

Title 175 WAC

ECONOMIC ASSISTANCE AUTHORITY

Chapters

- 175-08** Uniform procedural rules.
- 175-12** General operating rules.
- 175-16** Investment tax deferrals application and procedures.
- 175-20** Grants and loans application and procedures.

Chapter 175-08 WAC UNIFORM PROCEDURAL RULES

WAC

- 175-08-010 Uniform procedural rules.
- 175-08-990 Appendix A—Relating to chapter 117, Laws of 1972 1st ex. sess. as codified in chapter 43.31A RCW.

Reviser's note: The content of Appendix A has been deemed inexpedient for publication in the Washington Administrative Code (RCW 34.04.050). Copies of the appendix are available from the Economic Assistance Authority, c/o Department of Commerce and Economic Development, General Administration Building, Room 101, Olympia, Washington 98504. However, Appendix A is available for inspection in the Code Reviser's Office, Legislative Building, Olympia, Washington.

WAC 175-08-010 Uniform procedural rules. The economic assistance authority, hereinafter designated the authority, adopts as its own rules of practice all those uniform procedural rules promulgated by the code reviser now codified in the Washington Administrative Code, WAC 1-08-005 through 1-08-590, (excepting WAC 1-08-010 which is adopted as amended by the authority and set out herein as WAC 175-12-005) as now or hereafter amended subject to any additional rules that the authority may add from time to time. The authority reserves the right to make whatever determination is fair and equitable should any question not covered by its rules come before the authority, said determination to be in accordance with the spirit and intent of the law (chapter 117, Laws of 1972 1st ex. sess. is attached as Appendix A). [Order 3940, § 175-08-010, filed 11/30/73.]

WAC 175-08-990 Appendix A—Relating to chapter 117, Laws of 1972 1st ex. sess. as codified in chapter 43.31A RCW.

WAC 175-08-010
Appendix A
relating to:

Chapter 117, Laws of 1972 1st ex. sess. as codified in chapter 43.31A RCW

Available from Economic Assistance Authority
% Dept. of Commerce and Economic Development
General Administration Building, Room 101
Olympia, Washington 98504

[Order 3940, Appendix A (codified as WAC 175-08-990), filed 11/30/73.]

Chapter 175-12 WAC GENERAL OPERATING RULES

WAC

- 175-12-005 Appearance and practice before agency—Who may appear.
- 175-12-010 Authority organization.
- 175-12-015 Definitions.
- 175-12-020 Notice of pending authority action.
- 175-12-025 Consistency with local and state government policies, plans and programs.
- 175-12-030 Intervention.
- 175-12-035 Private hearings.
- 175-12-040 Petition for reconsideration.
- 175-12-045 Contested case hearings.
- 175-12-050 Judicial review.

WAC 175-12-005 Appearance and practice before agency—Who may appear. No person may appear in a representative capacity before the agency or its designated hearing officer other than the following:

(1) Attorneys at law duly qualified and entitled to practice before the supreme court of the state of Washington;

(2) Attorneys at law duly qualified and entitled to practice before the highest court of record of any other state, if the attorneys at law of the state of Washington are permitted to appear in a representative capacity before administrative agencies of such other state, and if not otherwise prohibited by our state law;

(3) A bona fide officer, partner, or full time employee of an individual firm, association, partnership, corporation, or municipal corporation. [Order 3940, § 175-12-005, filed 11/30/73.]

WAC 175-12-010 Authority organization. (1) The authority shall consist of eleven members as follows:

(a) The chairman who shall be the director of the department of commerce and economic development;

(b) Two appointed by the governor as city representatives;

(c) Two appointed by the governor as county representatives;

(d) Four appointed by the governor as citizen members;

(e) Two ex officio members: Directors of the planning and community affairs agency and the department of ecology or their designees.

(2) The members of the authority, at the first meeting of the calendar year, shall elect a vice chairman.

(3) The principal office of the authority shall be at Olympia, Washington, in care of the director of the department of commerce and economic development, General Administration Building, which office shall be open each day for the transaction of business from 8:00 a.m. to 5:00 p.m. (Saturdays, Sundays and legal holidays excepted). Submissions, requests and communications shall be sent to the authority chairman, in care of the Department of Commerce and Economic Development, General Administration Building, Olympia, Washington 98504.

(4) A majority of the authority members shall constitute a quorum for the promulgation of rules and regulations and for the conduct of its affairs and duties. The internal affairs of the authority may be governed where appropriate through bylaws as provided in section 5(1) of its law, chapter 117, Laws of 1972 ex. sess. The authority may delegate to its chairman all those duties commensurate with the functions of said position and may further designate appropriate individuals to conduct hearings, and take testimony where appropriate on behalf of the authority.

