

Wyoming Administrative Rules

Lands and Investments, Office of

Loan and Investment Board

Chapter 3: Federal Mineral Royalty Capital Construction Account Grants

Effective Date: 09/26/2014 to Current

Rule Type: Current Rules & Regulations

Reference Number: 060.0003.3.09262014



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

Chapter 3

Federal Mineral Royalty Capital Construction Account Grants

Section 1. Authority.

This chapter is adopted pursuant to W.S. 9-4-604 and Laws 1979, Chapter 160, Section 6.

Section 2. Definitions.

As used in this chapter:

- (a) "Board" means the State Loan and Investment Board.
- (b) "Director" means the Director of the Office of State Lands and Investments.
- (c) "Office" means the Office of State Lands and Investments.
- (d) "Special district" means hospital, fire protection, sanitary and improvement, solid waste disposal, improvement and service, and water and sewer districts.
- (e) "Emergency vehicles" means new and complete fire trucks and ambulances owned by the applicant, and under original manufacturer's warranty. Fire trucks must also meet current National Fire Protection Association (NFPA) standards, except for wildland firetrucks. The Board may authorize grants for used fire vehicles.
- (f) "Eligible project costs" means total project cost, less ineligible project costs.

Section 3. General Policy.

The Board shall award grants 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 grant funds.

Section 4. Distribution of Funds.

The Board shall award funding in the following manner:

- (a) The Board shall award approximately eighty-seven and one half percent (87.5%) of the available funds for grants that do not exceed fifty percent (50%) of eligible project costs.
- (b) The Board shall award approximately twelve and one half percent (12.5%) of the available funds for grants that are over fifty percent (50%) but do not exceed seventy-five percent (75%) of eligible project costs. In the event the Board does not award all of the designated 75% grant funds available at any grant meeting, those funds will be carried forward to the next grant meeting. In the event that the Board has not awarded all of the 75% grant funds by the end of the biennial appropriation period the remaining funds will revert to the 50% grant fund.

(c) The Board retains the authority to adjust the above award percentages as necessary to complete project funding.

Section 5. Grant Eligibility.

(a) Applicants. Incorporated cities and towns, counties, special districts and joint powers boards shall be eligible to apply for grants under this chapter. If the applicant is a special district or joint powers board, it must be legally formed and approved prior to submitting an application. An applicant must be in compliance with all applicable reporting requirements with the Wyoming Department of Audit and Wyoming Department of Revenue prior to its application being considered by the Board. Applicants shall be allowed to submit multiple applications for fifty percent (50%) grants and up to two seventy-five percent (75%) grants for different projects at one grant meeting.

(b) Purposes. Pursuant to W.S. 9-4-604(a), the Board may award grants necessary to alleviate an emergency situation which poses a direct and immediate threat to health, safety or welfare, to comply with a federal or state mandate, or to provide an essential public service as defined in W.S. 9-4-604(p).

(i) The Board interprets the term, “federal or state mandate” as used in W.S. 9-4-604(a) to mean those federal or state mandates that specifically concern public health and safety.

(c) Maximum Grant Percentage. Pursuant to W.S. 9-4-604(g)(ii) and W.S. 9-4-604(h)(ii) the Board may award grants for over 50% to municipalities if the Board determines that the municipality “...either levied at least seven (7) mills for operating expenses including special district 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 the application and is utilizing all other local revenue sources reasonably and legally available to finance the project...” The Board may make grants in excess of fifty percent (50%) to counties and special districts “...if the board determines that the applicant 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 ...” The Board shall use the following criteria to determine if applicants are utilizing all other local revenue sources reasonably and legally available to finance the project:

(i) Municipalities that meet one or both of the following criteria are eligible to receive grant assistance up to seventy-five percent (75%) of the eligible project costs: (1) Have a population of less than 1,300 according to the latest federal census. (2) Located within a county where the three-year average of the local government share of state sales and use tax per capita is less than seventy percent (70%) of the statewide average. The Office will use the three most current annual reports from the Wyoming Department of Revenue to determine the three-year average of the local government share of sales and use tax. The Office will use the current federal census to determine the per capita percentage.

