



# CERB Program Policies

## Obligation of Funds

2009-2011 budget funds will be obligated to fund projects deemed worthy by the Community Economic Revitalization Board (CERB). CERB statute (RCW 43.160.060) requires the Board to prioritize each proposed project according to relative benefit. As long as there is more demand for loans or grants than funds available, projects will be funded according to priority established in Board policy.

## Funding Awards

Board members are discouraged from discussing the merits of the project with non-CERB members or staff prior to the CERB meeting.

CERB awards will consider the return to the public facilities construction loan revolving fund without putting an undue financial burden on the applicant.

When awarding funds, the Board will consider the following:

- The relative benefits provided to the community by the jobs the project would create, not just the total number of jobs expected to be created after the project is completed, but also giving consideration to the unemployment rate in the area in which the jobs would be located;
- The rate of return of the state's investment, including, but not limited to, the leveraging of private sector investment, anticipated job creation and retention, and expected increases in state and local tax revenues associated with the project;
- Whether the proposed project offers a health insurance plan for employees that includes an option for dependents of employees;
- Whether the public facility investment will increase existing capacity necessary to accommodate projected population and employment growth in a manner that supports infill and redevelopment of existing urban or industrial areas that are served by adequate public facilities. Projects should maximize the use of existing infrastructure and provide for adequate funding of necessary transportation improvements; and
- Whether the applicant has developed and adhered to guidelines regarding its permitting process for those applying for development permits consistent with section 1(2), chapter 231, Laws of 2007.

In addition, when considering planning applications, the Board will give priority to those projects which could result in a type of project eligible for CERB construction funds.

## Availability of Funds

6.253 million dollars has been appropriated to CERB for the 2009-2011 Biennium. The approximately 25 percent allowable for grant funds under statute are reserved for this purpose. Of this amount, approximately 10 percent will be reserved for planning grants.

<b>Award Category</b>	<b>Funding Amount</b>
Construction Loans	\$4,690,000
Construction Grants	\$1,413,000
Planning Grants	\$150,000
<b>Total</b>	<b>\$6,253,000</b>

The totals for the grants are maximums. If sufficient projects are brought forward that have the capability to be awarded loan funds, construction grant funds may be transferred to the loan funds. If there is sufficient demand for construction funds, planning grant funds may be used for construction projects.

Any unobligated funds that are brought into the 2009-2011 Biennium from the 2007-2009 Biennium will be considered construction loan funds. Any additional returned funds, either through cost savings in the completion of a contract or through awards being rescinded, will be considered construction loan dollars.

There is a limit on the amount of funding available for projects in urban counties. No more than \$1,563,000 may be obligated for such projects. The type of funds awarded may not exceed the limits set in this policy. These funds are not limited solely to projects in urban counties. If there is sufficient demand for projects in rural counties, these funds may be used for such projects.

## Eligibility

Eligible applicants include port districts, counties, cities, towns, special purpose districts, tribes, and any other municipal corporations or quasi-municipal corporations in the state providing for public facilities.

Eligible public facilities projects include the planning, acquisition, construction, repair, reconstruction, replacement, rehabilitation, or improvement of bridges, roads, domestic and industrial water, earth stabilization, sanitary sewer, storm sewer, railroad, electricity, telecommunications, transportation, natural gas, buildings or structures, and port facilities, all for the purpose of job creation, job retention, or job expansion.

### **Complete Application**

CERB will only consider projects that submit complete applications before or on the due date. Staff will be responsible for determining whether or not applications are complete. Staff will report the Board at every meeting on the applications that were submitted but were not complete.

### **Median Wage**

RCW 43.160.060 requires that applicants must demonstrate convincing evidence that the median hourly wage of the private sector jobs created after the project is completed will exceed the countywide median hourly wage. Staff will use the most recent data available from the Employment Security Department to determine the countywide median wage. Staff will be responsible for determining whether or not applications meet this threshold requirement. Staff will report the Board at every meeting on the applications that did not meet this threshold.

