

STATEMENT OF PRINCIPAL REASONS FOR ADOPTION OF RULES

Chapters 27, 28, and 29 of the State Loan and Investment Board's rules provide for the distribution of 2008 legislative appropriations for emergency capital project grants, large capital construction projects, and investment grade energy audits for local governments. These rules are no longer utilized by the Board because the Board has already distributed the funds appropriated for these purposes. As such, the rules are no longer necessary and the Board is repealing these rules in their entirety.

Chapter 28

Unfunded or Partially Funded Large Capital Construction Projects – Individual Applications

REPEALED

**~~RULES AND REGULATIONS
STATE LOAN AND INVESTMENT BOARD~~**

~~Chapter 28~~

~~Unfunded or Partially Funded Large Capital Construction Projects – Individual Applications~~

REPEALED

~~Section 1. Authority.~~

~~This chapter is adopted pursuant to W.S. 9-4-604 and Laws 2008, Chapter 48, Sections 328(g), 329(g) and 330(b).~~

~~Section 2. Definitions.~~

~~As used in this chapter:~~

~~(a) "Board" means the State Loan and Investment Board.~~

~~(b) "Capital Construction Project" means the construction, replacement or improvement of a fixed asset or public service facility. Routine maintenance and repair does not constitute a capital project.~~

~~(c) "Director" means the Director of the Office of State Lands and Investments.~~

~~(d) "Eligible Applicant" means incorporated cities and towns, counties, special districts and joint powers boards in Wyoming.~~

~~(e) "Eligible Project Costs" means total project cost less ineligible project costs.~~

~~(f) "Office" means the Office of State Lands and Investments.~~

~~(g) "Public Service Facility" means a facility owned by the applicant and available for use by the general public including: water and sewer projects, storm drainage projects, street and road projects, solid waste disposal projects, acquisition of emergency vehicles, public administration buildings, health care facilities, senior citizens centers, jail and detention facilities, facilities needed to provide services to the disabled, costs to purchase medical equipment that generates revenue sufficient to service a Joint Powers Act Loan, as determined by the Board, and similar facilities as authorized by the Board.~~

~~Section 3. General Policy.~~

~~The Board shall award grants under the provisions of this chapter for unfunded or partially funded large capital construction projects in such a manner and to such applicants as shall, in the judgment of the Board, inure to the greatest benefit of the citizens of the state and represent a prudent use of grant funds.~~

~~Section 4. Funding Availability.~~

~~Available funding for unfunded or partially funded large capital construction projects statewide for this chapter is allocated pursuant to Laws 2008, Chapter 48, Section 330(b).~~

~~Section 5. Grant Eligibility.~~

~~(a) — Applicants. Incorporated cities and towns, counties, special districts and joint powers boards shall be eligible to apply to the Office for grants under this chapter. If the applicant is a special district or joint powers board, it must be legally formed, approved and otherwise in compliance with statutory requirements of the Wyoming Department of Revenue prior to submitting an application to receive a grant award under this chapter. An applicant must be in compliance with all applicable reporting requirements with the Wyoming Department of Audit prior to its application being considered by the Board.~~

~~(b) — Minimum Taxation Requirements. Pursuant to W.S. 9-4-604 and Laws Chapter 48, Section 330(b) the following minimum taxation requirements apply to any applicant for funding under this chapter. No grant shall be made by the state loan and investment board under this section to any county unless the county imposes at least eleven (11) or ninety-one and sixty-seven one-hundredths percent (91.67%) of the available mills authorized by article 15, section 5 of the Wyoming constitution, or unless the county is imposing the optional sales tax authorized under W.S. 39-15-204(a)(i) or (iii). No grant shall be made by the state loan and investment board under this section to any municipality unless the municipality imposes at least seven (7) or eighty-seven and five-tenths percent (87.5%) of the available mills authorized by article 15, section 6 of the Wyoming constitution. No grant shall be made by the state loan or investment board under this section to any special district or other lawful entity which imposes less than eighty percent (80%) of any authorized mill levy. The state loan and investment board may waive the taxation requirements imposed by this subsection for good cause shown such as other funding sources, but in no case shall the state loan and investment board authorize any grant to any municipality under this section which does not impose at least two (2) or twenty-five percent (25%) of the available mills authorized by article 15, section 6 of the Wyoming constitution.~~

~~(c) — Purposes. Pursuant to W.S. 9-4-604 and Laws, Chapter 2008, Chapter 48, Sections 328(g), 329(g) and 330(b) the Board shall provide capital construction project grants to eligible applicants to be used only when the board finds the grant is necessary to:~~

~~(i) — Alleviate an emergency situation which poses a direct and immediate threat to public health, safety or welfare; or~~

~~(ii) — Comply with a federal or state mandate; or~~

~~(iii) — Provide an essential public service. Essential public services include, but are not limited to capital construction, acquisition of capital equipment, public safety projects, housing related projects and road repair or construction; or~~

~~(iv) — The project was either unfunded or partially funded by the countywide consensus list process in the county or counties in which the project is situated pursuant to Laws 2008, Chapter 48, Sections 328(g), 329(g) and 330(b); and applicant has documented that the project in terms of dollars is the largest dollar project currently being considered by applicant and/or that the scope of the project exceeds the financial ability of applicant to fund it from other available revenue sources including loans from state and federal agencies and private sources.~~

~~(d) — The Board will use the following guidelines pursuant W.S. 9-4-604 to determine appropriate grant percentages:~~

~~(i) — All eligible applicants are presumed eligible to receive a grant up to fifty percent (50%) of eligible project costs;~~

~~(ii) — Subject to applicable statutes, the Board reserves the right to make grants for more than fifty percent (50%) of eligible project costs to eligible applicants if the Board determines that:~~

~~(A) — the municipality either levied at least seven (7) mills for operating expenses including special districts levies chargeable against the general city or town levy during the current fiscal year or is imposing the optional tax permitted by W.S. 39-15-204(a)(i) or (iii) at the time of application and is utilizing all other local revenue sources reasonably and legally available to finance the project; or~~

~~(B) — the county or special district either levied at least eleven (11) mills for operating expenses during the current fiscal year or is imposing the optional tax permitted by W.S. 39-15-204(a)(i) or (iii) at the time of the application and is utilizing all other local revenue sources reasonably and legally available to finance the project.~~

~~(e) — Ineligible Project Costs. The following project costs shall be ineligible for~~

reimbursement from grant funds:

- ~~(i) — Costs for any asset that is owned or maintained by a private property owner;~~
- ~~(ii) — Costs for tap fees, sewer and water fees, and plant investment fees;~~
- ~~(iii) — Engineering fees, including design, inspection and contract administration costs, over twenty percent (20%) of project cost;~~
- ~~(iv) — All non-cash costs except land, labor, materials, equipment, and services provided by the applicant, and used for project purposes based on actual, appraised or market value;~~
- ~~(v) — Costs for preparation or presentation of grant or loan applications for any source of funding;~~
- ~~(vi) — Costs for transportation, meals and lodging incurred anywhere away from the site of the project;~~
- ~~(vii) — Costs of tools and furnishings for capital projects, including but not limited to, capital equipment, hammers, tanks, furniture, drapes and blinds not integral to and necessary for the project;~~
- ~~(viii) — Legal fees;~~
- ~~(ix) — Costs related to issuance of bonds;~~
- ~~(x) — Costs for real property in excess of current fair market value and/or costs for an amount of real property in excess of that needed for project purposes;~~
- ~~(xi) — Costs to establish and form special districts or joint powers boards;~~
- ~~(xii) — Costs incurred prior to grant award, except costs for architectural and engineering design or in emergency situations;~~
- ~~(xiii) — Costs for a contingency or extra work allowance in excess of 10% of estimated construction costs.~~

~~Section 6. Application Procedure.~~

- ~~(a) — Applications. Separate applications shall be prepared for each project.~~

~~Applicants shall submit four (4) copies of their completed application to the Office. Applications shall be properly executed by the officers of the applicant.~~

~~(b) — Timing. Applications must be received at least twenty (20) calendar days prior to any regular or special meeting of the Board.~~

~~(c) — Information Required for All Applications. The following information shall be provided in all applications:~~

~~(i) — An application cover page on a form provided by the Office;~~

~~(ii) — A project summary on a form provided by the Office as defined in this chapter;~~

~~(iii) — The grant amount requested by project type as specified by the Office and percentage of total project costs that the grant would pay;~~

