

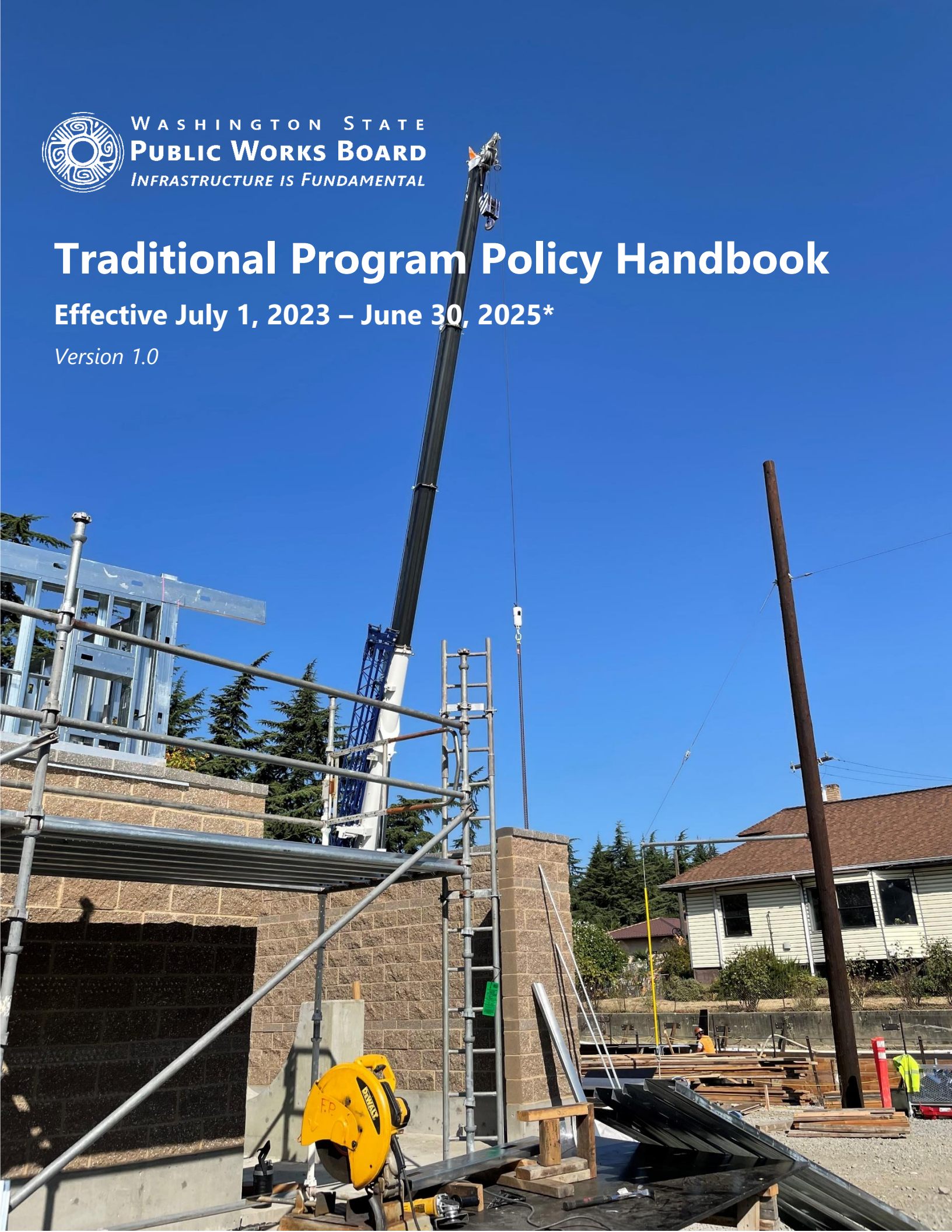


WASHINGTON STATE
PUBLIC WORKS BOARD
INFRASTRUCTURE IS FUNDAMENTAL

Traditional Program Policy Handbook

Effective July 1, 2023 – June 30, 2025*

Version 1.0



Disclaimer

This handbook is a guide for recipients of a Public Works Board (PWB) Traditional Programs loan and/or grant. Please note that while this handbook is a helpful resource, it does not guarantee compliance with all state requirements. Recipients are responsible for compliance with all the rules and guidelines as required by the PWB as enacted in law. The Public Works Board and the Department of Commerce (Commerce) expressly disclaim any warranty related to the compliance with federal and state requirements and will accept no responsibility for any consequences arising from the use or reliance on this handbook.

*The PWB reserves the right to update these policies through Board action at any time. Updates will be published to www.pwb.wa.gov.

Cover image

Seattle Public Utilities Pearl St. Drainage & Wastewater Improvement Project

Funded in part by a 2020 PWB Construction loan. Photo: Sept. 2, 2021.

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Section 1 - Overview

1.1 Introduction

The Public Works Board (PWB) is authorized by state statute ([RCW 43.155](#)) to loan money to counties, cities, and special purpose districts to repair, replace, or create domestic water systems, sanitary sewer systems, storm water sewer systems, roads, streets, solid waste and recycling facilities, and bridges.

RCW 43.155.070(4)(a) was modified by [ESHB 1677](#) to include the following:

- (x) The extent to which the project meets the following state policy objectives;
 - (A) Efficient use of state resources;
 - (B) Preservation and enhancement of health and safety;
 - (C) Abatement of pollution and protection of the environment;
 - (D) Creation of new, family-wage jobs, and avoidance of shifting existing jobs from one Washington state community to another;
 - (E) Fostering economic development consistent with chapter [36.70A RCW](#);
 - (F) Efficiency in delivery of goods and services and transportation; and
 - (G) Reduction of the overall cost of public infrastructure.

PWB provides low-interest loans to local governments to finance public infrastructure construction, pre-construction, and emergency projects. PWB awards per jurisdiction cannot exceed \$10 million per biennium for Construction and Pre-Construction combined. Therefore, if your jurisdiction is applying for multiple pre-construction projects, or a mix of pre-construction and construction, the total for all of those projects cannot exceed the \$10 million per jurisdiction limit.

- Construction loans are a maximum \$10 million award with a loan term of 20 years or the life of the improvement, whichever is less, and include 5 years for project completion within the loan term.
- Pre-Construction Loans are a maximum \$1 million dollar pre-construction award per project. This is a competitive cycle with quarterly awards. The loan term is 5 years, including 2 years for project completion within the loan term.
- Emergency Loans have an “open cycle” on a first come, first serve basis until funds are exhausted. There is a maximum \$1 million dollar award per jurisdiction, per biennium. For jurisdictions that have experienced catastrophic conditions, PWB considers exceptions to the \$1 million cap for emergency loans or grants. The loan term is 20 years or the life of the improvement, whichever is less, including 12 months for project

completion. The Emergency Construction program focuses on the activities that repair, replace, and/or reconstruct a facility that will restore essential services.

Eligible projects are 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.

Eligible uses of funds include all or part of an emergency public works project less any reimbursement from any of the following:

- Federal disaster or emergency funds, including funds from the Federal Emergency Management Agency.
- State disaster or emergency funds.
- Insurance settlements.
- Litigation.

1.2 PWB Program Administration

The PWB partners with awardees to steward the Public Works Assistance Account (PWAA). Staying in close contact with contract managers and submitting timely payments and reports helps ensure the growth and integrity of the PWAA.

Public Works Board

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Olympia, WA 98504-2525

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Executive Director
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Schedules
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PWB staff manage the following:

- ➔ Publishing the program guidelines and application.
- ➔ Scoring and ranking applications.
- ➔ Conducting affordability index analysis, risk analysis, and financial review.
- ➔ Determining project readiness and negotiating final scopes of work.
- ➔ Conducting the Governor's Executive Order 21-02 Cultural Review Process.
- ➔ Preparing and executing loan contract documents.
- ➔ Providing contract management training.
- ➔ Monitoring compliance with contract requirements and progress.
- ➔ Reviewing and approving reimbursement requests.
- ➔ Amending contracts and the project completion process.
- ➔ Technical assistance.
- ➔ Issuing annual loan billing statements.
- ➔ Managing contracts for completed projects.

1.3 PWB Policies

PWB [policies](#) provide guidance on project application, threshold requirements, hardship criteria, reduced interest rates and grants, emergency loans and grants, project initiation, loan management and project close out requirements. Relevant policies are referenced in Table 1.

Table 1: PWB Traditional Program Policies

Project Timing	Title	Purpose for policy
Project Application	PWB online application and key	Approve using ZOOM Grants for online applications.
	PWB application scoring	Set the scoring of 100 with 70 points for NEED and 30 for READINESS and the minimum score of 65 out of 100 points funding threshold.
Threshold Requirements	GMA compliance	Applicants planning under GMA need to be in GMA compliance with no findings before the Growth Management Hearings Board at the time of application submission to be eligible for funding.
Hardship Criteria	Financial hardship	Update methodology and criteria to reflect affordability and equity considerations.
	Forgiveness policy for construction and emergency loans	<p>1. Construction Program: Clients meeting the severe hardship criteria may receive 5% loan forgiveness (grant), when they have completed the scope of work in the Construction loan. For example, a \$10,000,000 loan x 5%=\$500,000 forgiveness.</p> <p>2. Emergency Program: Clients meeting the severe hardship criteria may receive 20% loan forgiveness (grant), when they have completed the scope of work in the Construction loan.</p>
		Severe hardship criteria, may receive 20% forgiveness (includes a 2-year deferral if requested).
Reduced Interest Rates & Grants	PWB use of reduced interest rates	Affirmed policy to use reduced interest rates for projects with hardship status regardless of system size.
	PWB use of grants	Use of grants in preconstruction and construction awards based on hardship status.

Project Timing	Title	Purpose for policy
Emergency Program & Grants	PWB traditional emergency program and use of grants	<p>An action to authorize Traditional Programs to issue emergency application awards up to a 100% grant and remove the maximum award restriction for applicants experiencing catastrophic conditions if funding is available.</p> <p>Define emergency catastrophic conditions for emergency projects eligible for emergency grants based on hardship or catastrophic conditions.</p>
Project Initiation	Complying with Governor's Executive Order 21-01 Client contract execution deadline Bid set-aside account (formally set-aside additional funding) Deferral for startup systems	<p>This Executive Order replaces Governor's Executive Order 05-05.</p> <p>Applicants awarded Public Works Board Contract (for all programs), will need to return an executed contract within six months of receipt. Failure to do so would result in withdrawal of the award.</p> <p>An action to rename the Set Aside Account to the Bid Set-Aside Account. An action to approve raising the maximum request for funding from the Bid Set-Aside Account from \$300,000 up to \$500,000.</p> <p>Construction reserve set aside from de-obligated funds not to exceed \$2 million to be used to award additional funding to contracts where bids come in higher than anticipated at time of application. The maximum award per loan contract for this purpose is \$300,000. Any funds in the set aside account not used by the end of the last funding cycle in the biennium will be rolled into the next funding cycle for new construction loans. If there are no funds appropriated to the PWB, a construction reserve would not occur.</p> <p>The intent of the five year deferment language is to provide local jurisdictions an opportunity to undertake completely new infrastructure systems such as water and wastewater treatment plants. Deferred loan repayment is to assist systems that otherwise would not be fiscally feasible if loan repayments were to start before the system could begin generating revenue. The vast majority of jurisdictions cannot afford the repayment of loans and the enormous upfront expense of a brand new system without the revenues that are generated from hook-ups,</p>

Project Timing	Title	Purpose for policy
	Retainage	<p>connection charges and/or utility rates. A “new system” can be defined as any system that delivers previously unavailable services to a new customer base that repays debt incurred with the revenues generated by the new system. It would not include the replacement, expansion, or rehabilitation of an existing system or a system that already has existing revenues for that service.</p> <p>To establish that five percent (5%) of the PWB contract (for all programs) will be withheld until the PWB funded project scope of work is completed and a completion report has been submitted to PWB.</p>
Project Closeout	Project completion	Contract is complete when all of the Scope of Work elements specified in the contract are complete, and engineer issues the completion letter.
	Pre-construction loan term conversation	Term changed from 5 to 20 years if client secures 30 capital funding.
	Performance incentives	Construction Contract Performance Incentives, the Contractor shall submit the Certified Project Completion Report within thirty six (36) months, or forty eight (48) months of the date of the contract execution to receive the performance incentive.
Loan Management	Delinquent loan management	The borrower will be sent a new billing statement for the outstanding payment due plus an additional one (1) percent penalty of the payment amount.
	Loan default	When a borrower has not received a loan deferral or made a payment within 120 days of the due date, the PWB may impose such remedy as provided for in the loan agreement.