### **Significant Job Creation and Significant Private Investment**

In considering projects, CERB will require evidence that the proposed project results in either the creation of significant private sector jobs or significant private capital investment (see RCW 43.160.060(2)(a)(i) and (2)(b)(i)) as amended by SB 6855.

Applicants must make the convincing case that the private sector jobs projected are significant either by the number of jobs created or by job quality attributes. Significant private investment shall usually be considered private investment which exceeds the value of public investment in the projects and which creates significant local impact.

### **Rural Communities**

Jurisdictions in rural counties and rural communities are eligible for Prospective Development awards. Rural counties are defined as those with a population density of fewer than 100 persons per square mile or a county smaller than 225 square miles, as determined by the Office of Financial Management (RCW 43.160.020). In addition, the Board has defined rural communities in urban counties as those that meet any one of the following standards:

- Cities and their associated urban growth areas not contiguous with the county's central core of urban growth.
- Stand-alone urban growth areas not contiguous with the county's central core of urban growth.
- Reservations of federally recognized Indian tribes which are not contiguous with the county's central core of urban growth.
- Unincorporated portions of urban counties, not included in urban growth areas, where the desired development has been provided for in the county's comprehensive plan and zoning regulations.

For the purposes of this policy, the county's central core of urban growth is defined as the area of cities and towns and their associated urban growth areas that are in a contiguous mass with the county seat.

For the purposes of this policy, Bainbridge Island is considered to be part of the central core of urban growth in Kitsap County.

The following cities and towns in urban counties are designated as rural communities:

- Clark County: Battle Ground, La Center, Ridgefield, Yacolt
- King County: Carnation, Duvall, Enumclaw, North Bend, Snoqualmie, Skykomish
- Kitsap County: Poulsbo
- Pierce County: Buckley, Carbonado, Eatonville, Roy, South Prairie, Wilkeson
- Snohomish County: Arlington, Darrington, Gold Bar, Granite Falls, Index, Lake Stevens, Marysville, Monroe, Shohomish, Stanwood, Sultan
- Spokane County: Cheney, Deer Park, Fairfield, Latah, Medical Lake, Rockford, Spangle, Waverly
- Thurston County: Bucoda, Rainier, Tenino, Yelm

## **Dollar Limit per Project**

- **Construction:** \$1 million
- **Planning:** \$25,000

The Board's policy is to set limits on dollar amounts for projects, and to consider exceptional projects brought to us by staff that will exceed those limits.

## **Loan Interest Rates**

The maximum interest rate for CERB loans is 10 percent.

CERB loans will bear a reasonable relationship to the cost of money, assuming no special justification exists for a lesser rate. The burden is placed upon the applicant to demonstrate the need for a lesser rate. Interest calculation method is by simple interest.

The starting interest rate for any given regular Board meeting will be established by using the 20 year daily Treasury yield curve rate on the following schedule:

For July meetings, the rate will be established the first business day of the previous May.

For September meetings, the rate will be established the first business day of the previous July.

For November meetings, the rate will be established the first business day of the previous September.  
For January meetings, the rate will be established the first business day of the previous November.  
For March meetings, the rate will be established the first business day of the previous January.  
For May meetings, the rate will be established the first business day of the previous March.

In the event an applicant requests a lower interest rate, the applicant must provide written justification of financial need for the lower rate at the time the application is reviewed by CERB staff.

The Board directs staff to make a specific recommendation regarding the applicant's request for a lower interest rate based on staff's investigation of the applicant's justification of need.

The Board, in its judgment, may grant a lesser rate if the Board agrees that the applicant's justification of need is valid.

## Match Requirements

A cash match is required for all projects coming before the Board. Cash match may come from other loan and grant sources. Local cash match requirements are:

- **Construction:** 10 percent of the CERB request
- **Planning:** 25 percent of the CERB request

## Percent Loan and Grant Mix

Grant funding per project is limited to the following:

- **Construction:** No more than 50 percent grant, or \$300,000, whichever is less.
- **Planning:** 100 percent grant

## Deferral of Principal and Interest

Interest and principal payments on any loan may be deferred for up to five years. The applicant must provide written justification of why they will not have sufficient revenues for the period of the deferral at the time the application is reviewed by CERB staff.

