

## WSR 23-05-013

## PROPOSED RULES

## TRANSPORTATION IMPROVEMENT BOARD

[Filed February 3, 2023, 8:27 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR [23-01-067].

Title of Rule and Other Identifying Information: Portions of chapters 479-01, 479-02, 479-05, 479-06, 479-10, and 479-14 WAC.

Hearing Location(s): On March 24, 2023, at 9 a.m., in Tukwila, Washington. Held during the transportation improvement board (TIB) meeting.

Date of Intended Adoption: March 24, 2023.

Submit Written Comments to: Gena Workman, P.O. Box 40901, Olympia, WA 98504-0901, email genaw@tib.wa.gov, by March 13, 2023.

Assistance for Persons with Disabilities: Contact Gena Workman, phone 360-586-1140, email genaw@tib.wa.gov, by March 17, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposal is to update program changes that may include, but not be limited to: Update and clarify eligibility criteria, make technical corrections to ensure consistency within existing programs, update definitions to be consistent with changes in federal and state laws, and delete obsolete program criteria.

Reasons Supporting Proposal: Title 479 WAC has not been comprehensively updated since 2007.

Statutory Authority for Adoption: Chapter 47.26 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Not applicable.

Name of Proponent: TIB, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Mr. Ashley Probart, P.O. Box 40901, Olympia, WA 98504-0901, 360-790-5472.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rule changes are cost neutral to TIB. Program funding will continue to be distributed according to chapter 47.26 RCW and Title 479 WAC.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

February 3, 2023  
Ashley Probart  
Executive Director

OTS-4335.1

AMENDATORY SECTION (Amending WSR 13-20-087, filed 9/30/13, effective 10/31/13)

**WAC 479-01-060 Executive director—Powers and duties.** The board appoints an executive director who will serve at its pleasure to carry out the board priorities and the mission of the agency including the following administrative duties:

(1) The executive director will direct and supervise all day-to-day activities of the staff.

(2) The executive director is the appointing authority of the staff and may authorize subordinates to act in the executive director's place to carry out administrative duties.

(3) The executive director has sidewalk deviation authority as described in WAC 479-14-200.

(4) The executive director has administrative increase authority for projects up to the following levels:

(a) Urban program - Fifteen percent of project costs or ~~((seven hundred fifty thousand dollars))~~ \$750,000 whichever is less.

(b) Small city arterial program - ~~((Up to one hundred twenty-five thousand dollars))~~ Fifteen percent of project costs or \$125,000, whichever is greater.

(c) City hardship assistance program - Up to ~~((seventy-five thousand dollars))~~ \$75,000.

(d) ~~((Sidewalk program - Up to fifty thousand dollars.))~~ Active transportation program - Fifteen percent of project costs or \$50,000, whichever is greater.

(e) Small city preservation program - Up to ~~((two hundred thousand dollars))~~ \$200,000 within available funding limitations.

(f) Arterial preservation program - Up to ~~((fifteen))~~ 15 percent of original TIB grant.

(g) Small city federal match within the limits set by the board in accordance with WAC 479-14-215.

(5) The director may authorize small city preservation projects between regularly scheduled call for projects up to \$200,000 within available funding limits.

[Statutory Authority: Chapter 47.26 RCW. WSR 13-20-087, § 479-01-060, filed 9/30/13, effective 10/31/13; WSR 12-08-060, § 479-01-060, filed 4/3/12, effective 5/4/12; WSR 07-18-050, § 479-01-060, filed 8/30/07, effective 9/30/07.]

#### OTS-4336.1

AMENDATORY SECTION (Amending WSR 07-18-050, filed 8/30/07, effective 9/30/07)

**WAC 479-02-070 Requests for public records.** Public records requests should be sent to the public records officer at the office location using the following procedures:

(1) To ensure accuracy, any requests for public records should be made in writing and may be mailed ~~((r))~~ or emailed ~~((r, faxed, or delivered to the office during business hours))~~.