1.3.1 Threshold Requirements

Growth Management Act (GMA) Compliance - PWB Policy

Applicants planning under GMA must be in GMA compliance with no findings before the Growth Management Hearings Board at the time of application submission to be eligible for funding. *Board Adoption 06/07/2019*

GMA Not in Conformance - PWB Policy

Applicants that are not in conformance because their periodic update is overdue, have five months to be in conformance. Otherwise, their award letter will be withdrawn. *Board Adoption 06/07/2019.*

1.3.2 Hardship Criteria

PWB Financial Hardship Policy

The [PWB Financial Hardship Policy](#) is intended to provide assistance to financially distressed or severely distressed communities, or for projects that primarily benefit financially distressed or severely distressed portions of a community per RCW 45.155.060(2)(d).

Communities in rural counties are considered distressed if the county meets one of the following two conditions and severely distressed if the county meets both of the following conditions:

- Median Household Income (MHI) of 25% below the state average. The United States Census, American Community Survey (ACS) 2021 5-year estimate is the source of Median Household income (MHI) data available for counties, cities, and census tract locations.
- Three-year average of an unemployment rate of 20% above the state average. The Washington State Employment Security Department's [distressed county list](#) is the source for three year average unemployment rates.

Communities in urban counties or rural counties that do not meet the above hardship thresholds may choose to use city or census tract of the proposed project area if the MHI in the ACS survey has a coefficient of variability (CV) of 30% or less.

$CV = \text{Margin of Error} / 1.645 / \text{MHI} * 100$

[IACC income survey results](#) can be used in lieu of MHI data if the CV is greater than 30%. Income surveys are to be implemented by the applicant.

Check your project area's distressed status using the [PWB Hardship Status Interactive Map](#).

Hardship Status	Urban Counties	Rural Counties
Non-distressed – may use census tract	<ul style="list-style-type: none"> • Benton • Clark • King • Kitsap • Pierce • Snohomish • Spokane • Thurston • Whatcom 	<ul style="list-style-type: none"> • Chelan • Columbia • Douglas • Island • Kittitas • Lincoln • San Juan • Skagit • Skamania • Walla Walla
Distressed		<ul style="list-style-type: none"> • Adams • Asotin • Cowlitz • Franklin • Garfield • Grant • Klickitat • Mason • Whitman
Severely Distressed		<ul style="list-style-type: none"> • Clallam • Ferry • Grays Harbor • Jefferson • Lewis • Pacific • Pend Oreille • Okanogan • Wahkiakum • Yakima

Alternatively, a community could elect to use the Affordability Index for rate-based systems or Debt Service Coverage Ratio for non-rate-based systems. These calculations would be made for the service area of the jurisdiction receiving PWB funding.

Hardship Status	Affordability Index (Rate-based)	Debt Service Coverage Ratio (Non-rate-based)
Non-distressed	Less than 2%	Greater than 1.2%
Distressed	2-3%	1.1%-1.19%
Severely Distressed	Greater than 3%	1.09% or less

Loan Forgiveness

Construction

Recipients meeting the severe hardship criteria may receive 5% loan forgiveness (grant), when they have completed the scope of work in the Construction loan. For example, a \$10,000,000 loan x 5% = \$500,000 forgiveness. *Board Adoption 07/12/2019.*

Pre-Construction

Recipients meeting severe hardship criteria may receive 20% forgiveness (includes a 2-year deferral if requested). *Board Adoption 02/02/2018.*

Emergency

Recipients meeting the severe hardship criteria may receive 20% loan forgiveness when they have completed the scope of work in the Construction loan. *Board Adoption 07/12/2019.*

Special Considerations for Hardship Assistance

The PWB has adopted a policy that allows for special consideration of:

- Projects that are a direct result of a gubernatorial or presidential declared disaster.
- Projects that are a secondary result of a gubernatorial or presidential declared disaster.
- Applicants in gubernatorial or presidential declared disaster areas whose projects are in no way related to the disaster.

These special considerations may be deemed eligible for a lower interest rate, grant, longer repayment period, deferral period, or another option determined by the Board at its discretion.

Hardship Definitions

Affordability Index (rate-based systems only)

Affordability Index (AI) is a measure of the consumer's financial ability to pay for utility services. Rates are deemed affordable if less than two (2) percent of the monthly household income. The Environmental Protection Agency's guidance on the affordability of investment in water and wastewater systems uses an average household rate of two (2) percent of the median household income (MHI).

Ability to pay focuses not on whether consumers **will** pay for utility service, but on whether consumers **can** pay for utility service.

The PWB has a distinct criterion to determine Affordability Index:

$$\frac{\text{"New Average Utility Rate" x 12 (months)}}{\text{Median Household Income (MHI)}}$$

"New average utility rate"=

Current average monthly utility rate per Equivalent Residential Unit (ERU);

- + Current and projected debt service expenses per ERU (only if the debt service is excluded from the current average monthly utility rate);
- + Projected additional annual operating, maintenance, and replacement (OM & R) expenses.

Debt Service Coverage Ratio (non-rate-based systems only)

Debt service coverage ratio (DSCR) is the applicant's amount of cash available to meet annual principal and interest payments on all debt:

$$\frac{\text{Net operating income}}{(\text{principal repayments} + \text{interest payments})}$$

Net operating income is the difference between the Total Operating Revenue and the Total Operating Expenses: Total Operating Revenue – Total Operating Expenses = Net operating income.

Median Household Income

The Median Household Income (MHI), the middle value in a list of numbers if the list contains an odd number of entries, or the average of the two middle values in a list of numbers containing an even number of entries.

There are three methods the PWB may use to determine the MHI of a county, jurisdiction or service area:

- MHI of the applicant/or the county or project service area based on US Census Data. Please visit: <https://www.census.gov/quickfacts/fact/table/WA,US/INC110219>
- MHI data through income surveys of the applicant, or the applicant's project service area (if the project area is outside the applicant's jurisdiction), conducted within the last 3 years by the Rural Community Assistance Corporation (RCAC), the Public Works Board, or third parties which meet the PWB's Income Survey Guidelines.
www.infracfunding.wa.gov
- MHI data from the latest income survey conducted for other state agencies within the last 3 years, which meet the PWB's Income Survey Guidelines.

Rural County

RCW 82.14.370 (5): "rural county" means a county with a population density of less than 100 persons per square mile or a county smaller than 225 square miles as determined by the office of financial management and [published each year by the department for the period July 1st to June 30th](#).

Unemployment

RCW 43.168.020 (3)(b): a county which has an unemployment rate which is twenty percent above the state average for the immediately previous three years. See the [ESDWAGOV - Distressed areas list](#) for more information.

Catastrophic Conditions

Catastrophic conditions cause severe disruption affecting the population, infrastructure, environment, economy and/or government functions including but not limited to:

- Significant public health and safety concerns are not isolated, but pervasive. For example, damage to water systems affecting community and health facilities, limited access to key transportation routes.
- Poses an environmental threat including contamination of water or soils resulting in loss of biodiversity.
- Impacts economic commerce, including community and economic development. For example blocks transportation corridors affecting movement of goods and materials including food supply and other critical economic commerce.
- Without restoration, the community is hindered in restoring other community and infrastructure functions

Emergency public works projects must be eligible under WAC 399-30-045 and include 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.

1.3.3 PWB Loan Interest Rates

Prior to a loan application cycle, interest rates are established by PWB statute. The standard interest rate for general applicant (non-hardship) projects is based on the average daily market interest rate for tax-exempt municipal bonds. They are calculated at 50% of the average 11-Bond GO Index rates for the period of 30-60 days prior to the application cycle.

For example, jurisdictions that do *not* meet the criteria set by our Hardship Policy (described in section 1.4) receive the following rates for the FY2024 loan cycle:

- Loan Term ≤ 5 years: 0.86%
- Loan Term 5 – 20 years: 1.72%

Note that the loan term cannot exceed the life of the asset being financed. Match funding is not required for PWB loans. Jurisdictions awarded PWB loans will not be charged a loan fee.

Fiscal Year 2024 Interest Rates for All PWB Loans		
	Non-Financially Distressed Communities	
	Term	Rate
	<5 years or less	0.86%
	5 – 20 years*	1.72%
	Financially Distressed Communities	
	Term	Rate
	<5 years or less	0.69%
	5 – 20 years*	1.38%
Distressed:	<5 years or less	0.43%
	5 – 20 years*	0.86%
Severely Distressed:	<5 years or less	
	5 – 20 years*	
Local Match Funding:	NONE	
Loan Fee:	NONE	
*The loan term cannot exceed the life of the asset being financed.		

1.3.4 Reduced Interest Rates & Grants

Communities experiencing financial hardship may qualify for [reduced interest rates](#) on their PWB loans and/or for [partial grant funding](#). Grant funding is awarded based on availability of funds at the discretion of the Board. Communities experiencing severe distress have first priority for grant funding.

Reduced Interest Rates			
Hardship Status	Construction	Preconstruction or Planning	Emergency
Non-distressed	50% Average Daily Market Rate (ADMR)	25% ADMR	25% ADMR
Distressed	80% of the non-distressed rate	80% of the non-distressed rate	80% of the non-distressed rate
Severely Distressed	50% of the non-distressed rate	50% of the non-distressed rate	50% of the non-distressed rate

Grants			
Hardship Status	Construction	Preconstruction or Planning	Emergency
Non-distressed	Not eligible unless the PWB determines a priority for specific programs.	Not eligible unless the PWB determines a priority for specific programs.	Not eligible unless catastrophic conditions requires up to 100% grant.
Distressed	25% grant as determined by availability of grant resources and discretion of the Board, limited to no more than \$1,000,000.	25% grant determined by availability of grant resources and discretion of the Board.	25% grant as determined by availability of grant resources and discretion of the Board. 100% grant only if catastrophic conditions require up to 100%.
Severely Distressed	First priority for up to 50% grant determined by availability of grant resources and discretion of the Board limited to no more than \$2,000,000.	First priority for up to 50% grant determined by availability of grant resources and discretion of the Board.	First priority for up to 50% grant determined by availability of grant resources and discretion of the Board. 100% grant only if catastrophic conditions require up to 100%.

1.3.5 Deferral for Startup Systems

The intent of the five-year deferment language is to provide local jurisdictions an opportunity to undertake completely new infrastructure systems, such as water and wastewater treatment plants.

Deferred loan repayment is to assist systems that otherwise would not be fiscally feasible if loan repayments were to start before the system could begin generating revenue. The vast majority of jurisdictions cannot afford the repayment of loans and the enormous upfront expense of a brand new system without the revenues generated from hook-ups, connection charges, and/or utility rates.

Any "new system" is eligible for a five-year loan payment deferral as defined below:

Eligibility Requirements

1. New system: any system that (1) delivers previously unavailable services to a new customer base, and (2) repays debt incurred with the revenues generated by the new system. This does not include the replacement, expansion, or rehabilitation of an existing system or a system that already has existing revenues for that system.

2. Public Works Board (PWB) Construction loans only.
3. Jurisdiction must meet all the standard PWB threshold requirements such as REET, GMA compliance, etc.

Loan Terms

1. Five years will be added to the term of the loan (example: 20-year loan will increase to 25-years).
2. No loan (principal or interest) payments for first five years.
3. Interest on the amount drawn would accrue for the first 5 years of the loan.
4. In the 6th year, the first payment would consist of the accrued interest.
5. Beginning the 7th year, the client would begin both interest and principal payments.

Board Adoption 06/01/2012

1.3.6 Annual Loan Payments

Loan repayments are due the June 1st after the first withdrawal of funds and shall consist of interest only for the first payment. If a loan is executed a few months prior to June, the first interest payment is due the following year. Subsequent repayments shall consist of principal and interest remaining for the term of the loan. The final payment shall be on or before the term of the loan of an amount sufficient to bring the loan balance to zero.

Billing statements are issued by Commerce to the Recipient approximately one month prior to the date payment is due. There is a 30-day grace period. If payments are not received by June 30th, then a late fee of 1% of the billed amount will be due.

The Recipient will repay the loan in accordance with the preceding conditions through the use of a check, money order, or equivalent means made payable to the Washington State Department of Commerce, or its successor.

1.3.7 Loan Default

When a borrower has not received a loan deferral or made a payment within 120 days of the due date, the PWB may impose such remedy as provided for in the loan agreement. *Board Adoption 12/02/2008.*

A Recipient that has experienced financial difficulties caused by events beyond their control may request deferral of the loan payment by contacting PWB staff. The PWB may, in its sole discretion, agree to amend the loan agreement with the Recipient.

The PWB, when determining whether to agree to a change in loan terms, shall take into consideration the following criteria:

1. Sound fiscal management of jurisdiction.

2. Significant loss of revenue that supports the system for which the loan was made, or severe fiscal distress caused by a natural disaster.
3. Established rates that are adequate to provide for operation and debt service.
4. Current financial statements (balance sheet and income statement).
5. Ability to obtain financing from other lenders.

The PWB may agree to amend the agreement to:

1. Temporarily defer loan payment and/or late fee for up to 90 days.
2. Defer principal payment and extend the length of the loan not to exceed the remaining life of the asset.
3. Reduce the interest rate.
4. Place PWB in the senior position to future debt obligation of the jurisdiction.

Should the PWB agree to amend an agreement to include the above changes, the following conditions may be required:

1. Provide collateral equivalent to the value of the loan.
2. Provide annual financial statements (balance sheet and income statement).
3. If the loan balance is over \$500,000, an independent audit of the jurisdiction's financial statements.

In addition, the borrower may be restricted from future PWB loans until they can demonstrate financial and managerial capacity.

1.3.8 Delinquent Loan Management

PWB loan agreements require payment within thirty days of the due date of the loan payment as described in the agreement. A loan is delinquent when a Recipient fails to make full payment within thirty days of the due date.

A Recipient failing to make a payment in accordance with the terms of the loan agreement will be sent a notice of delinquency requesting payment before the thirty first (31st) day following the due date. The Recipient will be sent a new billing statement for the outstanding payment due plus a one (1) percent penalty of the payment amount. PWB staff will contact the Recipient, and document the reason for the delinquency.

A Recipient failing to make payment by the sixty-first (61st) day following the due date will be sent a Second Notice of Delinquency requesting payment before the ninety-first (91st) day following the due date. The Recipient will be sent a new billing statement for the outstanding payment due plus an additional one (1) percent penalty of the payment amount.

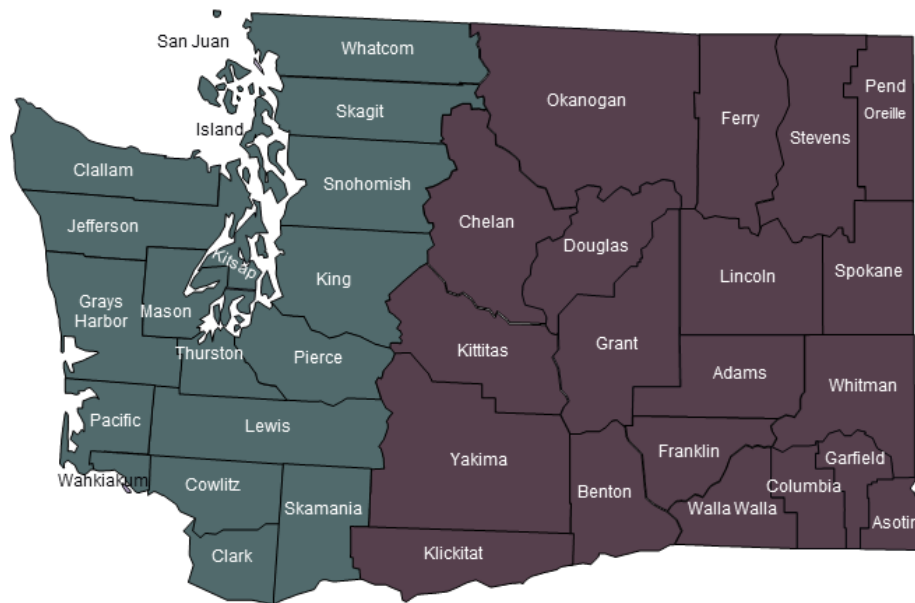
A Recipient failing to make payment by the ninety-first (91st) day following the due date will be sent a Final Notice of Delinquency requesting payment before the one hundred and twenty-first (121st) day following the due date.

The Recipient will be sent a new billing statement for the outstanding payment due plus an additional one (1) percent penalty of the payment amount. *Board Adoption 12/02/2008.*

1.4 State Requirements

Numerous state requirements must be followed when implementing a PWB-funded project. These requirements are a part of the contract between the PWB and the Recipient. See Attachment 1-B.

Attachment 1-A: Regional Project Manager Map



Program Staff

Revised 3/14/2023

Max Wedding Project Manager (360) 764-0392 Max.Wedding@commerce.wa.gov
Bridget Pechtel Project Manager (360) 870-9288 Bridget.Pechtel@commerce.wa.gov
Mark Rentfrow Traditional Program Director (360) 529-6432 Mark.Rentfrow@commerce.wa.gov
Cindy Chavez Loan Payment/Amortization Schedule (360) 725-3154 Cindy.Chavez@commerce.wa.gov
Karin Berkholtz Executive Director (360) 688-0313 Karin.Berkholtz@commerce.wa.gov

Attachment 1-B: State Requirements

Washington State Laws and Regulations:

Boards of Directors or Officers of Non-profit Corporations – Liability - Limitations, RCW 4.24.264.

Relocation Assistance - Real Property Acquisition Policy, Chapter 8.26 RCW

Chapter 36.70A RCW, Growth Management Act

Public Works, Chapter 39, RCW

Alternative Public Works, Chapter 39.10, RCW

Chapter 39.80 RCW, Contracts for Architectural and Engineering Services

Interlocal Cooperation Act, Chapter 39.34 RCW

Prevailing Wages on Public Works, Chapter 39.12 RCW Chapter 39.12 RCW, Washington State Public Works Act

Office of Minority and Women's Business Enterprises, Chapter 39.19 RCW and Chapter 326-02 WAC

Affirmative Action, RCW 41.06.020 (11)

Disclosure-Campaign Finances-Lobbying, Chapter 42.17 RCW

Ethics in Public Service, Chapter 42.52 RCW

Public Records Act, Chapter 42.56 RCW

Chapter 43.20 RCW, State Board of Health

State Environmental Policy, Chapter 43.21C RCW

Open Public Meetings Act, Chapter 42.30 RCW

Chapter 43.70 RCW, Department of Health

State Budgeting, Accounting, and Reporting System, Chapter 43.88 RCW

Chapter 43.155 RCW, Public Works Project

Housing Assistance Program, Chapter 43.185 RCW

Discrimination-Human Rights Commission, Chapter 49.60 RCW

Chapter 70.116 RCW, Public Water Systems Coordination Act of 1977

Chapter 70.119 RCW, Public Water Supply Systems Certification and Regulation of Operations

Chapter 70.119A RCW, Public Water Systems, Penalties & Compliances

Noise Control, Chapter 70.107 RCW
Shoreline Management Act of 1971, Chapter 90.58 RCW
Chapter 246-290 WAC, Group A Public Water Systems
Chapter 246-291 WAC, Group B Public Water Systems
Chapter 246-292 WAC, Waterworks Operator Certification Regulations
Chapter 246-293 WAC, Water Systems Coordination Act
Chapter 246-294 WAC, Drinking Water Operating Permits
Chapter 246-295 WAC, Satellite System Management Agencies
Chapter 246-296 WAC Drinking Water State Revolving Fund Loan Program
Chapter 173-160 WAC, Minimum Standards for Construction & Maintenance of Wells
Title 173 WAC, Department of Ecology Rules
ESHB 1497 Section 1021, Investment Grade Efficiency Audit
State Coastal Zone Management Program, Publication 01-06-003, Shorelands and
Environmental Assistance Program, Washington State Department of Ecology
State Building Code, Chapter 19.27 RCW and Energy-related building standards, Chapter
19.27A RCW, and Provisions in Buildings for Aged and Handicapped Persons, Chapter 70.92
RCW
State Executive Order 21-02 Archaeological and Cultural Resources

Section 2 – Archaeological and Cultural Resources Review

2.1 Cultural Resources Review Overview

In order to protect the rich cultural heritage of Washington state, Governor Jay Inslee signed Executive Order 21-02 (GEO 21-02). The order requires that recipients of state capital funds must consult with the Department of Archaeology & Historic Preservation (DAHP) and any federally recognized Indian tribes that may have cultural and/or historic interest or concerns in the project's vicinity. However, if the project is subject to Section 106 of the National Historic Preservation Act through federal involvement (such as the use of Federal funding or the need to acquire Federal permits), then the GEO 21-02 process is unnecessary.

Recipients will not move forward with any pre-construction or construction activities that will disturb soils (such as, drilling test wells, completing geo-tech work, grading, clearing, etc.), or construction activities until the GEO 21-02 is completed (and/or both the SERP and 106 processes, if applicable) and the PWB has issued a final compliance letter. If ground-disturbing activities occur prior to the Recipient receiving the final compliance letter, the PWB grant or loan funding will be jeopardized. *Board Adoption 12-01-2017.*

A government-to-government relationship must be properly adhered to for the cultural review. As such, it is the PWB's responsibility to contact the Tribes and the DAHP. The PWB will notify the Recipient when a cultural resources survey is necessary. It is the Recipient's responsibility to hire a qualified archaeologist to conduct the survey and submit a draft of the survey to the PWB for final approval.

2.2 Projects Receiving Additional State or Federal Funding

Recipients must follow the more stringent of state and federal environmental and cultural review processes in order to comply with PWB requirements. It is the Recipient's responsibility to inform the PWB of additional funding sources, and submit any necessary compliance documentation that has been completed to date. Otherwise, any steps of the process not adequately documented must undergo another review.

Any documentation that is more than five years old is not valid, and subsequently another review is required. The PWB will coordinate the reviews with other funding agencies.