The Board will set reasonable terms and conditions, not to exceed a 20 year loan term. Terms and conditions will include deferral periods.

Interest shall accrue during any deferral period agreed to by the Board.

The first payment after the deferral period shall consist of interest only and include all deferred interest. Subsequent payments shall consist of 1/X of the loan principal, plus interest on the unpaid balance of the loan. For example, on a five-year deferral of principal and interest, year 6 consists of all deferred interest. Year 7 payment consists of principal payments of 1/14 of the principal plus interest on the unpaid balance of the loan. Such principal and interest payments shall be due in years eight through twenty. (See [Attachment A](#))

## Evidence of Private Development – Construction Projects

Convincing evidence of private development may be met in two ways: 1) A Committed Partner Construction application requires a committed eligible private sector business development that is contingent upon the CERB project. 2) In place of an eligible private sector business, Prospective

Development projects must demonstrate economic benefit through feasibility studies or other evaluative data the community has generated that respond to minimum thresholds.

**Committed Partner Construction:**

The Board requires convincing evidence that a private sector development is ready to occur. This evidence must be included with the application prior to review by the Board.

Convincing evidence shall consist of a signed Contingency Agreement(s) between the applicant and the private sector business. If a developer is involved in the project, the developer must also be a party to the contingency agreement. Signatures on the Contingency Agreement(s) shall be those regularly authorized to commit the parties to an agreement.

A sample Contingency Agreement is included as Attachment B to these policies.

**Prospective Development:**

All Prospective Development projects must demonstrate economic benefit through a completed economic feasibility study. Minimum threshold criteria for an economic feasibility study are included as Attachment C to these policies.

## Telecommunications Facilities

CERB may finance telecommunication infrastructure investments which serve to link specific or prospective private sector developments to existing telecommunications network infrastructure to enable the connection, provide special services, or create redundancy.

CERB requires business entities to first seek telecommunications service delivery from existing private providers in support of a Committed Partner Construction project or Prospective Development projects. If an existing telecommunications service provider is unable to meet the private sector business needs, CERB will consider applications for financial assistance to meet the telecommunications need.

CERB will not invest public funds in equipment or facilities which would enable a public entity to provide retail telecommunication services or services that the entity is not authorized by statute to provide.

CERB does not invest in the deployment of publicly-owned telecommunication network infrastructure (“backbone”) solely for the sake of creating competitive, publicly-owned telecommunication network infrastructure.

## Growth Management Act (GMA)

As provided in RCW 43.17.250, the Board must, for appropriate jurisdictions, consider whether the applicant has adopted a comprehensive plan and development regulations as required by the GMA.

Applicants with land use authority are to complete a self-certification form for inclusion with the application. For applicants that do not have planning responsibilities under the GMA, the government that has the underlying land use authority for the project site needs to complete the self-certification form for the applicant to submit as part of the application.

A self-certification form is included in each CERB application to be completed and is included as Attachment D to these policies.

## Archaeological and Cultural Resources

In accordance with *Executive Order 05-05, Archaeological and Cultural Resources*, effective November 10, 2005, CERB requires applicants to follow the process described below to comply with the Order, after the CERB application has been reviewed and approved by the Board.

Applicants must explain the status of investigation for cultural artifacts for projects involving site excavation. If a Section 106 Review has been completed for the project site described in the CERB application, additional work is not required.

If a Section 106 review has not, or will not occur for the site of the proposed CERB construction project, applicants will need to retrieve the appropriate forms from the Department of Archaeology and Historic Preservation (DAHP) web site, complete them, and mail them to the staff indicated on the appropriate form.

Concurrently, applicants must provide information on the construction project, a map detailing the site location, etc., to the Tribal Cultural Resources Contact(s) and Tribal Historic Preservation Officer (THPO), to the affected tribe(s) within the region of the project location and invite the tribe(s) to comment.

In order to proceed to contract, any additional work that is required by either DAHP or tribes must be completed.

