

## Office of State Lands and Investments

*Funding Wyoming Public Education*

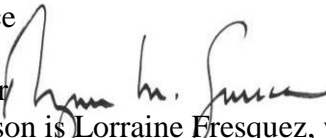
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Matthew H. Mead  
Governor

Ryan M. Lance  
Director

TO: The Honorable Matthew H. Mead, Governor  
The Honorable Max Maxfield, Secretary of State  
The Honorable Gregory A. Phillips, Attorney General  
Legislative Services Office

FROM: Ryan M. Lance, Director   
(The agency contact person is Lorraine Fresquez, whose telephone number is 777-6629 and email address is [lfresq@wyo.gov](mailto:lfresq@wyo.gov))

SUBJECT: Final Adoption Rules for the State Loan and Investment Board,  
• Chapter 32, Capital Improvement Projects – Countywide Consensus List Awards

DATE: August 11, 2011

Enclosed are the above-reference proposed rules (1 clean copy; 1 strike and underscored), Certification Page for Final Adoption, Statement of Principal Reasons and Summary of Comments. We have submitted an electronic copy to the Secretary of State's Office.

The public comment period on the proposed rules began May 9, 2011 and went through to June 23, 2011. No public hearings were required.

Should you or your staff have any questions regarding this information, please do not hesitate to contact this office.

Enclosures

/lsf

pc: OS LI files



## Certification Page Regular and Emergency Rules

### **1. General Information**

a. Agency/Board Name <i>See attached list for references</i>		
b. Agency/Board Address	c. Agency/Board City	d. Agency/Board Zip Code
e. Name of Contact Person	f. Contact Telephone Number	
g. Contact Email Address	h. Adoption Date:	
i. Program(s) <i>See attached list for references</i>		

### **2. Rule Type and Information**

a. These rules are: <input type="checkbox"/> <b>Emergency Rules</b> <i>(After completing all of Section 2, proceed to Section 5 below)</i> <input type="checkbox"/> <b>Regular Rules</b>	
b. Choose all that apply: <input type="checkbox"/> <b>New Rules*</b> <input type="checkbox"/> <b>Amended Rules</b> <input type="checkbox"/> <b>Repealed Rules</b>	
<i>* "New" rules means the first set of regular rules to be promulgated by the Agency after the Legislature adopted a new statutory provision or significantly amended an existing statute.</i>	
If "New," provide the Enrolled Act number and year enacted:	
c. Provide the Chapter Number, and Short Title of Each Chapter being Created/Amended/Repealed <i>(if more than 5 chapters are being created/amended/repealed, please use the Additional Rule Information form and attach it to this certification)</i>	
Chapter Number:	Short Title:
Chapter Number:	Short Title:
Chapter Number:	Short Title:
Chapter Number:	Short Title:
Chapter Number:	Short Title:
d. <input type="checkbox"/> The Statement of Reasons is attached to this certification.	
e. If applicable, describe the emergency which requires promulgation of these rules without providing notice or an opportunity for a public hearing:	

### **3. State Government Notice of Intended Rulemaking**

a. Date on which the Notice of Intent containing all of the information required by W.S. 16-3-103(a) was filed with the <b>Secretary of State</b> :
b. Date on which the Notice of Intent and proposed rules in strike and underscore format were provided to the <b>Legislative Service Office</b> :
c. Date on which the Notice of Intent and proposed rules in strike and underscore format were provided to the <b>Attorney General</b> :

#### **4. Public Notice of Intended Rulemaking**

a. Notice was mailed 45 days in advance to all persons who made a timely request for advance notice. ☐ Yes ☐ No ☐ N/A

b. A public hearing was held on the proposed rules. ☐ Yes ☐ No

If "Yes:"	Date:	Time:	City:	Location:

#### **5. Final Filing of Rules**

a. Date on which the Certification Page with original signatures and final rules were sent to the **Attorney General's Office** for the Governor's signature:

b. Date on which final rules were sent to the **Legislative Service Office**:

c. Date on which a PDF of the final rules was electronically sent to the **Secretary of State**:

#### **6. Agency/Board Certification**

The undersigned certifies that the foregoing information is correct.

<i>Signature of Authorized Individual</i>	
<i>Printed Name of Signatory</i>	
<i>Signatory Title</i>	
<i>Date of Signature</i>	

#### **7. Governor's Certification**

I have reviewed these rules and determined that they:

1. Are within the scope of the statutory authority delegated to the adopting agency;
2. Appear to be within the scope of the legislative purpose of the statutory authority; and, if emergency rules,
3. Are necessary and that I concur in the finding that they are an emergency.

Therefore, I approve the same.

<i>Governor's Signature</i>	
<i>Date of Signature</i>	

#### **Distribution List:**

##### **Attorney General**

1. Statement of Reasons;
2. Original Certification Page;
3. Summary of Comments (regular rules);
4. Hard copy of rules: clean and strike/underscore; and
5. Memo to Governor documenting emergency (emergency rules).