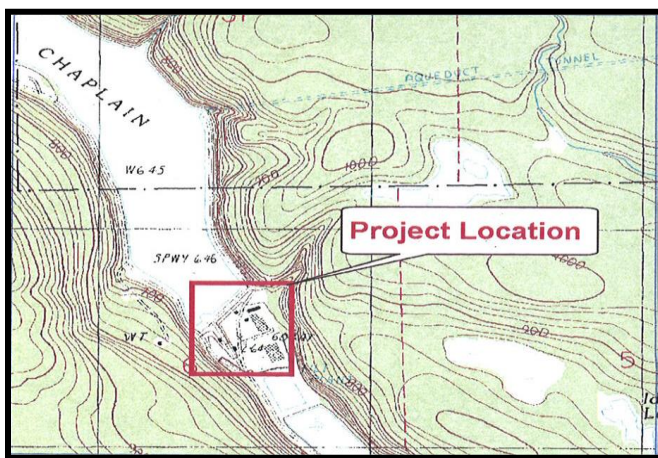
2.3 Process Administration - Getting Started

- The Recipient starts the process by submitting an EZ1 form (Attachment 6-A) to the PWB Program Director & Tribal Liaison. Also, see Attachment 6-B: GEO 21-02 Historical and Cultural Resource Review Checklist.
- The PWB Program Director & Tribal Liaison will conduct the consultation with the DAHP and the Tribes.

2.4 Things That May Hinder Your Progress

The following items may delay progress on the project's environmental or cultural review:

- A) Project Review Sheet (EZ-1 Form) is incomplete or contains incorrect information.
 - Project location is not clearly identified.
 - Project description is not detailed enough.
 - Township, Range, and Section is incorrect.
- B) The assumption that the cultural review is complete upon submittal of the EZ-1 Form is not correct. The EZ-1 Form is used to **initiate** the cultural review and identify potential further actions that may be required.
- C) Not completing the Historic Property Inventory (HPI) form when a structure or building is going to be modified or demolished. The PWB will notify you if additional actions are required by the DAHP.
- D) A 7.5 Series USGS Quad map is not submitted with the EZ-1 Form, and the project area is not identified (See below map as an example).
- E) Revising the project scope of work or acquiring additional relevant information may result in another cultural resource review process.



2.5 DAHP Consultation

The GEO 21-02 process requires Recipient to define the construction project area for potential impact, and identify any building or structures 45-years or older that are located within the project site. For projects that plan to alter any structure 45-years of age or older, an online inventory survey must be completed by the Recipient.

The DAHP can issue a broad range of responses to the submittal. A common response is a "No Effect Upon Cultural/Historic Properties" letter. If you receive such a letter, you have completed the DAHP portion of the review.

If the DAHP requires more information (completion of additional forms, cultural survey, inadvertent discovery plan (attachment 6-C), etc.), you must comply with the request. It is possible that you will need to hire a professional archaeologist to address this. Only when the DAHP concurs with the additional materials provided is the DAHP portion of GEO 21-02 complete.

2.6 Tribal Consultation

Tribal consultation is initiated by the PWB Program Director & Tribal Liaison sending a letter to the potential affected federally recognized Indian tribe(s). The letter details any project information describing the location and extent of the project, along with a map of the impacted area.

The Tribe(s) will be allowed at least 30-days to respond. There may be no response, or there may be a wide range of responses to the information provided. As with the DAHP, if additional materials are required, they must be provided to the Tribe(s) and they must concur with the findings.

Attachment 2-A: PWB EZ-1 Form



WASHINGTON STATE
PUBLIC WORKS BOARD
INFRASTRUCTURE IS FUNDAMENTAL

PROJECT REVIEW SHEET

Request to initiate consultation for Governor's
Executive Order 21-02, Special Legislative
Projects and/or Section 106 projects

EZ/PROJECT REVIEW FORM

New Consultation? ☐ YES ☐ NO ☐ ADDITIONAL INFORMATION PROVIDED PER REQUEST

Questions?

Contact: Mark Rentrow at mark.rentrow@commerce.wa.gov
or 360-629-6432.

SECTION 1: PROJECT INFORMATION

Project Title:	Provide 3-2 sentence summary of the project.	
Property Name: <i>If applicable</i>		
Project Address:		
City / State / Zip:	County:	Township / Range / Section: <i>leave blank if unsure</i>

SECTION 2: PROJECT DESCRIPTION

Project includes (check all that apply): <input type="checkbox"/> NEW CONSTRUCTION <input type="checkbox"/> DEMOLITION <input type="checkbox"/> GROUND DISTURBANCE <input type="checkbox"/> REHABILITATION / RENOVATION <input type="checkbox"/> ACQUISITION			
Does the project involve any buildings, objects, sites, structures or districts that are over 45 years old?		<input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> NOT SURE <small>*Contact DAHP</small>	<input type="checkbox"/> Check here if the project involves multiple resources. If so, attach a table including all information in Sections 1 and 2 for each resource.
Does the project involve any properties determined eligible for or listed in the National Register of Historic Places or Washington Heritage Register?	<input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> NOT SURE	Is the building, structure or site already recorded in WISAARD? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> NOT SURE <small>[?] See Note *Contact DAHP</small>	If Yes, what is the Property ID # or Site #? <input type="checkbox"/> <small>[!] If the resource is not recorded in WISAARD, please complete. Go to www.dahp.wa.gov/wisaard for more information. Check the box when complete.</small>
Are there any Federal funds, lands, permits, or licenses involved in/required by this project? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> NOT SURE If Yes, what Federal Agency?			
What is the nature of your request? (Check all that apply) <input type="checkbox"/> PREDESIGN <input type="checkbox"/> DESIGN <input type="checkbox"/> CONSTRUCTION <input type="checkbox"/> APPLYING FOR GRANT / LOAN <input type="checkbox"/> TRYING TO GET UNDER CONTRACT <input type="checkbox"/> NOT SURE			

SECTION 3: STATE AGENCY INFORMATION

State Agency:	Grant / Loan Program Name:	<input type="checkbox"/> Direct Appropriation?
Contact Person:	Phone:	e-mail:
Funding biennium?	Requested grant / loan amount:	Total project amount:

SECTION 4: CONTACT INFORMATION

If different from State Agency contact person.

Submitter Name:	Submitter Organization:
Submitter Address:	City / State / Zip:
Submitter Phone:	Submitter e-mail:

SECTION 5: ATTACHMENTS

Please email completed form and all attachments to: mark.rentrow@commerce.wa.gov	<input type="checkbox"/> MAP / APE - Be sure to show the project boundary and location of property(ies). See Section 7 on Page 3 for optional template. May also submit online through WISAARD using eAPE.	<input type="checkbox"/> SITE PLAN / DRAWINGS - Indicate location and dates of resources, proposed improvements and ground disturbance, etc.
	<input type="checkbox"/> DESCRIPTION / SCOPE OF WORK - Describe the project, including any ground disturbance. See Section 6 on Page 2 for optional template.	<input type="checkbox"/> PHOTOGRAPHS - Attach digital photographs showing the project site, including images of all resources. Photos submitted through WISAARD may suffice.

DAHP DETERMINATION (DAHP USE ONLY)

<input type="checkbox"/> EXEMPT from GEO 21-02 review.	<input type="checkbox"/> The project will have an ADVERSE IMPACT on historic properties.	DAHP REVIEWER _____
<input type="checkbox"/> There are NO HISTORIC PROPERTIES IMPACTED by the proposed project.	<input type="checkbox"/> DAHP requires ADDITIONAL INFORMATION in order to complete review (see attached).	
<input type="checkbox"/> The project will have NO ADVERSE IMPACT on historic properties.	<input type="checkbox"/> SURVEY REQUIRED <input type="checkbox"/> IDP REQUIRED	DATE _____
	<input type="checkbox"/> MONITORING REQUIRED	

revised JAN 2021

Instructions: Please describe the type of work to be completed. Be as detailed as possible to avoid a request for additional information. Be sure to describe all ground disturbing activities in the appropriate box below, and provide photos of areas of work.



WASHINGTON STATE
PUBLIC WORKS BOARD
ARCHAEOLOGICAL AND CULTURAL RESOURCES

SECTION 6: ADD'L PROJECT INFORMATION

NOTE: To save this fillable form you must fill it out in Adobe Acrobat or use the PRINT to PDF function in Acrobat Reader. In Reader choose File > Print and choose Adobe PDF as the printer. The fill will save to your computer.

Please be aware that this form may only initiate consultation. For some projects, DAHP may require additional information to complete our review such as plans, specifications, and photographs. An historic property inventory form may need to be completed by a qualified cultural resource professional.

Provide a detailed description of the proposed project:

Describe the existing project site conditions (include building age, if applicable):

If there are ground disturbing activities proposed, describe them including the approximate depth of ground disturbance:

revised LRN 2021



WASHINGTON STATE
PUBLIC WORKS BOARD
PWBWS, SECTION 11, 7012-0000-001

Instructions: Please attach a MAP of the project area. (Use WISAARD with USA Topo Basemap background. Click [HERE](#) for Snipping Tool Tutorial. Draw an outline of the Area of Potential Effect (APE) that clearly delineates the project boundary.

SECTION 7: MAP / Area of Potential Effect

CLICK IN THIS BOX TO ADD A MAP
MAP MUST BE IN JPEG FORMAT

SEE LINK ABOVE TO INSTRUCTIONS FOR CREATING A JPEG MAP
WITH THE SNIPPING TOOL FOR WINDOWS

revised April 2021

Attachment 2-B: GEO 21-02 Historical & Cultural Resources Review Checklist

1a. Section 106 of the National Historic Preservation Act (Federal Funding)

The project is subject to Section 106 of the National Historic Preservation Act

- ☐ Provide the PWB Program Director & Tribal Liaison with a letter certifying Section 106 requirements have been completed.
- ☐ The PWB Program Director & Tribal Liaison reviews submitted documentation, and concurs that no other steps need to be taken.
- ☐ Process complete.

1b. Executive Order 21-02 (State Funding)

Department of Archaeology and Historic Preservation (DAHP) Consultation

Step 1:

- ☐ **Recipient** submits, by email, a [Form EZ1](#) to the PWB Program Director & Tribal Liaison
- ☐ *If a historic property is involved, **Recipient** completes the [online inventory](#)*
 - ☐ *Notify the PWB Program Director & Tribal Liaison that the online inventory was completed*
- ☐ **The PWB Program Director & Tribal Liaison will initiate consultation with the DAHP**

Step 2a:

The DAHP issues a "No Effect upon Cultural/Historic Properties" letter

- ☐ DAHP consultation complete

Step 2b:

The DAHP requires further information (may occur several times)

- ☐ Provide requested information to the DAHP and the PWB Program Director & Tribal Liaison

Step 3:

The DAHP issues final concurrence letter

- ☐ DAHP consultation complete

2. Federally-recognized Indian Tribes consultation (may involve multiple Tribes)

Step 1:

- ☐ **The PWB Program Director & Tribal Liaison will initiate consultation with the Tribe(s)** and will send notification to the:
 - Tribal Cultural Resource Contact
 - Tribal Historic Preservation Officer
 - Tribal Chair
 - Recipient

Step 2a:

No response received from Tribe after **at least 30-days**

- ☐ The PWB Program Director & Tribal Liaison will follow-up with a phone call and email

No response received from Tribe after **at least 60-days**

- ☐ The PWB Program Director & Tribal Liaison will follow-up with a phone call and email
- ☐ Tribal consultation complete

Step 2b:

Tribe issues "No Impact" letter

- ☐ Tribal consultation complete

Step 2c:

Tribe requests further information (may occur several times)

- ☐ Provide requested information to the PWB Program Director & Tribal Liaison
- ☐ Tribal consultation complete

Step 3:

Tribe issues final concurrence letter

- ☐ Tribal consultation complete

3. Cultural Resource Review Process Completion. Recipient has completed:

- ☐ Section 106, or

The PWB has completed:

- ☐ DAHP Consultation, and
- ☐ Tribal Consultation

4. Next Steps

The PWB Program Director & Tribal Liaison has confirmed that the Cultural Resource Review Process has been completed.

- ☐ Recipient may begin construction.