(5) The authority, in accordance with chapter 250, Laws of 1971 ex. sess., Open Public Meetings Act of 1971, may meet in regular sessions on a regular basis at a time and place to be adopted by authority resolution. Special meetings of the authority may be held as prescribed by the Open Public Meetings Act of 1971, chapter 42.30 RCW (chapter 250, Laws of 1971 ex. sess.). [Order 3940, § 175-12-010, filed 11/30/73.]

WAC 175-12-015 Definitions. (1) "Economic assistance area" is initially that area within the state which has been designated by the secretary of the United States Department of Commerce as a redevelopment area; it shall also include those counties in which the rate of increase in population is less than fifteen percent between the two prior decennial federal census figures available for the counties in this state.

The authority is empowered, at its discretion, to redefine these initially designated economic assistance areas where one or more of the following criteria are present:

(a) Prescribed high rate of unemployment as set out in section 9(1)(a), chapter 117, Laws of 1972 ex. sess.

(b) Prescribed slow rate of population increase as set out in section 9(1)(b), chapter 117, Laws of 1972 ex. sess.

(c) Area is a federal Indian reservation manifesting economic distress as based on unemployment, low income levels, and other evidence of economic underdevelopment.

(2) "Special impact area" is defined as any county, city or community wherein the loss, curtailment or closing of a major source of employment, including a major state institution, has caused or will cause an unusual and severe rise in unemployment.

(a) Such designation as special impact area shall be for a period of two years from date of designation by the authority. [Order 3940, § 175-12-015, filed 11/30/73.]

WAC 175-12-020 Notice of pending authority action. The authority shall provide reasonable notice to each applicant of those pending applications it is to consider at its meeting and to the general public by providing a general notice to a local newspaper in the area of the proposed project in advance of said meeting. [Order 3940, § 175-12-020, filed 11/30/73.]

WAC 175-12-025 Consistency with local and state government policies, plans and programs. All projects approved by the authority for economic assistance under chapter 117, Laws of 1972 ex. sess. shall be consistent with the policies, plans, and programs of state agencies and local governmental units within whose jurisdiction the project is located. [Order 3940, § 175-12-025, filed 11/30/73.]

WAC 175-12-030 Intervention. The authority shall allow any person, company or public agency, including federal, state and/or local, to petition to be heard for or against an application. Said material may be received in writing or orally at the discretion of the authority and may include submissions that such project is or is not consistent with policies, plans and programs of state agencies and/or local governmental units within whose jurisdiction the project is located. [Order 3940, § 175-12-030, filed 11/30/73.]

WAC 175-12-035 Private hearings. As authorized by section 5(5), chapter 117, Laws of 1972 ex. sess., the authority may conduct private hearings of any matter material for its information that will assist in its determinations. [Order 3940, § 175-12-035, filed 11/30/73.]

WAC 175-12-040 Petition for reconsideration. (1) Any party may, after final decision by the authority respecting the denial of a grant or loan or tax deferral certification for a proposed project, petition for a reconsideration. Such petition must be filed with the authority's office within fifteen days of service of notice of final decision on the application.

(2) The filing of a petition for reconsideration shall suspend the final decision of the authority until denied or a modified decision is entered.

(3) In response to a petition for reconsideration the authority may either (a) deny same, (b) call for further answer, (c) modify its decision, or (d) permit a rehearing. [Order 3940, § 175-12-040, filed 11/30/73.]

WAC 175-12-045 Contested case hearings. The authority shall hold a formal hearing, conducted as a contested case under the Administrative Procedure Act, chapter 34.04 RCW, whenever lawfully requested by a proper party to an application for investment tax deferral. [Order 3940, § 175-12-045, filed 11/30/73.]

WAC 175-12-050 Judicial review. Any person, including public agencies, aggrieved by a final decision in a contested case before the authority, whether such decision is affirmative or negative in form, is entitled to

judicial review in the manner prescribed in chapter 34.04 RCW as now or hereafter amended. [Order 3940, § 175-12-050, filed 11/30/73.]

Chapter 175-16 WAC
INVESTMENT TAX DEFERRALS APPLICATION
AND PROCEDURES

WAC

175-16-010	Application.
175-16-020	Application processing.
175-16-030	Definitions.
175-16-040	Deferral period and repayment schedule.
175-16-050	Responsibility of department of revenue.
175-16-060	Official forms and instruction materials supplied on request.
175-16-990	Appendix A—Application form and instructions—Investment tax deferral for manufacturers.

Reviser's note: The contents of Appendix A have been deemed inexpedient for publication in the Washington Administrative Code (RCW 34.04.050). Copies of the appendix are available from the Economic Assistance Authority, c/o Department of Commerce and Economic Development, General Administration Building, Room 101, Olympia, Washington 98504. The appendix is available for inspection in the Code Reviser's Office, Legislative Building, Olympia, Washington 98504.

WAC 175-16-010 Application. (1) Applications to the authority for investment tax deferrals shall be submitted on forms obtainable from:

Economic Assistance Authority
c/o Department of Commerce and Economic Development
101 General Administration Building
Olympia, Washington 98504

The forms and accompanying materials, including the instructions in subsection (2) of this section, have been developed by the authority in accordance with the Economic Assistance Act of 1972 (chapter 43.31A RCW, chapter 117, Laws of 1972 ex. sess.)

(2) INSTRUCTIONS FOR COMPLETING APPLICATION FOR INVESTMENT TAX DEFERRAL:

Section I. GENERAL INFORMATION. All applicants complete this section.

Item 1 through 3. Self-explanatory.

Item 4. Detailed location of project for which investment tax deferral eligibility is being requested. A precise description and location of the property is needed, including county and city, where appropriate.

Item 5. Anticipated date for initiating construction of investment project. In compliance with the Economic Assistance Act of 1972, no application will be accepted or processed if the applicant has begun construction on the project or will begin construction prior to receipt of the application by the authority. [In the event construction has been initiated after submission of a complete application but before approval by the authority, deferral on any taxes "due" (as determined by date of invoicing for material or services) prior to the time the authority certifies the project will not be allowed.]

Item 6. Date investment project will be ready for or in use for purposes of manufacturing.

Item 7. The cost of the major components, construction and/or machinery of the investment project must be identified. The figures may be based on either an actual bid basis or on reasonably accurate estimates of the cost. Applicant shall indicate amount and whether the figure is actual or estimated. A brief description of the project and its overall relationship to the firm's manufacturing activity is also to be included.

Item 8. The principal product to be manufactured in the plant complex is to be identified by common name rather than by technical description or trademark.

Item 9. New jobs anticipated to result from the investment project within one year after the completion date.

Item 10. Indicate whether necessary permits and licenses have been secured from appropriate local, state, and federal agencies. Explain what action you have taken to conform to local and state policies, plans, and programs.

Item 11. The applicant must indicate whether he is the owner of the proposed "eligible investment project."

Section II. ELIGIBILITY REQUIREMENTS FOR PROJECT RESULTING IN A [NEW] MANUFACTURING [PLANT COMPLEX] [BUILDING]. Complete the appropriate items under this section only if the investment project is a [new] manufacturing [plant complex] [building].

Item 12. Any investment project which results in a [new] manufacturing [plant complex] [building] located in an economic assistance area qualifies for the investment tax deferral. Economic assistance areas are listed on the attachment to the application form.

Item 13. Any investment project not located in an economic assistance area but which results in a [new] manufacturing [plant complex] [building] in a special impact area qualifies for the investment tax deferral. Special impact areas (if any) are listed on the attachment to the application form.

Item 14. Projects not qualifying under items 12 [and] [or] 13 may qualify for the investment tax deferral if at least twenty percent of [the employees at] [those employed in] the completed [plant complex] [building] will be of [a] minority race. Employment figures used in the determination of the minority percentage should be the annual average of figures consistent with employment reports required by the department of employment security pursuant to chapter 50.12 RCW. The definition of minority is found in WAC 175-16-030(9).

Item 15. Projects not qualifying under items 12, 13[,] or 14 may qualify if the applicant firm is an industry classification other than that assigned to either of the two manufacturing industries within a county which employs the greatest number of persons on an annual average basis in the most recent calendar year for which such information is available from the department of employment security. A list of major employing industries in the counties not designated as economic assistance areas are listed on the attachment to the application form.

Section III. ELIGIBILITY REQUIREMENTS FOR PROJECT[S] RESULTING IN A MAJOR IMPROVEMENT TO AN EXISTING BUILDING. Complete the appropriate items under this section only if the investment project involves expansion, renovation or remodeling of an existing building for manufacturing use.

Item 16. Any investment project that satisfies the criteria for a major improvement and is located in an economic assistance area qualifies for the investment tax deferral. Economic assistance areas are listed on the attachment to the application form.

Item 17. Any investment project which satisfies the criteria for major improvement that is not located in an economic assistance area qualifies for the investment tax deferral if it is located in a special impact area. Special impact areas (if any) are listed on the attachment to the application form.

Item 18. Projects satisfying the criteria for a major improvement and not qualifying under items 16 or 17 may qualify for the investment tax deferral if at least twenty percent of [the employees at] [those employed in] the completed [plant complex] [major improvement] will be of [a] minority race. Employment figures used in the determination of the minority percentage should be the annual average of figures consistent with employment reports required by the department of employment security pursuant to chapter 50.12 RCW. The definition of minority is found in WAC 175-16-030(9).

Item 19. Projects satisfying the criteria for a major improvement and not qualifying under items 16, 17 [and] [or] 18 may qualify [for the investment tax deferral if the completed plant complex will not be in a major employing industry classification in the county in which the project is located. Industry classifications are determined by the two-digit level standard industrial classification code number.] [if the applicant firm is an industry classification other than that assigned to either of the two manufacturing industries within a county which employs the greatest number of persons on an annual average basis in the most recent calendar year for which such information is available from the department of employment security.] A list of major employing industries in the counties not designated as economic assistance areas are listed on the attachment to the application form.

Item 20. The average annual employment at the [investment project for the previous] [existing building for the most recent] [calendar] year is to be computed from monthly reports.

Item 21. The applicant will indicate the true and fair value of the land, building, and machinery, prior to the initiation of the project. The applicant is to indicate if the cost of the investment project is greater than twenty-five percent of the true and fair value of the facilities prior to initiation of construction. The applicant for the deferral may be a lessee, but must [at the time of the deferral application, either be obligated on a lease of the project of at least ten years, commencing on or after the date of such application, or must have executed

such lease, contingent only upon the grant of the investment tax deferral.] provide reasonable evidence of permanency. In determining permanency, the authority will consider, among other things, (1) reasonable viability of business, (2) reasonable perception of stable market, and (3) magnitude of investment.

Section IV. DECLARATION STATEMENT. To be completed by ALL applicants.

Item 22. The declaration statement is self-explanatory. The authority must rule on the application within sixty days of receipt thereof as detailed in WAC 175-16-020.

Item 23. Attach any documentation material believed appropriate and identify clearly.

Item 24. When the application has been completed and signed, the original is to be forwarded to the chairman of the authority. The applicant should retain a copy for his records. [Statutory Authority: RCW 43.31A.050. 79-11-088 (Order 79-2, Resolution 79-2), § 175-16-010, filed 10/24/79; Order 77-2, § 175-16-010, filed 9/16/77; Order 76-1, § 175-16-010, filed 4/7/76; Order 73-4, § 175-16-010, filed 12/14/73; Order 3940, § 175-16-010, filed 11/30/73.]

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 175-16-020 Application processing. (1) The authority shall rule on the application within sixty days of receipt of a valid application; and, if the project satisfies existing legal criteria for an eligible project, the authority shall so certify to the department of revenue and the applicant.

(2) The authority shall determine for all approved investment tax deferrals that such projects are consistent with policies, plans, and programs of state agencies and local governmental units within whose jurisdiction the project is located.

(3) When necessary, the authority shall obtain from the department of employment security a standard industrial classification number for each applicant that will be consistent with the product description supplied.

(4) The authority will issue a certificate which identifies the date on which the construction project is operationally complete. [Order 73-4, § 175-16-020, filed 12/14/73; Order 3940, § 175-16-020, filed 11/30/73.]

WAC 175-16-030 Definitions. (1) "To manufacture" according to RCW 82.04.120, embraces all activities wherein labor or skill is applied, by hand or machinery, to materials so that as a result thereof a new, different or useful substance or article of tangible personal property is produced for sale or commercial or industrial use, and shall include the production or fabrication of special made or custom made articles.

The following is taken from WAC 458-20-136: Manufacturing - special classification: Manufacturing as a term includes milling flour, processing raw seafood, splitting and processing dried peas, the slaughter and

processing of perishable meat; processing of aluminum, freezing and processing of fresh fruit and vegetables.

(2) "Eligible investment project" shall mean construction of new buildings or major improvements to existing buildings and the machinery installed in such buildings in the course of such construction or major improvements, when said buildings, equipment and machinery are to be used for manufacturing activities as defined in WAC 175-16-030(1).

(3) "Buildings" shall mean and include only those structures used or to be used to house or shelter manufacturing activities. The term shall include plant offices and warehouses or other facilities for the storage of raw material or finished goods when such facilities are an essential or an integral part of a factory, mill, or manufacturing plant and such factory, mill, or manufacturing plant is used or to be used in the business of manufacture for sale or commercial or industrial use of an article, substance, or commodity. Where a building is used partly for manufacturing and partly for other purposes the applicable tax deferral shall be determined by apportionment of the costs of construction under such rules as the department of revenue shall provide.

(a) "New building" shall mean those portions of a new or existing structure and the machinery installed therein during the course of construction which increases the usable floor space and which floor space is covered by a new roof and which is supported by a new foundation.

(4) "Machinery" shall mean all industrial fixtures, equipment, and support facilities that are an integral and necessary part of a manufacturing operation.

(5) "Major improvement" shall mean the physical alteration by expansion, modernization, or renovation of an existing structure where the cost exceeds twenty-five percent of the true and fair value of the existing plant complex prior to the initiation of construction; major improvement is further defined to include those portions of an existing structure which do not increase the usable floor space, but is limited to the renovation, modernization or any other form of alteration or addition and the machinery installed therein during the course of construction.

(6) "True and fair value" is defined by the authority as:

(a) The cost/value of land, buildings and machinery as reflected in the applicant's books reduced by depreciation computed on the straight line method using the useful life procedure as authorized by the internal revenue service or,

(b) The value set by a qualified appraiser on the land, buildings or equipment or,

(c) The fair rental/lease value of the land, building or equipment as determined by a qualified appraiser.

(7) "Plant complex" shall mean land, machinery, and buildings adapted to industrial use as a single functional or operational unit for the designing, assembling, processing or manufacturing of finished or partially finished products from raw material or fabricated parts.

(8) "Minority" shall include those ethnic groups generally referred to as Negro, Oriental, American Indian,

Spanish-surnamed Americans, as defined in the Civil Rights Act of 1964 (PL88-352) as now or hereafter amended.

(9) "Initiation of construction" for purposes of applying for the investment tax deferral; as it relates to construction of new buildings, shall mean that date upon which work is initiated after completion of the building's foundation.

(10) "Initiation of construction" for purposes of applying for the investment tax deferral as it relates to major improvement of existing buildings, shall mean that date on which the new construction by renovation, modernization or expansion - by physical alteration - begins.

(11) "Ownership requirements." The applicant must be the owner or lessee of the building and/or equipment on which the deferral is made. In the case of a lessee/applicant the applicant must provide reasonable evidence of permanency. In determining permanency, the authority will consider, among other things, (1) reasonable viability of business, (2) reasonable perception of stable market, and (3) magnitude of investment[.]

(12) "Special conditions." A deferral may be given an applicant if initiation of construction is planned to commence prior to receiving all necessary permits and licenses from state agencies and local government provided there is sufficient information available to indicate the applicant has made requests for the necessary permits. Such deferrals may carry special conditions of time or performance as the authority from time to time may deem necessary. [Statutory Authority: RCW 43-.31A.050. 79-11-088 (Order 79-2, Resolution 79-2), § 175-16-030, filed 10/24/79; Order 73-4, § 175-16-030, filed 12/14/73; Order 3940, § 175-16-030, filed 11/30/73.]

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 175-16-040 Deferral period and repayment schedule. The prescribed taxes by the department of revenue on an eligible investment project will be deferred for a period of three years after the certified date for operational completion of the project, with repayment commencing in the fourth year thereafter and spread over a five-year period. Ten percent of the total amount of authorized taxes deferred will be due on December 31st of the first repayment year with fifteen, twenty, twenty-five and thirty percent due, respectively, on December 31st of the second, third, fourth, and fifth repayment years. The department of revenue may authorize an accelerated repayment schedule upon application of the manufacturing firm. [Order 73-4, § 175-16-040, filed 12/14/73; Order 3940, § 175-16-040, filed 11/30/73.]

WAC 175-16-050 Responsibility of department of revenue. (1) The department of revenue is responsible for

administration of the deferral. Such administration includes issuing the tax deferral certificate and determining the amount thereof, collecting the deferred tax, applying penalties for delinquent payment, notifying the authority when the project is operationally complete and all other action necessary for implementing responsibilities of the department of revenue under the Economic Assistance Act of 1972.

(2) The department of revenue may be consulted by the authority to assist in any other matter relating to this act. [Order 73-4, § 175-16-050, filed 12/14/73; Order 3940, § 175-16-050, filed 11/30/73.]

