

Chapter 136-165 WAC
INCREASED ALLOCATIONS OF RATA FUNDS TO PROJECTS

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WAC

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WAC 136-165-010 Purpose and authority. RCW 36.79.150 provides for increasing the amount of RATA funds allocated to a project. This chapter describes the manner in which counties may request an increase in the amount of RATA funds allocated to a project and the manner in which the county road administration board will respond to such requests.

[Statutory Authority: RCW 36.78.070. WSR 23-23-013, § 136-165-010, filed 11/2/23, effective 12/3/23. Statutory Authority: Chapter 36.79 RCW. WSR 99-01-021, § 136-165-010, filed 12/7/98, effective 1/7/99. Statutory Authority: RCW 36.79.060. WSR 94-16-109, § 136-165-010, filed 8/2/94, effective 9/2/94.]

WAC 136-165-020 Requirements for consideration of RATA fund increases. (1) When a county submits its final prospectus as described in WAC 136-161-050, the county road administration board presumes that the amount of RATA funds requested, plus any non-RATA funds that may be designated for the project, are sufficient to fully, and in a timely manner, complete the project as described.

(2) All cost increases during the course of construction shall be the responsibility of the county. In extraordinary circumstances, a county may request an increase in the amount of RATA funds allocated to a project. A county may request an increase in a project's RATA allocation once during the course of a project's development, and such request may occur only after completion of preliminary engineering, but prior to commencing construction. A project shall be considered to have commenced construction if:

- (a) The construction contract for the work has been awarded; or
- (b) If done by county forces, the work has commenced, except for construction engineering.

Requests for increases in excess of 25 percent of the original RATA allocation will not be considered or granted; the county must secure other funds, withdraw or request the termination of the project, or request a change in scope and/or project limits. If current funding sources are not sufficient to cover the costs beyond a 25 percent increase, the county may resubmit the same project for funding in the next funding period. Upon funding of the new project by the county road administration board, the previous contract shall become void. All RATA funds expended on the previous contract shall be repaid to the county road administration board unless waived by the county road administration board in keeping with provisions of WAC 136-167-030.

(3) A request by a county for an increase in RATA funds allocated to a project shall demonstrate that:

- (a) The county at the time of preparing its final project prospectus considered the factors listed in subsection (4) of this section;

(b) The request for an increased allocation is based on extraordinary and unforeseeable circumstances of the type listed in subsection (5) of this section;

(c) It is not feasible to reduce the scope and/or project limits so the project can be substantially constructed within the initial RATA allocation;

(d) The request is not to pay for an expansion of the originally approved project;

(e) If the work is to be done by contract, the county has supplied to the CRABoard, an updated engineer's cost estimate prior to, and within three months of, advertisement of the project for construction bids; and

(f) If the work is to be done by county forces, the county has supplied to the CRABoard, an updated engineer's cost estimate prior to, and within three months of, commencement of the work.

(4) At the time of preparation and submittal of the final project prospectus, a county is expected to consider all information which may affect the cost of the project. In cases where the information is incomplete or poorly defined, the county is to exercise good professional judgment and/or seek outside professional assistance and advice in order to prepare a reasonable RATA fund request. The information which a county is expected to consider includes, but is not limited to, the following:

(a) The availability at the needed time of matching funds and other supplementary funds;

(b) All technical data reasonably available such as topographic maps, reconnaissance reports, surface and subsurface geotechnical data, hydraulic and hydrological data, sources of materials, applicable design standards, and any earlier preliminary engineering;

(c) Required permits, including preproject scoping consultations with the permitting agencies and an estimate of the costs of complying with permit requirements;

(d) Required right of way or other easements, and the time and cost of acquisition;

(e) Availability of qualified contractors to perform the work;

(f) Ownership, type, amount, and time requirements of any required utility relocation;

(g) Historical and projected labor, equipment and material costs; and

(h) The project development timetable leading to completed construction and the interrelation of this project to all other work activities under the control of the county engineer.

(5) The county road administration board will increase RATA funds allocated to a project only if it finds that the request for an increased allocation is based on extraordinary and unforeseeable circumstances, including but not limited to the following:

(a) The county relied on existing technical data which were later found to be in error, and which will necessitate a significant design change prior to proceeding with construction;

(b) Project permit requirements were substantially changed, or new permits were required;

(c) Supplementary funds, such as impact fees, developer contributions, grants, etc., which were forecasted to be available for the project, were withdrawn or otherwise became unavailable;

(d) Design or other standards applicable to the project were changed;

(e) The start of construction will be significantly delayed or additional construction requirements will be added as a direct result of legal action; provided however, that the failure of a county to exercise its statutory powers, such as condemnation, will not be grounds for increasing RATA funds; and/or

(f) The lowest responsive bid for construction exceeds the amount of available funding for construction; provided that said bid is determined by the county engineer to be reasonable and the increased cost of the bid can be justified.