If you have any questions, please contact:

Public Works Board (PWB)

PO Box 42525

Olympia, WA 98504-2525

Mark Rentfrow, PWB Program Director & Tribal Liaison at 360-529-6432 or

Mark.Rentfrow@commerce.wa.gov

Attachment 2-C: Inadvertent Discovery Language

Inadvertent Discovery Language

Post copies of this plan throughout the construction area.

If ground disturbing activities encounter human skeletal remains during the course of construction, then all activity will cease that may cause further disturbance to those remains. **The area of the find will be secured and protected from further disturbance.**

The finding of human skeletal remains will be reported to the **county medical examiner/coroner** and local law enforcement in the most expeditious manner possible. The remains will not be touched, moved, or further disturbed.

The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic.

If the county medical examiner/coroner determines the remains are non-forensic, then they will report that finding to the **Department of Archaeology and Historic Preservation (DAHP)** who will then take jurisdiction over the remains.

The DAHP will notify any appropriate cemeteries and all affected tribes of the find. The State Physical Anthropologist will make a determination of whether the remains are Indian or Non-Indian and report that finding to any appropriate cemeteries and the affected tribes. The DAHP will then handle all consultation with the affected parties as to the future preservation, excavation, and disposition of the remains.

In the event any archaeological or historic materials are encountered during project activity, work in the immediate are (initially allowing for 10' buffer, this number may vary by circumstances) must stop and the following actions taken:

1. Implement reasonable measures to protect the discovery site, including and appropriate stabilization of covering.
2. Take reasonable steps to ensure the confidentiality of the discovery site.
3. Take reasonable steps to restrict access to the site of the discovery.

The project proponent will notify the concerned Tribes and all appropriate county, state, and federal agencies, including the Department of Archeology and Historic Preservation (SHPO for Washington). The agencies and the Tribe(s) will discuss possible measures to remove or avoid cultural material, and will reach an agreement with the project proponent regarding actions to be taken and disposition of the material.

See Revised Code of Washington, Chapter 27.53 "Archaeological Sites and Resources," for applicable state laws and statutes. See Washington Executive Order 21-02, "Archaeological and Cultural Resources." Additional state and federal law(s) may also apply.

When to stop work:

Construction work may uncover previously unidentified Native American or Euro-American artifacts. This may occur for a variety of reasons, but may be associated with access restrictions during project development, or if the area contains impervious surfaces throughout most of the project area which would have prevented standard archaeological site discovery methods.

Work must stop when the following types of artifacts and/or features are encountered:

Native American artifacts may include (but are not limited to):

- Flaked stone tools (arrowheads, knives, scrapers, etc.)
- Waste flakes that resulted from the construction of flaked stone tools.
- Ground stone tools like mortars and pestles.
- Layers (strata) of discolored earth resulting from fire hearths. May be black, red or mottled brown and often contain discolored cracked rocks or dark soil with broken shell
- Human remains
- Structural remains- wooden beams, post holes, fish weirs

Euro-American artifacts may include (but are not limited to):

- Glass (from bottles, vessels, windows etc.)
- Ceramic (from dinnerware, vessels etc.)
- Metal (nails, drink/food cans, tobacco tins, industrial parts etc.)
- Building materials (bricks, shingles etc.)
- Building remains (foundations, architectural components etc.)
- Old Wooden Posts, pilings, or planks (these may be encountered above or below water)
- Even what looks to be old garbage could very well be an important archaeological resource
- Remains of ships or sea-going vessels, marine hardware etc.
- Old farm equipment may indicate historic resources in the area

When in doubt, call it in!

CONTACTS:

Project Proponent:

Jurisdiction: _____

Contact Name: _____

Phone/Email: _____

Public Works Board (PWB)

Mark Rentfrow, Program Director & Tribal Liaison

360.529.6432 or mark.rentfrow@commerce.wa.gov

Department of Archeology and Historic Preservation (DAHP)

Allyson Brooks, Ph.D., State Historic Preservation Officer/Director

360.586.3066 or Allyson.brooks@dahp.wa.gov

Section 3 - Contract and Amendments

3.1 Overview

This section outlines the contract development and contract amendments process followed by PWB project managers through project completion.

3.2 Assignment of Project

All Recipients will receive a letter from PWB specifying the amount of the award, any conditions on the award, and the name and contact information of the project manager assigned to the project.

Recipients are expected to work closely with the project managers during pre-contracting, project implementation, and placed-in-service activities.

3.3 Scope of Work

The project manager will work with the Recipient in finalizing the scope of work for the contract. The scope of work provided in the PWB application is reviewed and edited by the project manager. The revised scope of work will be emailed to the Recipient for their review and approval.

3.4 Pre-Contract Requirements

In order to execute a PWB contract, Recipients must establish a statewide vendor (SWV) number through the WA State Office of Financial Management (OFM). The statewide registration forms can be found on the OFM website at:

<https://ofm.wa.gov/it-systems/statewide-vendorpayee-services>

OFM may be contacted at 360-407-8180 or payeehelpdesk@ofm.wa.gov.

3.5 Contract

The PWB contract is comprised of two parts: *Specific Terms and Conditions* and *General Terms and Conditions*. The General Terms and Conditions are not negotiable. Limited revisions to the Specific Terms and Conditions or other legal documents may be allowed, as noted below.

The approved contract boilerplate will include the scope of work and terms of the contract on the declaration page.

3.6 Contract Execution Deadline - PWB Policy

Applicants awarded a Public Works Board contract (for all programs) must return an executed contract within six-months of receipt. Failure to do so could result in withdrawal of the award. Applicants who have their award withdrawn would be eligible to reapply in the next funding cycle. *Board Adoption 06/07/2019.*

3.7 Time of Performance Requirements

Projects are approved based on their readiness to proceed. Recipients must demonstrate projects are progressing in a timely manner. The PWB may elect to terminate a contract if projects are not progressing on schedule. All projects must be completed in accordance with their scope of work. Construction projects must be completed within 60-months of contract execution. Pre-Construction projects must be completed within 24-months of contract execution. Emergency projects must be completed within 12-months of contract execution.

3.8 Pre-Construction Loan Term Conversion – PWB Policy

Pre-Construction loan conversion policy allows borrowers to request loan conversion from a 5-year term to a 20-year term prior to the first principal payment only, provided 30% of the funding necessary for construction of the project has been secured. *Board Amended 02/02/2018.*

3.9 Performance Incentives - PWB Policy

To receive Construction Contract Performance Incentives, the Contractor shall submit the Certified Project Completion Report within thirty-six (36) months, or forty-eight (48) months of the date of the contract. *Board Amended 06/07/2019.*

3.10 Contract Amendments Overview

When a Recipient is proposing a change in the contract scope of work, type of budget activities to be funded, or in the timing to carry out the contract activities, an amendment to the contract must be requested.

To initiate an amendment to the contract, the Recipient must contact their PWB project manager.

3.11 Scope of Work Amendment

If the scope of work must be revised in any way, the Recipient must submit a written request to their PWB project manager.

An additional environmental and/or cultural resources Governor's Execution Order (GEO) 21-02 or federal Section 106 (if applicable) review may be required whenever the scope of work is revised, particularly for the following revisions:

- Increasing or changing the project location / Area of Potential Effect
- Excavating at a deeper depth or different location
- Adding new elements to the project scope of work
- Increasing the pipe size

No work can be done, nor reimbursement on any elements of the proposed scope change until:

- The PWB determines the scope change is allowable.
- All elements of the GEO 21-02 are completed for the proposed change.
- A contract amendment has been fully executed.

The program's Program Director must approve scope changes to PWB contracts.

3.12 Requesting Extensions

In order for the PWB to consider a project extension request, the Recipient should request an extension of the Project Completion Date at least 60-days before the expiration of the date referenced on the Declarations page of the contract. The Recipient must request a Project Completion extension by contacting their PWB project manager. The written request must state the reason(s) for the delay and list the revised timeline for completion of the activities.

3.13 Requesting Additional Funding to Cover High Bids

In 2019, the PWB established a reserve that allows additional funds to be awarded to existing PWB loan recipients for construction completion when bids come in higher than planned. The use of the funds is specific to bid cost overruns, not project cost overruns. There is a \$500,000 maximum award per loan contract. Awards are subject to funding availability. See Section 7.14 for more information.

3.14 Loan Re-assignment Change

The PWB may agree to assign the current jurisdiction's rights and obligations under a PWB Loan Agreement/Contract number to the receiver jurisdiction when the existing loan recipient jurisdiction no longer has the revenue to make their loan repayments. In order for the PWB to consider an assumption of the contract, the assignee must provide the draft transfer and assumption and agreement and its financial documents for review for underwriting purposes. If approved, the signed transfer and assumption agreement must be submitted to the PWB.

3.15 Jurisdiction Name Change

To change the legal name of the Recipient/Contractor, the Recipient/Contractor must request the change and submit the official document that shows the approval of the Board of Commissioners and/or council of the name change.

3.16 Contract Termination

The contract may only be terminated in accordance with the termination provisions in the Contract. To request termination of the Contract, the Grantee must submit in writing the reason for the request.

Attachment 3-A: Quick References for PWB Funding

Public Works Board

www.pwb.wa.gov

Washington State Labor & Industries Prevailing Wage

www.lni.wa.gov

Office of Minority & Women's Businesses

www.omwbe.wa.gov

Municipal Research and Services Center (MRSC)

www.mrsc.org

Washington Small Business Development

www.wsbdc.org

Washington Society of Certified Public Accountants

www.wscpa.org

Section 4 - Record Keeping and Reporting

4.1 Overview

Recipients must document compliance with all state and federal (if applicable) regulations. Good record keeping and reporting systems are essential to document compliance. This section provides a summary to help set up a PWB record keeping system and a summary of reports that will be requested during the management of the contract.

4.2 Establishing a Filing System

The Recipient must maintain accurate and current files. It is best to keep all PWB files in one central location. Files need to be accessible to all project funders.

4.3 Security

Files should be kept in a secure place, but accessible to the public.

4.4. Maintaining Records

All records and files pertaining to the PWB application, engineering, and construction of the project must be stored for the life of the grant or loan plus six years (generally twenty-six years for a 20-year loan). Records of operating and maintenance costs do not have to be saved for purposes of the PWB loan.

4.5. Organizing a Filing System

A good filing system can be a very effective management tool. It will ensure that the Recipient has all necessary documentation to meet compliance requirements. The following is suggested as a basic guide for PWB record keeping. It is recommended that Recipients keep separate files for each PWB project.

The system includes major headings for administration, financial management, and compliance:

- | | |
|--------------------------------------|-------------------------------------|
| 1 – Application | 6 – Environmental / Cultural Review |
| 2 – Grant/Loan Contract & Amendments | 7 – Prime Contractor Contracts |
| 3 – Financial Management | 8 – Labor Construction & Standards |
| 4 – Non-Construction Contracts | 9 – Required Reports |
| 5 – Procurement / Bonding | |

4.6. Project Status Reports

Each A19 Reimbursement Voucher request must be accompanied by a Project Status Report, which describes the progress made on the project since the last invoice was submitted. Your PWB project manager will not release payment for any reimbursement request submitted until the Project Status Report is received. After approving the Reimbursement Voucher and the Project Status Report, Commerce shall promptly remit a warrant to the Recipient.

Project Quarterly Reports are required if no funds have been reimbursed in the quarter. The PWB project manager will email the Recipient the report to fill out.

4.7. Project Completion

To complete the closeout process, the Recipient must submit a Project Completion Report form (see attachment 9-A Construction, 9-B for Emergency, or 9-C for Pre-Construction) and high-resolution photos of the project to their PWB project manager.

Upon receipt of these items, the PWB project manager will produce the closeout contract amendment, which will be signed by representatives of the Recipient and the PWB.

Attachment 4-A: PWB Project Status Report

PWB PROJECT STATUS REPORT

This form must be completed each time you submit a reimbursement request. Reimbursement requests will not be processed unless accompanied by a current Project Status Report.

