WASHINGTON STATE PUBLIC WORKS BOARD

RESPONSE TO ESSB 5035, SECTION 7032

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December 2013

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Executive Summary

The Public Works Board (Board) respectfully presents this response to ESSB 5035, Section 7032 (hereafter referred to as "the Proviso").

The Proviso requires the Public Works Board to report to the Legislature by December 1, 2013.

Over the last 15 years, there have been multiple studies and reports addressing the issue of infrastructure financing with the goal of improving the state system of infrastructure financing. Many options and proposals were developed. To date, no systemic changes have been made. Below is a listing of these reports:

1999 Infrastructure Needs Assessment
2005 Inventory/Evaluation of the State's Public Infrastructure Programs and Funds (Berk Report)
2006 Joint Legislative Audit Review Committee (JLARC) Inventory of State Programs
2007 Department of Community and Economic Development (CTED) Refining Washington Infrastructure Programs Report
2008 Restructuring State Public Infrastructure Programs Analysis for the Washington Legislature (Office of Financial Management Report)
2012 Modernization Report (PWB Report)
2013 Chapter 19, 2013 Laws 2nd Special Session, Section 7032 - the Proviso

MEETING LEGISLATIVE INTENT

The Proviso included three key elements to be addressed.

1. **OPTIMIZE FEDERAL RESOURCES** – Specific direction was given to:
   - Guide funding applicants to federally funded programs first.
   - Work closely with the departments of Health and Ecology to develop processes and procedures to achieve this goal while still meeting local government needs.
2. **PROJECT SELECTION AND SCORING**
   - Identify specific criteria for inclusion in the Board's selection process.
   - Develop a scoring mechanism to address state policy objectives.
3. **INTEREST RATES**
   - Set interest rates according to criteria.
   - Adjust rates and terms for projects meeting financial hardship criteria.

During the development of this response, the Board was committed to the following values:

- **ACCOUNTABILITY** – Ensure local organizations use state investments wisely and maintain the public's infrastructure investment.
- **COLLABORATION** – Continue partnerships between the Board, state agencies, federal agencies and others who share the goal of helping communities to invest in local infrastructure.
- **COMMITMENT** – Maintain the sustainability of local infrastructure as a long-term investment by local, state and federal organizations.
- **SUSTAINABILITY** – Enable local organizations to renew and replace system components at a rate ensuring continuous service.

Executive Summary

This report provides a summary of the process and recommendations made by the Board and its partners. This was a collaborative process with partner state agencies and stakeholders involved.

KEY RESPONSES AND RECOMMENDATIONS	
Optimizing Federal Resources	The Board will require applicants to seek federal funding first. Those not provided federal funding will be eligible for consideration of funding from the Public Works Assistance Account (PWAA).
Modifying the Selection Criteria and Associated Point Structure	The Board modified its selection criteria to include elements specifically identified in the Proviso. The criteria is expected to use a 100-point span system: • 40 points dedicated to project need/opportunity and the solution: o Project Scale = 6 points o Justification of the project need/opportunity = 34 points • 60 points dedicated to local management efforts o Financial health of the system o Managerial capacity of the applicant o Readiness-to-proceed to construction
Interest Rates and Terms	• Interest rates will be based on the average daily market interest rate for tax-exempt municipal bonds as published in the bond buyer's index for the period from 60 to 30 days before the start of the application cycle (January of each funding year). This aligns with the Proviso. • Projects with a repayment period between 6 and 20 years, the interest rate must be 60 percent of the market rate. • Projects with a repayment period under six years, the interest rate must be 30 percent of the market rate. • The Board will provide reduced interest rates and extended repayment periods for projects that meet financial hardship criteria as measured by an affordability index or similar standard measure of financial hardship.

DRAFT TERMS FOR APPLICANTS THAT MEET FINANCIAL HARDSHIP

RATE BASED SYSTEMS	NON-RATE BASED SYSTEMS
AFFORDABILITY INDEX (AI) IS BETWEEN (1)	Debt Service Capacity Ratio (DSCR) is between (2)
2 percent or less	1.51 percent or higher
2.01 percent to 2.5 percent	1.01 percent to 1.5 percent
2.6 percent or higher	1 percent or less

(1) AI is calculated as ["New Average Utility Rate" x 12 months] / Median Household Income. Note: The Environmental Protection Agency considers utility rates affordable when less than 2 percent of median household income.
(2) The DSCR is used to determine the applicant's debt capacity availability to meet the debt service requirements of the proposed loan. It is calculated as Net operating income / [principal repayments + interest payments]. Principal and interest includes existing loans, anticipated loans from the Board, and loans from other sources for the project being applied for..

Key Elements

FIGURE 1: KEY ELEMENTS

1. Optimize Federal Resources

Partnerships with federal funding programs to develop processes to achieve optimization of federal resource

- Section 7032(14)(a) – The Board must implement policies and procedures designed to maximize local government use of federally-funded drinking water and clean water state revolving funds operated by the state departments of health and ecology… (DWSRF), and Department of Ecology - Clean Water State Revolving Fund.

2. Project Selection and Scoring

- Develop scoring system
- Develop scoring tools

- Section 7032(5)(a) – The board must develop a process for numerically ranking applications for construction loans submitted by local governments.

3. Interest Rates

- Section 7032(14)(b) – For all construction loan projects proposed to the legislature for funding during the 2013-15 fiscal biennium, the board must base interest rates on the average daily market interest rate for tax-exempt municipal bonds as published in the bond buyer's index for the period from sixty to thirty days before the start of the application cycle.

Optimizing Federal Resources

The Proviso requires the Board to implement policies and procedures designed to optimize local government use of federally funded Drinking Water and Clean Water State Revolving Funds operated by the state departments of Health and Ecology for the 2013-15 Biennium.

The Ad-Hoc Committee reviewed several options to achieve the optimization of the federal funds identified in the Proviso. Two items were adopted by the Board.

1. <u>Threshold Requirements</u>

- All applicants eligible for the State Revolving Funds (SRF) that apply for PWAA funding must first apply for and be rejected for federal funding by the federal SRF programs.
- This rejection can be for a variety of reasons:
  - Ineligible applicant
  - Ineligible project
  - Ineligible project elements
  - Insufficient federal resources to meet the demand

2. <u>Pre-Application</u>

A pre-application will be created by the Board and reviewed by the departments of Health and Ecology to determine if the activities identified in a project's scope of work are eligible for federal funding in whole or part.

The pre-application, a two-page form, will have sufficient information for the two state agencies to determine if the project is eligible for SRF funding without placing a burden on resources.

The pre-application would not obligate federal programs to fund a project. The pre-application only determines potential eligibility.

If the applicant and project are eligible for federal funding, the applicant must complete the application process for the appropriate federal programs prior to being funded by PWAA resources.

At this stage, there are several avenues for complete project funding:

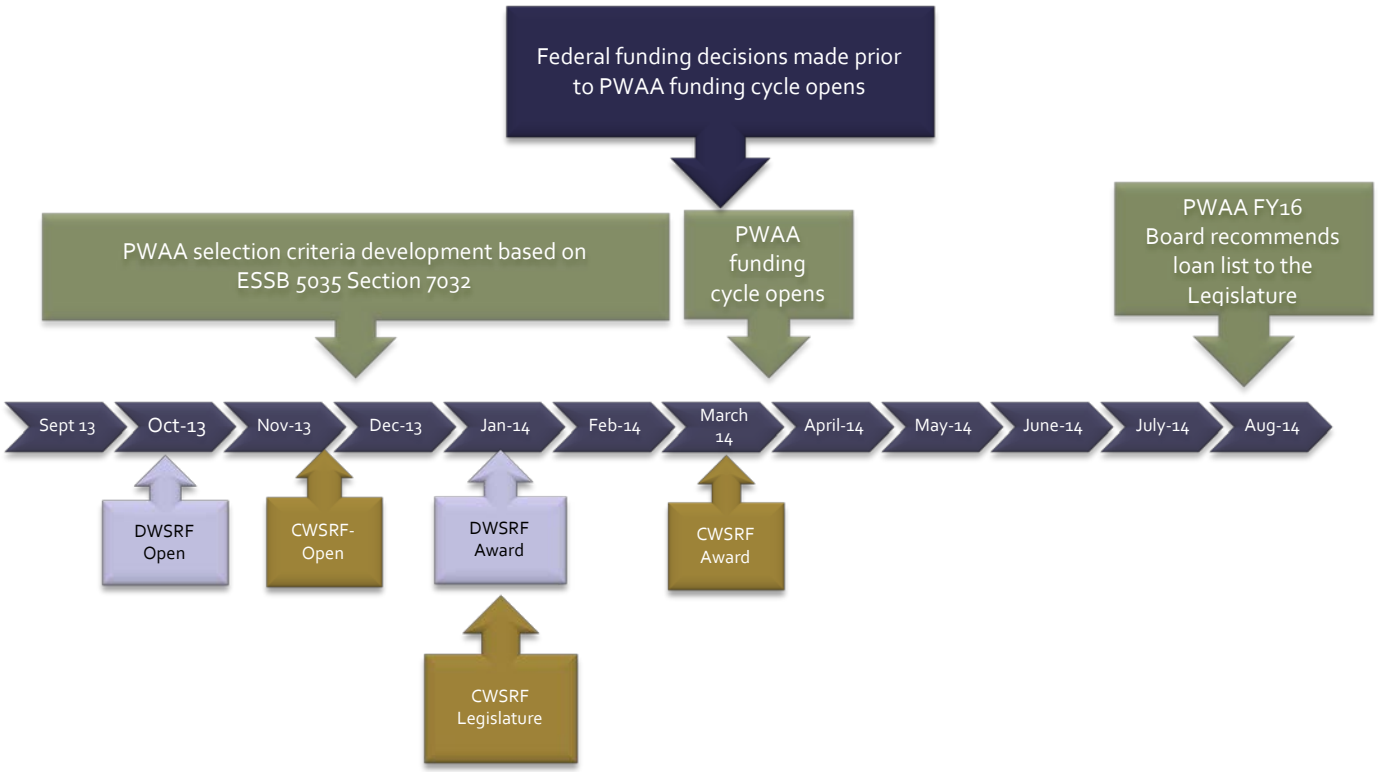
- If the project contains only eligible activities, the applicant may choose to apply solely for federal funding – *or* – the applicant may choose to apply for PWAA funding. The applicant must apply for the appropriate federal program. If selected, then applicant will be removed from PWAA funding consideration.
- If the project contains a mix of federally eligible and non-eligible activities, the applicant may apply to the PWAA for the activities not eligible for federally funded programs.

An applicant with project activities partly or fully eligible for federal funding may apply for PWAA funds. If the project scores high enough to be included in the funding pool for federal funding, the project will be ***<u>conditionally placed</u>*** on the list of projects recommended for funding. The condition placed on the project is that the applicant must apply for the next available federal funding cycle, which is anticipated to be in the September immediately following the Board's August selection process. Should the project be selected for funding by a federal program, the project will be removed from consideration for PWAA funding.

The Board is required to submit a bill recommending funding of rated and ranked projects by November 1 each year. The SRF programs' funding cycle runs from September through December, with projects selected for funding in January.

Thus, the Board's bill has to be submitted prior to the SRF programs' funding decisions. Once the SRF programs have identified their funding recipients, those that are included on the Board's proposed bill will be struck from the bill.

FIGURE 2: Funding Cycles



Infrastructure Financing Pre-Application

Application Date:						
Applicant:						
Contact Person:						
Contact Information:	Email:		Phone:			
Project Title:						
County:						
Primary Infrastructure System: (Water, sewer, etc.) (Check one)	Water		er	Storm Water		
Priority being addressed: **(Check one)**	Public Health & Safety		mental Health		Economic Development/ Smart Growth	
Key problem/ Opportunity being addressed: ***50 word limit***						
Project Scope of Work: ***200 word limit***						
Amount being requested:						
Total Project Cost:						

SAMPLE

Do you have any threshold barriers to other Funding sources:	Planning Requirements:	
	Eligible Activities:	
	Local Match:	
	Other:	
Please describe the status of your project - percent complete: **<u>20 word limit per category</u>**	Planning:	
	Engineering:	
	Historic/Cultural Review:	
	Environmental Report:	
	Land/ROW Acquisition:	
	Permits:	
	Construction:	

SAMPLE

Project/Applicant Review Selection Criteria and Scoring

Based on the criteria identified in the Proviso, the Board addressed the following questions.

- What is used in the existing selection process?
- How the criteria were addressed historically?
- Items for future improvement?

From these questions, the following areas were examined.

1. Program requirements/eligibility
2. Application questions and scoring

Program Requirements/Eligibility

Program requirements are reviewed at three separate points in the application and funding process.

1. Application – All elements must be submitted along with the funding application or the applicant will not pass threshold review and will not be considered for funding.
2. Contract Execution (if awarded funds) – All documentation must be confirmed prior to contract execution. If not confirmed, the loan offer will be rescinded.
3. Construction (if awarded funds) – All elements must be completed and documentation submitted prior to starting construction. If not provided, the applicant will be unable to start construction and receive reimbursement for incurred costs.

1. At Time of Application

Identified below are the requirements to qualify for funding under all Public Works Board programs. Failure to meet a requirement will disqualify an applicant.

Real Estate Excise Tax (REET)

Applicants that are counties, cities, or towns, must be imposing the 1/4 of 1 percent REET as allowed by RCW 82.46.010(2) at the time of application.

Sanitary Sewer Projects – Side Service Sewer Connections

Jurisdictions must adopt an ordinance or resolution declaring such repair and/or replacement will enhance conservation or the more efficient use of storm water or sewer systems. Also, the jurisdiction must have a mechanism in place to meet the charge back provisions of RCW 35.67.360. The ordinance or resolution must be in place at the time of application. The ordinance must be related specifically to the area affected by the project for which funding is being sought. A copy of the ordinance or resolution must accompany the application.

Greenhouse Gas Emissions Reduction Policy

Jurisdictions are required to have an adopted policy identifying the business practices intended to reduce greenhouse gas emissions. This policy must be in place at time of application. If the jurisdiction has submitted a policy to the Board previously, the applicant has met this requirement.

Capital Facilities Plan Standards (Counties and Cities Not Planning under the Growth Management Act (GMA))

Jurisdictions not planning under the GMA must have adopted a Capital Facilities Plan for all systems they own by the application deadline. The following standards are the minimum requirements for a Capital Facilities Plan (CFP) as established by the

Board. As of January 1, 1996, the Board requires all loan applicants to have CFPs which meet these requirements (except those jurisdictions planning under GMA whose deadlines are not passed at time of contract execution).

a. Inventory major system components, show locations and capabilities and assess the overall capital needs for the specific system(s) involved.
b. Forecast future needs for the capital facilities, show location, and capabilities of expanded or new capital facilities.
c. Identify, prioritize, and coordinate major capital improvement projects over a six-year period.
d. Estimate capital project costs; identify financing alternatives for each project identified. Transportation projects and funding must be consistent with locally established service standards.
e. Must be updated on a regular basis. We recommend at least once every two (2) years. In no case will a plan over six (6) years old be accepted.
f. Must be consistent with the comprehensive plans of neighboring jurisdictions.
g. Must have provided opportunity for early and continuous public participation.
h. Must be consistent with, and is an element of, the comprehensive plan formally adopted by the governing body of the local jurisdiction.

For letter "f" above, the Board will give special interpretation to special purpose districts. Special purpose districts need to show consistency with the Comprehensive Land Use Plan of the counties and/or cities in which services are provided.

Special Purpose District Consistency with Local Comprehensive Land Use Plans

Capital Improvement Plans of special purpose districts must show consistency with the Comprehensive Land Use Plans of the local jurisdiction(s).

2. AT TIME OF CONTRACT EXECUTION

Following is a listing of requirements necessary prior to contract execution. Failure to meet these requirements will make the applicant ineligible for funding.

Growth Management Act (GMA) Conformance

Applicants planning under GMA must be in conformance with the GMA before a contract for financial assistance may be executed by the Board.

GMA Exception

Counties, cities, and towns planning under the GMA that are not in conformance with the Act may request an exception to this requirement when the project is necessary to address a public health need or a substantial environmental degradation issue. To qualify for the exception, the jurisdiction must have a letter from the appropriate agency stating that the exception has been granted. The letter must be postmarked on or before the application deadline.