- (2) For prompt response, the following information should be provided in the request:
- (a) The name of the person requesting the record;
  - (b) The date on which the request is made;
  - (c) A specific description of the material requested;
  - (d) A verification that the records requested will not be used to compile a sales list or used for commercial gain;
  - (e) Instructions as to whether the requestor wants to view the document at the TIB offices, receive a copy by mail, or receive an electronic copy if available.
- (3) TIB's public records request form is available on the website.

[Statutory Authority: Chapter 47.26 RCW. WSR 07-18-050, § 479-02-070, filed 8/30/07, effective 9/30/07; WSR 95-04-072, § 479-02-070, filed 1/30/95, effective 3/2/95; WSR 91-13-056, § 479-02-070, filed 6/17/91, effective 7/18/91.]

AMENDATORY SECTION (Amending WSR 07-18-050, filed 8/30/07, effective 9/30/07)

**WAC 479-02-080 Availability.** Public records will be available for inspection and copying by appointment during the normal business hours of TIB. Normal office hours are from 8:00 a.m. to 5:00 p.m., Monday through Friday, except state holidays.

[Statutory Authority: Chapter 47.26 RCW. WSR 07-18-050, § 479-02-080, filed 8/30/07, effective 9/30/07; WSR 91-13-056, § 479-02-080, filed 6/17/91, effective 7/18/91.]

#### OTS-4337.1

AMENDATORY SECTION (Amending WSR 18-08-068, filed 4/2/18, effective 5/3/18)

**WAC 479-05-012 ((Emergent nature)) Out of call projects submission and limitations.** An eligible agency may request the transportation improvement board to consider a project for funding outside of the normal call for projects. To be considered as emergent nature, a project must demonstrate one or more of 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 project request is a result of a federal, state, or locally declared emergency and must be funded prior to the normal call for projects.

(6) A project that is cost-effective and must be funded prior to the scheduled call for projects.

In meeting one or more of the criteria, the project request may 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. WSR 18-08-068, § 479-05-012, filed 4/2/18, effective 5/3/18; WSR 07-18-050, § 479-05-012, filed 8/30/07, effective 9/30/07.]

AMENDATORY SECTION (Amending WSR 15-22-052, filed 10/29/15, effective 11/29/15)

**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.

Preservation projects identified through pavement condition ratings are not required to appear in the local agency's six-year transportation plan.

Complete streets projects that are operational in nature are not required to appear in the local agency's six-year transportation plan.

[Statutory Authority: Chapter 47.26 RCW. WSR 15-22-052, § 479-05-020, filed 10/29/15, effective 11/29/15; WSR 12-08-060, § 479-05-020, filed 4/3/12, effective 5/4/12; WSR 07-18-050, § 479-05-020, filed 8/30/07, effective 9/30/07. Statutory Authority: Chapters 47.26 and 47.66 RCW. WSR 99-24-038, § 479-05-020, filed 11/23/99, effective 12/24/99.]

AMENDATORY SECTION (Amending WSR 12-08-060, filed 4/3/12, effective 5/4/12)

**WAC 479-05-030 A registered professional engineer must be in charge.** (1) All projects using ((PIA)) transportation improvement board funds will be supervised by a professional engineer registered in the state of Washington.

(2) The executive director may waive a supervised professional engineer requirement for low-cost preventative preservation and maintenance projects and complete streets transportation projects.

[Statutory Authority: Chapter 47.26 RCW. WSR 12-08-060, § 479-05-030, filed 4/3/12, effective 5/4/12; WSR 07-18-050, § 479-05-030, filed 8/30/07, effective 9/30/07. Statutory Authority: Chapters 47.26 and 47.66 RCW. WSR 99-24-038, § 479-05-030, filed 11/23/99, effective 12/24/99.]

AMENDATORY SECTION (Amending WSR 22-07-023, filed 3/9/22, effective 4/9/22)

**WAC 479-05-035 Qualifications for small city projects administered by another agency.** A local agency that has a small city arteri-

al program project, small city preservation project, complete streets project, or active transportation project, may elect to have, or the executive director may require, the project to be administered by another city, a county, state department of transportation, or state transportation improvement board when:

(1) The local agency does not have certification acceptance from the state department of transportation per the Washington state department of transportation local agency guidelines manual, chapter 13; or

(2) The executive director determines that the local agency has insufficient capacity to directly administer transportation projects.

[Statutory Authority: Chapter 47.26 RCW. WSR 22-07-023, § 479-05-035, filed 3/9/22, effective 4/9/22; WSR 15-22-052, § 479-05-035, filed 10/29/15, effective 11/29/15; WSR 12-08-060, § 479-05-035, filed 4/3/12, effective 5/4/12.]

AMENDATORY SECTION (Amending WSR 12-08-060, filed 4/3/12, effective 5/4/12)

**WAC 479-05-040 Value engineering study requirements.** The executive director (~~will~~) may determine whether a value engineering study is required based on project risk factors summarized below. The agency will be notified if a value engineering study is required during the design process and must complete the study prior to authorization to bid.

- (1) Significant project complexity;
- (2) Significant structures;
- (3) Significant right of way;
- (4) Multiple alignment options;
- (5) Environmentally sensitive areas;
- (6) Complex interagency involvement.

The value engineering study 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: Chapter 47.26 RCW. WSR 12-08-060, § 479-05-040, filed 4/3/12, effective 5/4/12. Statutory Authority: Chapters 47.26 and 47.66 RCW. WSR 08-10-012, § 479-05-040, filed 4/24/08, effective 5/25/08. Statutory Authority: Chapter 47.26 RCW. WSR 07-18-050, § 479-05-040, filed 8/30/07, effective 9/30/07. Statutory Authority: Chapters 47.26 and 47.66 RCW. WSR 99-24-038, § 479-05-040, filed 11/23/99, effective 12/24/99.]

AMENDATORY SECTION (Amending WSR 22-07-023, filed 3/9/22, effective 4/9/22)

**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;
  - (d) Consultant agreement ((+) when a small city ((arterial and small city active transportation programs only)) contracts with an engineering firm or consultant to administer a transportation improvement board project on behalf of the small city.)
- (2) Bid advertisement 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;
  - (d) Consultant agreement ((+) when a small city ((arterial and small city active transportation programs only)) contracts with an engineering firm or consultant to administer a transportation improvement board project on behalf of the small city;)
  - (e) Certification that a cultural resource assessment was completed;
  - (f) 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.
- (5) A manually signed copy of a contract or any amendments, statement of work or other transaction documents delivered by email shall be deemed to have the same legal effect as delivery of an original signed copy.
- (6) An electronic signature shall have the same force and effect as a manual signature on all agreements, forms, and other documents submitted in support of a project under this chapter. For purposes of this section, an "electronic signature" has the same meaning as in RCW 1.80.010(10).

[Statutory Authority: Chapter 47.26 RCW. WSR 22-07-023, § 479-05-051, filed 3/9/22, effective 4/9/22; WSR 12-08-060, § 479-05-051, filed 4/3/12, effective 5/4/12; WSR 07-18-050, § 479-05-051, filed 8/30/07, effective 9/30/07.]

AMENDATORY SECTION (Amending WSR 12-08-060, filed 4/3/12, effective 5/4/12)

**WAC 479-05-060 Methods of construction.** All construction using ((PIA)) transportation improvement board 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. WSR 12-08-060, § 479-05-060, filed 4/3/12, effective 5/4/12; WSR 07-18-050, § 479-05-060, filed 8/30/07, effective 9/30/07. Statutory Authority: Chapters 47.26 and 47.66 RCW. WSR 99-24-038, § 479-05-060, filed 11/23/99, effective 12/24/99.]

AMENDATORY SECTION (Amending WSR 12-08-060, filed 4/3/12, effective 5/4/12)

**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 design and construction of board funded projects.

[Statutory Authority: Chapter 47.26 RCW. WSR 12-08-060, § 479-05-080, filed 4/3/12, effective 5/4/12; WSR 07-18-050, § 479-05-080, filed 8/30/07, effective 9/30/07. Statutory Authority: Chapters 47.26 and 47.66 RCW. WSR 99-24-038, § 479-05-080, filed 11/23/99, effective 12/24/99.]

AMENDATORY SECTION (Amending WSR 12-08-060, filed 4/3/12, effective 5/4/12)

**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 ((PIA)) transportation improvement board funds.

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

[Statutory Authority: Chapter 47.26 RCW. WSR 12-08-060, § 479-05-100, filed 4/3/12, effective 5/4/12; WSR 07-18-050, § 479-05-100, filed 8/30/07, effective 9/30/07. Statutory Authority: Chapters 47.26 and

47.66 RCW. WSR 99-24-038, § 479-05-100, filed 11/23/99, effective 12/24/99.]

AMENDATORY SECTION (Amending WSR 12-08-060, filed 4/3/12, effective 5/4/12)

**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.

((PIA)) Transportation improvement board 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. WSR 12-08-060, § 479-05-120, filed 4/3/12, effective 5/4/12; WSR 07-18-050, § 479-05-120, filed 8/30/07, effective 9/30/07. Statutory Authority: Chapters 47.26 and 47.66 RCW. WSR 99-24-038, § 479-05-120, filed 11/23/99, effective 12/24/99.]

AMENDATORY SECTION (Amending WSR 12-08-060, filed 4/3/12, effective 5/4/12)

**WAC 479-05-130 Project landscaping and aesthetic improvements.**

Cost of landscaping and aesthetic improvements is limited to five percent of the total eligible construction contract amount.

- (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.
- (d) Landscaping integral to safety performance of active transportation separation/buffers.
- (e) Landscaping and aesthetic improvements (except cost of undergrounding utilities) when the project is located within zoned or planned central business center/district.
- (f) Landscaping contributing to speed management treatments (such as, but not limited to: Traffic circles, chicanes, lane shifts, median

are:



refuge areas, or added vertical friction to induce slower speed selection, etc.).

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 five percent limit may be paid for by funding sources other than TIB funds.

[Statutory Authority: Chapter 47.26 RCW. WSR 12-08-060, § 479-05-130, filed 4/3/12, effective 5/4/12; WSR 07-18-050, § 479-05-130, filed 8/30/07, effective 9/30/07. Statutory Authority: Chapters 47.26 and 47.66 RCW. WSR 99-24-038, § 479-05-130, filed 11/23/99, effective 12/24/99.]

AMENDATORY SECTION (Amending WSR 12-08-060, filed 4/3/12, effective 5/4/12)

**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.

((TIA)) (5) Stormwater treatment: Treatment in excess of what is required by federal or state requirements is not eligible to be reimbursed.

Transportation improvement board 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. WSR 12-08-060, § 479-05-131, filed 4/3/12, effective 5/4/12; WSR 07-18-050, § 479-05-131, filed 8/30/07, effective 9/30/07.]

AMENDATORY SECTION (Amending WSR 12-08-060, filed 4/3/12, effective 5/4/12)

**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 advertisement 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.

If under any circumstances right of way purchased with board funds is subsequently sold or transferred to a nontransportation purpose, the proceeds of the sale or equivalent value shall be placed in the local agency's appropriate transportation fund and expended solely for street or road improvement purposes.

[Statutory Authority: Chapter 47.26 RCW. WSR 12-08-060, § 479-05-140, filed 4/3/12, effective 5/4/12; WSR 07-18-050, § 479-05-140, filed 8/30/07, effective 9/30/07. Statutory Authority: Chapters 47.26 and 47.66 RCW. WSR 99-24-038, § 479-05-140, filed 11/23/99, effective 12/24/99.]