Client Name:	
Contract Number:	
A19 Invoice Voucher #	
Project Name:	
Scheduled Project Completion Date:	

Project Progress

Please describe the progress you have made to date on your project's scope of work.

Approximately, what percentage of the project is complete?	%
When do you expect the project to be completed (month/day/year)?	___/___/___
If the anticipated completion date is different from the one above, what factors led to the change in the completion date?	

Section 5 - Financial Management

5.1 Overview

This section is designed to help PWB Recipients understand and implement financial management systems that comply with PWB program requirements.

5.2 Internal Control

The Recipient should designate one person as fiscal coordinator of the PWB grant or loan. Only one signature is required to request reimbursement of expenditures from Commerce. However, in the absence of the fiscal coordinator, or in other circumstances, a second person should be authorized to sign the reimbursement request form.

Recipients must maintain effective internal controls and accountability for PWB funds by complying with financial management standards and generally accepted accounting principles. Methods for maintaining internal control include:

- Establishing policies and practices for approval of expenditures.
- Bonding of staff handling cash.
- Clearly defining loan and project management roles and responsibilities.
- Maintaining segregation of duties in handling and accounting for expenditures and receipting of funds.

5.3 Establishing a Dedicated Repayment Account (if applicable)

Recipients may be required to establish a dedicated repayment account. This would be included as special terms and conditions of your contract. If required, the Recipient must establish a dedicated account in a FDIC insured institution to handle the funds for repaying the loan, and should have a separate account for each PWB loan. This account is used solely for the purpose of repaying the PWB loan.

5.4 Requesting Reimbursement

After the contract is executed, reimbursements may be requested for eligible expenses for your Pre-Construction, Construction, or Emergency contract costs that are directly related to the project, but not paid for by any other state or federal fund. Reimbursements may be requested for eligible activities back to the established award date.

Commerce has electronic vouchering through their Contracts Management System (CMS) Online A-19 Portal. Requests for reimbursement must be submitted online through the CMS System by an individual authorized by the Recipient's organization. Online electronic vouchering provides for Recipients to receive reimbursements as quickly as possible. Recipients

with barriers to using the online A-19 portal, may request an A-19 form from their Commerce project manager.

Access to CMS is available through the Secure Access Washington (SAW) portal. You will need to create a SAW account if you do not already have one. Please find detailed instructions here: [Office of Financial Management](#). It may take up to three weeks after you submit this information for an electronic transfer account to be set up. We will automatically receive your SWV number from the office that sets them up.

Once logged into SAW, add the Department of Commerce to your 'services' and submit an [Online A-19 External User Request form](#). Then Commerce will add you as a new external user in CMS. The CMS system will generate and email a registration code to you to complete the CMS registration.

For additional Recipient support, refer to the [Commerce Online A-19 Webpage for External Users](#), which includes SAW resources and the CMS manual for external users.

Each online A19 Invoice Reimbursement submittal must be accompanied by supporting documentation of costs incurred, a Project Status Report, and a Unified Business Identifier (UBI) Expenditure report. Your PWB project manager will not release payment for any reimbursement request received until the Voucher, supporting documentation, and Project Status Report are received. After approving the Voucher and Project Status Report, your PWB project manager shall promptly remit a reimbursement to the Recipient. After receipt and acceptance of a fully completed A-19 voucher submittal, Recipients can expect electronic reimbursements within 7-10 days.

Commerce has initiated a Diverse Spend reporting process to assess how it utilizes diverse businesses through its pass-through funds. PWB contracts requesting reimbursement must submit a Unified Business Identifier (UBI) expenditure report to collect payment data on each contractor and subcontractor by their name, contract relationship, and UBI number. This information is required when submitting all A19 reimbursement requests.

Final Reimbursement Request

Once the Recipient has successfully completed all tasks, activities, and conditions of the contract, the Recipient shall submit a project completion report (see attachments 9-A for Construction, 9-B for Emergency or 9-C for Pre-Construction). Upon the PWB's acceptance of the completion report, the Recipient may request the final reimbursement.

5.5 Requirements before Starting Construction

Prior to starting construction that includes any ground disturbing activities, there are certain contract conditions that must be met prior to issuing the Notice of Contract Award and Notice to Proceed. Meeting these conditions may take from 60 to 180 days (or longer) to complete.

The Recipient is encouraged to begin work as soon as possible to complete and obtain approval from the PWB on:

- Governor's Executive Order 21-02, cultural resources review process.
- Draft Bid Ad must be reviewed by your PWB project manager before advertising.

In addition, the Notice of Contract Award and Notice to Proceed form must be submitted to your PWB project manager prior to any approval of reimbursement of construction expenses.

5.6 Retainage – PWB Policy

Five percent (5%) of the PWB contract (for all programs) will be withheld until the PWB funded project scope of work is completed and a completion report has been submitted to their project manager. *Board Adoption 06/07/2019.*

5.7 Frequency of Reimbursement Requests

Recipients are requested to limit their reimbursement requests to no more than one request per month. The amount requested must be at least \$500.00. If the reimbursement is less, your PWB project manager may hold it until the Recipient's requests total at least \$500.00, then process for payment.

5.8 Eligible Activities and Costs

Please refer to Attachments 4-A for eligible project activities and costs.

5.9 Compliance by Prime, Sub-Contractors and Professional Service Providers

Recipients must require their prime and sub-contractors (including contracted administrators and engineers) to comply with all financial management and state and federal legal requirements.

Attachment 5-A: Eligible Activities and Costs (WAC 399-30-030)

Costs must be directly related to the project being financed by the PWB loan. Eligible project activities and costs include the following:

- 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 right 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).
 - Cleaning, sterilization, or bacteriological testing of water system components prior to public use.
- Acquisition of real property from a willing seller as an integral part of a capital construction project being funded:
 - Purchase of land and easements acquired for and devoted to the project from a willing seller.
 - Purchase of improvements.
 - Adjustment or re-establishment of improvements.
 - Salaries, expenses or fees of appraisers, negotiators, or attorneys.
 - Removal or demolition of improvement.
 - Other direct costs in connection with acquisition. Amounts received from the sale of excess real property or improvements and from any rental will be reduced from the direct costs.
- Salaries and wages (at actual or average rates) covering productive labor hours of the Recipients 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.
- Employee benefits relating to labor are considered a direct cost of construction projects. The following items may be included as employee benefits:

- F.I.C.A. (Social Security) – employer’s share.
 - Retirement benefits.
 - Hospital, health, dental, and other welfare insurance.
 - Life insurance.
 - Industrial and medical insurance.
 - Vacation.
 - Holiday.
 - Sick leave.
 - 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.
 - Other than work identified above, no costs associated with labor performed by the Recipient’s employees, including force account work, are eligible for financing assistance.
 - Contract engineering, planning, design, legal, and financial planning services. The PWB reserves the right to declare ineligible legal costs that are unreasonable and disproportionate to the project.
 - Contract construction work.
 - 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 this type of fund are allowed the same rates as used by the State Department of Transportation.
 - Direct materials and supplies.
 - 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.
 - 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.

- 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.
- Interdepartmental charges for work performed by the Recipient 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.
- Other direct costs incurred for materials or services acquired for a specific project are eligible costs and may include, but are not limited to, such items as:
 - Public communication plans and activities.
 - Telephone charges.
 - Reproduction and photogrammetry costs.
 - Video and photography for project documentation.
 - Computer usage.
 - Printing and advertising.
 - Other project related costs include:
 - Competitive Bidding.
 - Value engineering and performance audits.
 - Prevailing wages.
 - Salaries, expenses, or fees of appraisers, negotiators, or attorneys.
 - Environmental Review.
 - Archaeological Survey.
 - Monitoring Plan.
 - Inadvertent/Unanticipated Discovery Plan.
- Common ineligible costs include travel-based charges (e.g. mileage, rental cars, per-diem, flights, hotel, etc.); consultant mark-ups/overhead on subcontractors; and expenses without accompanying backup documentation.

Section 6 - Requirements and Procedures for Procuring Professional Services

6.1 Overview

The Recipient may use their own licensed staff for engineering and design work.

Reimbursement requests for work performed by the Recipient's staff must be accompanied by a summary of the qualification work performed by that staff during the reported period.

Recipients who are already under contract with an engineering or architectural consultant may continue to use that consultant for their project. Alternatively, Recipients must comply with Chapter 39.10 or 39.80 RCW, as applicable to the contracting method, when hiring engineering or architectural consultants.

6.2 Small Works Roster

Recipients may utilize the small works statute [RCW 39.04.155](#) allowing participating public agencies to use a small works roster system for small works projects under \$350,000 in lieu of other procedures to award contracts. More information can be accessed through the Municipal Research and Services Center website at www.mrsc.org.

6.3 Prepare the Contract in Accordance with Selected Method

Prepare the contract agreement in accordance with the selected contracting method, design-bid-build, or an alternative contracting method in Chapter RCW 39.10 or 39.80.

6.4 Monitor Performance

The Recipient should establish a system to monitor the contract performance of its engineer, architect, or consultant. At a minimum, the system should provide for reconciling the bills against applicable documentation and receiving, at the minimum, a monthly update on the project status, problems, etc. The scope of work can provide the basis for monitoring and evaluating the contract performance of the engineer, architect, or consultant by specifically identifying performance measures.

6.5 Record Keeping and Reporting

Recipients are required to maintain records which identify the procurement and contracting method used and why it was selected; the rationale used for selecting the contract type; reasons for selecting and rejecting bidders/qualified firms; and the basis for the contract cost or price.

Section 7 - Requirements and Procedures for Procuring Construction Contracts

7.1 Overview

For all alternative construction contracting methods authorized under Chapter 39.10 RCW, strict compliance with the specific method is required. This section guides you through the process for procuring construction contractors using the most commonly used contracting method, “design-bid-build”. **It is the responsibility of the jurisdiction to understand their local procedures and policies and assure adherence to the most stringent of the federal and state requirements.** Information in this section outlines a competitive bid process applicable to PWB construction projects where the construction project must be competitively bid through a sealed bid process or small purchase procedure.

Construction contracts are normally procured by sending an Invitation for Bid (IFB) to interested contractors. The IFB contains all the information the contractor will need to bid on a project. Once completed and submitted by the bidder, the IFB, if the lowest responsible bid, becomes the basis for the contract between the contractor and the grantee.

7.2 Small Works Roster

Recipients may utilize the small works statute [RCW 39.04.155](#) allowing participating public agencies to use a small works roster system for small works projects under \$350,000 in lieu of other procedures to award contracts. More information can be accessed through the Municipal Research and Services Center website at www.mrsc.org.

7.3 Advertise for Bids/Invitation for Bid (IFB)

For all alternative construction contracting methods authorized under Chapter 39.10 RCW, strict compliance with the specific method is required.

For a design-bid-build contracting method, prior to advertising, send a copy of the draft bid advertisement to your PWB project manager for review and approval.

At a minimum, a bid advertisement should include the following items:

- Title of project.
- Nature and scope of work.
- Location where plans and specifications documents may be obtained.
- Cost, if any, to obtain a set of plans and specifications documents.
- The place, date, and time that the bids are due.

- Statement that the Recipient retains the right to reject any and all bids.
- List of the funding sources for the project, including the PWB funds (See statement below).
- Requirement that state prevailing wages must be paid.
- Statement indicating that Recipient is an Equal Opportunity Employer (See statement below).
- Statement that all contractors must be licensed in the State of Washington to conduct business.

The following statements must be included in the advertisement:

"All work performed on this project will be subject to state prevailing wage rates."

"(Recipient) is an Equal Opportunity and Affirmative Action Employer."

"This project is (funded/partially funded) through the Washington State Public Works Board program with state funds."