WAC 175-16-060 Official forms and instruction materials supplied on request. The application form and instructions may be obtained on request from the chairman of the authority:

(1) Form EAA-TD-4: Application for investment tax deferral.

(2) Instructions EAA-TD: Instruction material for completing Form EAA-TD-4. [Order 73-4, § 175-16-060, filed 12/14/73; Order 3940, § 175-16-060, filed 11/30/73.]

WAC 175-16-990 Appendix A--Application form and instructions--Investment tax deferral for manufacturers.

Appendix A

APPLICATION FORM AND INSTRUCTIONS INVESTMENT TAX DEFERRAL FOR MANUFACTURERS

Available from:

Economic Assistance Authority
c/o Department of Commerce and Economic
Development
101 General Administration Building
Olympia, Washington 98504

[Order 73-4, Appendix A (codified as WAC 175-16-990), filed 12/14/73; Order 3940, Appendix A, filed 11/30/73.]

Chapter 175-20 WAC GRANTS AND LOANS APPLICATION AND PROCEDURES

WAC	
175-20-010	Public facilities loans and grants.
175-20-020	Eligibility for public facilities grants or loans.
175-20-030	Division of funding between economic assistance areas and other areas.
175-20-040	Loan terms.
175-20-050	Project funding priorities.
175-20-060	Application dates.
175-20-070	Application for grants or loans.
175-20-080	Appearance before the authority.
175-20-090	General conditions of aid.
175-20-100	Special conditions of aid.
175-20-110	Offer of aid.
175-20-120	Refusal or acceptance of offer of aid.
175-20-130	Contract.
175-20-140	Disbursement of grant and/or loan funds.

175-20-145	Investment of authority funds.
175-20-150	Cost overruns.
175-20-155	Final inspection.
175-20-160	Audits.
175-20-170	Decisions of authority final.
175-20-990	Appendix A—Application form and instructions public facilities grant/loan program.
175-20-99001	Appendix B—Sample form—Attorney's certificate public facilities grant/loan program.
175-20-99002	Appendix C—Sample ordinance and resolution public facilities grant/loan program.
175-20-99003	Appendix D—Offer of financial aid and instructions public facilities grant/loan program.
175-20-99004	Appendix E—Final contractual agreement public facilities grant/loan program.

Reviser's note: The content of Appendices A, B, C, D and E has been deemed inexpedient for publication in the Washington Administrative Code (RCW 34.04.050). Copies of the appendices are available from the Economic Assistance Authority, c/o Department of Commerce and Economic Development, General Administration Building, Room 101, Olympia, Washington 98504. However, they are available for inspection in the Code Reviser's Office, Legislative Building, Olympia, Washington 98504.

WAC 175-20-010 Public facilities loans and grants. The authority may make loans, grants, or a combination thereof, to political subdivisions of the state and to Indian tribes to assist in financing eligible public facility projects as defined in WAC 175-20-020. [Order 3940, § 175-20-010, filed 11/30/73.]

WAC 175-20-020 Eligibility for public facilities grants or loans. (1) Eligibility extends to political subdivisions of the state and Indian tribes recognized as such by the federal government in order to assist them in financing the cost of public facilities including the acquisition and development of land and improvements for public facilities and the acquisition, construction, rehabilitation, alteration, expansion or improvement of such facilities.

(2) The grants or loans shall be used to fund those public facility projects which will improve the opportunity for successful maintenance, establishment or expansion of industrial or commercial plants or will otherwise assist in the creation or retention of long-term economic opportunities.

(3) All public facility projects approved by the authority must be consistent with the policies, plans and programs of state agencies and/or local governmental units within whose jurisdiction the project is located. [Order 3940, § 175-20-020, filed 11/30/73.]

WAC 175-20-030 Division of funding between economic assistance areas and other areas. (1) Not less than two-thirds of public facilities construction loan and grant account moneys within any biennium are to be made available to those areas designated as economic assistance areas and special impact areas.

(2) Not more than one-third of the amount estimated to be available to the public facilities loan and grant account within any biennium may be made available to areas not designated as economic assistance areas and special impact areas. Provided, that any such project for which such funds are sought satisfies one or more of the following criteria:

(a) Provides for greater balance in the distribution of economic opportunity, or

(b) Provides for greater equity in the distribution of economic opportunities for state residents relative to racial, ethnic or social group, and educational or skill levels, or

(c) Provides for continued economic diversification leading to greater seasonal or cyclical stability. [Order 3940, § 175-20-030, filed 11/30/73.]