## Economic Development Project Permitting

As required in RCW 43.160.060, CERB must evaluate projects based on whether or not their permitting processes are compliant with Chapter 231, Laws of 2007. This requirement is that permit applicants be provided with the following information when applying for a development permit from a city, county, or state agency:

The minimum and maximum time an agency will need to make a decision on a permit, including public comment requirements;

The minimum amount of information required for an agency to make a decision on a permit;

When an agency considers an application complete for processing;

The minimum and maximum costs in agency fees that will be incurred by the permit applicant; and

The reasons for the denial of a permit given in writing.

CERB requires this only of cities, towns, and counties as other eligible applicants are not permitting authorities. The Board evaluates this based on a self-certification completed by the applicant. A self-certification form is included in each CERB application to be completed and is included as [Attachment E](#) to these policies.

## Applicant Presentation of Project at Board Meeting

Applicants are required to be present during Board deliberations to respond to questions. An applicant presentation of the project is not mandatory. If an applicant chooses to make comments, the presentation is limited to 5-10 minutes.

For Committed Partner Construction projects, the individual(s) representing the private sector partner must be available at the CERB meeting to respond to any questions from the Board.

## Readiness to Proceed

Prior to execution of a final contract, award recipients must meet general and special contract conditions.

- **Construction:** conditions must be met within 6 months of the award decision
- **Planning:** conditions must be met within 4 months of the award decision

## Initial Offer

Upon project approval by the Board, an Initial Offer of Financial Aid will be sent to the award recipient. The Initial Offer must be signed by the recipient within 45 days of the award. If the Initial Offer is not signed within this time period, it will be assumed that the award recipient has chosen to withdraw from the project.

## Extension Requests

The applicant must have all pre-contract conditions fulfilled within the time period specified in the Initial Offer of Financial Aid. If an extension of time to meet the pre-conditions is necessary, the applicant may make a request in writing, prior to the conditions due date. When the Board considers extensions to Initial Offer, the standard extension period shall be:

- **Construction:** Six months. In exceptional circumstances, an extension of up to one year may be granted; however, the Board will be explicit in its reasoning for such an exception. Generally, the Board will not consider extensions beyond 12 months.
- **Planning:** Four months. In exceptional circumstances, an extension of up to six months may be granted; however, the Board will be explicit in its reasoning for such an exception. Generally, the Board will not consider extension beyond 8 months.

The Board must approve the extension of the Initial Offer by the conditions due date, or the offer shall be considered withdrawn.

## Project Commencement

Unless an alternate schedule is previously approved by the Board, work must commence on a project within six months of the execution of the contract. If this does not occur, the Board may reconsider the award and has the right to withdraw the contract for nonperformance.

## Disbursement

CERB funds are disbursed on a reimbursement basis only. Reimbursement includes both invoices that have been paid and invoices due within 30 days of reimbursement request. Ten percent of awarded funds will be withheld until completion of the public project and submission of the final report and other deliverables.

## Project Completion

Construction projects must be completed and a Final Construction Report be submitted to CERB staff within four years of the execution of the contract.

Planning grants must be completed and a Final Project Report be submitted to CERB staff within two years of the execution of the contract.

## **Facilities Constructed with CERB Funds**

Facilities constructed with CERB funds must be used for the purpose that was originally identified in the CERB application for a period of 10 years from date of final contract execution. If a facility is converted within that time period without prior approval, the Board will insist upon immediate repayment of any grant funds awarded for the project in addition to any outstanding principal on the loan.

## **Repayment**

The repayment schedule is based on the date of final execution of the contract. If the contract is executed between January 1 and June 30, the first payment will be due January 1 the following year. If the contract is executed between July 1 and December 31, the first payment will be due July 1 the following year. The repayment due date may be moved out in one year increments based on any deferral approved in the Board's award.

As a general condition, all award recipients must establish a dedicated fund for CERB repayments. Award recipients, unless guaranteed by another entity, must retain one year's repayment in the account at all times. If a deferral is granted as part of the award, the one year's repayment shall be in the account by the end of the deferral period.

## **Public Disclosure Law**

The entire application is considered public information. Financial and commercial information provided by the private business in the application will be treated as confidential by the Department of Commerce to the extent permitted by RCW 42.56.