See Attachment 7-A: Example of Advertisement for Construction Contract Bids.

Bids should be advertised in a newspaper of general circulation for the project area. General contractors must be given enough time to research specifications and submit responsible proposals. Recipients must advertise the bid once a week for two weeks in a newspaper of general circulation. A minimum of 14 calendar days must be allowed for advertising. Bids can be opened no sooner than the 15th day.

7.4 Develop the Advertisement / Invitation for Bid with Scope of Work

For all alternative construction contracting methods authorized under Chapter 39.10 RCW, strict compliance with the specific method is required.

For the design-bid-build construction method, Recipients are required to use a competitive bid process when choosing a general contractor for PWB funded projects.

7.5 Public Works Bidder Responsibility Criteria

Under [RCW 39-04-350](#), bidders on public works projects have certain criteria they must meet. Recipients of PWB funding must manage the bidder criteria and responsibilities set forth by RCW 39-04-350.

Recipients may adopt relevant supplemental criteria for determining bidder responsibility applicable to a particular project. See the [Capital Project Advisory Review Board website](#) for guidance in developing supplemental bidder responsibility criteria.

7.6 Obtaining Prevailing Wage Rates

State law, RCW 39.12, requires that workers be paid state prevailing wage rates. Thus, Recipients must obtain state prevailing rates and place them in project bid specifications. The Recipient may request the Washington State Prevailing Wage Rates from:

Department of Labor and Industries
Prevailing Wage Program
406 Legion Way SE
PO Box 44540
Olympia, WA 98504-4540
Phone (360) 902-5335

Or www.lni.wa.gov/TradesLicensing/PrevWage/WageRates/default.asp

In the bid document, you may include the State Prevailing Wage Rates, or include the URL to Department of Labor and the following information in the bid specs:

- Identify the exact wage publication date to use (bid opening date).
- State the County in which the public works project is located.
- Specify a copy is available for viewing in your office.
- Explain that your agency will mail a hard copy upon request.
- Retain a printed version of the rates as part of your records.

7.7 Certified Payroll Reports

Contractors must file certified payroll reports at least once per month for all prevailing wage jobs (regardless of project amount) and submit them directly to L&I through the agency's online Prevailing Wage Intent and Affidavit (PWIA) system (RCW 39.12.120). The local government agency is not responsible for reviewing or checking the reports. Projects that began prior to January 1, 2020 and that are still in progress will require certified payroll reports for all work performed from January 1, 2020 and forward. However, reporting is not required for any work performed prior to January 1, 2020.

Contractors must always provide weekly certified payroll reports for federal projects. For questions regarding the federal law, contact the federal Department of Labor.

7.8 Affidavits of Wages Paid

RCW 39.12.040 also requires every contractor and subcontractor on the project to file an Affidavit of Wages Paid soon after the work has been completed. These statements also must be filed with L&I and approved by the Industrial Statistician before being submitted to the

agency administering the contract. The agency administering the contract may not release the retainage until the contractor and subcontractors have filed approved Affidavits of Wages Paid. These requirements should also be stated in the specifications and contract.

It is the agency's responsibility to confirm that the affidavits have been approved before releasing the retainage. Agencies can Search Prevailing Wages Intents and Affidavits at the L&I website.

Contractors must keep accurate work and pay records and submit certified copies upon request.

7.9 License, Bonding and Insurance for Contractors

The contractor must be licensed, bonded, and insured in the State of Washington. Contractors are not required to have payment/performance bonds, which are above and beyond normal bonding requirement. However, this type of bonding ensures liability is covered and can reduce the Recipient's exposure to risk. Payment/ performance bonds are strongly encouraged for loan agreements over \$100,000. A performance bond guarantees that the Recipient will complete the contract according to its terms, including price and time. In case of default, the owner will be paid the amount of the bond, which is usually the amount of the construction contract. A payment bond guarantees that subcontractors and suppliers will be paid the money they are due from the principal contractor, which reduces the possibility of liens against the project. The Recipient should ensure the bonding company and the insurance company recognizes the Recipient as an interested party and notifies the Recipient if the bond or insurance is terminated. The PWB program should also be listed among the interested parties to be notified if a bond or insurance is terminated.

7.10 Develop the Contract Document

For all alternative construction contracting methods authorized under Chapter 39.10 RCW, strict compliance with the specific method is required.

For design-bid-build, all the clauses and provisions that were in the construction IFB packet must be incorporated into the construction contract. All provisions required in the contract must also be passed on by the prime contractor to all subcontractors, including the Labor Standards Provisions.

7.11 Receive Sealed Bids

For design-bid-build contracts, all bids received should be logged with the time and date of receipt and kept in a secure place. If a Recipient is located in a rural area of the state and has difficulty in soliciting bids for construction projects, along with advertising for competitive bid in the local newspaper, they may also directly solicit bids from general contractors as part of the bidding process.

7.12 Conduct Bid Opening

For design-bid-build contracts, bids must be opened in public at the time and place stated in the advertisement. The bid opening can be delayed, but all the bidders must be notified in advance. If a bid opening is delayed, all bidders should have the opportunity to withdraw their bids, or, if they wish, resubmit the bid (e.g., cost of equipment, materials, etc. could increase) just before the new bid opening date and time. The public bid opening should be conducted in a business-like manner. Each bid must be read aloud during the meeting and the apparent low bidder determined. A description of the bid review/tabulation process must also be maintained in the Recipient's project files.

If no bids are received, or the received bids are too costly, re-advertise the bid ad in a wider geographic area. Recipients are encouraged to maintain a list of reputable general contractors that have done good work for them in the past or have bid previous projects in order to alert them of the bid request.

7.13 Select the Lowest Responsible Bidder

For design-bid-build contracts, all bidders must meet the responsibility criteria as set out in RCW 39.04.010, 39.04.350, and 39.06.020.

7.14 Additional Funding Need for Project – PWB Policy

The PWB established a reserve that allows additional funds to be awarded to existing PWB loan recipients for construction completion, when bids come in higher than planned. De-obligated funds will be set aside for this purpose, with a \$500,000 maximum award per loan contract. The bid set aside fund shall not exceed \$2 million. Any funds in the set aside account not used by the end of the last funding cycle in the biennium will be rolled into the next funding cycle for new construction loans. Below is the process for loan recipients to qualify for this additional funding:

- Bid tabs must be provided.
- The construction contractor must be identified along with the final negotiated construction contract amount.
- An explanation of why the bids exceed the funding amount must be provided.
- The amount of money needed to complete construction must be identified. The additional money cannot result in an exceedance of the allowed \$10M funding per jurisdiction per biennium (**RCW 43.155.070(4) (c)**).
- Underwriting will be re-evaluated to determine if the client can afford the loan increase.
- The scope of the project must remain the same.

Contact your project manager, to submit a request for additional funding to the existing PWB loan. *Board Adoption 06/04/2021.*

7.15 Award the Contract

For design-bid-build contracts, the Recipient must award the contract within 30-days, or reject all bids. The contract must be awarded to the lowest responsible bidder whose bid conforms to all material terms and conditions of the invitation for bids.

7.16 Negotiating the Bid Price

State agencies may negotiate bid prices only as allowed in RCW 39.04.015. All other entities must comply with their own local ordinances and policies.

7.17 Execute the Contract

Following award of the contract, contract documents and applicable bonding and insurance must be completed and executed. Contract documents must include all items contained in the bid package, as well as the executed contract, bid proposal, contractor certifications, and bond and insurance forms.

7.18 Conduct Pre-Construction Conference

Prior to starting construction, all parties should attend a pre-construction conference to go over the project details and state (federal, if applicable) requirements.

7.19 Send Notice of Contract Award to PWB

Within ten (10) days after contract award and signing, the Recipient must submit a PWB Notice of Contract Award and Notice to Proceed form (Attachment 7-B: Notice of Contract Award and Notice to Proceed) to their PWB project manager.

7.20 Maintain Procurement Records

Maintain documentation of the procurement process in project files for the life of the loan plus six years.

Attachment 7-A: Example of Advertisement for Design-Bid-Build Construction Contract Bids

City of Devin
Business Development Building
Bid Date, July 21, 2021
Estimated Cost of Project: \$1,200,000.00
INVITATION FOR BIDS

Sealed bids will be received by the City of Devin Public Works Office, located at 130 SE Cascade Avenue, PO Box 413, Devin, WA 98684, until 2 P.M., July 21, 2021, for the general contract for construction of a water reservoir. The project consists of constructing a 180-foot tall water reservoir, and removal of a 100 foot tall elevated tank.

Bidding documents for the project are prepared by Delco Engineering, Inc., P.S.

Availability of Bidding Documents: Bona fide general contractors may obtain the contract documents at the office of Delco Engineering, Inc., P.S., located at 1313 West Clark, Nimbi, WA 99301, (509) 454-4402 upon payment of \$75.00 per set. Copies of the contract documents may be examined at the following locations: Portland Plan Center, 1125 SE Madison, Portland OR; Associated Women Contractors, 921 South Elm, Seattle WA.

Bid Security: A certified or bank cashier's check in the amount of five percent (5%) of the bid amount payable to the City of Devin, or a bid bond executed by a licensed bonding company is required with each bid.

Rejection of Bids: The city shall have the right to reject any or all bids not accompanied by bid security or data required by the bidding document, or a bid in any way incomplete or irregular.

The City of Devin is an equal opportunity and affirmative action employer. All work performed on the project will be subject to state prevailing wage rates.

The bids will be opened at 2 P.M., July 21, 2021, at the offices of Devin Public Works Department, located at 130 SE Cascade Avenue, Devin WA. For more information, call Shawn Gometz at (509) 427-5484.

This project is funded/partially funded, through the Washington State Public Works Board Loan program. PWB requirements and provisions must be met by general contractors and all subcontractors.

Attachment 7-B: Notice of Contract Award and Notice to Proceed

NOTIFICATION OF CONTRACT AWARD AND START OF CONSTRUCTION

CONTRACT

JURISDICTION: _____ NUMBER: _____

DATE OF NOTICE TO PROCEED: _____

CONTRACT AWARD DATE: _____

CONTRACT

PROJECT NAME: _____ AMOUNT: _____

PROJECT LOCATION: _____

GENERAL CONTRACTOR: _____

DATE BID SOLICITATION PUBLISHED*: _____

BID OPENING DATE: _____ NUMBER OF BIDS RECEIVED: _____

NAMES/ADDRESSES OF DISADVANTAGED BUSINESS ENTERPRISE SOLICITED (if applicable):

APPLICABLE FEDERAL WAGE DECISION NUMBER (if applicable): _____

MODIFICATIONS**: _____

PRECONSTRUCTION CONFERENCE DATE (if applicable): _____

CONSTRUCTION START DATE: _____

SUBMITTED BY: _____

SIGNATURE: _____ TITLE: _____

PRINTED NAME: _____

ADDRESS: _____

Please attach copy of published bid solicitation advertisement.

PLEASE NOTE: Federally funded projects are subject to paying the higher of Federal or State prevailing wages.

Section 8 - Meeting “Your” Investment Grade Efficiency Contract Requirement

8.1 Investment Grade Efficiency Audit

For projects involving repair, replacement, or improvement of a wastewater treatment plant (WWTP), or other public works facility for which an investment grade audit is obtainable, the Recipient must undertake an Investment Grade Energy Audit (IGEA). Costs incurred as part of the investment grade audit are eligible project costs.