~~(iv) — A full description of the proposed project, specifically including, but not limited to, a phased construction schedule, if applicable;~~

~~(v) — A detailed project budget broken into at least six (6) month intervals delineating all costs of the proposed project and the method by which the project costs were estimated;~~

~~(vi) — A licensed engineer's statement of the feasibility of the project, except for the purchase of emergency vehicles;~~

~~(vii) — The geographic area and population served directly and indirectly by the project and the percentage of the applicant's population directly served by the project;~~

~~(viii) — A description of other project funding sources, committed or pending, the portion of the project cost expected to be funded from each source, including any future grant applications under this chapter, and copies of funding commitments from all project funding sources, including the applicant, to demonstrate commitment to the project;~~

~~(ix) — If the applicant is a special district, a copy of the resolution that shows formation of the special district.~~

~~(x) — If the applicant is a joint powers board, a copy of the certificate of organization filed with the Secretary of State, and a copy of an executed joint powers agreement approved by the Attorney General;~~

~~(xi) — A standard resolution authorizing the filing of the application on a form provided by the Office;~~

~~(xii) — A financial statement of the applicant, on a uniform "General Financial Information" form provided by the Office;~~

~~(xiii) — If an applicant submits multiple applications under this chapter for consideration at one meeting, a priority ranking of the multiple applications as established by the applicant;~~

~~(xiv) — If the project is needed to meet federal or state health and safety requirements, documentation of the specific requirements and an explanation of how the project addresses the requirements;~~

~~(xv) — For applications submitted by a special district, either standing alone or as a member of a joint powers board, the written review as required by W.S. 9-4-604(h);~~

~~(d) — Incomplete Applications. Incomplete applications shall not be presented to the Board for consideration.~~

~~Section 7. Evaluation Criteria.~~

~~(a) — Criteria. The Board shall evaluate applications utilizing the following criteria:~~

~~(i) — Whether the applicant has made a significant commitment of local and other available state resources, including but not limited to, countywide consensus list funding, alternative grant funding, and a loan(s) in proportion to an applicant's ability to service the debt load for said loan(s);~~

~~(ii) — Whether the project is appropriately sized in relation to the population to be served by the project;~~

~~(iii) — Whether the applicant is current on all its repayment obligations to the Board;~~

~~(iv) — The extent to which the applicant is utilizing, or plans to utilize, available and qualified Wyoming based professional firms and contractors on the project;~~

~~(v) — The financial need of the applicant, as determined by the Board;~~

~~(vi) — The percentage of the applicant's population directly served by the~~

project;

~~Section 8. Board Consideration.~~

~~The Board shall consider each application, allow for comments from the applicant and from the Director and establish the maximum amount of the grant.~~

~~Section 9. Grant Disbursement and Administration.~~

~~(a) Grant Disbursement. Grant funds for eligible project costs shall be disbursed to the applicant only as needed to discharge obligations. Requests for disbursements shall be made on a form supplied by the Office and supported by adequate proof that such obligations have been incurred for project purposes and are due and owing.~~

~~(b) The minimum grant disbursement shall be One Thousand dollars (\$1000.00) unless it is the final disbursement of grant funds for the project.~~

~~(c) Fund Reversion.~~

~~(i) If the Director determines that the project has not been commenced within one (1) year from the date the grant is approved, the grant will automatically expire unless applicant sets forth in writing steps that have been undertaken to commence the project. Based upon information supplied by the grantee, the Director may grant an extension of time in which to commence the project.~~

~~(ii) If the Director determines that the project has not been completed within a reasonable time, the Director shall notify the grantee in writing at least thirty (30) days prior to presenting the matter for Board review. The Board, upon review of the project circumstances, may terminate or modify the grant award.~~

~~(iii) If the Director determines that the project is complete, but the full amount of the grant has not been expended, the Office shall notify the grantee of this determination. Thirty (30) days following the notification, the unused portion of the grant shall revert to uncommitted status and the unused portion of the grant funds will be made available to other applicants for grants awarded by the Board pursuant to this chapter.~~

~~Section 10. Audits and Inspections.~~

~~Each individual project is subject to requirements of this section. The Board may, at its expense, conduct an audit of the records of the applicant and inspect the construction and operation of the project.~~