##### **LSO**

1. Statement of Reasons;
2. Copy of Certification Page;
3. Summary of Comments (regular rules);
4. Hard copy of rules: clean and strike/underscore;
5. Electronic copy of rules: clean and strike/underscore; and
6. Memo to Governor documenting emergency (emergency rules).

##### **SOS**

1. PDF of clean copy of rules; and
2. Hard copy of Certification Page as delivered by the AG.

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

**Chapter 32**

**Capital Improvement Projects – Countywide Consensus List Awards  
(Block Allocations)**

Section 1. Authority.

This chapter is adopted pursuant to Session Laws of Wyoming 2011, Chapter 88, Section 342.

Section 2. Definitions.

As used in this chapter:

- (a) "Board" means the State Loan and Investment Board.
- (b) "Capital 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) "Consensus List" means a county-wide priority ranking of capital improvement projects from highest to lowest within available grant funding. This list must be certified as agreed to by the board of county commissioners and the governing bodies of the cities and towns within that county that comprise at least seventy percent (70%) of the incorporated population.
- (d) "Director" means the Director of the Office of State Lands and Investments.
- (e) "Eligible Applicant" means a county and its incorporated cities and towns, special districts and joint powers boards. The county must certify to the Board that the county board of commissioners and the councils of the cities and towns that comprise seventy (70%) of the incorporated population within that county have reached agreement on the project(s) for which the grants will be used.
- (f) "Eligible Project Costs" means total project cost, less ineligible project costs.

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

(h) "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 for capital projects under the provisions of this chapter based on certified county-wide consensus lists and funding availability for the benefit of the citizens of the state.

### Section 4. Funding Availability.

Grant funding for this chapter is available pursuant to Session Laws of Wyoming 2011, Chapter 88, Section 342.

### 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 provided the applicant is an "eligible applicant" as defined in Section 2(e). If the applicant is a special district or joint powers board, it must be legally formed and approved and otherwise in compliance with statutory requirements of the Wyoming Department of Revenue prior to receiving 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) Ineligible Project Costs. The following project costs shall be ineligible for reimbursement from grant.

(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 way 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 and Consensus List Procedures.

(a) Applications, Consensus Lists and Timing. Applications from eligible applicants for consideration for project funding are initially submitted locally into the county consensus list process in the county where the project is situated. For projects involving more than one county, applications are initially submitted into the county consensus list process in each of the project-affected counties. In reviewing applications the board of county commissioners and the governing bodies of the cities and towns within that county that comprise at least seventy percent (70%) of the incorporated population shall certify to the Board that they have reached agreement on the projects for which the funds will be used. Certified county consensus lists and supporting documentation must be submitted to the Office at least twenty (20) calendar days prior to any regular or special meeting of the Board.

The certified consensus list that the board of county commissioners submits to the Office for Board action shall consist of the following: A joint resolution certifying that the county commission and at least seventy percent (70%) of the incorporated population of the respective county have reached agreement on the project(s) to be funded under this chapter. The resolution shall list each project individually to be funded under this chapter. The resolution must also indicate the grant amount requested for each project and the percentage of the total project to be funded with a grant under this chapter. The resolution must not exceed the total amount allocated for the county. In addition, the resolution shall list other eligible project(s) that have been certified and can be substituted in the event that an original project(s) cannot proceed. For each individual project, the applicant shall submit an "Application Cover Page" on a form provided by the Office. The applicant shall also submit an individual "Project Summary" form provided by the Office.

(b) Incomplete Applications. Incomplete applications shall not be presented to the Board for consideration.

## Section 7. Board Consideration.

The Board shall consider each eligible county's consensus list, allow for comments from the owner of the project and from the Director. The Board also will establish the maximum award for each eligible county for each project on each eligible county's consensus list.

## Section 8. Grant Disbursement and Administration.

(a) Grant Disbursement. Each individual project is subject to the requirements of this section. 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 (\$1,000.00) 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, the Director will 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 be disbursed according to the substitute project list or be reallocated to the countywide consensus process for that county prior to the end of the biennium.

#### Section 9. Audits and Inspections.

Each individual project is subject to the 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.



## **STATEMENT OF PRINCIPAL REASONS FOR ADOPTION OF RULES**

Chapter 32 Regular Rules are necessary for the timely administration of grant funding for Capital Improvement Projects – Countywide Consensus List Awards (Block Allocations). [*Session Laws of Wyoming 2011, Chapter 88, Section 342*] The \$35M the Legislature appropriated for the 2011 version of countywide consensus is not available until June 1, 2011. Funds are distributed to counties via block allocations based on formulas in the legislative appropriation. [*See attached*] Funds not obligated or encumbered for projects by June 30, 2012 revert to the State's general fund. Accordingly, regular rules are needed to allow the Board to distribute funds consistent with the legislative appropriation and the capital improvement project priorities of local countywide consensus groups.

## **SUMMARY OF COMMENTS**

No comments were received.