

Wyoming Administrative Rules

**Lands and Investments, Office of**

Loan and Investment Board

Chapter 2: Wyoming Joint Powers Act Loans

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**RULES AND REGULATIONS**  
**STATE LOAN AND INVESTMENT BOARD**  
**Chapter 2**  
**Wyoming Joint Powers Act Loans**

Section 1. Authority.

This Chapter is adopted pursuant to W.S. 16-1-109.

Section 2. Definitions.

(a) "Agencies" means Wyoming counties, municipal corporations, school districts, community college districts, University of Wyoming, special districts and Joint Powers Boards created under this act specifically involved in providing facilities or functions enumerated in W.S. 16-1-104(c).

(b) "Board" means the State Loan and Investment Board.

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

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

(e) "Revenue-generating public facilities" means facilities owned by the applicant that generate revenue under this chapter from user fees or assessments paid by the beneficiaries of the facilities.

Section 3. General Policy.

(a) The Board shall extend loans under the provisions of this chapter 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 loan funds.

Section 4. Loan Eligibility.

(a). Applicants. Agencies shall be eligible to apply for loans under this chapter. If the applicant is a special district or joint powers board, it must be legally formed and approved prior to loan application. Applicants must be in compliance with all applicable reporting requirements with the Wyoming Department of Audit and the Wyoming Department of Revenue prior to its application being considered by the Board.

(b) Purposes. Loans may be extended for agency purposes involving the planning, construction, acquisition, improvement, emergency repair, acquisition of land for, refinancing of existing debt for, and operation of revenue-generating public facilities.

(c) The Board may refinance any delinquent Joint Powers Act loan and reamortize the loan over not more than thirty (30) years from the date of the refinancing.

#### Section 5. Application Procedure.

(a) Applications. Separate applications shall be prepared for each project on a form provided by the Office. Applicants shall submit three (3) copies of their completed application to the Office.

(b) Timing. Applications for loans under this chapter must be received at least sixty (60) calendar days prior to any scheduled meeting of the Board. Applicants must cure any defects in their applications no later than twenty (20) calendar days before any regular or special meeting of the Board.

(c) Information Required. The following information shall be provided in the application

(i). Application cover page on a form provided by the Office.

(ii) A full description of the proposed project and detailed cost estimate, including a licensed engineer's statement of feasibility of the project, if applicable.

(iii) A project schedule which includes design, commencement date and completion date for the project.

(iv) The loan amount requested and source of repayment, including a Resolution authorizing the loan and showing dedicated sources of repayment.

(v) A copy of the applicant's financial statements for the last three (3) years. If an independent audit is not performed, then applicant can submit the last three (3) years of Financial Forms (Survey of Local Government Finances F-32 and F-66WY4 for special districts, Annual City and Town Financial Report F-66WY2 for Cities and Towns).

(vi) A copy of the applicant's annual budget for the preceding and current fiscal years that includes, but is not limited to the following information:

(A) Assessed valuation for the current and two preceding fiscal years;

(B) Total bonded and non-bonded indebtedness, including outstanding principal balance, interest rate, and remaining term;

(C) Total mills levied within the jurisdiction of the applicant for the current and two preceding years; and, a breakdown of the mill levy for the current fiscal year;

(D) Sales and use tax imposed within the jurisdiction of the applicant;

(E) A summary of the applicant's total investments and cash balances for the two preceding fiscal years;

(F) If the application is for a water or sewer project the applicant's current water and sewer rates, tap fees and an indication if water meters have been installed.

(G) If the application is for a street and road project, a Completed Street Questionnaire is required.

(H) If the application is for Fire Apparatus Projects, a Completed Fire Apparatus Questionnaire is required.

(vii) Applicant shall provide all other documentation and information required by the Office.

(viii) A description of other project funding sources, committed or pending, and the portion of the project cost expected to be funded from each source, including any future loan applications under this chapter. A copy of the funding commitment from other participants must be provided.