Recipients need to document and retain one of the following for audits conducted by the Washington State Auditor’s Office:

- Documentation that you have had an energy review on the project you plan to construct by your power provider (PSE, BPA, PUD), an Energy Services Company (ESCO), or a system appropriate energy consultant with the project you plan to construct.
- A third party design review may be more appropriate for projects that did not previously exist (i.e. a new WWTP), or are having major upgrades to their systems. If a project is unable to measure the system before and after the infrastructure project, an Investment Grade Audit is not possible. A system appropriate energy expert can be sub-contracted to review designs and specifications for potential energy savings.
- Demonstrate that the project under consideration has “no obtainable” energy savings, i.e. the cost of installing energy efficient equipment does not produce the savings necessary over the life cycle of the upgrade. Generally, projects with only pipe and pavement are examples where energy savings is not obtainable. However, if your road project has lighting included, it needs to be considered under the IGEA requirement.
- Complete a preliminary audit to determine if there are potential long-term energy savings. If the preliminary report demonstrates that savings are obtainable, a full audit of the “project” is encouraged to determine the capital improvements necessary to realize the energy savings. If the preliminary report does not demonstrate energy savings, the report can be used as documentation to demonstrate your fulfillment of the IGEA requirement.

It is not required to submit documentation to the Public Works Board. Documentation is for your own purposes and contract requirements.

For guidance on how to proceed with a preliminary audit, or to learn more about this requirement, call (360) 407-2225 or email: energyteam@des.wa.gov at the Department of Enterprise Services.

Section 9 - Managing Construction Projects

9.1 Overview

Recipients undertaking a PWB funded construction project must have a contract management system in place to ensure contractors perform in accordance with contract terms, conditions, specifications, and applicable state requirements. This system includes conducting the pre-construction conference, review of contractor and subcontractor compliance with Labor Standards, on-site inspections, review of change order requests, project closeout, release of retainage, and record keeping.

9.2 Conduct the Pre-construction Conference

After awarding and signing the construction contract and before the contractor is issued a Notice to Proceed, the Recipient, or its representative, is responsible for holding a pre-construction conference for the general contractor and subcontractors, engineers and other professional service providers, and other interested parties. The pre-construction conference should cover the following:

- Responsibilities of the engineer, Recipient, contractor, and any other agencies or parties contributing to or involved in the project.
- General contract provisions, including specifications, Notice to Proceed, completion schedule, guarantees and warranties for materials, workmanship, change orders, etc.
- Project inspection and reporting responsibilities of the engineer and Recipient.
- Labor Standards requirements, prevailing wage rates, apprentices and trainees, fringe benefits, weekly payroll, and additional classification requests.
- Requirements for final acceptance of work, special testing, and/or site cleanup.
- Distribution of necessary forms such as certified payroll, posters, and prevailing wage rates to the contractor and subcontractors.

Maintain a record of the pre-construction conference in the project file, and send a copy to your PWB project manager.

9.3 Issue Notice of Contract Award & Notice to Proceed

Once the pre-construction conference is conducted, the Recipient can issue the Notice to Proceed to the contractor. The notice conveys the authorization to the contractor to begin work on the project. Send a copy to your PWB project manager.

9.4 Conduct Technical Inspections

During construction, the Recipient is responsible for monitoring contractor/subcontractor progress and compliance with technical requirements of the project. Typically, this monitoring process is the responsibility of the project engineer, consulting engineer, or architect; however, the Recipient should designate someone locally with oversight responsibility. The purpose of the technical monitoring process is to ensure that the project is constructed as planned, within budget and estimated timeframes, and within specified quality and quantity standards.

9.5 Maintain Project Records

The Recipient is required to maintain project records that document all financial, monitoring and inspection transactions, and progress reviews that occur during the life of the project. Recipients must maintain copies of weekly certified payrolls and any corrected certified payrolls, copies of correspondence and resolution of overtime violations, and copies of employee interviews in the project files for the life of the loan as defined by the contract plus six years.

9.6 Project Completion Requirements - PWB Policy

A Public Works Loan contract is complete when all of the Scope of Work specified in the contract is complete, and the Engineer issues the completion letter (if applicable). *Board Adoption 02/02/2018.*

To complete the closeout process, the Recipient must submit the Project Completion Report form (attachment 9-A for Construction, attachment 9-B for Emergency, or attachment 9-c for Pre-Construction) to their PWB project manager. Your PWB project manager will issue a Project Completion amendment to be signed by the Recipient and the PWB chair.

9.7 Performance Incentives - PWB Policy

Construction Contract (Recipient) - Performance Incentives

The Contractor shall complete the project no later than sixty (60) months after the date of contract execution.

Should the Recipient complete the project and submit the Certified Project Completion Report within forty-eight (48) months of the date of contract execution, the Recipient may choose one of the two following incentives upon project completion:

Option A: The repayment period is increased by twenty-four (24) months, not to exceed the life of the asset, OR;

Option B: The interest rate is decreased by one-quarter of one percent (0.25%).

Should the Recipient complete the project and submit the Certified Project Completion Report within thirty-six (36) months of the date of contract execution, the Recipient may choose one of the following two incentives upon project completion:

Option C: The repayment period is increased by sixty (60) months, not to exceed the life of the asset, OR;

Option D: The interest rate is decreased by up to one-half of one percent (0.50%).

Once an option is selected, the Contract shall be modified to note the appropriate change and no further adjustment to the Contract for Performance Incentives shall be authorized.

Irrespective of the performance incentive chosen, at no point in time shall the minimum loan interest rate be less than 0.25%.

Construction Contract Performance Incentives: The Recipient shall submit the Certified Project Completion Report within thirty-six (36) months, or forty-eight (48) months of the date of the contract execution to receive the performance incentive. *Board Amended 06/07/2019.*

Attachment 9-A: Construction Project Completion Report

This form must be completed and submitted, along with electronic photos of the completed project, with your final A-19 reimbursement request.	
PWB Recipient:	
PWB Contract Number:	
Project Name:	
Project Completion Date:	
Total Project Funds Expended (include all funds)	
Source	Amount
PWB Reimbursements To Date	
Amount of Final Reimbursement	
Total PWB Loan Amount Expended	
Please identify all funding sources below:	
PWB Loan:	
TOTAL PROJECT FUNDING <i>(Include all sources and the final PWB loan amount)</i>	
Were there any obstacles hindering completion of the project? If so, please give a description and explain how they were resolved.	
Are there any upcoming ribbon cutting or groundbreaking events scheduled? If so, what is the scheduled date?	

1.12 Performance (completion incentive) contract	
The Contractor shall complete the project no later than sixty (60) months after the date of contract execution.	
Complete the project and submit the Certified Project Completion Report within forty-eight (48) months of the date of contract execution, the Contractor may choose one of the two following incentives upon project completion:	
Option A:	The repayment period will be increased by twenty-four (24) months, not to exceed the life of the asset, OR:
Option B:	The interest rate will be decreased by one-quarter of one percent (0.25%).
Complete the project and submit the Certified Project Completion Report within thirty-six (36) months of the date of contract execution, the Contractor may choose one of the following two incentives upon project completion:	
Option C:	The repayment period will be increased by sixty (60) months, not to exceed the life of the asset, OR;
Option D:	The interest rate will be decreased by up to one-half of one percent (0.50%).
Please choose only one "option" (A, B, C, or D), if applicable:	

Once an option is selected, the Contract shall be modified to note the appropriate change and no further adjustment to the Contract for Performance Incentives shall be authorized. Irrespective of the performance incentive chosen, at no point in time shall the minimum loan interest rate be less than 0.25%.

The calculation of interest rate and term adjustments will apply to the remaining payments beginning from the date the Project Completion report is certified.

Please provide high-resolution digital photographs of the completed project.

Email digital photos to your Project Manager. By providing images, audio, or video Contractor hereby consents to and authorize the use and reproduction in print or electronic format by PWB or anyone authorized by PWB, of any and all audio or video recording or photographs which have been provided to Commerce without compensation.

Certification of Final Report Accuracy:

I hereby certify that the information entered above and any attachments hereto are true and correct to the best of my knowledge and belief. Further, I certify that the public works project was constructed as described in the PWB application and PWB contract.

Signature of Chief Executive Officer

Title

Print Name

Date of Signature

Attachment 9-B: Emergency Construction Project Completion Report

This form must be completed and submitted, along with electronic photos of the completed project, with your final A-19 reimbursement request.

PWB Recipient:	
PWB Contract Number:	
Project Name:	
Project Completion Date:	

Total Project Funds Expended (include all funds)	
Source	Amount
PWB Reimbursements To Date	
Amount of Final Reimbursement	
Total PWB Loan Amount Expended	
Please identify all funding sources below:	
PWB Loan:	
TOTAL PROJECT FUNDING <i>(Include all sources and the final PWB loan amount)</i>	
Were there any obstacles hindering completion of the project? If so, please give a description and explain how they were resolved.	

Are there any upcoming ribbon cutting or groundbreaking events scheduled? If so, what is the scheduled date?

Please provide high-resolution digital photographs of the completed project.

Email digital photos to your Project Manager. By providing images, audio, or video Contractor hereby consents to and authorize the use and reproduction in print or electronic format by PWB or anyone authorized by PWB, of any and all audio or video recording or photographs which have been provided to Commerce without compensation.

Certification of Final Report Accuracy:

I hereby certify that the information entered above and any attachments hereto are true and correct to the best of my knowledge and belief. Further, I certify that the public works project was constructed as described in the PWB application and PWB contract.

Signature of Chief Executive Officer

Title

Print Name

Date of Signature

Attachment 9-C: Pre-Construction Project Completion Report

This form must be completed and submitted, along formal action pre-construction project as being completed and with your final A-19 reimbursement request.

PWB Recipient:	
Contract Number:	
Project Name:	
Project Completion Date:	

Total Project Funds Expended (include all funds)	
Source	Amount
PWB Expenditures To Date	
Amount of Final Reimbursement	
Total Loan Used	
Please identify all funding sources below:	
PWB Loan:	
TOTAL PROJECT FUNDING <i>(Include all sources and the PWB loan used amount)</i>	
Briefly Summarize the Results of your Pre-Construction Project.	

What is the next step for this project?

For example, will a construction project result from this pre-construction loan? Please include estimated timeframes for next steps.

Certification of Final Report Accuracy:

I hereby certify that the information entered above and any attachments hereto are true and correct to the best of my knowledge and belief. Further, I certify that the public facilities project was constructed as described in the PWB application and PWB contract.

Signature of Chief Executive Officer

Title

Print Name

Date of Signature

Glossary

A-19 Reimbursement Voucher	The form used to request reimbursement for incurred PWB loan project expenses.
Commerce	Washington State Department of Commerce.
Competitive Bid Process	All construction activities must be contracted out to the lowest responsible bidder through a competitive bidding process.
Department of Archaeology and Historic Preservation (DAHP)	Washington State Department of Archaeology and Historic Preservation, which reviews cultural resource activities for federal and state funded projects.
Department of Labor and Industries (L&I)	Washington State Department of Labor and Industries.
Electronic Funds Transfer (EFT)	PWB Recipients are encouraged to sign up for EFT to have funds transferred to their accounts electronically rather than through the mail by State Warrant.
Executed Contract	A contract is considered “executed” once the document is signed by the Recipient and the PWB.
Invitation for Bid (IFB)	Bid packet containing all the pertinent information the contractor will need to bid on a project.
Lowest Responsible Bidder	A term used to determine the successful contractor for a construction project that has been competitively bid.
Investment Grade Efficiency Audit (IGEA)	The primary purpose of the IGEA is to assure that infrastructure projects using electricity, motors, or pumps evaluate the efficiency of the equipment being considered.
Prevailing Wages	Hourly wage and usual benefits paid in the largest city in each county, to the majority of workers, laborers, and mechanics as determined by the Washington State Department of Labor and Industries for each trade and occupation employed in the performance of public work.
PWB / BOARD	Washington State Public Works Board.
Recipient	Borrower or Grantee.
Statewide Vendor Number (SWV)	A vendor number established through the Washington State Department of Enterprise Services.