(ii) Counties and hospital and fire protection districts located within a county, whose assessed valuation is less than two and one-half percent (2.5%) of the State’s total assessed valuation are eligible to receive grant assistance up to seventy-five percent (75%) of the eligible project costs. The Office will use the current annual report from the Wyoming Department of Revenue to determine assessed valuation. The Office will use the current federal census to determine population.

(iii) Application for a seventy-five percent (75%) grant precludes a simultaneous application for a fifty percent (50%) grant for the same project. However, applicants may apply for separate projects from both grant pools.

(d) Ineligible Project Costs. The following project costs shall be ineligible for reimbursement from grant funds and shall be ineligible to be counted toward the applicant's match:

- (i) Costs for sidewalks that are 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:
 - (A) Land, labor, materials, equipment, and services provided by the applicant, and used for project purposes, valued at reasonable, actual cost; and
 - (B) Land, labor, materials, equipment, and services provided to the applicant by others, at no cost to the applicant, used for project purposes and valued at reasonable, actual cost.
- (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 way from the site of the project;
- (vii) Costs for furnishings;
- (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 three (3) copies of their completed application to the Office. Applications shall be properly executed by the officers of the applicant.

(b) Timing. The Board shall meet regularly on the third Thursday of each January and June to consider applications for grants under this chapter. Applications for the January Mineral Royalty Grant meeting must be received by the third Thursday of the preceding September. Applications for the June

Mineral Royalty Grant meeting must be received by the third Thursday of the preceding February. Applications for emergency consideration must be received at least ten (10) working days prior to any regular meeting of the Board.

(c) Renewal of Applications. Applications will not be retained by the Office. A new application shall be submitted for each Board meeting.

(d) 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;
- (iii) The grant amount requested 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 phase 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 and certification from the Board of County Commissioners that the special district currently exists;
- (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); and

(xvi) Other applicable information as requested by the Office.

(e) Additional Information Required. If the grant funds requested by the applicant exceed fifty percent (50%) of estimated project costs, the following information shall also be provided in the application:

(i) If the grant request is for water facilities,

(A) Whether water meters have been installed or will be installed;

(B) Whether the applicant will require the owners of all new additions of land to the city or town to pay all costs of expanding the water system within and to the boundaries of the addition; and

(C) Whether water rates, tap fees, and plant investment fees are in effect or are to be adopted, and an analysis of whether the water rates will be adequate to finance the operation and maintenance of the system;

(ii) If the grant request is for sewer facilities,

(A) Whether the applicant will require the owners of all new additions of land to the city or town to pay all costs of expanding the sewer system within and to the boundaries of the addition; and

(B) Whether sewer rates, tap fees, and plant investment fees are in effect or are to be adopted, and an analysis of whether the sewer rates will be adequate to finance the operation and maintenance of the system.

(f) Preliminary Review. Within forty-five (45) working days of receipt of an application, the Office shall notify the applicant, in writing, if the application lacks any of the items required in subsections (d) and (e) of this section. The applicant shall have ten (10) working days to submit the required information.

(g) 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) The extent of match committed to the project from all sources;

(ii) Whether the applicant has made a significant commitment of local resources;

(iii) Whether the applicant has matching funds for the project from other than state grants;

- (iv) Whether the project is appropriately sized in relation to the population to be served by the project;
- (v) The relative urgency of the project;
- (vi) Whether the applicant is current on all its repayment obligations to the Board;
- (vii) The extent to which the applicant is utilizing, or plans to utilize, available and qualified Wyoming based professional firms and contractors on the project;
- (viii) The financial need of the applicant, as determined by the Board;
- (ix) 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 and the percent of eligible project costs that will be paid by the grant.

Section 9. Grant Disbursement and Administration.

(a) Grant Disbursement. Grant funds shall be disbursed to the applicant only as needed to discharge obligations incurred in accordance with the Board approved percentage split of eligible project costs. 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 Five Hundred dollars (\$500.00) 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. 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, he 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 or loan shall revert to uncommitted status.

Section 10. Audits and Inspections.

The Board may, at its expense, conduct an audit of the records of the applicant and inspect the construction and operation of the project.

Section 11. Rule Amendments.

Amendments to these rules do not apply to applications filed after the effective date for phased construction projects which have already received partial funding under this chapter.