(ix) If applicable, a copy of the joint powers agreement approved by the Attorney General and a copy of the certificate of organization filed with the Secretary of State.

(x) If the applicant is a special district, the application shall also include documentation of the formation of the special district and certification by the Board of County Commissioners that the special district currently exists.

(xi) Applications shall be properly executed by the officers of the applicant. A copy of the "Standard Resolution" form provided by the Office authorizing the filing of the application and providing for a dedicated source of repayment acceptable to the Office, shall be attached.

(d) Preliminary Review. The Office shall notify the applicant, in writing, if the application lacks any of the items required in subsection (c) of this section.

(e) Incomplete Applications. Incomplete applications, those missing one or more of the information items requested and/or failing to meet established deadlines, shall not be presented to the Board for consideration.

#### Section 6. Evaluation.

(a) Criteria. The Office shall evaluate applications and the Director will formulate a recommendation to the Board utilizing the following criteria:

(i) Whether the applicant's dedicated source of repayment will be sufficient so that the loan may be considered a reasonable and prudent investment of state permanent funds.

(ii) Whether the applicant is current on all its repayment obligations to the Board.

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

(iv) Whether the applicant is ready to proceed with construction or implementation of the project.

(v) Whether the applicant has established an adequate operations and maintenance costs fund for the project for which applicant seeks funding.

(vi) Whether the project is appropriately sized for the population to be served by the project.

(b) Interagency Consultation. The Director shall request that pertinent state agencies assist in the review of the applications and provide comments to the Office for Board consideration.

#### Section 7. Board Consideration.

(a) The Board shall consider each application, allow for comments from the applicant and from the Director, and establish the amount of the loan, the term of the loan, and the type of security required to secure the loan pursuant to W.S. 16-1-109(d)(ii).

#### Section 8. Loan Interest and Fee.

(a) The interest rate for loans under this chapter shall be pursuant to Chapter 14 of the rules as established by the Board and a 1% origination fee shall be collected on the amount approved.

#### Section 9. Security Interest.

(a) The Board may require a first position security interest in the revenue generating facility and the dedicated source of repayment.

(i) Applicant shall collect the dedicated source of repayment for the term of the loan, or until the loan is paid in full.

(ii) If assessments are included as part of the dedicated source of repayment, applicant shall establish an annual assessment equal to, or greater than, the amount of the annual debt service payment on the loan. This assessment schedule will be filed on or before February 15<sup>th</sup> of each year for the full term of the loan, a copy of which will be sent to the Office.

(b) If the Board has required a lien on the facilities, the applicant shall:

- (i) Maintain adequate insurance on the facility
- (ii) Pay all applicable taxes and assessments when due
- (iii) Maintain the facility in good condition.

(iv) Applicant shall collect the dedicated source of repayment for the term of the loan, or until the loan is paid in full.

(v) If assessments are included as part of the dedicated source of repayment, applicant shall establish an annual assessment equal to, or greater than, the amount of the annual debt service payment on the loan. This assessment schedule will be filed on or before February 15<sup>th</sup> of each year for the full term of the loan, a copy of which will be sent to the Office.

#### Section 10. Disbursement of Loan Proceeds.

(a) At closing, the loan proceeds shall be deposited in a Direct Deposit Account (DDA) to be disbursed solely for the approved loan purposes. The borrower shall pay all costs associated with the DDA account. Interest earned shall be credited to the borrower. Borrower shall submit all requests for payment on a form provided by the Office, with supporting documentation, as required by the Director.

#### Section 11. Audits and Inspections.

(a) The Board may, at its expense, conduct an independent audit of the loan recipient's records and inspect the construction and operation of the project.

(b) On an annual basis, records of the loan recipient shall be, at a minimum, compiled by an independent accounting firm. Notification of compliance shall be made to the Board in the form of a Compilation, Review or Audited Financial Statement, per W.S.16-1-109(d)(iv).