutory Authority: 1985 c 446 § 10. WSR 86-03-051 (Resolution No. 85-17), § 399-30-040, filed 1/15/86.]

WAC 399-30-045 Application evaluation procedure and board deliberations—Emergency loan program. This section implements RCW 43.155.060 and 43.155.065. The board may make low-interest or interest free loans or grants to local governments for emergency public works

projects. The emergency loan program is to financially assist eligible communities experiencing the loss of critical public works services or facilities due to an emergency, and that can demonstrate a substantial fiscal need.

(1) Eligible local governments. Applicants must meet the conditions as identified under WAC 399-30-030(2).

(2) Eligible uses of funds. Financial assistance received shall be used for the purpose of restoring the services and/or repair of the public works facilities involved in the emergency. Assistance provided may be used to help fund all or part of an emergency public works project less any reimbursement from any of the following:

(a) Federal disaster or emergency funds, including funds from the Federal Emergency Management Agency;

(b) State disaster or emergency funds;

(c) Insurance settlements; or

(d) Litigation.

Assisted local governments must reimburse the department any moneys received from the sources listed above. The local government is obligated to make reimbursement for four years after formal project closeout. Local governments eligible to receive moneys must use their best efforts to seek reimbursement in a timely manner.

(3) Availability of funds. Funding will be made available on a first-come first-served basis. Only those funds specifically appropriated by the legislature from the public works assistance account shall be used to make emergency loans. That amount shall not exceed five percent of the total amount appropriated from this account in any biennium.

(4) Application process. Local governments must apply on the form provided by the board. Applications will be processed in the order received.

(5) Board deliberations—Emergency loan applications.

(a) The board will consider and approve or disapprove all eligible applications for emergency financial assistance at regular or special meetings of the board. The applicant will be notified of meetings at which its application will be considered.

(b) All applications will be accepted and evaluated in accordance with the following procedures:

(i) Applications will be accepted only when emergency funding is available.

(ii) Staff will review applications and verify that the applicant is eligible for assistance as set forth in RCW 43.155.070(1).

(iii) Staff will provide the board an evaluation of whether an emergency loan is needed based upon the information documented by the applicant and staff.

(iv) Site visits to the location of the emergency public works project will be carried out at the discretion of the board or staff.

(6) Loan terms. The board shall determine the term and interest rate(s) of emergency loans annually.

(7) Exceptions to public works assistance account policies and procedures. Except as provided in this chapter or specified in annual program guidelines, the emergency program shall follow all general administrative program policies as set for the public works assistance account.

[Statutory Authority: RCW 43.155.040(5). WSR 20-04-070, § 399-30-045, filed 2/3/20, effective 3/5/20. Statutory Authority: RCW

43.155.040(4). WSR 09-04-100, § 399-30-045, filed 2/4/09, effective 3/7/09. Statutory Authority: RCW 43.155.040 (4) and (5). WSR 98-24-010, § 399-30-045, filed 11/19/98, effective 12/20/98. Statutory Authority: RCW 43.155.040(4). WSR 92-03-052, § 399-30-045, filed 1/13/92, effective 2/13/92. Statutory Authority: RCW 43.155.040. WSR 89-10-041 (Order 89-01), § 399-30-045, filed 4/28/89.]

WAC 399-30-060 Loan and financing guarantee loan agreements for the construction loan program. (1) The board will only execute loan/grant agreements or otherwise financially obligate funds from the public works assistance account appropriated funds to the board for construction, preconstruction, planning, and emergency loans.

(2) After the legislature has appropriated funds from the public works assistance account for a specific list of public works projects or budget allocation, the construction loan/grant funds will be disbursed to the applicant local government through a loan/grant agreement. The loan/grant agreement will offer terms and conditions as the board determines are reasonable, based on the following standards:

(a) The local government's financial participation funds must be from locally generated funding or federal or state shared revenues that can be allocated at the discretion of the local government.

(b) The interest rates, local share requirements and loan limits will be determined annually by the board.