AMENDATORY SECTION (Amending WSR 12-08-060, filed 4/3/12, effective 5/4/12)

**WAC 479-05-170 Reimbursement of engineering costs.** Design and construction engineering costs eligible for reimbursement are limited to ~~((thirty))~~ 30 percent, or ~~((twenty))~~ 20 percent if funded as construction ready, of the approved contract bid amount ~~((plus costs designated as construction other))~~.

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 ~~((thirty))~~ 30 percent limit or ~~((twenty))~~ 20 percent limit if funded as construction ready. Exceptions to the ~~((thirty))~~ 30 percent engineering limit, or ~~((twenty))~~ 20 percent engineering limit if funded as construction ready, 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.

[Statutory Authority: Chapter 47.26 RCW. WSR 12-08-060, § 479-05-170, filed 4/3/12, effective 5/4/12; WSR 07-18-050, § 479-05-170, filed 8/30/07, effective 9/30/07. Statutory Authority: Chapters 47.26 and 47.66 RCW. WSR 99-24-038, § 479-05-170, filed 11/23/99, effective 12/24/99.]

AMENDATORY SECTION (Amending WSR 07-18-050, 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))~~ or during the construction phase, and project closeout ~~((phases))~~.

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

AMENDATORY SECTION (Amending WSR 07-18-050, 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 or change order 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. WSR 07-18-050, § 479-05-202, filed 8/30/07, effective 9/30/07.]

AMENDATORY SECTION (Amending WSR 07-18-050, 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 approval 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. WSR 07-18-050, § 479-05-203, filed 8/30/07, effective 9/30/07.]

#### OTS-4338.1

AMENDATORY SECTION (Amending WSR 07-18-050, filed 8/30/07, effective 9/30/07)

**WAC 479-06-010 Transportation improvement board ((~~sixteen~~)) 10-year financial plan.** The board will update its ((~~sixteen~~)) 10-year financial plan at the beginning of each fiscal year. The financial plan will include estimated revenue to be available for new project starts in the ensuing biennium based on forecast council's revenue forecast. Other factors included are fund balance, bond debt, interest revenue, legislative appropriation, projected expenditures by program, and any other issues that may impact new project starts.

[Statutory Authority: Chapter 47.26 RCW. WSR 07-18-050, § 479-06-010, filed 8/30/07, effective 9/30/07.]

NEW SECTION

**WAC 479-06-095 Ineligibility of an agency.** (1) The board may determine an agency is ineligible to apply for future project applications if there is a finding an agency has withdrawn or canceled a grant award and has spent transportation improvement board funds.

(2) The board may determine the number of grant award cycles before reinstating agency eligibility.

[]

**OTS-4339.1**

AMENDATORY SECTION (Amending WSR 13-20-087, filed 9/30/13, effective 10/31/13)

**WAC 479-10-011 Small city pavement preservation and sidewalk account additional uses.** If available, funds from the small city pavement preservation and sidewalk account may be provided to small cities to match federal funding provided for local government federal aid of transportation (~~(, on a first come/first served basis)~~).

[Statutory Authority: Chapter 47.26 RCW. WSR 13-20-087, § 479-10-011, filed 9/30/13, effective 10/31/13; WSR 10-14-027, § 479-10-011, filed 6/28/10, effective 7/29/10; WSR 08-21-005, § 479-10-011, filed 10/2/08, effective 11/2/08.]

AMENDATORY SECTION (Amending WSR 08-21-005, filed 10/2/08, effective 11/2/08)

**WAC 479-10-122 Qualification for the small city preservation program—Pavement condition ratings.** To qualify for funding in the current program year, a city's pavement condition rating must be less than four years old on or by the application date.

For the cities' convenience, TIB staff will conduct all pavement condition ratings on a rotational basis every four years. (~~(If the city maintains their own pavement condition rating, the methods used for scoring must comply with TIB's methodology. If scores submitted by the city are substantially different than the TIB pavement scores, the difference will be resolved through an on-site review coordinated between TIB and city staff.)~~)

[Statutory Authority: Chapter 47.26 RCW. WSR 08-21-005, § 479-10-122, filed 10/2/08, effective 11/2/08.]

AMENDATORY SECTION (Amending WSR 08-21-005, filed 10/2/08, effective 11/2/08)

**WAC 479-10-150 Project phases for the small city preservation program.** Small city preservation program projects will have three phases. Each phase will require specific documentation as described below and each phase must be approved before the applicant agency is eligible to receive the related funding:

(1) Application phase - The city shall submit an application form as well as documentation showing route and treatment plan.

(2) Design and construction phase - TIB will provide documents for the city to sign and return. The city must submit the following agreements where utilized:

(a) Fuel tax agreement (~~((except if services are provided by WSDOT))~~).

(b) Rights of entry agreement (if applicable).

(c) Consultant agreement (if applicable).

~~((If pavement services will be provided through WSDOT, TIB will maintain the task order agreement and subsequent amendments.))~~

(3) Project closeout phase - All necessary project cost documentation must be received prior to final payment.

[Statutory Authority: Chapter 47.26 RCW. WSR 08-21-005, § 479-10-150, filed 10/2/08, effective 11/2/08.]

AMENDATORY SECTION (Amending WSR 12-08-060, filed 4/3/12, effective 5/4/12)

**WAC 479-10-170 Small city federal match funding eligibility and application.** Cities may request federal matching funds for projects that meet TIB eligibility requirements for small city preservation program funding as described in WAC 479-10-120 and 479-10-121. A TIB funding application form must be submitted to apply for match funding.

~~((The executive director may award match funding on a first-come, first-served basis to the limit established in WAC 479-14-215 or otherwise set by the board.))~~

[Statutory Authority: Chapter 47.26 RCW. WSR 12-08-060, § 479-10-170, filed 4/3/12, effective 5/4/12; WSR 10-14-027, § 479-10-170, filed 6/28/10, effective 7/29/10.]

AMENDATORY SECTION (Amending WSR 13-20-087, filed 9/30/13, effective 10/31/13)

**WAC 479-10-300 Intent of the arterial preservation program.** The intent of the arterial preservation program is to aid urban cities with low assessed property valuation to preserve arterial pavement.

[Statutory Authority: Chapter 47.26 RCW. WSR 13-20-087, § 479-10-300, filed 9/30/13, effective 10/31/13.]

AMENDATORY SECTION (Amending WSR 13-20-087, filed 9/30/13, effective 10/31/13)

**WAC 479-10-320 Projects eligible for arterial preservation program funds.** Eligible roadway projects are:

- (1) ~~((Improvements))~~ Preservation on city-owned federally classified ~~((arterials))~~ routes; or
- (2) City-owned federal arterial functional classification projects within cities qualifying for urban designation upon the next federal census ~~((; and~~
- ~~(3) City-owned urban streets, not functionally classified at the time of award, but meeting federal functional classification prior to approval to expend board funds)).~~

[Statutory Authority: Chapter 47.26 RCW. WSR 13-20-087, § 479-10-320, filed 9/30/13, effective 10/31/13.]

#### OTS-4340.1

AMENDATORY SECTION (Amending WSR 12-08-060, filed 4/3/12, effective 5/4/12)

**WAC 479-14-111 Who is eligible to receive urban program funding.** Eligible agencies are:

- (1) Counties that have an urban area; and
  - (2) Incorporated cities with a population of ~~((five thousand))~~ 5,000 or more. For the purposes of determining population, cities may include the population of any state correctional facility located within the city. Agencies exceeding population of ~~((five thousand))~~ 5,000 are eligible pending designation as a federal urban area following the next federal census ~~((; and~~
  - ~~(3) Transportation benefit districts)).~~
- Generally, the eligible agency will be designated as the project lead. However, the executive director may designate another agency as lead in the best interest of project completion or for convenience to both parties.

[Statutory Authority: Chapter 47.26 RCW. WSR 12-08-060, § 479-14-111, filed 4/3/12, effective 5/4/12; WSR 07-18-050, § 479-14-111, filed 8/30/07, effective 9/30/07.]