WAC 175-20-040 Loan terms. (1) Public facility loans shall have a duration not greater than 20 years. The authority may defer repayment of principal and/or interest for a period of up to five years.

(2) The interest rate on public facility loans authorized at a particular authority meeting shall be determined by the rate for 91-day treasury bills as of the sale immediately prior to the subject meeting, rounded upward to the nearest half percentage point except that such rate shall not exceed five percent.

(3) The authority may, where a loan is to be a revenue obligation of the applying municipality, subordinate the loan to existing and future parity debt of the municipality. [Order 3940, § 175-20-040, filed 11/30/73.]

WAC 175-20-050 Project funding priorities. (1) In establishing project priorities the authority shall place primary emphasis on the permanent employment impact of the project.

(2) Additionally, the authority may consider:

(a) Immediacy of the project's economic impact.

(b) Permanence of the project's economic impact.

(c) The local and/or federal participation in project funding.

(d) The contribution by the project to geographical dispersion of industry or commerce in the state.

(e) The contribution by the project to diversification of the state's industrial or commercial base.

(f) The creation by the project of job opportunities for the disadvantaged, minority races, or underemployed.

(g) The financial condition of the local government entity undertaking the project.

(h) Availability of other funding sources. [Order 3940, § 175-20-050, filed 11/30/73.]

WAC 175-20-060 Application dates. To be eligible for consideration at a particular regular monthly meeting of the authority an application for a public facility grant or loan must be received by the authority no later than the first working day of that month. [Order 3940, § 175-20-060, filed 11/30/73.]

WAC 175-20-070 Application for grants or loans. Applications for grants or loans shall be submitted substantially in accordance with the application form attached as Appendix A [WAC 175-20-990]. A resolution of the applicant's governing body which authorizes submittal of the request for aid must accompany the application. The authority may, where necessary, request additional information from the applicant. [Order 3940, § 175-20-070, filed 11/30/73.]

WAC 175-20-080 Appearance before the authority. A representative of the applicant who is either an elected official or employee of the applying municipality or Indian tribe must be present when the authority considers the project application and will be allowed to make a brief presentation on behalf of the project. [Order 3940, § 175-20-080, filed 11/30/73.]

WAC 175-20-090 General conditions of aid. All applicants whose projects are approved for aid must fulfill the following conditions before funds may be disbursed:

(1) The project must be cleared through the regional and state A-95 review process.

(2) The applicant must review the state environmental policy act, take appropriate action and provide the authority with a statement to the effect that requirements of the state environmental policy act have been met.

(3) The applicant must supply an attorney's statement to the effect that the applicant is legally able to undertake the project. A copy of a suggested legal statement is attached as Appendix B [WAC 175-20-99001].

(4) Wherever a loan is involved the applicant must supply the authority with an ordinance of its governing body authorizing acceptance and stating the precise status of the debt. A suggested ordinance is attached as Appendix C [WAC 175-20-99002]. [Order 3940, § 175-20-090, filed 11/30/73.]

WAC 175-20-100 Special conditions of aid. The authority may at its discretion impose special conditions to be fulfilled by the applicant prior to disbursement of funds. [Order 3940, § 175-20-100, filed 11/30/73.]

WAC 175-20-110 Offer of aid. After a project has been approved by the authority the chairman shall transmit an offer of aid form to the applicant which shall describe in detail the form of aid, conditions which must be met and, where appropriate, loan terms. If the applicant wishes to accept the offer, the form must be signed by the applicant and returned prior to the next regularly scheduled meeting of the authority unless otherwise provided by the authority. A sample offer of aid form is attached as Appendix D [WAC 175-20-99003]. [Order 3940, § 175-20-110, filed 11/30/73.]

WAC 175-20-120 Refusal or acceptance of offer of aid. The offer of aid must be accepted or refused by the applicant in its entirety. [Order 3940, § 175-20-120, filed 11/30/73.]

WAC 175-20-130 Contract. After the applicant signs the offer of financial aid, there shall be a 90-day period to complete requirements for final contract. Upon completion of such requirements a final contract shall be prepared and the applicant shall sign and return the contract to the authority within 45 days of its mailing by the authority. A sample final contractual agreement form is attached as Appendix E [WAC 175-20-99004]. [See also reviser's note at the beginning of this chapter.]

[Order 75-1, § 175-20-130, filed 11/19/75; Order 3940, § 175-20-130, filed 11/30/73.]

WAC 175-20-140 Disbursement of grant and/or loan funds. There shall be two options available to the applicant:

Option 1

(1) No funds shall be disbursed until bid is awarded for project.