(c) Loans must not exceed thirty years, or the useful life of the improvements, whichever is shorter.

(3) The local government and the department must execute a final loan agreement before any funds are disbursed.

(4) The local government must submit for approval a scope of work, including such things as a budget and performance measures consistent with the application for financial assistance to the department within ninety days after the department offers a loan or financing guarantee.

(5) The local government must execute any loan or financing guarantee loan agreements offered within six months after the department offers the loan agreement.

(6) The local government must complete work on the public works project within the time specified in the loan agreement, unless a written request for extension is approved by the board.

(7) The board or department will not reimburse local governments for any funds spent on public works projects financed through the public works assistance account before a planning, emergency or preconstruction loan agreement has been formally executed. The board or department may reimburse local governments for those construction loan costs incurred after September 1st of the year in which a construction loan was recommended for financing by the board, providing that the project is approved by law, the costs are eligible for reimbursement at the time of loan agreement execution, and there are funds available in the public works assistance account. For the competitive loan/grant cycles, the effective date for reimbursement is the date the board approves the award. These reimbursable costs, incurred before loan agreement execution, must be spent on eligible activities as defined by WAC 399-30-030, comply with executive order 05-05, and be consistent with the loan agreement as later executed. Any costs incurred before the execution of a construction loan agreement will not be reimbursed unless a loan agreement is executed.

[Statutory Authority: RCW 43.155.040(5). WSR 20-04-070, § 399-30-060, filed 2/3/20, effective 3/5/20. Statutory Authority: RCW 43.155.040(4). WSR 09-04-100, § 399-30-060, filed 2/4/09, effective 3/7/09; WSR 07-05-029, § 399-30-060, filed 2/13/07, effective 3/16/07; WSR 04-09-085, § 399-30-060, filed 4/20/04, effective 5/21/04. Statutory Authority: RCW 43.155.040 (4) and (5). WSR 98-24-010, § 399-30-060, filed 11/19/98, effective 12/20/98. Statutory Authority: RCW 43.155.040(4). WSR 92-03-052, § 399-30-060, filed 1/13/92, effective 2/13/92. Statutory Authority: RCW 43.155.040. WSR 88-23-095 (Order 88-08, Resolution No. 86-12), § 399-30-060, filed 11/22/88; WSR 86-18-009 (Resolution No. 86-12), § 399-30-060, filed 8/21/86. Statutory Authority: 1985 c 446 § 10. WSR 85-24-072 (Order 85-17), § 399-30-060, filed 12/4/85.]

WAC 399-30-065 Emergency loan and financing guarantee loan agreements.

(1) After the legislature has appropriated funds from the public works assistance account for emergency loans, the loan funds will be disbursed to the applicant local government pursuant to a loan agreement. The loan agreement will offer terms and conditions the board determines are reasonable, based on the following standards:

(a) The local government's financial participation funds must be from locally generated revenues or federal or state shared revenues that can be allocated at the discretion of the local government.

(b) Loans must not exceed twenty years, or the useful life of the improvements, whichever is shorter.

(2) The local government and the department must execute a final loan agreement before any funds are disbursed.

(3) The local government must complete a scope of work form for a loan or financing guarantee and return it to the department within ninety days after the department offers a loan or a financing guarantee loan agreement.

(4) The local government must execute any loan or financing guarantee loan agreements offered within ninety days after the department offers the loan agreement.

(5) The local government must begin work on an emergency public works project within ninety days after the loan agreement is executed.

(6) The local government must complete work on an emergency public works project within twelve months after the loan agreement is executed, unless a written request for extension is approved by the board.

(7) The board or department will not reimburse local governments for any funds spent on emergency public works projects financed through the public works assistance account before a loan agreement has been formally executed. However, if the local government has formally declared an emergency, the board may approve reimbursement of eligible costs of correcting the emergency incurred after an emergency was declared.

Any unreimbursed eligible costs for the project may be used toward local participation requirements, if any.