3. PRIOR TO THE START OF CONSTRUCTION

Governor's Executive Order 05-05 (EO 05-05)

All capital construction projects funded with state dollars must meet the requirements of Governor's Executive Order 05-05 (EO 05-05). EO 05-05 requires recipients of state funds to consult with interested parties (i.e., Department of Archaeology and Historic Preservation and Indian Tribes) prior to starting project construction. For construction loans, the consultation should take place as early as possible in order to avoid delays in starting project construction. For preconstruction loans, the consultation is required when there is a right-of-way easement or property acquisition included in the scope of work.

Investment Grade Efficiency Audit

For projects involving repair, replacement, or improvement of a wastewater treatment plant or other public works facility for which an investment-grade efficiency audit is obtainable, the Board requires the project sponsor undertake an investment grade audit. The applicant may finance the cost of the audit as part of a PWAA loan.

Executive Order 13-03 (Life Cycle Cost for Buildings)

On August 21, 2013, the Governor issued EO 13-03. EO 13-03 directs all projects funded by the capital

budget to take into consideration the life cycle cost for buildings. The purpose is to reduce energy and other operating costs while planning, constructing and operating a building. The Office of Financial Management provides the life cycle cost model to be used for analysis; provides assistance in using the life cycle cost model; and issue guidance to clarify how agencies determine the life cycle cost for investments required by this Executive Order, including how to compare different energy and fuel options and assess the current tools. The director of the Office of Financial Management also provides direction in the Capital Budget Instructions to follow these rules.

Proviso Criteria by Section and how it has Been Used in the Past/Reconsiderations/Challenges

The following table identifies the 2013-2015 Biennium selection criteria as outlined in the Proviso and includes historical information and recommendations. The use of color-coding identifies if it is a new, modified, or existing criteria.

New Criteria	Existing Criteria Modified	Existing Criteria No Change

Criteria	Current Use in Construction Selection	Recommended Use in New Selection Criteria	Challenges
Existing Criteria: **Sec. 7032(5)(a)(i)** Whether the project is critical in nature and would affect the health and safety of many people.	RCW 43.155.070(4)(d): Project category (e.g., treatment scored higher than collector/distribution lines).	No change. Continue use as identified "Project Scale."	A project that impacts 100 percent of a town with a small population scores the same as a project that impacts a large/more dense region.
Existing Criteria: **Sec. 7032(5)(a)(ii)** The extent to which the project leverages non-state funds.	Although currently not in statute, the Board has historically required minimum matching funds as a threshold requirement and interest rate determination. State funds did not qualify as match.	Modified criteria - Local match is no longer required.	The Board has determined the resources to repay a loan are to be considered local match. Requiring match could be challenging for the low capacity clients, especially those with very small routine projects that would score too low to receive SRF funding or would be too small to qualify (or afford) "market rate" loans (e.g., bonds, bank loans).
Existing Criteria: **Sec. 7032(5)(a)(iii)** The extent to which the project is ready to proceed to construction.	Although currently not in statute, the Board has awarded points to projects appearing to be able to go to construction as soon as possible (Highest points were at 20 percent of score during the 2009 funding cycle).	No change. A scored component worth 10 percent of the total 100 points.	The construction loan cycle requires applicants to apply more than a year prior to funds being available. Planning and Pre-Construction (PC) funding is scarce. Construction funding can pay for the planning and pre-construction activities necessary. Many applicants are applying for projects that will be starting with planning and pre-construction *not* just construction activities.

Criteria	Current Use in Construction Selection	Recommended Use in New Selection Criteria	Challenges
Existing Criteria: **Sec. 7032(5)(a)(iv)** Whether the project is located in an area of high unemployment compared to the average state unemployment.	RCW 43.155.070(4)(i) The Board uses the unemployment rate as a balancing factor.	No change. Continue use as a balancing factor during deliberations on the loan list.	Unemployment figures are published uniformly by county. There is no easy way to find a uniform micro component (for PUD or district customers). Using county figures disadvantages poor areas in a prosperous county (e.g., east King County areas). Also, the applicant's financial status will be evaluated, and if determined to be eligible, reduced interest rates are available for severe hardship.
New Criteria: **Sec. 7032(5)(a)(v)** Whether the project promotes the sustainable use of resources and environmental quality.	Currently not being used.	This is a new criterion for the Board. A small percentage of points associated with innovative technology, recycled materials, energy/water conservation methodology, low impact development, etc., will be allocated to this effort.	Solid waste, recycling, water, sewer, and storm water projects achieve this as a matter of course through their regulatory agencies (DOH, ECY). Although roads/ streets/bridges do not have a regulatory oversight agency, there are clear industry standards and best practices in place.
New Criteria: **Sec. 7032(5)(a)(vi)** Whether the Project consolidates or regionalizes systems.	Currently not being used.	This is a new criterion for the Board. Will be used as a balancing factor.	There are a variety of fiscal considerations (who's paying for/controlling what/benefiting from) as well as environmental and historical impacts to be considered.

Criteria	Current Use in Construction Selection	Recommended Use in New Selection Criteria	Challenges
New Criteria: **Sec. 7032(5)(a)(vii)** Whether the project encourages economic development through mixed-use and mixed income development consistent with chapter 36.70A RCW (GMA).	Currently not being used.	This is a new criterion for the Board. This will be incorporated as one of the three priorities: "economic development/ smart growth." It is the third priority. The other two priorities are: 1. Public health and safety 2. Environmental health and protection	The Board used a variant of this criterion in its Urban Vitality Grant process. This will be challenging in the traditional construction program. Bigger water/sewer lines could encourage density but could also be seen as encouraging sprawl. Larger/more accessible roads/bridges could also be viewed as opening up suburban/rural areas for development.
Existing Criteria: **Sec. 7032(5)(a)(viii)** Whether the system is being well managed in the present and for long-term sustainability.	Although currently not in statute, the Board has been awarding points for good management since the program's inception.	Continue use in construction selection. Use as a scored component in the local management section of the application through Financial and Managerial Review. Also used as a marker for possible technical assistance help.	Establish definition of "well managed" system. How to provide technical assistance with reduced resources will be challenging.
Existing Criteria: **Sec. 7032(5)(a)(ix)** Achieving equitable distribution of funds by geography and population.	RCW 43.155.070(4): geographic spread, system spread and percentage of population impacted have been used since the program's inception.	Continue use in construction selection. Use as balancing factor.	What does equitable distribution mean? • Statewide population spread? • Funding divided by demand (e.g., 35 percent of applications are for Sewer thus 35 percent of the funding should be for Sewer projects? OR by applicant type?).
Existing Criteria: **Sec. 7032(5)(a)(x)(A)** Efficient use of state resources.	Although currently not in statute, this is considered part of "good management" of systems.	Continue use in construction selection. This is reviewed under "good management" and historical behavior of previous clients." Good management" of previous loans as an indicator of future behavior.	The Board has historically coordinated meetings at the Infrastructure Assistance Coordinating Council (IACC) to agencies on how to formalize.

Criteria	Current Use in Construction Selection	Recommended Use in New Selection Criteria	Challenges
Existing Criteria: **Sec. 7032(5)(a)(x)(B)** Preservation and enhancement of health and safety.	RCW 43.155.070(4)(d)	Continue use in construction selection. This will be incorporated as one of the three priorities. "Public health and safety" is the first and highest priority.	Coordinate with other funding agencies.
Existing Criteria: **Sec. 7032(5)(a)(x)(C)** Abatement of pollution and protection of the environment.	RCW 43.155.070	Continue use in construction selection. This will be incorporated as one of the three priorities: "Environmental protection" is the second highest priority.	
New Criteria: **Sec. 7032(5)(a)(x)(D)** Creation of new family wage jobs while avoiding shifting jobs from one part of the state to another.	Currently not being used.	This is a new criterion for the Board. For projects that are in the "Economic development/smart growth" priority, questions will be developed to ascertain this information, and points will be apportioned.	The Board's projects have no direct impact on the creation of jobs other than construction. What is a family wage? The Board's projects have no direct influence on job migration other than construction jobs (which is unavoidable).
New Criteria: **Sec. 7032(5)(a)(x)(E)** Fostering economic development consistent with Chapter 36.70A RCW (the Growth Management Act (GMA)).	Currently not being used.	This is a new criterion for the Board. All applicants for PWAA funding must be in conformance with the Growth Management Act (GMA). Any project that is applying for funding that specifically addresses the intent of the GMA will go into the priority of Economic Development/Smart Growth.	The Board's projects sustain or improve infrastructure. This is a new criteria for the Board. For projects that are in the "Economic development / smart growth" priority, questions will be developed to ascertain this information, and points will be apportioned.
Existing Criteria: **Sec. 7032(5)(a)(x)(F)** Efficiency in delivery of goods and services, public transit and transportation.	Although this is not identified in statute as a Board consideration, this criterion has been used when reviewing Road/Street/Bridge applications.	Continue use in construction selection. This will be addressed in the need section of the application.	