[Statutory Authority: RCW 36.78.070. WSR 23-23-013, § 136-165-020, filed 11/2/23, effective 12/3/23. Statutory Authority: Chapter 36.78 RCW. WSR 21-22-083, § 136-165-020, filed 11/1/21, effective 12/2/21; WSR 11-05-005, § 136-165-020, filed 2/3/11, effective 3/6/11; WSR 09-23-044, § 136-165-020, filed 11/9/09, effective 12/10/09. Statutory Authority: Chapter 36.79 RCW. WSR 06-11-067, § 136-165-020, filed 5/12/06, effective 6/12/06; WSR 99-01-021, § 136-165-020, filed 12/7/98, effective 1/7/99. Statutory Authority: RCW 36.79.060. WSR 94-16-109, § 136-165-020, filed 8/2/94, effective 9/2/94.]

WAC 136-165-030 County road administration board evaluation, consideration and action. (1) In deciding whether to grant a request for a RATA allocation increase submitted under the provisions of WAC 136-165-020, the county road administration board will consider the following factors:

(a) Whether the county, at the time of preparing its final project prospectus, considered the factors listed in WAC 136-165-020(4);

(b) Whether the county's request for an increased allocation is based on extraordinary and unforeseeable circumstances of the type listed in WAC 136-165-020(5);

(c) Whether it is feasible to reduce the scope and/or project limits so the project can be substantially constructed within the initial RATA allocation;

(d) Whether the request is to pay for an expansion of the project; and

(e) Whether the increased allocation will have an adverse effect on other approved or requested RATA funded projects.

(2) The executive director shall approve or deny a county's request for additional funds.

(a) If the request is approved, in whole or in part, the executive director is authorized to execute an amendment to the CRAB/county contract. Upon execution of a contract amendment under this chapter, the executive director will advise board members of the amendment details at the next CRAB board meeting.

(b) If the request is denied, in whole or in part, the county may appeal the executive director's decision at the board's next regularly scheduled board meeting.

[Statutory Authority: RCW 36.78.070. WSR 23-23-013, § 136-165-030, filed 11/2/23, effective 12/3/23. Statutory Authority: Chapter 36.78 RCW. WSR 11-05-005, § 136-165-030, filed 2/3/11, effective 3/6/11. Statutory Authority: Chapter 36.79 RCW. WSR 99-01-021, § 136-165-030, filed 12/7/98, effective 1/7/99. Statutory Authority: RCW 36.79.060. WSR 94-16-109, § 136-165-030, filed 8/2/94, effective 9/2/94.]

WAC 136-165-040 Effect of receiving RATA increase. A county's increased RATA funds for a project program period shall correspondingly reduce the limit of RATA funds that may be allocated to the county in the next project program period; provided that the county road administration board may grant a county's request to decrease such a reduction by the total amount of increased but unexpended RATA funds.

All reductions and reduction adjustments as described shall be effective in the project program period following the period in which the increase in the RATA funds is approved.

[Statutory Authority: Chapter 36.78 RCW. WSR 11-05-005, § 136-165-040, filed 2/3/11, effective 3/6/11. Statutory Authority: Chapter 36.79 RCW. WSR 99-01-021, § 136-165-040, filed 12/7/98, effective 1/7/99. Statutory Authority: RCW 36.79.060. WSR 94-16-109, § 136-165-040, filed 8/2/94, effective 9/2/94.]

WAC 136-165-050 Amendment of CRAB/county contract. All changes in approved RATA allocations and other county road administration board actions taken under the provisions of this chapter shall be reflected by amending the CRAB/county contract. Failure of a county to sign and return an amended CRAB/county contract within forty-five calendar days of its mailing by the county road administration board shall nullify all allocation increases and other county road administration board actions.

[Statutory Authority: Chapter 36.78 RCW. WSR 11-05-005, § 136-165-050, filed 2/3/11, effective 3/6/11. Statutory Authority: Chapter 36.79 RCW. WSR 99-01-021, § 136-165-050, filed 12/7/98, effective 1/7/99. Statutory Authority: RCW 36.79.060. WSR 94-16-109, § 136-165-050, filed 8/2/94, effective 9/2/94.]