(8) All public works projects must comply with the competitive bid requirement of RCW 43.155.060 to the extent feasible and practicable.

[Statutory Authority: RCW 43.155.040(4). WSR 09-04-100, § 399-30-065, filed 2/4/09, effective 3/7/09. Statutory Authority: RCW 43.155.040

(4) and (5). WSR 98-24-010, § 399-30-065, filed 11/19/98, effective 12/20/98. Statutory Authority: RCW 43.155.040(4). WSR 92-03-052, § 399-30-065, filed 1/13/92, effective 2/13/92. Statutory Authority: RCW 43.155.040. WSR 89-10-041 (Order 89-01), § 399-30-065, filed 4/28/89.]

WAC 399-30-070 Loans or grants for preconstruction activities.

This section implements RCW 43.155.068.

(1) The board may make loans or grants to local governments for preconstruction activities on public works projects before the legislature approves the construction phase of the project. Preconstruction activities include design, engineering, bid-document preparation, environmental studies, right-of-way acquisition, value planning, and other preliminary phases of public works projects as determined by the board. The purpose of the loans and grants authorized in this section is to accelerate the completion of public works projects by allowing preconstruction activities to be performed before the appropriation for the construction phase of the project by the legislature.

(2) Projects receiving loans or grants for preconstruction activities under this section must be evaluated using the priority process and factors in RCW 43.155.070. The receipt of a loan or grant for preconstruction activities does not ensure the receipt of a construction loan or grant for the project under this chapter. Construction loans or grants for projects receiving a loan or grant for preconstruction activities under this section are subject to legislative appropriation under RCW 43.155.070(7). The board shall adopt a single application process for local governments seeking both a loan or grant for preconstruction activities under this section and a construction loan for the project.

[Statutory Authority: RCW 43.155.040(5). WSR 20-04-070, § 399-30-070, filed 2/3/20, effective 3/5/20.]

WAC 399-30-080 Reporting. Before September 1, 2018, and each year thereafter, the board must develop and submit a report regarding the construction loans and grants to the office of financial management and appropriate fiscal committees of the senate and house of representatives. The report must include:

(1) The total number of applications and amount of funding requested for public works projects;

(2) A list and description of projects approved in the preceding fiscal year with project scores against the board's prioritization criteria;

(3) The total amount of loan and grants disbursements made from the public works assistance account in the preceding fiscal year;

(4) The total amount of loan repayments in the preceding fiscal year for outstanding loans from the public works assistance account;

(5) The total amount of loan repayments due for outstanding loans for each fiscal year over the following ten-year period; and

(6) The total amount of funds obligated and timing of when the funds were obligated in the preceding fiscal year.

[Statutory Authority: RCW 43.155.040(5). WSR 20-04-070, § 399-30-080, filed 2/3/20, effective 3/5/20.]

**WAC 399-30-085 Loans and grants for public works projects—
Statement of environmental benefits—Sustainable asset management best
practices—Development of outcome-focused performance measures.** (1)

This section implements RCW 43.155.075. In providing loans and grants for public works projects, the board shall require recipients to incorporate the environmental benefits of the project into their applications, and the board shall utilize the statement of environmental benefits in its prioritization and selection process, when applicable. For projects funded under this chapter, the board may require a local government to:

- (a) Have sustainable asset management best practices in place;
 - (b) Provide a long-term financial plan to demonstrate a sound maintenance program;
 - (c) Have a long-term financial plan for loan repayments in place;
- and
- (d) Undergo value planning at the predesign project stage, where the greatest productivity gains and cost savings can be found.

(2) The board shall also develop appropriate outcome-focused performance measures to be used both for management and performance assessment of the loan and grant program. To the extent possible, the department should coordinate its performance measure system with other natural resource-related agencies as defined in RCW 43.41.270. The board shall consult with affected interest groups in implementing this section.

[Statutory Authority: RCW 43.155.040(5). WSR 20-04-070, § 399-30-085, filed 2/3/20, effective 3/5/20.]