AMENDATORY SECTION (Amending WSR 18-08-068, filed 4/2/18, effective 5/3/18)

**WAC 479-14-121 What projects are eligible for urban program funding.** Eligible projects are:

- (1) Improvements on federally classified ~~((arterials))~~ routes;
- (2) Within a city qualifying for urban designation upon the next federal census ~~((as long as the project carries a federal arterial functional classification)); or~~
- (3) Within the urban growth area in counties.

~~((Any urban street that is not functionally classified at the time of award must obtain federal functional classification prior to approval to expend board funds.))~~

Sidewalks with five feet minimum clear width are required on both sides of the arterial unless a deviation is granted under WAC 479-14-200.

[Statutory Authority: Chapter 47.26 RCW. WSR 18-08-068, § 479-14-121, filed 4/2/18, effective 5/3/18; WSR 12-08-060, § 479-14-121, filed 4/3/12, effective 5/4/12; WSR 07-18-050, § 479-14-121, filed 8/30/07, effective 9/30/07.]

AMENDATORY SECTION (Amending WSR 22-07-023, filed 3/9/22, effective 4/9/22)

**WAC 479-14-131 Award criteria for the urban program.** The board establishes the following criteria for use in evaluating urban program grant applications:

(1) Mobility improvements - Includes system connectivity, improves flow of vehicles and freight, and extends or completes corridor for network connections.

(2) Physical condition - Includes pavement, structural, and geometric design features of the arterial.

(3) Growth and development improvements - Provides or improves access to urban centers, economic development, supports annexation agreements, and increases residential density.

(4) Safety improvements - Addresses crash or severity reduction, ~~((elimination))~~ reduction of roadway hazards, ~~((corrects))~~ reduction of roadway deficiencies, and eliminates or reduces railroad at-grade crossing hazards.

(5) Sustainability - Improves mode accessibility, reduces or eliminates water detention, supports native vegetation, and encourages energy reduction technology and use of recycled materials, or increases the lifecycle of the facility.

(6) Constructability - Demonstrates a strong likelihood to achieve full funding, obtain permits, acquire right of way, and reach construction within the timelines established in WAC 479-05-211.

[Statutory Authority: Chapter 47.26 RCW. WSR 22-07-023, § 479-14-131, filed 3/9/22, effective 4/9/22; WSR 12-08-060, § 479-14-131, filed 4/3/12, effective 5/4/12; WSR 07-18-050, § 479-14-131, filed 8/30/07, effective 9/30/07.]

AMENDATORY SECTION (Amending WSR 15-22-052, filed 10/29/15, effective 11/29/15)

**WAC 479-14-225 What is not eligible on state highways under the small city ((arterial)) preservation program?** State highways in small cities are not eligible for preservation projects inside the curb face.

[Statutory Authority: Chapter 47.26 RCW. WSR 15-22-052, § 479-14-225, filed 10/29/15, effective 11/29/15.]

AMENDATORY SECTION (Amending WSR 15-22-052, filed 10/29/15, effective 11/29/15)

**WAC 479-14-231 Award criteria for the small city arterial program.** The board establishes the following criteria for use in evaluating small city arterial program grant applications:

- ~~((1) Condition of surface;~~
- ~~(2) Stability of subsurface base structure;~~
- ~~(3) Condition of subsurface utilities;~~
- ~~(4) Accessibility;~~
- ~~(5) Leveraging of funding sources;~~
- ~~(6) Elimination of hazards;~~
- ~~(7) Continuity of improved street segments including sidewalk;~~
- ~~(8) Community needs;~~
- ~~(9) Sustainable design;~~
- ~~(10) Efficient project implementation.))~~

(1) Economic vitality - Improves central business district, considering all users.

(2) Physical condition - Includes pavement, structural, and geometric design features of the arterial.

(3) Safety improvements - Addresses crash or severity reduction, reduction of roadway hazards, reduction of roadway deficiencies, and eliminates or reduces railroad at-grade crossing hazards.