Criteria	Current Use in Construction Selection	Recommended Use in New Selection Criteria	Challenges
New Criteria: **Sec. 7032(5)(a)(x)(G)** Avoidance of additional costs to state and local governments that adversely impact local residents and small businesses.	Currently not being used.	New criterion for the Board.	This consideration stems from 2008's HB 3191 "an act relating to the efficiency of state investments."
New Criteria: **Sec. 7032(5)(a)(x)(H)** Reduction of the overall cost of public infrastructure.	Currently not being used.	New criterion for the Board. The Board historically has been concerned of the cost of infrastructure and keeping interest rates low in an effort to minimize those costs.	

PROJECT/APPLICANT REVIEW AND SCORING

The Board is developing an application and a scoring tool for construction loans to implement the criteria identified in the Proviso.

There are six distinct infrastructure systems eligible for PWAA funding:

- Domestic Water
- Sanitary Sewer
- Storm Sewer
- Roads and Street
- Bridges
- Solid Waste and Recycling

There are three types of jurisdictions that are eligible for PWAA funding:

- Counties
- Cities/Towns
- Special Purpose Districts (Public Utility Districts, and Water and/or Sewer Districts)

Two review processes happen simultaneously:

- An Internal Review
- An Application Review

THE APPLICATION

The Board has two fundamental values that are embedded in the application process:

Keep it simple for the clients – There will be one application for all systems and applicants. Within the application there are "system – specific" questions.

Fair and equitable access to resources – Equitable access requires simplicity so that jurisdictions with lower capacity are competitive. To achieve this, project information is solicited in multiple ways. Some questions require a short response and others are a narrative response. This enables applicants with varying approaches of expression to provide the necessary information to score the application.

There are three types of questions included in the application:

- Scored question (a maximum of 100 points may be achieved for the entire application).
- No points associated.
- No points associated but answers may be used as a balancing factor. The Board may take this information into consideration during deliberation of the construction loan list as a balancing factor.

The application is divided into four sections:

Section 1: General Applicant Information
Section 2: Project Information
Section 3: Need / Opportunity / Solution
Section 4: Local Management Effort

Following is detail about each section, how it is used in the review and ranking of applications.

SECTION 1: GENERAL APPLICANT INFORMATION

This section is informational and not scored.

- Primary system affected by this project
- General applicant information
- Legislatively required information
  - Measures of fiscal capacity
  - Rate based systems only

SECTION 2: PROJECT INFORMATION

This section is informational and not scored.

- Project Description
- Project Scope of Work
- Required Permits (local, state and federal)
- Project Schedule
- Project Costs
- Project Funding

SECTION 3: PROJECT NEED AND OR OPPORTUNITY/ SOLUTION (40 POINTS)

The project need section has a total of 40 points available out of 100. There are five elements to the Need/Solution section of the application:

- Priority
- Project Category
- General Project Need Questions
- System Specific Questions
- Need and Solution Narrative Statement

Priority – The Proviso identified three main priorities for construction project outcomes (in priority order). These are similar to the Board's historical priorities.:

The applicant must document how they fit into one of these (or more) priorities and the reviewer determines which priority is used.

FIGURE 3: State Priorities

Priority 1: Public Health and Safety

- Proviso – Section 7032(5)(a)(i)
- Citizens are in danger of contamination or bodily harm.

Priority 2: Environmental Health and Protection

- Proviso – Section 7032(5)(a)(x)(C)
- Human impact on the environment is having a detrimental effect.

Priority 3: Economic Development/ Smart Growth

- Proviso – Section 7032(5)(a)(vii)
- Economic Development – Encourage business development, supporting healthy and viable communities through job growth by investing in public infrastructure.
- Smart Growth – Infrastructure that supports concentrated growth in compact walkable urban centers avoiding sprawl.

PROJECT NEED AND OR OPPORTUNITY / SOLUTION (CONTINUED)

Project Category – Elements that impact the largest population receive the highest score and must correspond and be reflected in the scope of work activities.

For the applicant's primary system, as selected at the top of this application, identify the sub-category that is most affected by the proposed project. Check only one. (Max 6 points; the Board may take this into consideration during deliberation of the construction loan list as a balancing factor.)

Highest Points ← → Lowest Points

Domestic Water	**6 points**	**6 points**	**4 points**	**2 points**	**1 point**	**1 points**	**1 points**	**1 points**
	☐ **Treatment**	☐ **Primary Supply or Source**	☐ **Secondary Supply or Source**	☐ **Storage or Reservoir**	☐ **Transmission**	☐ **Distribution**	☐ **Telemetry/ Equipment**	☐ **Conservation or Other**
Sanitary Sewer	**6 points**	**6 points**	**4 points**	**2 points**	**1 points**	**1 points**		
	☐ **Treatment/ Reclamation**	☐ **Interceptor or Trunk Line**	☐ **Pump Lift Station**	☐ **Collector**	☐ **Telemetry or Equipment**	☐ **Conservation or Other**		
Storm Water	**6 points**	**6 points**	**4 points**	**2 points**	**1 points**			
	☐ **Treatment**	☐ **Storage or Detention**	☐ **Interceptor or Trunk Line**	☐ **Collector**	☐ **Other**			
Solid Waste/ Recycling	**6 points**	**6 points**	**4 points**	**2 points**	**1 points**			
	☐ **Remedial Action**	☐ **Final Disposal**	☐ **Transfer Station**	☐ **Waste Reduction or Recycling**	☐ **Other**			
Road/ Street or Bridge	**6 points**	**6 points**	**4 points**	**2 points**	**1 points**			
	☐ **Principal Arterial**	☐ **Minor Arterial**	☐ **Major Collector**	☐ **Minor Collector**	☐ **Local/Other**			

General Project Need Questions

There are a series of questions relating to the general project need and the proposed solution. This is the applicant's opportunity to explain in detail:

- Condition of the system.
- History of the systems problems and the impact and/or costs associated.
- Partnerships.
- Whether or not this is in response to new/emerging regulations.
- Efforts undertaken to address the problem.
- Data, if necessary, to clarify the degree of the problem, (i.e., attaching relevant documents such as regulatory orders, negotiated letter of agreements, resolutions, ordinances, moratoriums, external agency correspondence, etc.).

System Specific Project Need Questions
Since each type of infrastructure eligible for funding is unique, there is a need to ask questions that are unique to that system. Examples of system questions include:

- Domestic Water:
  - What is the current status of the applicant's operating permit?
  - Does the applicant have sufficient water rights for the project?
  - Has the system had any boil water orders?
- Sanitary Sewer/Storm Sewer:
  - Is the applicant currently meeting National Pollutant Discharge Elimination System (NPDES) permit and/or State Waste Discharge Permit (SWDP) limits?
  - Has the applicant had any Combined Sewer Overflows (CSO)?
  - Has the applicant's system caused any environmental degradation (i.e., shellfish bed closures, water temperature increase, 303(d) list water body, etc.)?
- Solid Waste/Recycling
  - Has the applicant's system caused negative impacts on ground water?
  - Is the applicant's system currently under a consent decree or any other order?
  - Has the applicant's system caused any environmental degradation (i.e., shellfish bed closures, water temperature increase, 303(d) list water body, ground water, etc.)?
- Road/Street/Bridge
  - What is the project area's current Level of Service (LOS).
  - Describe existing hazard(s) within the project limits and how this project mitigates the hazard(s) or why the project will not resolve the hazard(s).
  - Does the project area have any officially imposed weight limits or road/street restrictions?

PROJECT NEED AND OR OPPORTUNITY / SOLUTION (CONTINUED)

The reviewer will take the responses in each category and make an evaluation. In this evaluation, the reviewer will consider:

- State priority the project addresses.
- Urgency of the project.
- Documentation of the situation.
- Whether the proposed solution addresses the problem.

The reviewer will consider all of the responses combined to assign a score looking at the project as a whole.