(2) Authority funds shall be allocated to the applicant on the basis of 90-day advances. The applicant shall file a construction and projected cost schedule covering the initial 90 days of project construction prior to allocation of funds. A similar schedule with a recap of expenditures of the previous 90-day period shall be filed with the authority for each 90-day advance until the project is completed.

(3) Where aid is offered on a combination grant/loan basis, loan funds shall be disbursed first and grant funds disbursed only after all loan funds have been utilized by the applicant.

Option 2

(1) Funds will be disbursed on a reimbursable basis only.

(2) The initial installment will be payable upon submission of a state voucher form (A-19) certifying the project starting date and appropriate certification of the amounts paid to date. The second and any additional payments will be made in a similar manner.

(3) Where aid is offered on a combination grant/loan basis, loan funds shall be disbursed first and grant funds disbursed only after all loan funds have been utilized by the applicant. [Order 75-1, § 175-20-140, filed 11/19/75; Order 3940, § 175-20-140, filed 11/30/73.]

WAC 175-20-145 Investment of authority funds. In those cases where funds have been disbursed by the authority and project performance is delayed beyond 90 days after execution of the final contractual agreement, all unexpended funds shall be placed by the applicant, in an interest bearing account in the authority's name, and all interest accruing on such funds shall inure to the benefit of the authority. [Order 75-1, § 175-20-145, filed 11/19/75.]

WAC 175-20-150 Cost overruns. Applicants shall not be entitled to additional aid from the authority due to costs in excess of estimates in the application materials. [Order 3940, § 175-20-150, filed 11/30/73.]

WAC 175-20-155 Final inspection. There shall be a final inspection by staff upon completion of the project. All funds not drawn by the applicant within 45 days after final inspection will revert to the authority's revolving account. [Order 75-1, § 175-20-155, filed 11/19/75.]

WAC 175-20-160 Audits. Projects shall be subject to audit by the state auditor's office. In the case of projects undertaken by Indian tribes, special arrangements

for audits may be prescribed by the authority. [Order 3940, § 175-20-160, filed 11/30/73.]

WAC 175-20-170 Decisions of authority final. All decisions by the authority regarding applications for public facilities grants or loans are final. [Order 3940, § 175-20-170, filed 11/30/73.]

WAC 175-20-990 Appendix A--Application form and instructions public facilities grant/loan program. WAC 175-20-070, Appendix A relating to application form and instructions for public facilities grant/loan program is available from:

Economic Assistance Authority
% Dept. of Commerce and Economic Development
General Administration Building, Room 101
Olympia, Washington 98504

[Order 75-1, Appendix A (codified as WAC 175-20-990), filed 11/19/75; Order 3940, Appendix A, filed 11/30/73.]

WAC 175-20-99001 Appendix B--Sample form--Attorney's certificate public facilities grant/loan program. WAC 175-20-090, Appendix B relating to sample form of attorney's certificate for public facilities grant/loan program is available from:

Economic Assistance Authority
% Dept. of Commerce and Economic Development
General Administration Building, Room 101
Olympia, Washington 98504

[Order 3940, Appendix B (codified as WAC 175-20-99001), filed 11/30/73.]

WAC 175-20-99002 Appendix C--Sample ordinance and resolution public facilities grant/loan program. WAC 175-20-090, Appendix C relating to sample ordinance and resolution for public facilities grant/loan program is available from:

Economic Assistance Authority
% Dept. of Commerce and Economic Development
General Administration Building, Room 101
Olympia, Washington 98504

[Order 3940, Appendix C (codified as WAC 175-20-99002), filed 11/30/73.]

WAC 175-20-99003 Appendix D--Offer of financial aid and instructions public facilities grant/loan program. WAC 175-20-110, Appendix D relating to offer of financial aid and instructions for public facilities grant/loan program is available from:

Economic Assistance Authority
% Dept. of Commerce and Economic Development
General Administration Building, Room 101
Olympia, Washington 98504

[Order 75-1, Appendix D (codified as WAC 175-20-99003), filed 11/19/75; Order 3940, Appendix D, filed 11/30/73.]

WAC 175-20-99004 Appendix E--Final contractual agreement public facilities grant/loan program.
WAC 175-20-130, Appendix E relating to final contractual agreement for public facilities grant/loan program is available from:

Economic Assistance Authority
% Dept. of Commerce and Economic Development
General Administration Building, Room 101
Olympia, Washington 98504

[Order 3940, Appendix E (codified as WAC 175-20-99004), filed 11/30/73.]