CERB may assert an exemption to the Public Disclosure law under the "deliberative process" exemption, RCW 42.56.280 for all drafts of board recommendation prepared by staff, until such time as the final Staff Recommendation is cited by CERB in connection with an action by CERB. After CERB has reviewed the Staff Recommendation at a scheduled CERB meeting and acted upon the applicant request, the Staff Recommendation can be released to outside parties, upon request.

**Estimated Repayment Schedule - Level Annual Payments  
Payment deferred 3 years**

Name of Borrower: \_\_\_\_\_  
 CERB Project Number: \_\_\_\_\_

Original Principal Amount	700,000.00
Annual Interest Rate	2.0%
Term of contract	10 (Note: Contract term in years)
Number of years deferred	3
Payments per year	1
Contract Execution Date	12/31/2009
Annual Payment	\$124,968.07

Payment Due Date	Beginning Principal Balance	Interest Accrual	Interest Paid	Balance of Unpaid Interest	Principal Paid	Ending Balance	Total Payment
Jul-10	700,000.00	14,000.00	-	14,000.00	-	700,000.00	-
Jul-11	700,000.00	14,000.00	-	28,000.00	-	700,000.00	-
Jul-12	700,000.00	14,000.00	-	42,000.00	-	700,000.00	-
Jul-13	700,000.00	14,000.00	56,000.00	-	-	700,000.00	56,000.00
Jul-14	700,000.00	14,000.00	14,000.00	-	110,968.07	589,031.93	\$124,968.07
Jul-15	589,031.93	11,780.64	11,780.64	-	113,187.43	475,844.50	124,968.07
Jul-16	475,844.50	9,516.89	9,516.89	-	115,451.18	360,393.32	124,968.07
Jul-17	360,393.32	7,207.87	7,207.87	-	117,760.20	242,633.12	124,968.07
Jul-18	242,633.12	4,852.66	4,852.66	-	120,115.41	122,517.71	124,968.07
Jul-19	122,517.71	2,450.35	2,450.35	-	122,517.71	-	124,968.06
Jul-20	-	-	-	-	-	-	-
Jul-21	-	-	-	-	-	-	-
Jul-22	-	-	-	-	-	-	-
Jul-23	-	-	-	-	-	-	-
Jul-24	-	-	-	-	-	-	-
Jul-25	-	-	-	-	-	-	-
Jul-26	-	-	-	-	-	-	-
Jul-27	-	-	-	-	-	-	-
Jul-28	-	-	-	-	-	-	-
Jul-29	-	-	-	-	-	-	-
<b>Totals</b>		<u>105,808.41</u>	<u>105,808.41</u>		<u>700,000.00</u>		

**Pmt Due Date** Payment Date is determined by contract execution date.  
 If contract execution is between January 1 and June 30, payment is due January 1 the following year.  
 If contract execution is between July 1 and December 31, payment is due July 1 the following year.

Interest calculation method is by simple interest.

## Sample Contingency Agreement

For construction applications, the applicant must provide a signed contingency agreement to CERB for each private business named in the application. The contingency agreements must contain the following terms:

### 1. PARTIES

The parties to this Agreement are *THE APPLICANT* and *THE PRIVATE BUSINESS*.

If a developer is involved in the project, the developer must also be a party to this contingency agreement.

### 2. PURPOSE

The purpose of this Agreement is to clarify the intentions of the parties regarding the completion of *THE PUBLIC FACILITIES PROJECT*. This section should also contain an explanation of the need for the public improvements.

### 3. BACKGROUND

The purpose of this section is to provide a description of the public improvements which can be referenced, hereafter, as the “public facilities project.”

### 4. AGREEMENT

This section must contain the following:

- a) A statement that the applicant agrees to construct the required public improvements providing that CERB financing is approved.
- b) A statement by the business of the projected number of permanent, full-time jobs created and/or retained as a result of the public facilities project. (*Job estimates identified here must equal those in Question C12.*)
- c) A statement by the business of the estimated private capital investment.
- d) An agreement by the business to contact the local Workforce Development Council (WDC) and the State Employment Security Department for assistance in filling new positions.
- e) An agreement by the business to provide the applicant with employment and investment data as requested by CERB for a period no less than five years following the completion of the public facilities project.
- f) If applicable, this section must also contain a list of any public and/or private contributions to the public facilities project, such as cash contribution or donated land.