System Status	Purpose of Project	Documentation	Public Health & Safety			Environmental Health			Growth/Economic Development		
		Clarity of project need and solution	☐ Clear w/ Impact	☐ Clear w/o Impact	☐ Unclear	☐ Clear w/ Impact	☐ Clear w/o Impact	☐ Unclear	☐ Clear w/ Impact	☐ Clear w/o Impact	☐ Unclear
SEVERE: Systems in violation of regulations, have failed, or are in imminent danger of failing	Bring non-compliance to compliance	Regulatory Order	34	28	25	32	28	24	28	24	20
		External Agency	33	27	24	31	27	23	27	23	19
		Negotiated Letter of Agreement	32	26	23	30	26	22	26	22	18
		Completed Studies	31	25	22	28	25	21	25	21	17
		Internal Monitoring	30	24	21	27	24	20	24	20	16
	Repair, construction, and/or replacement of failed or failing system (before end of life cycle)	Regulatory Order	31	23	20	26	23	19	23	19	18
		External Agency	30	22	19	25	22	18	22	18	17
		Negotiated Letter of Agreement	29	21	18	24	21	17	21	17	16
		Completed Studies	28	20	17	23	20	16	20	16	15
		Internal Monitoring	27	19	16	22	19	18	19	18	14
MODERATE: Systems currently in compliance, but required to meet new standards	Repair, construction, and/or replacement of failing system (before end of life cycle)	External Agency	26	20	18	21	20	17	20	17	16
		Negotiated Letter of Agreement	25	19	17	20	17	16	19	16	15
		Completed Studies	24	18	16	19	18	15	18	15	14
		Internal Monitoring	23	17	15	18	17	14	17	14	13
		Aware of Problem-Documented	22	16	14	17	16	13	16	13	12
		Aware of Problem-Not Documented	21	15	13	16	15	12	15	12	10
	Bring system to meet newly imposed compliance standards	External Agency	20	14	12	15	14	10	14	10	9
		Completed Studies	19	13	10	14	13	9	13	9	8
		Internal Monitoring	18	12	9	13	12	8	12	8	7
		Aware of Problem-Documented	17	11	8	12	11	7	11	7	6
		Aware of Problem-Not Documented	16	10	7	11	10	6	10	6	5
POTENTIAL/ PREVENTATIVE: Systems currently in compliance	Repair, construction, and/or replacement (end of life cycle)	Completed Studies	15	9	6	10	9	5	9	5	6
		Internal Monitoring	14	8	5	9	8	4	8	4	5
		Aware of Problem-Documented	13	7	4	8	7	3	7	3	4
		Aware of Problem-Not Documented	12	6	3	7	6	2	6	2	3
	Bring system to meet future compliance	Completed Studies	11	5	2	6	5	1	5	1	2
		Internal Monitoring	10	4	1	5	4	1	4	1	1
		Aware of Problem-Documented	9	3	1	4	3	0	3	0	1
		Aware of Problem-Not Documented	8	2	0	3	2	0	2	0	0

SAMPLE

SECTION 4: LOCAL MANAGEMENT EFFORT (60 POINTS)

The previous section (Project Need and or Opportunity/Solution) is based solely on the project. The local management effort section is based on the applicants jurisdiction and management of systems. Questions focus on the last five years' activities. There are a total of 60 points associated with this section. Examples of elements in the section include:

- Readiness to proceed.
- Remaining capacity of the system.
- Planning activities undertaken and planned.
- Public participation.
- Maintenance and operations activities undertaken and planned.
- Maintenance schedules.
- Capital investments made to the system.
- Stewardship of Washington's natural resources (RCW 70.235.070).

The reviewer will assign a score for each question for a maximum number of 60 points.

INTERNAL MANAGERIAL/ORGANIZATIONAL CAPACITY REVIEW

There is an internal review done simultaneously with the application review. This review does not have a score associated with it but is taken into consideration during scoring. The Managerial/ Organizational Capacity Review is not based on applicant responses, but on information that is available to the public. Examples include:

- Has the applicant previously been a client of the Public Works Board?
- Has the applicant previously managed a capital project of similar size/budget?
- Significant/relevant audit findings in the past three years related to managerial capacity.
- Status of utility with DOH (water) or ECY (wastewater), if applicable. *Consideration given to whether a system has been recently been taken over by the applicant.*
- Is this a new jurisdiction formed within the past five years?
- Is this a new utility or system for the jurisdiction?

INTERNAL FINANCIAL CAPACITY REVIEW

In addition to the Managerial/Organization Capacity Review, a Financial Capacity Review is completed to determine the financial health of the organization and ability to repay the loan. Examples of information reviewed:

- Past financial contract performance.
- Audit findings related to financial capacity.
- Median household income.
- Unemployment rate/distressed area;
- Rate-based systems:
  - Current monthly average rate per equivalent residential unit (ERU).
  - Current Affordability Index.
- Non rate-based systems:
  - Impact of loan request per capita.
  - Major changes to historical revenue stream in past 12 months.

If there are any significant issues that arise during the reviews, a more in-depth review is completed. If during these reviews, issues arise, this signals an opportunity to offer technical assistance to the applicant. Technical assistance is designed to enhance the the applicant's managerial organization and financial capacity. It may also be used to identify loan conditions the Board may impose to ensure the applicant's ability to repay the loan and to generate increased fiancial capacity for the future.

Interest Rates and Subsidy

The Proviso specifies the interest rates for PWAA loans. The methodology mirrors language the Department of Ecology uses for its state revolving loan funds. The Proviso states:

- Interest rates will be based on the average daily market interest rate for tax-exempt municipal bonds as published in the bond buyer's index for the period from sixty to thirty days before the start of the application cycle. The terms and conditions for a particular cycle will be identified in January of each funding year. The interest rate will never be higher than the rate identified at this point. If an applicant is offered a loan, and the interest rate is lower at the time of execution than established at the time of application, the lower interest rate will be applied.
- For projects with a repayment period between 5 and 20 years, the interest rate must be 60 percent of the market rate.
- For projects with a repayment period under 5 years, the interest rate must be 30 percent of the market rate.

The Board was authorized to create criteria to offer subsidized interest rates, terms, and forgivable loans. The Board currently utilizes hardship criteria similar to the Department of Health SRF program, and is recommending continued use of this criteria.

Forgivable loans are a new authority given to the Board. There are currently no criteria for implementation of this authority. After careful consideration, the Board has chosen not to implement this authority at this time. Due to the recent redirection of resources (both cash and tax revenue) from the fund for other state priorities and the capitalization of the state match for federal programs, the fund requires a resting period for stabilization. Any additional withdrawals that are not of a revolving nature will compromise the health of the fund.

CRITERIA FOR SUBSIDIZED INTEREST RATES		
Interest Rates and Terms	The Board will provide reduced interest rates and/or extended repayment periods for projects that meet financial hardship criteria as measured by an affordability index or similar standard measure of financial hardship.	
	DRAFT TERMS FOR APPLICANTS THAT MEET FINANCIAL HARDSHIP	
	RATE-BASED SYSTEMS	NON RATE-BASED SYSTEMS
	AFFORDABILITY INDEX (AI) IS BETWEEN (1)	DEBT SERVICE CAPACITY RATIO (DSCR) IS BETWEEN (2)
	2 percent or less	1.51 percent or higher
	2.01 percent to 2.5 percent	1.01 percent to 1.5 percent
	2.6 percent or higher	1 percent or less

(1) AI is calculated as [“New Average Utility Rate” x 12 months] / Median Household Income. Note: The Environmental Protection Agency considers utility rates affordable when less than 2 percent of median household income.
(2) The DSCR is used to determine the applicant’s debt capacity availability to meet the debt service requirements of the proposed loan. It is calculated as Net operating income / [principal repayments + interest payments.
Principal and interest includes existing loans, anticipated loans from the Board, and loans from other sources for the project being applied for.

Sec. 7032. RCW 43.155.070 and 2013 c 275 s 3 are each amended to read as follows:

(1) To qualify for financial assistance under this chapter the board must determine that a local government meets all of the following conditions:

(a) The city or county must be imposing a tax under chapter 82.46 RCW at a rate of at least one-quarter of one percent;

(b) The local government must have developed a capital facility plan; and

(c) The local government must be using all local revenue sources, which are reasonably available for funding public works, taking into consideration local employment and economic factors.

(2) Except where necessary to address a public health need or substantial environmental degradation, a county, city, or town planning under RCW 36.70A.040 may not receive financial assistance under this chapter unless it has adopted a comprehensive plan, including a capital facilities plan element, and development regulations as required by RCW 36.70A.040. This subsection does not require any county, city, or town planning under RCW 36.70A.040 to adopt a comprehensive plan or development regulations before requesting or receiving financial assistance under this chapter if such request is made before the expiration of the time periods specified in RCW 36.70A.040. A county, city, or town planning under RCW 36.70A.040 that has not adopted a comprehensive plan and development regulations within the time periods specified in RCW 36.70A.040 may apply for and receive financial assistance under this chapter if the comprehensive plan and development regulations are adopted as required by RCW 36.70A.040 before executing a contractual agreement for financial assistance with the board.

(3) In considering awarding financial assistance for public facilities to special districts requesting funding for a proposed facility located in a county, city, or town planning under RCW 36.70A.040, the board must consider whether the county, city, or town planning under RCW 36.70A.040 in whose planning jurisdiction the proposed facility is located has adopted a comprehensive plan and development regulations as required by RCW 36.70A.040.

(4) The board must develop a priority process for public works projects as provided in this section. The intent of the priority process is to maximize the value of public works projects accomplished with assistance under this chapter. The board must attempt to assure a geographical balance in assigning priorities to projects. The board must consider at least the following factors in assigning a priority to a project:

(a) Whether the local government receiving assistance has experienced severe fiscal distress resulting from natural disaster or emergency public works needs;

(b) Except as otherwise conditioned by RCW 43.155.110, whether the entity receiving assistance is a Puget Sound partner, as defined in RCW 90.71.010;

(c) Whether the project is referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310;

(d) Whether the project is critical in nature and would affect the health and safety of a great number of citizens;

(e) Whether the applicant's permitting process has been certified as streamlined by the office of regulatory assistance;

(f) Whether the applicant has developed and adhered to guidelines regarding its permitting process for those applying for development permits consistent with section 1(2), chapter 231, Laws of 2007;

(g) The cost of the project compared to the size of the local government and amount of loan money available;

(h) The number of communities served by or funding the project;

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

(j) Whether the project is the acquisition, expansion, improvement, or renovation by a local government of a public water system that is in violation of health and safety standards, including the cost of extending existing service to such a system;

(k) Except as otherwise conditioned by RCW 43.155.120, and effective one calendar year following the development of model evergreen community management plans and ordinances under RCW 35.105.050, whether the entity receiving assistance has been recognized, and what gradation of recognition was received, in the evergreen community recognition program created in RCW 35.105.030;

(l) The relative benefit of the project to the community, considering the present level of economic activity in the community and the existing local capacity to increase local economic activity in communities that have low economic growth; and

(m) Other criteria that the board considers advisable.

(5) For the 2013-2015 fiscal biennium, in place of the criteria, ranking, and submission processes for construction loan lists provided in subsections (4) and (7) of this section:

(a) The board must develop a process for numerically ranking applications for construction loans submitted by local governments. The board must consider, at a minimum and in any order, the following factors in assigning a numerical ranking to a project:

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

(ii) The extent to which the project leverages non-state funds;

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

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

(v) Whether the project promotes the sustainable use of resources and environmental quality;

(vi) Whether the project consolidates or regionalizes systems;

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

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

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

(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, public transit, and transportation;

(G) Avoidance of additional costs to state and local governments that adversely impact local residents and small businesses; and

(H) Reduction of the overall cost of public infrastructure; and

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

(b) Before November 1, 2014, the board must develop and submit to the appropriate fiscal committees of the senate and house of representatives a ranked list of qualified public works projects which have been evaluated by the board and are recommended for funding by the legislature. The maximum amount of funding that the board may recommend for any jurisdiction is ten million dollars per biennium. For each project on the ranked list, as well as for eligible projects not recommended for funding, the board must document the numerical ranking that was assigned.

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

~~(((6)))~~ (7) Before November 1st of each even-numbered year, the board must develop and submit to the appropriate fiscal committees of the senate and house of representatives a description of the loans made under RCW 43.155.065, 43.155.068, and subsection (((9))) (10) of this section during the preceding fiscal year and a prioritized list of projects which are recommended for funding by the legislature, including one copy to the staff of each of the committees. The list must include, but not be limited to, a description of each project and recommended financing, the terms and conditions of the loan or financial guarantee, the local government jurisdiction and unemployment rate, demonstration of the jurisdiction's critical need for the project and documentation of local funds being used to finance the public works project. The list must also include measures of fiscal capacity for each jurisdiction recommended for financial assistance, compared to authorized limits and state averages, including local government sales taxes; real estate excise taxes; property taxes; and charges for or taxes on sewerage, water, garbage, and other utilities.

~~(((7)))~~ (8) The board may not sign contracts or otherwise financially obligate funds from the public works assistance account before the legislature has appropriated funds for a specific list of public works projects. The legislature may remove projects from the list recommended by the board. The legislature may not change the order of the priorities recommended for funding by the board.

~~(((8)))~~ (9) Subsection ~~(((7)))~~ (8) of this section does not apply to loans made under RCW 43.155.065, 43.155.068, and subsection ~~(((9)))~~ (10) of this section.

~~(((9)))~~ (10) Loans made for the purpose of capital facilities plans are exempted from subsection (((7))) (8) of this section.

~~(((10)))~~ (11) To qualify for loans or pledges for solid waste or recycling facilities under this chapter, a city or county must demonstrate

that the solid waste or recycling facility is consistent with and necessary to implement the comprehensive solid waste management plan adopted by the city or county under chapter 70.95 RCW.

~~(((11)))~~ (12) After January 1, 2010, any project designed to address the effects of storm water or wastewater on Puget Sound may be funded under this section only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

(13) During the 2013-2015 fiscal biennium, for projects involving repair, replacement, or improvement of a wastewater treatment plant or other public works facility for which an investment grade efficiency audit is obtainable, the public works board must require as a contract condition that the project sponsor undertake an investment grade efficiency audit. The project sponsor may finance the costs of the audit as part of its public works assistance account program loan.

(14)

(a) For public works assistance account application rounds conducted during the 2013-2015 fiscal biennium, the board must implement policies and procedures designed to maximize local government use of federally-funded drinking water and clean water state revolving funds operated by the state departments of health and ecology. The board, department of ecology, and department of health must jointly develop evaluation criteria and application procedures that will increase access of eligible drinking water and wastewater projects to the public works assistance account for short-term preconstruction financing and to the federally funded state revolving funds for construction financing. The procedures must also strengthen coordinated funding of preconstruction and construction projects.

(b) For all construction loan projects proposed to the legislature for funding during the 2013-2015 fiscal biennium, the board must base interest rates on the average daily market interest rate for tax-exempt municipal bonds as published in the bond buyer's index for the period from sixty to thirty days before the start of the application cycle.

For projects with a repayment period between five and twenty years, the rate must be sixty percent of the market rate. For projects with a repayment period under five years, the rate must be thirty percent of the market rate. The board must also provide reduced interest rates, extended repayment periods, or forgivable principal loans for projects that meet financial hardship criteria as measured by the affordability index or similar standard measure of financial hardship.

(c) By December 1, 2013, the board must recommend to the appropriate committees of the legislature statutory language to make permanent these new criteria, procedures, and financing policies.

ATTACHMENT II: INELIGIBLE ACTIVITIES FOR FEDERAL SRF PROGRAMS

The table below identifies activities not eligible for funding through the departments of Health and Ecology, and federal programs, and those eligible for PWAA funding.

Department of Ecology - LIMITATIONS OF THE WATER POLLUTION CONTROL REVOLVING FUND

WAC 173-98-110 Ineligible – Certain projects or project elements are not eligible for loan assistance including but not limited to the following:

Ecology	PWAA Eligible (Y/N)	Comment
(1) Abandonment or demolition of existing structures not interfering with proposed construction of a wastewater or storm water treatment facility;	Yes (e.g., de-commissioning treatment plants, wells, landfills, etc.) provided it is accompanied by a construction component.	
(2) Acts of nature that alter the natural environment, thereby causing water quality problems;	Yes – Activities to correct basic services caused by a natural disaster are eligible under the emergency loan program.	Usually used in emergency situations, but can be used in construction also.
(3) Aquatic plant control for aesthetic reasons, navigational improvements, or other purposes unrelated to water quality;	Yes – must be part of a construction project.	This has been an eligible expense in past; used to restore areas to original condition and/or for environmental remediation. Must be part of a construction project.
(4) Bond costs for debt issuance;	No	
(5) Bonus or acceleration payments to contractors to meet contractual completion dates for construction;	No	
(6) Commercial, institutional or industrial wastewater pollution control activities or facilities or portions of those facilities that are solely intended to control, transport, treat, dispose, or otherwise manage wastewater;	Yes – Only if the loan recipient is an eligible entity that owns and operates the system (e.g., Yakima's WWTF that was expanded to treat more industrial WW byproducts from fruit processing).	
(7) Commercial, institutional or industrial monitoring equipment for sampling and analysis of discharges from municipal water pollution control facilities;	Yes – Pay for equipment if it is part of a construction project; No- Pay for sampling and analysis as if it operations not capital improvements.	
(8) Commercial, institutional or industrial wastewater pretreatment;	No	No – Cannot pay for operations activity. Yes – Can pay if it is a capital improvement (e.g. grinder, screening mechanism, etc.)

Ecology	PWAA Eligible (Y/N)	Comment
(9) Compensation or damages for any claim or injury of any kind arising out of the project, including any personal injury, damage to any kind of real or personal property, or any kind of contractual damages, whether direct, indirect, or consequential;	No – This is not a capital improvement.	
(10) Cost-plus-a-percentage-of-cost contracts (also known as multiplier contracts), time and materials contracts, and percent-of-construction contracts in facilities projects;		
(11) Engineering reports;	Yes	Construction is comprised of a comprehensive approach and includes all phases of a project including planning and pre-construction activities but must always contain a construction component.
(12) Fines and penalties due to violations of or failure to comply with federal, state, or local laws;	No	
(13) Flood control, projects or project elements intended solely for flood control;	Yes	Under certain circumstances.
(14) Funding application preparation for loans or grants;	No	
(15) Interest on bonds, interim financing, and associated costs to finance projects;	No	
(16) Landscaping for aesthetic reasons;	Yes – Only if it is part of an eligible system and will return the project site to the original condition.	
(17) Legal expenses associated with claims and litigation;	No	
(18) Lobbying or expenses associated with lobbying;	No	
(19) Mitigation is not eligible unless it addresses water quality impacts directly related to the project, and will be determined on a case-by-case basis;	Yes – PWAA funds activities that will mitigate environmental impacts of eligible PWAA projects.	This only relates to eligible PWAA systems.
(20) Office furniture not included in the recipient's indirect rate;	No	
(21) Operating expenses of local	No	

Ecology	PWAA Eligible (Y/N)	Comment
government, such as the salaries and expenses of a mayor, city councilmember, and city attorney;		
(22) Operation and maintenance costs;	No	
(23) Overtime differential paid to employees of public body to complete administrative or force account work;	No	
(24) Permit fees;	Yes	As part of a larger construction project.
(25) Personal injury compensation or damages arising out of the project, whether determined by adjudication, arbitration, negotiation, or other means;	No	
(26) Professional dues;	No	
(27) Reclamation of abandoned mines;	No	
(28) Refinancing of existing debt;	No	
(29) Solid or hazardous waste cleanup;	Yes	As part of a larger construction project.
(30) Utility local improvement district (ULID) formation;	No	
(31) Vehicle purchase, except for vehicles intended for the transportation of liquid, dewatered sludge, septage, or special purpose vehicles as approved by the department; and	No	
(32) Water quantity or other water resource projects that solely address water quantity issues	Yes – PWAA funds water projects that increase capacity (quantity) for community usage.	

<u>Department of Health, LIMITATIONS OF THE DRINKING WATER STATE REVOLVING LOAN FUND:</u>

Health	PWAA Eligible (Y/N)	Comment
Projects in which future population growth and water system expansion are the primary focus.	Yes – This is a scored component in project selection process.	May include anticipated growth identified in the Capital Facilities Plan or equivalent.
Projects solely for pre-construction activities.	Yes – available through the PWAA pre-construction loan program.	
Projects solely for studies or assessments.	Yes – Through the PWAA Planning loan program.	
Restructuring (purchasing) costs incurred by privately owned systems.	**No**	
Point of use treatment devices for community systems and most non-	**No**	

Health	PWAA Eligible (Y/N)	Comment
community systems.		
Acquisition, construction, or rehabilitation of dams or raw water reservoirs.	**Yes**	
Individual projects for multiple water systems submitted as one application.	**Yes**	Example: PUDs have satellite systems that would be eligible.
Projects in which fire protection is the primary focus.	Yes	May not compete with higher priority projects but is eligible.
Water rights, except if the water rights are owned by a public water system that is being purchased through consolidation.	Yes – Considered only as a construction or pre-construction project	Water rights may be used as an evaluation item for readiness to proceed.
Laboratory fees for monitoring.	No	
Operation and maintenance expenses (for example, reservoir cleaning, coating, and painting).		The Board has reservoir refurbishment (coating and painting) as an eligible activity but it may not compete with higher priority projects.
Portable generators, tools, vehicles and other "rolling stock."	No	Generators are eligible as long as hard wired into the system.
Indirect salaries, wages, and benefits for water system employees whose work falls outside of the scope of project construction.	No	
Liability insurance.	No	
Force account labor.	No	

ATTACHMENT III: ACRONYMS

AI:	Affordability Index
BOARD:	Public Works Board
DWSRF:	Drinking Water State Revolving Fund
ERU:	Estimated Residential Unit
GHG:	Greenhouse Gases
GMA:	Growth Management Act
LOS:	Level of Service
LOST:	Local Area Sales Tax
MHI:	Median Household Income
NPDES:	National Pollutant Discharge Elimination System
PUD:	Public Utility District
PWAA:	Public Works Assistance Account
REET:	Real Estate Excise Tax
ROW:	Right of Way
SDWA:	Safe Drinking Water Act
SEPA:	State Environmental Policy Act
SRF:	State Revolving Fund

From: Katy Isaksen [mailto:Katy@kisaksenassociates.com]
Sent: Thursday, October 31, 2013 2:43 PM
To: Gardener, Cecilia (COM); Yamaguchi, Kendee (COM)
Cc: 'Alison Hellberg'; Campbell, Ann (COM); Lund, Bruce (COM)
Subject: Thoughts on PWTF

As a former PW Board member, and an active financial planning consultant for local government, here are some thoughts and reflections on the Public Works Trust Fund after being at the IACC funding conference and hearing the AWC conference call this morning.....

1. **PWAA vs. PWTF** – Stan Finkelstien, Chair clearly says Public Works Assistance Account which is the name of the account, however for years it has been referred to as the Public Works Trust Fund (PWTF). The communities refer to it as the PWTF and this term has been in the media and budgets in communities all over the state. The jurisdictions think of it as a trust fund even if the name of the account is PWAA.
2. **Need to rebuild trust from the communities** – The communities (cities, counties and water/sewer districts/PUDs) have lost trust in the legislature to maintain the PWTF for the purpose for which it was established. I continue to hear that all the funds have been swept and that I need to revise the six-year capital facilities funding plans to figure out how to pay for projects without the PWTF. My suggestion of delaying projects where possible to come back for PWTF are meeting great resistance. There is little to no thought or trust that the legislature will allow the PWTF to continue (too big of a pot, too little understanding, too easy to take away).
3. **Need stability** – Jurisdictions must plan ahead for a 6-year capital improvement plan and need to know where they can go to fund that big project in year 4. As long as the PWTF continues, the jurisdictions are happy to know they can come in for their turn when necessary and leave it for other jurisdictions in other years. Jurisdictions also need stability in the rating and ranking process as they determine which of their priority projects will be the best fit. Some projects fit Drinking Water SRF (already have water quality problem) and others are a better fit for PWTF (system replacement to avoid failure).
4. **Need to find a workable solution to "seeking federal funds first"** – Not only will the new proviso require higher interest, it also adds 1-2 years to a project to be able to meet the pre-requisites for application to DOE/DOH.
    a. Example: must have Ecology-approved plans and specs to be eligible to apply for a construction loan in Nov. of each year. This puts dead time in the cycle, or risk moving forward with no assurance that your project will be funded. The draft offer list comes out at end of Feb. and funds are available in July. As a comparison, your design can be complete and you are considered ready to proceed for PWTF, allowing the spec sheets to be developed during the lag time from application to the following year's funding. Many of the projects that fell off the 2013 PWTF list will not be eligible to apply to DOE this year.
    b. Anecdote: borrowing with federal funds adds many requirements and administrative burden to be able to apply, to be able to contract for funds, for managing the contractor, and on-going required reporting and follow-up. Some engineers estimate this could be 40 percent of the cost of the project with federal funds.
    c. Example: City of Arlington recently completed an upgrade of its wastewater treatment plant to meet new requirements from the Total Maximum Daily Load (TMDL) restrictions and some

expansion. The project was funded with 3 PWTF loans (Pre-con, $7M, $10M), 2 Ecology SRF loans (ARRA and SRF) and an Ecology green project reserve subsidy for a total of about $35 million. The sewer rates were steadily increased to afford the debt at $70 per month. The PWTF loans allowed the city to complete pre-construction, design and spec sheets and fund construction while waiting to be eligible to apply to Ecology for the remaining construction funding. Perhaps the role of state PWTF funding is more at the beginning to keep projects moving while they complete pre-requisites for the federal funding.

   d. I urge staff to be very creative in meeting this requirement of the proviso and to simplify the process at the same time. Find a way to "yes", not sending jurisdictions around the block.

5. **Promote self-reliance and provide incentive for replacement to avoid critical failure** – This was the purpose of the PWTF revolving fund concept. When you have access to reasonable capital funding, it allows you the opportunity to ramp rates up at reasonable increases and continue to invest in your system to avoid critical failure. This was opposite of the grant cycle where those who did not take care of the systems, fell into disrepair and jumped to the top of the funding list when a system failed.

Please use if at all helpful.

Katy

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December 17, 2013

Stan Finkelstein, Chair
Public Works Board
Box 42525
Olympia, WA 98504

Greetings:

The Sno-King Water-Sewer District Coalition (Sno-King) is pleased to write with a summary of our comments over the last couple of months about the 2013 Capital Budget Proviso that directed the Public Works Board to make changes in the form and manner in which loans are selected and made from the Public Works Assistance Account (PWAA), how the loan interest rates are determined, and how the loans are reported to the Legislature. Thank you for this opportunity to comment.

Sno-King has always liked and supported the traditional way that PWAA loans have been announced, applied for, evaluated, awarded, and audited.
The long-term agreement, starting in 1985, was that low-interest loans would be made from revenues rising from locally generated taxes related to the types of infrastructure aided by the fund. Until the recent fund sweeps, the state acted as the trustee for the revenues raised at the local level through utility taxes, solid waste collection taxes, and real estate excise taxes. Those revenue streams, along with repaid principle and interest, were used for projects selected in a competitive process to address many of the badly needed infrastructure repairs and improvements within the eligible local governments and special districts.

Sno-King has appreciated and benefited from the "sturdiness" of the PWAA funding criteria, cycles, and award amounts as they relate to total project costs. Being able to count on the availability of the PWAA in future years supported the development of capital improvement plans, the 6-year plans by water-sewer utilities, and much of the effort by jurisdictions to cooperate, coordinate, and take advantage of joint infrastructure improvement plans and projects. Perhaps we have been remiss in assuming that because the PWAA program has been so successful that it hasn't needed frequent cheerleading by its beneficiaries to the Legislature.

The PWAA has been scrupulously and fairly administered over the nearly three decades of its existence. Nearly 2000 loans, valued at nearly $3 billion, have been awarded and repaid (or are being repaid) without default. In short, the program has worked! Though surveys and studies demonstrate that the infrastructure needs in Washington state far out-strip current abilities to finance or construct them, the PWAA has been a significant contributor to infrastructure health and improvement in these 28 years.

The impact of the current sweep of PWAA funds and appropriation to other purposes, combined with the redirection of traditional PWAA revenue sources, has rendered a starved-down account, providing only a fraction of the previous amounts available and contributing to Washington state falling further behind in addressing its critical infrastructure needs. Remember that the paramount objective of the PWAA is to address "public health and safety concerns." Therefore, Sno-King strongly urges the Legislature to re-route the traditional funding back to the PWAA and desist from any further sweeps or re-direction of the money earmarked for critical public health and safety projects.

Sno-King also suggests a very cautious approach if any further attempts at reorganization or expansion of the mission of the PWB. In addition to further stretching the capacity of the PWAA to make loans, there are obvious complications in such proposals. For example, too much of an emphasis on smart growth could cant loan awards to more sophisticated applicants--those with more money to start with, larger populations, and urban locations. Too much emphasis on economic development could tilt loan awards toward the encouragement of growth at the expense of critical repairs or disaster prevention, could set up the PWB to perform social engineering and select winners and losers when the available funds are not sufficient to meet the critical needs of all qualified applicants. The PWB is already balancing a number of factors besides the comparative worthiness of applications--overlap or compounding of jurisdictions' needs; limits and complications of federal laws and rules; needs to comply with other state laws; and, response to emergency or unique needs.

A recent effort at "modernization" of the work of the PWB was difficult to generate agreement for and upon presentation to the Legislature was chillily received, resulting in--by default--confirmation of the perceived value of the manner and results of current efforts.

Another aspect of the current proviso language speaks to "forgivable loans." A misnomer in itself, a "forgivable loan" is a grant. Sno-King strongly opposes "forgivable loans" or grants. The long-term health and sustainability of the PWAA depends on the repayment of principle and interest to refill and maintain the PWAA. Further, the ability of an applicant to manage its infrastructure systems within a sustainable budget is an important and useful outcome of the rigor imposed by the PWB.

The language in the budget proviso that directs applicants to federal project funding sources first and, in some likely outcomes, only, is troublesome to Sno-King. For years the blending of funding sources--federal, state-level, and local--has been a key element to the timely and successful funding and completion of critically needed projects. In addition, federal funding is often 30-40% more expensive than other sources when application costs and higher interest rates are calculated. Sole source funding would be especially hobbling of small, rural, and remote otherwise eligible applicants. Several other concerns arise when this effort to "maximize state-level resources" might be
required: a higher total cost of a project with the same amount of project money in the ground; longer times between application and award of funding--bad in situations of unforeseen circumstances; dollars would go farther at all source levels if combination of funding sources were to continue to be allowed; and, higher utility bills/costs would result, even in the jurisdictions where it would be appropriate to charge a lower interest rate on a state-level loan.

If the routing to federal sources first is implemented, Sno-King suggests that a project size floor be established, so that applications for water or sewer projects funding of less than one-half or one million dollars would be exempt from the extra costly process of applying for federal funds first. Sno-King firmly believes that the most productive and fair public policy outcome would be maximization of the use of all appropriate funding sources--federal, state-level, local, low interest loans, private money, and, perhaps, grants (from non-PWAA sources)--to the benefit of those dependent on the public health and safety systems repairs and improvements

Sno-King has already made many comments during work sessions about specific findings, statements, and presentation methods. We are grateful for the hospitable and receptive nature of the PWB staff and Board members and, further, appreciate that some of our suggestions have been acknowledged or incorporated in the draft report. There are a couple of our observations that deserve re-emphasis, so they have been addressed herein.

You might recall that you have heard directly from two of our participants (K.I. and J.C.). In addition, we have included here a couple of comments from Lynne Danielson, General Manager of the Olympic View Water and Sewer District, and former Public Works Board member.

Quoting her: "1. In Section 5(a)(vii), is there to be a redesign of the application so that Economic Development is included? This will make it difficult for Special Purpose Districts since we have no control over land use and therefore may have difficulty in determining the level of Economic Development impact.

2. Section 5(a)(x)(D - E) Again this disenfranchises special purpose districts. The development cannot occur without water and sewer.

3. Section 14(a) Leveraging federal funding sources. There are many considerations when applying for funding. Federal account reporting criteria and the additional costs associated with it will often deter smaller entities from applying for federal funding if local funding is available. For the PWAA to direct applicants to other sources and add procedures that evaluate whether or not these sources have been leveraged is troublesome.

4. Section 14(b) Basing interest rates on market rates for tax-exempt bonds puts the PWAA in direct competition with the bond market. If the rates are the same as the market, why would we submit an application to the PWAA unless we were tapped out in the market--what would be the benefit?"

In closing, Sno-King very much appreciates the opportunity to participate in the process of responding to the budget proviso directions and thanks you for you kind attention.

Sincerely,

Chris Kuehn, President
Sno-King Water-Sewer District Coalition

Cc: Cecelia Gardener