(4) Sustainability - Improves mode accessibility, reduces or eliminates water detention, supports native vegetation, and encourages energy reduction technology and use of recycled materials or increases the lifecycle of the facility.

(5) Constructability - Demonstrates a strong likelihood to achieve full funding, obtain permits, acquire right of way, and reach construction within the timelines established in WAC 479-05-211.

[Statutory Authority: Chapter 47.26 RCW. WSR 15-22-052, § 479-14-231, filed 10/29/15, effective 11/29/15; WSR 12-08-060, § 479-14-231, filed 4/3/12, effective 5/4/12.]

AMENDATORY SECTION (Amending WSR 22-07-023, filed 3/9/22, effective 4/9/22)

**WAC 479-14-411 Who is eligible to receive active transportation program funding.** Each of the subprograms has separate criteria for agency eligibility as follows:

(1) Urban active transportation program agency eligibility:

(a) Incorporated cities with a population of 5,000 and over.

~~(b) ((Incorporated cities with a population less than 5,000 which are located within a federally designated urban area.~~

~~(e-)) Counties with a federally designated urban area.~~

(2) Small city active transportation program agency eligibility: Incorporated cities with a population under 5,000.

[Statutory Authority: Chapter 47.26 RCW. WSR 22-07-023, § 479-14-411, filed 3/9/22, effective 4/9/22; WSR 12-08-060, § 479-14-411, filed 4/3/12, effective 5/4/12.]



AMENDATORY SECTION (Amending WSR 22-07-023, filed 3/9/22, effective 4/9/22)

**WAC 479-14-421 What projects are eligible for active transportation program funding.** Minimum project requirements for each subprogram are as follows:

(1) Urban active transportation program project eligibility:

(a) Must be on or related to a (~~functionally~~) federally classified route; and

(b) Primary purpose of the project is transportation and not recreation.

(2) Small city active transportation program project eligibility:

(a) The project must be located on or related to a street within the TIB designated arterial system; and

(b) Primary purpose of the project is transportation and not recreation.

For both of the subprograms, TIB does not participate in the cost for right of way acquisitions.

[Statutory Authority: Chapter 47.26 RCW. WSR 22-07-023, § 479-14-421, filed 3/9/22, effective 4/9/22; WSR 13-24-092, § 479-14-421, filed 12/3/13, effective 1/3/14; WSR 12-08-060, § 479-14-421, filed 4/3/12, effective 5/4/12.]

AMENDATORY SECTION (Amending WSR 22-07-023, filed 3/9/22, effective 4/9/22)

**WAC 479-14-431 Award criteria for the active transportation program.** The board establishes the following criteria for use in evaluating (~~sidewalk~~) active transportation program grant applications for both urban and small city active transportation projects:

(1) Safety improvement - Projects that address hazard mitigation and crash reduction.

(2) Mobility access - Projects that improve or provide access to facilities including, but not limited to:

(a) Schools;

(b) Public buildings;

(c) Central business districts;

(d) Medical facilities;

(e) Activity centers;

(f) High density housing (including senior housing);

(g) Transit facilities;

(3) Completes or extends existing active transportation facilities.

(4) Completes or extends sidewalks to facilities listed in subsection (2) of this section that are identified in local agency late-comer agreements. The local agency must agree to collect the late-comer fee at the time of development and place the fee in its transportation improvement program.

(5) Local support - Addresses local needs and is supported by the local community.

(6) Constructability - Demonstrates a strong likelihood to reach construction within the timelines established in WAC 479-05-211.

(7) Sustainability - Right sizing sidewalk or shared use path width and material type, provides hardscaping and native plantings, addresses low impact development or natural drainage practices.

[Statutory Authority: Chapter 47.26 RCW. WSR 22-07-023, § 479-14-431, filed 3/9/22, effective 4/9/22; WSR 18-08-068, § 479-14-431, filed 4/2/18, effective 5/3/18; WSR 12-08-060, § 479-14-431, filed 4/3/12, effective 5/4/12.]