

**WAC 136-167-030 Termination of approved project after RATA reimbursement.**

(1) If a county terminates an uncompleted RATA funded project for which RATA reimbursement has been made, for other than an unanticipated scope change, and is prepared to repay the RATA for all RATA funds received, the county shall, by means of a letter signed by the chair of the board of county commissioners or the county executive as appropriate, inform the county road administration board of its termination of the project. The letter shall state the reasons for termination and commit to repaying all RATA funds received for the project. Upon acknowledgment of such termination by the county road administration board, the county shall repay the county road administration board for all RATA funds paid to the county on that project within sixty days of such acknowledgment. After receipt of the RATA repayment, the county road administration board will void the CRAB/county contract and allocate the RATA funds to other projects within the region.

(2) If a county terminates an uncompleted RATA funded project for which RATA reimbursement has been made, for other than an unanticipated scope change, and does not want to be required to repay the county road administration board for all RATA funds received, a letter of request signed by the chair of the board of county commissioners or the county executive as appropriate must be sent to the county road administration board. The request must include:

(a) An explanation of the reasons that the project will not proceed to completion;

(b) A statement of the amount of RATA funds which the county does not want to repay; and

(c) An explanation of why the county believes full repayment should not be made.

If the county road administration board grants the request, the county shall repay all RATA funds not exempted from repayment, the CRAB/county contract will be amended, and the remaining RATA funds will be allocated to other projects within the region. If the county road administration board denies the request, full repayment shall be made as provided in subsection (1) of this section.

(3) If after an engineering design study for the RATA funded project has been completed, and as a result of that study it is found that the project scope submitted the final project prospectus must be significantly altered due to factors not anticipated at the time of final prospectus submittal, a county may voluntarily withdraw the project and resubmit a revised project during a later RAP cycle.

A county wishing to voluntarily withdraw a project for an unanticipated scope change shall submit a request signed by the chair of the board of county commissioners or the county executive as appropriate, to the county road administration board notifying the board of the county's intention to withdraw the project and the nature of the unanticipated project scope change. The county may retain up to five percent of the RATA request amount, not to exceed seventy-five thousand dollars for the RATA share of the cost to perform the engineering design study. In order to be eligible to retain the RATA share of the cost to perform the engineering design study, the project must have begun the engineering design within one year of project approval by the county road administration board and it must be documented in the request that the changed conditions could not have been reasonably anticipated at the time of final prospectus submittal. The director shall make the determination of eligibility for the following conditions:

(a) Unanticipated subsurface conditions identified in a geotechnical report resulting from subsurface explorations (i.e., drilling) that would not normally be completed prior to the final prospectus;

(b) Unanticipated environmental and/or cultural resource issues identified in an environmental or cultural resource discipline report that would not normally be completed prior to the final prospectus submittal;

(c) Changes in project eligibility resulting from annexation or functional classification changes not anticipated prior to final prospectus submittal;

(d) Inability to obtain necessary rights of way from agencies/entities that are not subject to eminent domain (i.e., federal or tribal agencies); or

(e) Major geometric changes required to mitigate impacts identified by the public and/or adjacent property owners as the result of a formal environmental determination, formal public involvement process, or unanticipated costs for utility relocations that were not reasonably anticipated prior to final prospectus submittal.

Upon a determination of eligibility by the director, the county shall repay the county road administration board for all costs in excess of the eligible amount within sixty days of such acknowledgment, the CRAB/county contract will be amended, and the remaining RATA funds will be allocated to other projects within the region. Any determination made by the director under this subsection may be appealed to the full board for a final determination of eligibility. Nothing in this subsection is intended to limit or restrict a county from making a request to the county road administration board as allowed under subsection (2) of this section.

[Statutory Authority: Chapter 36.78 RCW. WSR 11-05-005, § 136-167-030, filed 2/3/11, effective 3/6/11. Statutory Authority: Chapter 36.79 RCW. WSR 00-05-043, § 136-167-030, filed 2/11/00, effective 3/13/00; WSR 99-01-021, § 136-167-030, filed 12/7/98, effective 1/7/99. Statutory Authority: RCW 36.79.060. WSR 94-16-110, § 136-167-030, filed 8/2/94, effective 9/2/94.]