### 5. CONTINGENCY

This Agreement is contingent upon receipt of CERB funds by *THE APPLICANT* and is intended to provide convincing evidence of private development as required by CERB.

The Agreement must be signed by all parties.

## Feasibility Study Threshold Criteria

The economic feasibility study must contain the following **minimum requirements**:

- a. A product market analysis linked to economic development.
- b. A market strategy containing action elements linked to timelines.
- c. Identification of targeted industries.
- d. Identification of the group responsible for implementing the marketing strategy. Describe the group's capacity to complete the responsibility.
- e. The site's appropriateness by addressing, at minimum, appropriate zoning, affect to the state or local transportation system, environmental restrictions, cultural artifact investigation, and the site's overall adequacy to support the anticipated development upon project completion.
- f. A location analysis of other adequately served vacant industrial land.
- g. Total funding for the public facilities improvements is secured or will be secured within a given time frame.
- h. An analysis of how the project will assist local economic diversification efforts.
- i. Indicate the specific issues that will be addressed.
- j. List one or more economic outcomes that you expect from the proposed CERB project.
- k. Describe the specific, quantifiable measures of the outcome(s) that will indicate success. Describe in measurable terms what you expect to be able to show as progress toward the outcome for each year before the whole outcome has been achieved.
- l. Describe what data you will collect to determine whether the outcome is being achieved.
- m. Describe the data collection procedure including when data will be collected, from whom and by whom.
- n. The estimated median hourly wage of the jobs created when development occurs.
- o. If the project is determined to be feasible, the following information must be provided within the final report:
  1. Total estimated jobs created (in FTEs).
  2. Describe benefits offered to employees.
  3. Describe the median hourly wage of the new jobs in relation to the median hourly county wage.
  4. The county three-year unemployment rate in relation to the state rate.
  5. County population change in the last five years.
  6. The estimated jobs created represent what percentage of the county's labor force.
  7. The estimated jobs created represent what percentage of the county's unemployed workers.
  8. Estimated new annual state and local revenue generated by the private business.
  9. Estimated private investment generated by project.

# Growth Management Self-Certification

Project name:

On behalf of the jurisdiction of \_\_\_\_\_, I certify that this jurisdiction:

*Mark all that apply*

- Has adopted a critical areas ordinance under the Growth Management Act (RCW 36.70A.060)
- Is being required or is opting to plan under the Growth Management Act
- Has adopted a comprehensive plan and development regulations, as required by RCW 36.70A
- Is in compliance with the Growth Management Act

If unable to check any of the boxes above, please explain:

Declaration: *"I hereby certify that the information given in this application to the Community Economic Revitalization Board is true and correct to the best of my knowledge and belief."*

Signed \_\_\_\_\_ Date \_\_\_\_\_

Name:

Title:

# Economic Development Project Permitting Self-Certification

(Complete only if applicant is a city or county)

Name of Project: \_\_\_\_\_

On Behalf of \_\_\_\_\_, I certify this jurisdiction has:

Mark all that  
apply

## Certifications

Adopted development regulation guidelines that state:

- (a) The minimum and maximum time an agency will need to make a decision on a permit, including public comment requirements;
- (b) The minimum amount of information required for an agency to make a decision on a permit;
- (c) When an agency considers an application complete for processing;
- (d) The minimum and maximum costs in agency fees that will be incurred by the permit applicant; and
- (e) The reasons for a denial of a permit in writing.

Adhered to the adopted development regulation guidelines

Not adopted development regulation guidelines

Not adhered to the adopted development regulation guidelines

Declaration: *"I hereby certify that the information given in this application to the Community Economic Revitalization Board is true and correct to the best of my knowledge and belief."*

Signed \_\_\_\_\_

Date \_\_\_\_\_

Name:

Title: