

Chapter 136-750 WAC
LOCAL ROAD PROGRAM—EMERGENT PROJECTS, WITHDRAWALS, EARLY TERMINATION,
AND LAPSING

NEW SECTION

WAC 136-750-010 Purpose and authority. Chapter 36.170 RCW provides that the county road administration board shall administer the county local road program (LRP). This chapter describes the manner in which counties request funding for emergent projects, and in which manner the county road administration board will administer said emergent projects, withdrawals, early termination, and lapsing of approved projects.

NEW SECTION

WAC 136-750-020 Emergent project eligibility. Projects of an emergent nature may be funded through the local road program as authorized by RCW 36.170.070. An emergent project is defined as a project whose need the county was unable to anticipate at the time the six-year program of the county was developed. Emergency work to temporarily restore a county road for the short-term use of the traveling public is not eligible for funding as an emergent project; however, a project to permanently repair a county road after an emergency may be considered for funding if the proposed project meets all other requirements of the local road program.

To be eligible for emergent project approval, the project shall be evaluated by the county road administration board grant programs engineer, with the participation of the county engineer, on the same point system as all other projects within project type. The proposed emergent project must rank at or above the project type funding cutoff line on the current array based upon 100 percent of the current estimated allocation as determined by the county road administration board.

NEW SECTION

WAC 136-750-030 Emergent project limitations and conditions. All projects for which local road program funding is being requested under this chapter are subject to the following:

(1) The requesting county has the sole burden of making a clear and conclusive showing that the project is emergent as described in this chapter; and

(2) The requesting county shall clearly demonstrate that the need for the project was unable to be anticipated at the time the current six-year transportation program was developed.

NEW SECTION

WAC 136-750-040 Emergent project—Action by the county road administration board. Counties may request consideration and action by the county road administration board at any time, however, the county road administration board will address all such requests at its next regular quarterly meeting. A county may request, and the county road administration board chair may convene, a special meeting to consider such a request as provided for in WAC 136-01-030.

NEW SECTION

WAC 136-750-050 Withdrawal of LRP project before CRAB/county contract. At any time after the submittal of a prospectus and prior to the time of the CRAB/county contract execution, a county may withdraw a LRP funded project. The statement of withdrawal must be in writing and signed by the county engineer. The withdrawal shall be effective upon receipt by the county road administration board.

NEW SECTION

WAC 136-750-060 Termination of approved project after LRP CRAB/county contract. (1) If a county terminates an uncompleted LRP funded project for which CRAB/county contract has been executed, for other than an unanticipated scope change, and is prepared to repay the LRP for all LRP funds received, the county shall, by means of a letter signed by the chair of the board of county commissioners or the county executive as appropriate, inform the county road administration board of its termination of the project. The letter shall state the reasons for termination and commit to repaying all LRP funds received for the project. Upon acknowledgment of such termination by the county road administration board, the county shall repay the county road administration board for all LRP funds paid to the county on that project within 60 days of such acknowledgment. After receipt of the LRP repayment, the county road administration board will void the CRAB/county contract and allocate the LRP funds to other projects within the project type.

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

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

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

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

(d) Agreement to provide supporting documentation for amounts the county does not want to repay.

If the county road administration board grants the request, the county shall repay all LRP funds not exempted from repayment within 60 days of the county road administration board's action, the CRAB/county contract will be amended, and the remaining LRP funds will be allocated to other projects. If the county road administration board denies the request, full repayment shall be made as provided in subsection (1) of this section.

NEW SECTION

WAC 136-750-070 Lapsing of LRP allocation for approved projects.

To encourage timely development and construction of approved projects, all projects for which LRP funds have been allocated must meet certain project development milestones. Failure to meet the milestones will result in action by the county road administration board to withdraw LRP funds from the project.

(1) For the purposes of this section, a project will be subject to lapsing and withdrawal of its LRP allocation if:

(a) The project has not begun the preliminary engineering within one year of project approval by the county road administration board; or

(b) During the preliminary engineering or right-of-way phase, if the county has not documented progress through the reimbursement process within a six-month period, the county will be notified that the project will lapse within six months from notification, unless the county can document progress through the reimbursement process within that six-month period;

(c) The project has not begun construction within four years of the date of project approval by the county road administration board;

(d) For construction only project awards, a project shall be considered lapsing if construction does not commence within two years from the date of project approval by the county road administration board.

(2) A project shall be considered in preliminary engineering if a minimum of \$5,000 of LRP funds have been expended or evidence that a minimum of post CRAB/county funds of \$5,000 of non-LRP funds have been expended for preliminary engineering as provided for in RCW 36.75.050.

(3) Documented progress shall be considered satisfied if a minimum of \$5,000 of LRP funds have been expended in the previously six-month period.

(4) A project shall be considered in construction if:

(a) The construction contract for the work has been advertised for bids as provided for in RCW 36.77.020;

(b) A contract has been awarded under the provisions of the small works roster contract award process; or

(c) If done by county forces, the work has commenced.

(5) If an approved project does not meet a required project lapsing date development milestone, the county road administration board will, at its next regular meeting, withdraw LRP funds from the project.

(6) At any time up to 10 days before such meeting, the county may, in writing, request an extension of the lapse date. The county road administration board may grant such an extension if it finds that the delay in project development was for reasons that were both unanticipated and beyond the control of the county, and subject to the following:

(a) A project extension will be granted one time only and will be no more than two years in length; and

(b) The county can demonstrate that the project was actively pursued for completion within the original CRAB/county contract terms and can be completed within a two-year extension; and

(c) The request for an extension is based on unforeseeable circumstances that the county could not have anticipated at the time the project was submitted for LRP funding; and

(d) An approved time extension will not be grounds for the county to request an increase in the LRP funding of the project; and

(e) The executive director will determine a new lapse date, and all of the requirements listed under subsections (1) and (2) of this section will apply except that further extensions will not be granted.

(7) CRAB may in its discretion determine that for the public safety, health, or general welfare, an additional extension is necessary. If such a determination is made, CRAB may grant an additional extension and set the duration thereof.

(8) CRAB may at any time place a moratorium on lapsing of projects that are delayed due to CRAB initiated rescheduling and establish a new lapsing date to fit CRAB's programming needs. For those projects given a lapsing moratorium, subsection (4) of this section shall be held in abeyance until the new lapsing date.