

Title 236 WAC

GENERAL ADMINISTRATION, DEPARTMENT OF

Chapters			
236-11	Compliance with State Environmental Policy Act.	236-10-070	Repealed by 98-01-116, filed 12/18/97, effective 1/18/98. Statutory Authority: RCW 43.21C.120.
236-12	State capitol grounds traffic and parking regulations.	236-10-080	Sensitive areas. [Order 76-5, § 236-10-070, filed 5/14/76.] Repealed by 98-01-116, filed 12/18/97, effective 1/18/98. Statutory Authority: RCW 43.21C.120.
236-16	Capitol Lake and adjoining lands and roadways.	236-10-090	Preparation of EIS by persons outside the lead agency. [Order 76-5, § 236-10-080, filed 5/14/76.] Repealed by 98-01-116, filed 12/18/97, effective 1/18/98. Statutory Authority: RCW 43.21C.120.
236-18	Requirements for commemorative and art works on state capitol grounds.	236-10-100	Designation of responsible official. [Order 76-5, § 236-10-090, filed 5/14/76.] Repealed by 98-01-116, filed 12/18/97, effective 1/18/98. Statutory Authority: RCW 43.21C.120.
236-20	State vehicle marking requirements and exceptions.	236-10-110	SEPA public information center. [Order 76-5, § 236-10-100, filed 5/14/76.] Repealed by 98-01-116, filed 12/18/97, effective 1/18/98. Statutory Authority: RCW 43.21C.120.
236-20A	Display of flags—State capitol grounds.		
236-22	Self-insurance requirements as to local governments.		
236-28	Small works roster.		
236-48	Office of state procurement.		
236-49	Relationship and procedures between division of purchasing and state agencies.		
236-51	Competitive contracting.		
236-56	Public records.		
236-60	Suggested design and construction standards of sidewalk and curb ramps for the physically handicapped person without uniquely endangering the blind.		
236-70	A rule to facilitate private investment in energy conservation for state-owned facilities.		
236-100	Flood mitigation standards for state agencies.		
236-200	Energy efficiency services account.		

Reviser's note: Later promulgation, see chapter 236-11 WAC

Chapter 236-14

PARKING PROGRAM FOR STATE FACILITIES OFF THE STATE CAPITOL GROUNDS IN THURSTON COUNTY

236-14-010	Purpose. [Statutory Authority: RCW 46.08.172. 93-20-027, § 236-14-010, filed 9/24/93, effective 11/1/93.] Decodified under RCW 34.05.210(6), letter dated 8/17/94.
236-14-015	Definitions. [Statutory Authority: RCW 46.08.172. 93-20-027, § 236-14-015, filed 9/24/93, effective 11/1/93.] Decodified under RCW 34.05.210(6), letter dated 8/17/94.
236-14-050	Parking program responsibilities. [Statutory Authority: RCW 46.08.172. 93-20-027, § 236-14-050, filed 9/24/93, effective 11/1/93.] Decodified under RCW 34.05.210(6), letter dated 8/17/94.
236-14-100	Parking rental fees for state facilities off the state capitol grounds in Thurston County. [Statutory Authority: RCW 46.08.172. 93-20-027, § 236-14-100, filed 9/24/93, effective 11/1/93.] Decodified under RCW 34.05.210(6), letter dated 8/17/94.
236-14-200	Delegation. [Statutory Authority: RCW 46.08.172. 93-20-027, § 236-14-200, filed 9/24/93, effective 11/1/93.] Decodified under RCW 34.05.210(6), letter dated 8/17/94.
236-14-300	Monthly parking fee payments. [Statutory Authority: RCW 46.08.172. 93-20-027, § 236-14-300, filed 9/24/93, effective 11/1/93.] Decodified under RCW 34.05.210(6), letter dated 8/17/94.
236-14-800	Director review. [Statutory Authority: RCW 46.08.172. 93-20-027, § 236-14-800, filed 9/24/93, effective 11/1/93.] Decodified under RCW 34.05.210(6), letter dated 8/17/94.
236-14-900	Severability. [Statutory Authority: RCW 46.08.172. 93-20-027, § 236-14-900, filed 9/24/93, effective 11/1/93.] Decodified under RCW 34.05.210(6), letter dated 8/17/94.

Chapter 236-15

PARKING PROGRAM FOR STATE FACILITIES OFF THE STATE CAPITOL GROUNDS IN THURSTON COUNTY

236-15-010	Purpose. [Statutory Authority: RCW 46.08.172. 95-05-044, § 236-15-010, filed 2/10/95, effective 9/1/95.] Repealed by 95-16-106, filed 8/1/95, effective 9/1/95. Statutory Authority: RCW 46.08.172 and chapter 43.01 RCW.
236-15-015	Definitions. [Statutory Authority: RCW 46.08.172. 95-05-044, § 236-15-015, filed 2/10/95, effective 9/1/95.] Repealed by 95-16-106, filed 8/1/95, effective 9/1/95. Statutory Authority: RCW 46.08.172 and chapter 43.01 RCW.

DISPOSITION OF CHAPTERS FORMERLY CODIFIED IN THIS TITLE

Chapter 236-10

COMPLIANCE WITH STATE ENVIRONMENTAL PROTECTION ACT

236-10-010	Authority. [Order 76-5, § 236-10-010, filed 5/14/76.] Repealed by 98-01-116, filed 12/18/97, effective 1/18/98. Statutory Authority: RCW 43.21C.120.
236-10-015	Impact of guidelines on the department. [Order 76-5, § 236-10-015, filed 5/14/76.] Repealed by 98-01-116, filed 12/18/97, effective 1/18/98. Statutory Authority: RCW 43.21C.120.
236-10-020	Scope and coverage of this chapter. [Order 76-5, § 236-10-020, filed 5/14/76.] Repealed by 98-01-116, filed 12/18/97, effective 1/18/98. Statutory Authority: RCW 43.21C.120.
236-10-030	Adoption by reference. [Order 76-5, § 236-10-030, filed 5/14/76.] Repealed by 98-01-116, filed 12/18/97, effective 1/18/98. Statutory Authority: RCW 43.21C.120.
236-10-040	Integration of SEPA procedures with other governmental operations. [Order 76-6, § 236-10-040, filed 8/31/76; Order 76-5, § 236-10-040, filed 5/14/76.] Repealed by 98-01-116, filed 12/18/97, effective 1/18/98. Statutory Authority: RCW 43.21C.120.
236-10-050	Timing of the EIS process. [Order 76-6, § 236-10-050, filed 8/31/76; Order 76-5, § 236-10-050, filed 5/14/76.] Repealed by 98-01-116, filed 12/18/97, effective 1/18/98. Statutory Authority: RCW 43.21C.120.
236-10-060	Summary of information which may be required of a private applicant. [Order 76-6, § 236-10-060, filed 8/31/76; Order 76-5, § 236-10-060, filed 5/14/76.]

236-15-050	Parking program responsibilities. [Statutory Authority: RCW 46.08.172. 95-05-044, § 236-15-050, filed 2/10/95, effective 9/1/95.] Repealed by 95-16-106, filed 8/1/95, effective 9/1/95. Statutory Authority: RCW 46.08.172 and chapter 43.01 RCW.		(Order 78-5), filed 9/5/78. Statutory Authority: RCW 43.17.060 and 75.44.050.
236-15-100	Parking rental fees for state facilities off the state capitol grounds in Thurston County. [Statutory Authority: RCW 46.08.172. 95-05-044, § 236-15-100, filed 2/10/95, effective 9/1/95.] Repealed by 95-16-106, filed 8/1/95, effective 9/1/95. Statutory Authority: RCW 46.08.172 and chapter 43.01 RCW.	236-32-080	Loans which cannot be made. [Order 76-4, § 236-32-080, filed 3/30/76.] Repealed by 78-09-110 (Order 78-5), filed 9/5/78. Statutory Authority: RCW 43.17.060 and 75.44.050.
236-15-200	Delegation. [Statutory Authority: RCW 46.08.172. 95-05-044, § 236-15-200, filed 2/10/95, effective 9/1/95.] Repealed by 95-16-106, filed 8/1/95, effective 9/1/95. Statutory Authority: RCW 46.08.172 and chapter 43.01 RCW.	236-32-100	Denial of loans. [Order 76-4, § 236-32-100, filed 3/30/76.] Repealed by 78-09-110 (Order 78-5), filed 9/5/78. Statutory Authority: RCW 43.17.060 and 75.44.050.
236-15-300	Monthly parking fee payments. [Statutory Authority: RCW 46.08.172. 95-05-044, § 236-15-300, filed 2/10/95, effective 9/1/95.] Repealed by 95-16-106, filed 8/1/95, effective 9/1/95. Statutory Authority: RCW 46.08.172 and chapter 43.01 RCW.		
236-15-700	Liability of state. [Statutory Authority: RCW 46.08.172. 95-05-044, § 236-15-700, filed 2/10/95, effective 9/1/95.] Repealed by 95-16-106, filed 8/1/95, effective 9/1/95. Statutory Authority: RCW 46.08.172 and chapter 43.01 RCW.		
236-15-800	Director review. [Statutory Authority: RCW 46.08.172. 95-05-044, § 236-15-800, filed 2/10/95, effective 9/1/95.] Repealed by 95-16-106, filed 8/1/95, effective 9/1/95. Statutory Authority: RCW 46.08.172 and chapter 43.01 RCW.		
236-15-900	Severability. [Statutory Authority: RCW 46.08.172. 95-05-044, § 236-15-900, filed 2/10/95, effective 9/1/95.] Repealed by 95-16-106, filed 8/1/95, effective 9/1/95. Statutory Authority: RCW 46.08.172 and chapter 43.01 RCW.		
Chapter 236-24			
WAIVER OF PUBLIC BIDDING REQUIREMENTS FOR WATER PROJECTS			
236-24-010	Purpose. [Order 77-3, § 236-24-010, filed 5/17/77.] Repealed by 96-17-090, filed 8/21/96, effective 9/21/96. Statutory Authority: RCW 34.05.354.		
236-24-020	Waiver of public bidding requirements—Procedure. [Order 77-3, § 236-24-020, filed 5/17/77.] Repealed by 96-17-090, filed 8/21/96, effective 9/21/96. Statutory Authority: RCW 34.05.354.		
236-24-030	Approval or disapproval. [Order 77-3, § 236-24-030, filed 5/17/77.] Repealed by 96-17-090, filed 8/21/96, effective 9/21/96. Statutory Authority: RCW 34.05.354.		
Chapter 236-32			
FISHERMEN LOAN PROGRAM			
236-32-001	Purpose. [Order 76-4, § 236-32-001, filed 3/30/76.] Repealed by 78-09-110 (Order 78-5), filed 9/5/78. Statutory Authority: RCW 43.17.060 and 75.44.050.		
236-32-010	Earned income. [Order 76-4, § 236-32-010, filed 3/30/76.] Repealed by 78-09-110 (Order 78-5), filed 9/5/78. Statutory Authority: RCW 43.17.060 and 75.44.050.		
236-32-020	Productive commercial fisherman. [Order 76-4, § 236-32-020, filed 3/30/76.] Repealed by 78-09-110 (Order 78-5), filed 9/5/78. Statutory Authority: RCW 43.17.060 and 75.44.050.		
236-32-030	Financial assistance not otherwise available. [Order 76-4, § 236-32-030, filed 3/30/76.] Repealed by 78-09-110 (Order 78-5), filed 9/5/78. Statutory Authority: RCW 43.17.060 and 75.44.050.		
236-32-040	Soundness of loan. [Order 76-4, § 236-32-040, filed 3/30/76.] Repealed by 78-09-110 (Order 78-5), filed 9/5/78. Statutory Authority: RCW 43.17.060 and 75.44.050.		
236-32-050	Coordination with department of fisheries. [Order 76-4, § 236-32-050, filed 3/30/76.] Repealed by 78-09-110 (Order 78-5), filed 9/5/78. Statutory Authority: RCW 43.17.060 and 75.44.050.		
236-32-060	Eligibility confirmed—Denied. [Order 76-4, § 236-32-060, filed 3/30/76.] Repealed by 78-09-110 (Order 78-5), filed 9/5/78. Statutory Authority: RCW 43.17.060 and 75.44.050.		
236-32-070	Application form—Attached documents. [Order 76-4, § 236-32-070, filed 3/30/76.] Repealed by 78-09-110		
		236-47-001	Purpose. [Statutory Authority: Chapter 39.32 RCW. 84-13-008 (Order 84-01), § 236-47-001, filed 6/8/84.] Repealed by 99-06-001, filed 2/17/99, effective 3/20/99.
		236-47-002	Authority. [Statutory Authority: Chapter 39.32 RCW. 84-13-008 (Order 84-01), § 236-47-002, filed 6/8/84.] Repealed by 99-06-001, filed 2/17/99, effective 3/20/99.
		236-47-003	Designation of the state agency. [Statutory Authority: Chapter 39.32 RCW. 84-13-008 (Order 84-01), § 236-47-003, filed 6/8/84.] Repealed by 99-06-001, filed 2/17/99, effective 3/20/99.
		236-47-004	Statement of policy. [Statutory Authority: Chapter 39.32 RCW. 84-13-008 (Order 84-01), § 236-47-004, filed 6/8/84.] Repealed by 99-06-001, filed 2/17/99, effective 3/20/99.
		236-47-005	Eligibility. [Statutory Authority: Chapter 39.32 RCW. 84-13-008 (Order 84-01), § 236-47-005, filed 6/8/84.] Repealed by 99-06-001, filed 2/17/99, effective 3/20/99.
		236-47-006	Terms and conditions. [Statutory Authority: Chapter 39.32 RCW. 84-13-008 (Order 84-01), § 236-47-006, filed 6/8/84.] Repealed by 99-06-001, filed 2/17/99, effective 3/20/99.
		236-47-007	Compliance and utilization. [Statutory Authority: Chapter 39.32 RCW. 84-13-008 (Order 84-01), § 236-47-007, filed 6/8/84.] Repealed by 99-06-001, filed 2/17/99, effective 3/20/99.
		236-47-008	Financing and service charges. [Statutory Authority: Chapter 39.32 RCW. 84-13-008 (Order 84-01), § 236-47-008, filed 6/8/84.] Repealed by 99-06-001, filed 2/17/99, effective 3/20/99.
		236-47-009	Inventory controls and accounting systems. [Statutory Authority: Chapter 39.32 RCW. 84-13-008 (Order 84-01), § 236-47-009, filed 6/8/84.] Repealed by 99-06-001, filed 2/17/99, effective 3/20/99.
		236-47-010	Return of donated property. [Statutory Authority: Chapter 39.32 RCW. 84-13-008 (Order 84-01), § 236-47-010, filed 6/8/84.] Repealed by 99-06-001, filed 2/17/99, effective 3/20/99.
		236-47-011	Nonutilized donable property. [Statutory Authority: Chapter 39.32 RCW. 84-13-008 (Order 84-01), § 236-47-011, filed 6/8/84.] Repealed by 99-06-001, filed 2/17/99, effective 3/20/99.
		236-47-012	Audit. [Statutory Authority: Chapter 39.32 RCW. 84-13-008 (Order 84-01), § 236-47-012, filed 6/8/84.] Repealed by 99-06-001, filed 2/17/99, effective 3/20/99.
		236-47-013	Consultation with advisory bodies and private groups. [Statutory Authority: Chapter 39.32 RCW. 84-13-008 (Order 84-01), § 236-47-013, filed 6/8/84.] Repealed by 99-06-001, filed 2/17/99, effective 3/20/99.
		236-47-014	Cooperative agreements. [Statutory Authority: Chapter 39.32 RCW. 84-13-008 (Order 84-01), § 236-47-014, filed 6/8/84.] Repealed by 99-06-001, filed 2/17/99, effective 3/20/99.
		236-47-015	Forms. [Statutory Authority: Chapter 39.32 RCW. 84-13-008 (Order 84-01), § 236-47-015, filed 6/8/84.] Repealed by 99-06-001, filed 2/17/99, effective 3/20/99.
		236-47-016	Records retention. [Statutory Authority: Chapter 39.32 RCW. 84-13-008 (Order 84-01), § 236-47-016, filed 6/8/84.] Repealed by 99-06-001, filed 2/17/99, effective 3/20/99.
		236-47-017	Liquidation. [Statutory Authority: Chapter 39.32 RCW. 84-13-008 (Order 84-01), § 236-47-017, filed 6/8/84.] Repealed by 99-06-001, filed 2/17/99, effective 3/20/99.
			Chapter 236-50
			STATE RECORDS COMMITTEE RULES
		236-50-010	Regular meeting dates. [Order 1, § 236-50-010, filed 10/15/71.] Repealed by 96-17-089, filed 8/21/96, effective 9/21/95. Statutory Authority: RCW 34.05.354.

**Chapter 236-54
PUBLIC RECORDS—ARCHIVES**

- 236-54-010 Purpose. [Order 11, § 236-54-010, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
- 236-54-020 Definitions. [Order 11, § 236-54-020, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
- 236-54-030 Description of central and field organization of the division of archives and records and management. [Order 11, § 236-54-030, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
- 236-54-040 Operations and procedures. [Order 11, § 236-54-040, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
- 236-54-050 Public records available. [Order 11, § 236-54-050, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
- 236-54-060 Public records officer. [Order 11, § 236-54-060, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
- 236-54-070 Office hours. [Order 11, § 236-54-070, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
- 236-54-080 Requests for public records—Archives—Scheduled. [Order 11, § 236-54-080, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
- 236-54-090 Copying. [Order 11, § 236-54-090, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
- 236-54-100 Exemptions. [Order 11, § 236-54-100, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
- 236-54-110 Review of denials of public records requests. [Order 11, § 236-54-110, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
- 236-54-120 Protection of public records. [Order 11, § 236-54-120, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
- 236-54-130 Records index. [Order 11, § 236-54-130, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
- 236-54-140 Communication with division—Address. [Order 11, § 236-54-140, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
- 236-54-150 Adoption of form. [Order 11, § 236-54-150, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
- 236-54-990 Appendix A—Management organization chart of state archivist. [Order 11, Appendix A (codified as WAC 236-54-990), filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
- 236-54-99001 Appendix B—Form—Request for public records. [Order 11, Appendix B (codified as WAC 236-54-99001), filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.

Chapter 236-11 WAC

COMPLIANCE WITH STATE ENVIRONMENTAL POLICY ACT

(Formerly chapter 236-10 WAC)

WAC

- 236-11-010 Authority, scope and coverage of this chapter.
- 236-11-030 Adoption by reference.
- 236-11-050 Applications for exemptions within the department of general administration.
- 236-11-060 Timing of the EIS process.
- 236-11-080 Public notice requirements.
- 236-11-100 Policies and procedures for conditioning or denying permits or other approvals.

- 236-11-110 Designation of responsible official.
- 236-11-130 Severability.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 236-11-020 Scope and coverage of this chapter. [Statutory Authority: RCW 43.21C.120. 84-20-015 (Order 84-02), § 236-11-020, filed 9/25/84.] Repealed by 98-20-019, filed 9/25/98, effective 10/26/98. Statutory Authority: RCW 43.21C.120.
- 236-11-040 Integration of SEPA procedures with other governmental operations. [Statutory Authority: RCW 43.21C.120. 84-20-015 (Order 84-02), § 236-11-040, filed 9/25/84.] Repealed by 98-20-019, filed 9/25/98, effective 10/26/98. Statutory Authority: RCW 43.21C.120.
- 236-11-070 Facility acquisition. [Statutory Authority: RCW 43.21C.120. 84-20-015 (Order 84-02), § 236-11-070, filed 9/25/84.] Repealed by 98-20-019, filed 9/25/98, effective 10/26/98. Statutory Authority: RCW 43.21C.120.
- 236-11-090 EIS decision levels. [Statutory Authority: RCW 43.21C.120. 84-20-015 (Order 84-02), § 236-11-090, filed 9/25/84.] Repealed by 98-20-019, filed 9/25/98, effective 10/26/98. Statutory Authority: RCW 43.21C.120.
- 236-11-120 SEPA information center. [Statutory Authority: RCW 43.21C.120. 84-20-015 (Order 84-02), § 236-11-120, filed 9/25/84.] Repealed by 98-20-019, filed 9/25/98, effective 10/26/98. Statutory Authority: RCW 43.21C.120.

WAC 236-11-010 Authority, scope and coverage of this chapter. (1) This chapter is promulgated pursuant to RCW 43.21C.120.

(2) Compliance with the rules of this chapter shall constitute procedural compliance with SEPA for an "action" as defined in WAC 197-11-704.

(3) The rules of this chapter contain no sections relating to the notice/statute of limitations provisions of chapter 43.21C RCW. To utilize these provisions, the department of general administration shall follow the statutory language and any applicable regulations of the department of ecology.

[Statutory Authority: RCW 43.21C.120. 98-20-019, § 236-11-010, filed 9/25/98, effective 10/26/98; 84-20-015 (Order 84-02), § 236-11-010, filed 9/25/84.]

WAC 236-11-030 Adoption by reference. The department of general administration hereby adopts the sections or subsections of chapter 197-11 WAC by reference.

WAC

- 197-11-040 Definitions.
- 197-11-050 Lead agency.
- 197-11-055 Timing of the SEPA process.
- 197-11-060 Content of environmental review.
- 197-11-070 Limitations on actions during SEPA process.
- 197-11-080 Incomplete or unavailable information.
- 197-11-090 Supporting documents.
- 197-11-100 Information required of applicants.
- 197-11-300 Purpose of this part.
- 197-11-305 Categorical exemptions.
- 197-11-310 Threshold determination required.
- 197-11-315 Environmental checklist.
- 197-11-330 Threshold determination process.
- 197-11-335 Additional information.
- 197-11-340 Determination of nonsignificance (DNS).
- 197-11-350 Mitigated DNS.

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197-11-360	Determination of significance (DS)/initiation of scoping.	197-11-730	Decision maker.
197-11-390	Effect of threshold determination.	197-11-732	Department.
197-11-400	Purpose of EIS.	197-11-734	Determination of nonsignificance (DNS).
197-11-402	General requirements.	197-11-736	Determination of significance (DS).
197-11-405	EIS types.	197-11-738	EIS.
197-11-406	EIS timing.	197-11-740	Environment.
197-11-408	Scoping.	197-11-742	Environmental checklist.
197-11-410	Expanded scoping. (Optional)	197-11-744	Environmental document.
197-11-420	EIS preparation.	197-11-746	Environmental review.
197-11-425	Style and size.	197-11-748	Environmentally sensitive area.
197-11-430	Format.	197-11-750	Expanded scoping.
197-11-435	Cover letter or memo.	197-11-752	Impacts.
197-11-440	EIS contents.	197-11-754	Incorporation by reference.
197-11-442	Contents of EIS on nonproject proposals.	197-11-756	Lands covered by water.
197-11-443	EIS contents when prior nonproject EIS.	197-11-758	Lead agency.
197-11-444	Elements of the environment.	197-11-760	License.
197-11-448	Relationship of EIS to other considerations.	197-11-762	Local agency.
197-11-450	Cost-benefit analysis.	197-11-764	Major action.
197-11-455	Issuance of DEIS.	197-11-766	Mitigated DNS.
197-11-460	Issuance of FEIS.	197-11-768	Mitigation.
197-11-500	Purpose of this part.	197-11-770	Natural environment.
197-11-502	Inviting comment.	197-11-772	NEPA.
197-11-504	Availability and cost of environmental documents.	197-11-774	Nonproject.
197-11-510	Public notice.	197-11-776	Phased review.
197-11-535	Public hearings and meetings.	197-11-778	Preparation.
197-11-545	Effect of no comment.	197-11-780	Private project.
197-11-550	Specificity of comments.	197-11-782	Probable.
197-11-560	FEIS response to comments.	197-11-784	Proposal.
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[Statutory Authority: RCW 43.21C.120. 84-20-015 (Order 84-02), § 236-11-030, filed 9/25/84.]

WAC 236-11-050 Applications for exemptions within the department of general administration. Each "action" of the department shall have a form completed and retained in the applicant's division files. This form shall show the action and exemption decision, exempt or otherwise, and be signed by the department of general administration representative making that decision. This form shall also show any threshold decision, including determinations of nonsignificance and significance, signed by the department representative. Additionally, copies of the threshold determination shall be included in the file.

[Statutory Authority: RCW 43.21C.120. 98-20-019, § 236-11-050, filed 9/25/98, effective 10/26/98;84-20-015 (Order 84-02), § 236-11-050, filed 9/25/84.]

WAC 236-11-060 Timing of the EIS process. (1) Public works request. Any agency submitting a public works request to the department of general administration shall be regarded as the lead agency. It will be the sole responsibility of an agency submitting a public works request to determine whether the action is exempt and, if not, to prepare an environmental checklist, make threshold determinations of non-significance or significance, prepare draft and final EIS's and conduct public hearings. If an EIS is required for any public works request the working draft EIS must be prepared concurrently or prior to the completion of the design development phase. Evidence of compliance with SEPA rules, chapter 197-11 WAC, must be provided to the department of general administration prior to implementing proposals.

(2) Space request. The department of general administration will normally assume responsibility as lead agency for space requests submitted to the department. However, if an EIS is required for a space request the agency submitting the

space request may be assigned responsibility for preparing the draft and final EIS's and to conduct public hearings.

[Statutory Authority: RCW 43.21C.120. 84-20-015 (Order 84-02), § 236-11-060, filed 9/25/84.]

WAC 236-11-080 Public notice requirements. (1) The department shall give public notice when issuing a DNS under WAC 197-11-340, DS and scoping notice under WAC 197-11-360, or a draft EIS under WAC 197-11-455.

(2) The department may require an applicant to perform the public notice requirement at its expense.

(3) The department shall use one or more of the following methods of public notice, taking into consideration the geographic area affected by the proposal, the size and complexity of the proposal, public interest expressed in the proposal, and whether the proposal is a project or regulation:

(a) Mailing to public or private persons or groups who have expressed interest in the proposal, in a certain type of proposal, or proposals in the geographic area in which the proposal is located;

(b) Publication in a newspaper of general circulation in the area in which the proposal will be implemented; and/or

(c) Posting the property, for site-specific proposals.

[Statutory Authority: RCW 43.21C.120. 98-20-019, § 236-11-080, filed 9/25/98, effective 10/26/98;84-20-015 (Order 84-02), § 236-11-080, filed 9/25/84.]

WAC 236-11-100 Policies and procedures for conditioning or denying permits or other approvals. (1)(a) It is department of general administration policy to avoid or mitigate adverse environmental impacts which may result from the department's decisions.

(b) The department shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources so that the state and its citizens may:

(i) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(ii) Assure for all people of Washington, safe, healthful, productive, and aesthetically and culturally pleasing surroundings;

(iii) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(iv) Preserve important historic, cultural, and natural aspects of our national heritage;

(v) Maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(vi) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(vii) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(c) The department shall develop plans and programs to economically house state government activities so as to provide maximum services to the people of Washington consistent with (b) of this subsection.

(2) Supplementary implementing instructions and procedures to the policies contained in this section are contained in

department of general administration policies and procedures.

(3) The department responsible official may:

(a) Condition the approval for a proposal if mitigation measures are reasonable and capable of being accomplished and the proposal is inconsistent with the policies in subsection (1) of this section.

(b) Deny the permit or approval for a proposal if reasonable mitigation measures are insufficient to mitigate significant adverse environmental impacts and the proposal is inconsistent with the policies in subsection (1) of this section.

(4) The procedures in WAC 197-11-660 must be followed when conditioning or denying permits or other approvals.

[Statutory Authority: RCW 43.21C.120. 98-20-019, § 236-11-100, filed 9/25/98, effective 10/26/98; 84-20-015 (Order 84-02), § 236-11-100, filed 9/25/84.]

WAC 236-11-110 Designation of responsible official.

(1) Within the department of general administration the ultimate responsible official is the director.

(2) The director may designate the responsible official for overall direction and control of environmental reviews within the department of general administration and the designated division shall maintain all records pertaining to SEPA related decision making processes. The division of capitol facilities shall maintain copies of all determinations of nonsignificance filed, determinations of significance filed, and copies of all environmental impact studies prepared by the agency, excluding drafts, for a period of six years. The division of engineering and architectural services shall also maintain current SEPA statutes and administrative codes; current directives and regulations; department SEPA policies, procedures, and correspondence; and blank forms for determinations, environmental checklists, and others as required.

(3) When the department of general administration is the lead agency, the operational responsibility for determining if the department's involvement is an "action" and if the department's "action" is "exempt" shall be controlled by the designated division.

(4) The designated division shall review and agree or disagree with all project or program exemptions, environmental checklists and determinations of nonsignificance or significance initiated within the department. In the event that there is disagreement with the initiator of the project, the decision of the responsible official, designated division, shall be final.

(5) The department's responsibilities as consulted agency will be coordinated by the designated division. When the department of general administration is responding as the consulted agency to a draft EIS, DNS, or DS; and when specific contents of an EIS impacts a particular division of the department of general administration, then that EIS will be sent to the affected division director for review and response. The affected division's response comments and/or recommendation will then be incorporated into the overall department response and sent to the department of general administration responsible official for final approval.

(6) Any decision of the responsible official, designated division, shall be final until such time as it is superseded by the director, department of general administration.

(7) The final threshold determination of final EIS of the responsible official may be appealed to the director of the department of general administration within thirty days of notice of such determination or final EIS.

[Statutory Authority: RCW 43.21C.120. 98-20-019, § 236-11-110, filed 9/25/98, effective 10/26/98; 84-20-015 (Order 84-02), § 236-11-110, filed 9/25/84.]

WAC 236-11-130 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances, shall not be affected.

[Statutory Authority: RCW 43.21C.120. 84-20-015 (Order 84-02), § 236-11-130, filed 9/25/84.]

Chapter 236-12 WAC

STATE CAPITOL GROUNDS TRAFFIC AND PARKING REGULATIONS

WAC

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236-12-011	"State capitol grounds" defined. [Statutory Authority: RCW 46.08.150. 83-16-026 (Order 83-2), § 236-12-011, filed 7/27/83; 78-05-006 (Order 78-3), § 236-12-011, filed 4/7/78; Order 76-2, § 236-12-011, filed 3/15/76; Order 12, § 236-12-011, filed 12/19/73.] Repealed by 92-04-036, filed 1/30/92, effective 3/1/92. Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW.	236-12-133	Notice and redemption of impounded vehicles, hearing. [Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-133, filed 4/7/78.] Repealed by 92-04-036, filed 1/30/92, effective 3/1/92. Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW.
236-12-012	"Vehicle" defined. [Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-012, filed 4/7/78; Order 12, § 236-12-012, filed 12/19/73.] Repealed by 92-04-036, filed 1/30/92, effective 3/1/92. Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW.	236-12-210	Numbering of parking areas—Permit designation. [§ 16, filed 8/19/64.] Repealed by Order 12, filed 12/19/73.
236-12-013	"Campus security patrol" defined. [Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-013, filed 4/7/78.] Repealed by 92-04-036, filed 1/30/92, effective 3/1/92. Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW.	236-12-225	Liability of state. [Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-225, filed 4/7/78; Order 12, § 236-12-225, filed 12/19/73.] Repealed by 92-04-036, filed 1/30/92, effective 3/1/92. Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW.
236-12-014	"Way open to public." [Statutory Authority: RCW 46.08.150. 83-16-026 (Order 83-2), § 236-12-014, filed 7/27/83.] Repealed by 92-04-036, filed 1/30/92, effective 3/1/92. Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW.	236-12-230	Allocation of reserved parking space. [§ 18, filed 8/19/64.] Repealed by Order 12, filed 12/19/73.
236-12-040	Parking spaces. [Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-040, filed 4/7/78; Order 12, § 236-12-040, filed 12/19/73; § 3, filed 8/19/64.] Repealed by 92-04-036, filed 1/30/92, effective 3/1/92. Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW.	236-12-240	Visitors and guests. [§ 19, filed 8/19/64.] Repealed by Order 12, filed 12/19/73.
236-12-050	Rented and reserved parking spaces. [Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-050, filed 4/7/78; Order 12, § 236-12-050, filed 12/19/73; § 4, filed 8/19/64.] Repealed by 92-04-036, filed 1/30/92, effective 3/1/92. Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW.	236-12-260	Permit revocations. [§ 21, filed 8/19/64.] Repealed by Order 12, filed 12/19/73.
236-12-060	Tourists and visitors. [Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-060, filed 4/7/78; Order 12, § 236-12-060, filed 12/19/73; § 5, filed 8/19/64.] Repealed by 92-04-036, filed 1/30/92, effective 3/1/92. Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW.	236-12-270	Vehicle and drivers licenses required. [§ 22, filed 8/19/64.] Repealed by Order 12, filed 12/19/73.
236-12-061	Service and delivery vehicles. [Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-061, filed 4/7/78.] Repealed by 92-04-036, filed 1/30/92, effective 3/1/92. Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW.	236-12-280	Permit periods. [§ 23, filed 8/19/64.] Repealed by Order 12, filed 12/19/73.
236-12-065	Camping. [Order 76-2, § 236-12-065, filed 3/15/76.] Repealed by 99-19-022, filed 9/7/99, effective 10/8/99.	236-12-310	Display of permits. [§ 26, filed 8/19/64.] Repealed by Order 12, filed 12/19/73.
		236-12-330	Violations unlawful. [Order 12, § 236-12-330, filed 12/19/73; § 28, filed 8/19/64.] Repealed by 78-05-006 (Order 78-3), filed 4/7/78. Statutory Authority: RCW 46.08.150.
		236-12-340	Violation, fines. [Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-340, filed 4/7/78.] Repealed by 92-04-036, filed 1/30/92, effective 3/1/92. Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW.
		236-12-362	Parking fee and barrel removal payments for unauthorized vehicles—Method of payment. [Statutory Authority: RCW 46.08.150 as amended by ESB 5873 in 1995. 95-16-107, § 236-12-362, filed 8/1/95, effective 9/1/95. Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW. 92-04-036, § 236-12-362, filed 1/30/92, effective 3/1/92.] Repealed by 96-13-001, filed 6/5/96, effective 7/6/96. Statutory Authority: RCW 46.08.150.
		236-12-400	Regulatory signs, markings, barricades, etc. [§ 29, filed 8/19/64.] Repealed by Order 12, filed 12/19/73.
		236-12-410	Impounding of vehicles. [Order 12, § 236-12-410, filed 12/19/73; § 30, filed 8/19/64.] Repealed by 78-05-006 (Order 78-3), filed 4/7/78. Statutory Authority: RCW 46.08.150.
		236-12-420	Effective date. [Order 12, § 236-12-420, filed 12/19/73; § 31, filed 8/19/64.] Repealed by 78-05-006 (Order 78-3), filed 4/7/78. Statutory Authority: RCW 46.08.150.

WAC 236-12-001 Promulgation. Pursuant to the authority granted by chapters 43.19, 46.08, 46.55, and 79.24 RCW, the director of the department of general administration hereby establishes the following regulations to govern pedestrian and vehicular traffic and parking upon state lands which are a part of the state capitol grounds. These regulations apply to vehicles owned by the state and any other governmental unit or agency as well as to privately-owned vehicles.

[Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW. 92-04-036, § 236-12-001, filed 1/30/92, effective 3/1/92. Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-001, filed 4/7/78; Order 12, § 236-12-001, filed 12/19/73; 8/19/64.]

DEFINITIONS

WAC 236-12-015 Definitions. As used in this chapter, the following terms shall mean:

(1) "Director" defined. The director of the department of general administration.

(2) "Impound"/"impoundment" defined. To take and hold an unauthorized vehicle in legal custody at the direction of the director or designee, subject to the procedures outlined in this chapter and in chapter 46.55 RCW. Such definition includes towing of an unauthorized vehicle.

(3) "Presiding officer" defined. Pursuant to RCW 34.05.-485, a "presiding officer" is an individual(s) who is appointed by the director to preside over administrative hearings and render a decision regarding the suspension or revocation of parking privileges and removal, suspension, or revocation from parking waiting list under this chapter.

(4) "Reviewing officer" defined. Pursuant to RCW 34.05.491, a "reviewing officer" is an individual(s) who is appointed by the director to review the decisions by the presiding officer and is authorized to grant appropriate administrative relief upon review.

(5) "State capitol grounds" defined. Those grounds owned by the state and otherwise designated as state capitol grounds, including the west capitol campus, the east capitol campus, Sylvester Park, the Old Capitol Building and Capitol Lake, ways open to the public and specified adjoining lands and roadways.

(6) "Unauthorized vehicle defined." An "unauthorized vehicle" is a vehicle which is parked for any length of time on state capitol grounds and:

(a) Does not display the permit required for that area; and/or

(b) Is not otherwise authorized to park in that area; and/or

(c) Is parked in a metered parking area for a consecutive period longer than the time permitted for parking in that area; and/or

(d) Is parked in a metered parking area with insufficient payment to use the space it occupies; and/or

(e) Is parked in a parking space designated for disabled individuals and such vehicle does not display a valid special license plate or placard; and/or

(f) Is parked in a parking space reserved for use by another vehicle; and/or

(g) Is parked in an area not designated for parking.

(7) "Vehicle" defined. All mechanical transportation devices defined as vehicles in the motor vehicle laws and of the state of Washington including motorcycles and motor-driven cycles.

(8) "Way open to the public defined." Any road, alley, lane, parking area, parking structure, path, or any place private or otherwise adapted to and fitted for travel that is in common use by the public with the consent expressed or implied of the owner or owners, and further shall mean public play grounds, school grounds, recreation grounds, parks, park ways, park drives, park paths.

(9) "Employee defined." Any person assigned to a state facility, including state employees and the staff of vendors, concessionaires, contractors and consultants, who are performing duties that are similar to the duties of state employees or that are in direct support of the state agency functions performed at the facility.

(10) "Disabled defined." Any person who has made application to the department of licensing in accordance with WAC 308-96A-310, and displays a valid permit in accordance with WAC 308-96A-310 and 308-96A-315.

(11) "Visitor defined." Any person parking at a state facility who is not employed at that facility.

[Statutory Authority: RCW 46.08.150. 96-13-001, § 236-12-015, filed 6/5/96, effective 7/6/96. Statutory Authority: RCW 46.08.150 as amended by ESB 5873 in 1995. 95-16-107, § 236-12-015, filed 8/1/95, effective 9/1/95. Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW. 92-04-036, § 236-12-015, filed 1/30/92, effective 3/1/92.]

TRAFFIC REGULATIONS

WAC 236-12-020 Objectives of traffic regulations. The objectives of these traffic regulations are:

(1) To protect and control pedestrian and vehicular traffic;

(2) To assure access at all times for emergency equipment;

(3) To facilitate the work of state government by assuring access for its vehicles and those of its employees and visitors and by assigning the limited parking space for the most efficient use.

(4) To promote energy conservation.

[Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-020, filed 4/7/78; Order 12, § 236-12-020, filed 12/19/73; § 1, filed 8/19/64.]

WAC 236-12-030 Traffic control. The motor vehicle laws and other traffic laws of the state of Washington are applicable to pedestrian and vehicular traffic on the state capitol grounds, and are hereby adopted and made a part hereof by reference. In case of conflict between the provisions of the motor vehicle laws or other traffic laws of the state of Washington and these regulations, the laws of Washington shall govern.

[Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-030, filed 4/7/78; Order 12, § 236-12-030, filed 12/19/73; § 2, filed 8/19/64.]

WAC 236-12-070 Speed. Vehicles on the state capitol grounds may not be operated at a speed in excess of 20 miles per hour or in excess of such lower speed as is reasonable and prudent in the circumstances or as may be posted. Vehicles in

parking garages located on the state capitol grounds may not be operated at a speed in excess of 12 miles per hour.

[Order 12, § 236-12-070, filed 12/19/73; § 6, filed 8/19/64.]

WAC 236-12-080 Regulatory signs and directions.

Pedestrians and drivers of vehicles shall obey regulatory signs posted by the director. Pedestrians and drivers of vehicles shall also comply with directions given in the control and regulation of traffic by uniformed state patrol officers and department of general administration parking controllers. No person shall move or alter any sign, barricade or other structure used for traffic and/or parking regulation, including painted stripes or marking utilized in traffic and parking control, without the authorization of the director.

[Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-080, filed 4/7/78; Order 12, § 236-12-080, filed 12/19/73; § 7, filed 8/19/64.]

WAC 236-12-085 Marking. The marking of streets, parking lots and garages shall be as follows:

- (1) Yellow areas—no standing
- (2) White areas—crosswalks (no stopping in crosswalks) and parking stalls (no stopping in parking stalls without a permit or payment of fee)
- (3) Red areas—no stopping.

[Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-085, filed 4/7/78; Order 12, § 236-12-085, filed 12/19/73.]

WAC 236-12-140 Special traffic and parking regulations and restrictions authorized. Upon special occasions causing additional heavy traffic and during emergencies, the director may impose emergency traffic and parking regulations and restrictions.

[Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-140, filed 4/7/78; Order 12, § 236-12-140, filed 12/19/73; § 13, filed 8/19/64.]

WAC 236-12-150 Advertising and solicitation activities. No advertising, solicitation, or promotional activities shall be conducted or engaged in on any portion of the state capitol grounds in such a manner as to damage or destroy public property, block or close off road ways and parking areas, block or interfere with ingress and egress to the state capitol grounds or to any building situated thereon, or in any manner interfere with the conduct of state government business. Advertising and solicitation for commercial purposes shall not be conducted or engaged in on any portion of the state capitol grounds except with prior approval of the director.

[Order 76-2, § 236-12-150, filed 3/15/76; Order 12, § 236-12-150, filed 12/19/73; § 14, filed 8/19/64.]

SKATEBOARDING REGULATIONS

WAC 236-12-160 Intent of the director. It is the intent of the director in adopting these skateboard regulations to acknowledge the dangerous impact that skateboarding on the capitol campus has to the health and safety of state employees, visitors, skateboarders, and the general public and the destructive impact it has on physical structures, roadways, and pathways on the capitol campus.

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The following are some of the reasons why skateboarding on the capitol campus must be controlled:

(1) During recent years, the use of skateboards has increased dramatically. As a result, the department has been contacted by numerous employees and citizens complaining about the dangerous and destructive practices of skateboarders on the capitol campus grounds.

(2) Many skateboarders ride their boards in high volume areas and thus threaten the safety of pedestrians, motorists, and the skateboarders themselves.

(3) The director finds that skateboarding in such high volume or crowded areas, even if done in a nonnegligent manner, is incompatible with pedestrian use of these areas, due mainly to the speed and maneuverability of skateboards.

(4) Skateboard riders have ridden their boards down entrance and exit ramps of state underground parking facilities, sometimes against traffic, placing the skateboarders in serious danger and placing the motorists in a position of liability and possible harm. Skateboarders also have ridden their boards near doorways, nearly hitting pedestrians. In addition, skateboarders have ridden into state buildings jeopardizing occupants, and have ridden on walls, curbs, partitions, ramps, or other vertical and irregular physical surfaces, causing damage to state facilities and surfaces.

(5) The director finds that skateboarding in roadways and parking facilities and parking ramps creates a danger to the skateboard rider and to the motorist and is incompatible with motor vehicle use in such areas.

(6) The director finds that these skateboard regulations are necessary in order to avoid property loss, personal injury, and liability exposure associated with the use of skateboards on state property and within state facilities.

[Statutory Authority: RCW 46.08.150. 92-09-076, § 236-12-160, filed 4/15/92, effective 5/16/92.]

WAC 236-12-170 "Skateboard" defined. "Skateboard" as used herein shall mean an oblong board with roller skate wheels or other similar wheels mounted under it at each end.

[Statutory Authority: RCW 46.08.150. 92-09-076, § 236-12-170, filed 4/15/92, effective 5/16/92.]

WAC 236-12-171 "Skateboarding" defined. "Skateboarding" as used herein shall mean any person who stands with one or both feet touching a skateboard and/or who does handstands with one or both hands touching a skateboard and/or who crouches, sits, or lies upon a skateboard while it is in motion. "Skateboarding" also shall mean skateboard riding.

[Statutory Authority: RCW 46.08.150. 92-09-076, § 236-12-171, filed 4/15/92, effective 5/16/92.]

WAC 236-12-175 Skateboarding prohibited. Skateboarding is prohibited on the state capitol grounds, as defined in WAC 236-12-015(7), including but not limited to the streets, sidewalks, walkways, walls, raised structural elevations, east capitol campus plaza, parking structures, lots and ramps, other paved surfaces of the state capitol grounds and any other structure or part thereof.

[Statutory Authority: RCW 46.08.150. 92-09-076, § 236-12-175, filed 4/15/92, effective 5/16/92.]

WAC 236-12-180 Violation—Penalty. Violation of any of the provisions contained in WAC 236-12-160, 236-12-170, 236-12-171, or 236-12-175 shall constitute a traffic infraction which is subject to the jurisdiction of the Thurston County district court. Violators shall be ticketed by the Washington state patrol. The fine for violating any of these skateboarding regulations shall be twenty-five dollars.

[Statutory Authority: RCW 46.08.150. 92-09-076, § 236-12-180, filed 4/15/92, effective 5/16/92.]

SKATING ON STATE CAPITOL GROUNDS

WAC 236-12-18003 Skating prohibited. Skating is only permitted on the state capitol grounds on streets and sidewalks as long as the skating activity does not interfere in any manner with efforts to conduct state business or pedestrian and vehicle traffic. Skating, as defined in WAC 236-12-18005, is specifically prohibited on stairs, curbs, walls, raised structural elevations, monuments, parking garages, ramps, railings and any structure or part thereof.

Skating activities taking place during the hours of darkness require the skater to wear reflective-type clothing.

[Statutory Authority: RCW 46.08.150. 97-01-063, § 236-12-18003, filed 12/13/96, effective 12/14/96.]

WAC 236-12-18005 Definitions. (1) "Skating" refers to rollerblades, in-line skates and rollerskates.

(2) "Rollerblades/in-line skates" are defined as skates having rollers or wheels that are in line, generally consisting of four wheels.

(3) "Rollerskates" are generally defined as skates having four wheels, dual wheels in front and dual wheels in the rear.

(4) "Hours of darkness" is defined as the hours between sunset and sunrise.

[Statutory Authority: RCW 46.08.150. 97-01-063, § 236-12-18005, filed 12/13/96, effective 12/14/96.]

WAC 236-12-18007 Violation—Penalty. Violation of WAC 236-12-18003 shall constitute a traffic infraction which is subject to the jurisdiction of Thurston County district court. Violations shall be ticketed by the Washington state patrol. The fine for violating WAC 236-12-18003 shall be twenty-five dollars.

[Statutory Authority: RCW 46.08.150. 97-01-063, § 236-12-18007, filed 12/13/96, effective 12/14/96.]

PARKING REGULATIONS—GENERAL

WAC 236-12-185 Knowledge of parking regulations. It is the responsibility of all persons and entities parking on state capitol grounds to read and fully understand these regulations. Lack of knowledge of these regulations will not be accepted as grounds for noncompliance.

[Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW. 92-04-036, § 236-12-185, filed 1/30/92, effective 3/1/92.]

WAC 236-12-186 Parking time limits in metered areas. On normal working days between 7:00 a.m. and 5:00 p.m., no person or entity shall park any vehicle on the state capitol grounds or in any area designated as metered parking for a consecutive period of time longer than that period of

time for which parking is permitted in such areas, irrespective of the amount of time for which parking has been paid. Vehicles moved from one parking space to another or from one lot to another shall be assumed to have been parked continuously from the time they are initially parked in any metered area. A showing that the time period between when a vehicle is twice found parked in any metered area(s) on the same day is more than the time allowed for parking in metered areas shall constitute a prima facie presumption that the vehicle has been parked in violation of this section.

[Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW. 92-04-036, § 236-12-186, filed 1/30/92, effective 3/1/92.]

WAC 236-12-187 Parking spaces. The director shall formulate plans for the marking and numbering of parking areas and spaces and shall designate parking spaces for visitors, service vehicles, employees, and others as well as areas in which parking is prohibited. The director may designate and set aside specific parking and travel areas for motorcycles, motor-driven cycles, and/or bicycles, and they may be operated or parked only in those specified areas.

[Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW. 92-04-036, § 236-12-187, filed 1/30/92, effective 3/1/92.]

WAC 236-12-188 Tourists and visitors. Tourists and visitors may park vehicles without fee in areas designated for their use, subject to the traffic and control regulations, or in metered parking areas on the state capitol grounds provided, however, that the prescribed parking fee shall be paid prior to parking. Employees of the state of Washington who are employed on the state capitol grounds may not park in spaces set aside and marked for visitors, tourists, and other special purposes between the hours of 7:00 a.m. and 5:00 p.m. on normal working days, unless authorized to do so by the director.

[Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW. 92-04-036, § 236-12-188, filed 1/30/92, effective 3/1/92.]

WAC 236-12-189 Service and delivery vehicles. Service or delivery vehicles may park in specifically designated areas on the state capitol grounds, provided, a parking permit is obtained before parking in such areas.

[Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW. 92-04-036, § 236-12-189, filed 1/30/92, effective 3/1/92.]

WAC 236-12-190 Parking within designated spaces. No vehicle shall be parked so as to occupy any portion of more than one parking space as designated in the parking area, or so as to occupy any portion of a fire lane or other area in which parking is prohibited. No parking space shall be occupied by more than one vehicle at any given time, except as authorized by the director.

[Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW. 92-04-036, § 236-12-190, filed 1/30/92, effective 3/1/92.]

WAC 236-12-191 Liability of state. The state assumes no liability for vehicles parked on the state capitol grounds or in state parking facilities. Only a license, not a bailment, is created by the rental of parking spaces or issuance of a permit to park on state property.

[Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW. 92-04-036, § 236-12-191, filed 1/30/92, effective 3/1/92.]

PARKING REGULATIONS—PERMITS

WAC 236-12-200 Authorization for issuance of permits. All parking on state capitol grounds excluding parking in metered areas shall be authorized through the issuance of valid parking permits. These permits shall be issued by the director to state officials, state employees, state agencies for official cars and to such other individuals as determined by the director to require parking to aid in carrying out state business. These permits shall not be transferred from one vehicle to another except as authorized by the director. All parking on state capitol grounds shall be for official purposes only. Parking spaces may not be used for other purposes such as the conduct of private business or the storage of personal property.

[Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW. 92-04-036, § 236-12-200, filed 1/30/92, effective 3/1/92. Statutory Authority: RCW 46.08.150. 85-19-001 (Order 85-02), § 236-12-200, filed 9/5/85; Order 12, § 236-12-200, filed 12/19/73; § 15, filed 8/19/64.]

WAC 236-12-220 Allocation of parking permits. Parking permits shall be allocated by the director in such manner as will best effectuate the objectives of these regulations. Unless in the director's opinion the objectives of these regulations would otherwise be better served, the director shall observe the following priorities in the issuance of permits:

- (1) Disabled state employees and officials;
- (2) Car pools consisting of three or more persons per vehicle;
- (3) Other state employees, state officials, state agencies, and nonstate parkers.

[Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW. 92-04-036, § 236-12-220, filed 1/30/92, effective 3/1/92. Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-220, filed 4/7/78; Order 12, § 236-12-220, filed 12/19/73; § 17, filed 8/19/64.]

WAC 236-12-250 Special event permits. Any state official, agency or department sponsoring or making arrangements for conferences, meetings, schools, seminars or other special events which will require special traffic control and parking arrangements will confer with the director as to such arrangements.

[Order 12, § 236-12-250, filed 12/19/73; § 20, filed 8/19/64.]

WAC 236-12-290 Parking fees. (1) The fees for rental parking shall be as follows:

PARKING USES	PARKING FEES
(a) Agency assigned uses (visitor, off-campus staff, state cars, etc.)	\$ 30.00
(b) Employee uses	
(i) General, "zoned"	\$ 20.00
(ii) Leased/reserved areas and/or stalls	\$ 25.00
(iii) Disabled employees	\$ 15.00
(c) Motorcycle, motor-driven cycle/moped uses	\$ 10.00

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PARKING USES

PARKING FEES

- (d) Nonstate personnel uses (concession vendors, lobbyists, day care providers, press corps, etc.) \$ 30.00
- (e) Disabled visitor use no charge
- (f) Metered parking for visitor use \$.50 per hour

(g) No charge for carpools/vanpools to which permits have been issued in accordance with WAC 236-12-295.

(h) In addition to the permits issued under (a), (b), (c), (d), (e), (f), and (g) of this subsection, the department may issue other permits including but not limited to agency pre-paid monthly, service/delivery and temporary/daily permits; the department will establish a fee schedule for such permits other than permits issued under (a), (b), (c), (d), (e), (f), and (g) of this subsection, and will keep such fee schedule on file at 218 General Administration Building, P.O. Box 41000, Olympia, Washington 98504-1000 and will make it available to any person upon request.

(i) The director has authority to create reserved parking spaces/areas and to determine the rates for such parking; the director will establish a fee schedule for reserved parking spaces/areas and will keep such fee schedule on file at 218 General Administration Building, P.O. Box 41000, Olympia, Washington 98504-1000 and will make it available to any person upon request.

(2) In determining whether to adjust rental parking fees, the director will consider one or more of the following factors:

- (a) Parking facility costs;
- (b) Available commuting alternatives;
- (c) Change in the demand for parking facilities;
- (d) Transportation demand management requirements;
- (e) Market rates of comparable privately owned or leased property; and
- (f) Other circumstances as determined by the director, whereby a change in parking fees is necessary.

[Statutory Authority: RCW 43.19.011 (2)(d), 46.08.150, and 46.08.172. 04-18-064, § 236-12-290, filed 8/30/04, effective 7/1/05. Statutory Authority: RCW 46.08.150 and 46.08.172. 92-04-037, § 236-12-290, filed 1/30/92, effective 3/1/92. Statutory Authority: RCW 46.08.150. 85-19-001 (Order 85-02), § 236-12-290, filed 9/5/85; 78-05-006 (Order 78-3), § 236-12-290, filed 4/7/78; Order 12, § 236-12-290, filed 12/19/73; Order 11, § 236-12-290, filed 5/22/72; Order 9, § 236-12-290, filed 8/14/70; § 24, filed 8/19/64.]

WAC 236-12-295 Free parking permits for carpools/vanpools. Parking permits shall be issued to carpools and vanpools without charge subject to the terms and conditions set forth herein. To be eligible for such permits, the carpool/vanpool must consist of at least three persons per vehicle. The application must be submitted by a state employee, and shall include the names of all other persons who are members of the carpool or vanpool. Members of carpools/vanpools to which permits are issued under this section shall not be eligible for issuance of any other parking permits.

Permits issued under this section shall expire at the end of three months from the date of issuance. Application for renewal must be presented in person to the parking office at least two weeks prior to the expiration date.

It shall be the responsibility of all members of a carpool/vanpool to which a parking permit is issued hereunder to

notify the parking office of any changes in the ridesharing arrangements which affect the eligibility of the carpool/van-pool for the permit.

[Statutory Authority: RCW 46.08.150, 85-19-001 (Order 85-02), § 236-12-295, filed 9/5/85.]

WAC 236-12-300 Monthly parking fee payments.

Agencies and nonstate personnel will be billed by the parking office. Employee rental parking fees and any and all employee parking permit fees shall be by payroll deduction. The director will designate a form which will be completed and submitted to the Office of Parking Services, P.O. Box 41025, Olympia, Washington 98504-1025. The person to whom the permit is issued, upon termination of use of such permit, shall notify the parking office prior to such termination of use.

[Statutory Authority: RCW 46.08.150 and 46.08.172, 92-04-037, § 236-12-300, filed 1/30/92, effective 3/1/92. Statutory Authority: RCW 46.08.150, 78-05-006 (Order 78-3), § 236-12-300, filed 4/7/78; Order 12, § 236-12-300, filed 12/19/73; § 25, filed 8/19/64.]

WAC 236-12-320 Responsibility of person to whom permit is issued.

Any person or any governmental or private entity to whom a permit is issued pursuant to these regulations shall be responsible for all violations of these regulations involving that person's or entity's vehicle or permit: Provided, however, That such responsibility shall not relieve other persons or entities who violate these regulations.

[Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW, 92-04-036, § 236-12-320, filed 1/30/92, effective 3/1/92. Statutory Authority: RCW 46.08.150, 78-05-006 (Order 78-3), § 236-12-320, filed 4/7/78; Order 12, § 236-12-320, filed 12/19/73; § 27, filed 8/19/64.]

PARKING REGULATIONS—ENFORCEMENT

WAC 236-12-350 General. Parking regulations on state capitol grounds are subject to enforcement between 6:00 a.m. and 6:00 p.m., Monday through Friday, excluding holidays.

[Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW, 92-04-036, § 236-12-350, filed 1/30/92, effective 3/1/92.]

WAC 236-12-351 Impoundment without prior notice. A vehicle may be impounded without prior notice having been made to notify the owner of the possibility of this action in the following circumstances:

(1) When in the judgment of the Washington state patrol the vehicle is obstructing or may impede the flow of traffic; or

(2) When in the judgment of the Washington state patrol the vehicle poses an immediate threat to public safety.

[Statutory Authority: RCW 46.08.150, 96-13-001, § 236-12-351, filed 6/5/96, effective 7/6/96. Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW, 92-04-036, § 236-12-351, filed 1/30/92, effective 3/1/92.]

WAC 236-12-360 Parking infractions and fines—Towing. Any unauthorized vehicle, as defined in this chapter, shall be cited for a traffic infraction in accordance with RCW 46.08.170. Repeat offenders are those receiving more than three notices of traffic infractions within a twelve-month

period. Repeat offenders are subject to towing in accordance with chapter 46.55 RCW.

[Statutory Authority: RCW 46.08.150, 96-13-001, § 236-12-360, filed 6/5/96, effective 7/6/96. Statutory Authority: RCW 46.08.150 as amended by ESB 5873 in 1995, 95-16-107, § 236-12-360, filed 8/1/95, effective 9/1/95. Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW, 92-04-036, § 236-12-360, filed 1/30/92, effective 3/1/92.]

WAC 236-12-361 Suspension and/or revocation of parking privileges. Repeated use of assigned parking spaces by unauthorized vehicles or for nonofficial purposes or for the storage of personal property and/or the repeated transfer of parking permits from one vehicle to another and/or being a repeat offender as defined in WAC 236-12-360 may result in the suspension or revocation of parking privileges. Violations may result in suspension and/or revocation of any permits issued to the violator and/or removal, suspension, and/or revocation from the parking waiting list for parking on state capitol grounds.

[Statutory Authority: RCW 46.08.150, 96-13-001, § 236-12-361, filed 6/5/96, effective 7/6/96. Statutory Authority: RCW 46.08.150 as amended by ESB 5873 in 1995, 95-16-107, § 236-12-361, filed 8/1/95, effective 9/1/95. Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW, 92-04-036, § 236-12-361, filed 1/30/92, effective 3/1/92.]

WAC 236-12-365 Notice of redemption of towed vehicles. (1) Not more than twenty-four hours after impoundment of any vehicle, the impounding towing operator shall mail a notice by first-class mail to the last known registered and legal owners of the vehicle. The notice shall contain the identity of the person or agency authorizing the tow, the name of the impounding tow company, its address and telephone number and the location and time of the tow. The notice also shall include the written notice of the right of redemption and of the opportunity for a hearing to contest the validity of the tow pursuant to RCW 46.55.120. If a vehicle is redeemed prior to the mailing of notice, the notice need not be mailed.

(2) Redemption of towed vehicles shall be in accordance with chapter 46.55 RCW.

[Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW, 92-04-036, § 236-12-365, filed 1/30/92, effective 3/1/92.]

WAC 236-12-370 Hearing rights—Suspension and/or revocation of parking privileges or removal, suspension, or revocation from parking waiting list. Any person or entity seeking to contest suspension and/or revocation of parking privileges or removal, suspension, or revocation from parking waiting list has a right to a hearing to contest the validity of those actions. Such request must be made in writing and received in the office of parking services within twenty days of the date of notice or effective date of action or such right to a hearing is forfeited. Hearing requests must be submitted to:

Office of Parking Services
Department of General Administration
P.O. Box 41025
Olympia, WA 98504-1025

[Statutory Authority: RCW 46.08.150, 96-13-001, § 236-12-370, filed 6/5/96, effective 7/6/96. Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW, 92-04-036, § 236-12-370, filed 1/30/92, effective 3/1/92.]

WAC 236-12-371 Hearing procedure—Suspension and/or revocation of parking privileges and removal, suspension, or revocation from parking waiting list. (1) Contested hearings held pursuant to WAC 236-12-370 shall be conducted as brief adjudicative proceedings according to RCW 34.05.482, 34.05.485, 34.05.488, 34.05.491 and 34.05.494.

(2) Upon receipt of a written request for a hearing, the presiding officer shall provide the contesting party an opportunity to be informed of the agency's view of the matter and an opportunity to explain the contesting party's view of the matter.

(3) Within ten days of this opportunity, the presiding officer shall serve upon the contesting party and the agency, a brief written statement of the reasons for the decision. Such statement shall include notice that the contesting party may request an agency administrative review of that decision. The contesting party must request such review either orally or in writing within twenty-one days of service of the written statement. Service is deemed to be completed upon deposit in the United States mail as evidenced by the postmark.

(4) If no agency review is so requested by the contesting party, the agency may, on its own motion, review the brief written statement of the presiding officer. Action less favorable to the contesting party may not be taken by the reviewing officer without notice to that party and an opportunity to explain that party's view of the matter.

(5) If no review is taken by the agency or by the contesting party, then the brief written statement of the presiding officer becomes the final order and no further administrative or judicial review is available.

(6) If review is requested, the reviewing officer shall give the contesting party and the agency an opportunity to present their respective views of the matter. Within twenty-one days of receipt of the request for review, the reviewing officer shall issue a final order which includes a brief statement of the reasons for the decision. The final order shall include notice of any judicial review available under the Administrative Procedure Act, chapter 34.05 RCW.

(7) Any of the time limits set forth in this hearing process may be waived by the contesting party.

[Statutory Authority: RCW 46.08.150. 96-13-001, § 236-12-371, filed 6/5/96, effective 7/6/96. Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW. 92-04-036, § 236-12-371, filed 1/30/92, effective 3/1/92.]

WAC 236-12-372 Hearing rights—Towing. (1) Any person or entity whose vehicle has been towed pursuant to this chapter, may request a hearing in the district court for the jurisdiction in which the vehicle was towed to contest the validity of the tow or the amount of the tow and storage charges. The tow truck operator shall provide forms for requesting such hearings. All requests for hearings shall be made in writing and on the form provided and must be received by the district court within ten days of the date of redemption of the vehicle. The request for hearing also must be served upon and received by the office of parking within the above ten-day period.

(2) If the request for a hearing is not received by the district court within the ten-day period, then the right to a hearing is waived and the registered owner is liable for any tow-

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ing, storage, or other tow charges permitted pursuant to chapter 46.55 RCW.

(3) The district court hearing procedure shall be as set out in RCW 46.55.120(3).

[Statutory Authority: Chapters 46.08, 43.19, 46.55 and 79.24 RCW. 92-04-036, § 236-12-372, filed 1/30/92, effective 3/1/92.]

GENERAL

WAC 236-12-430 Demonstrations, parades—Obstructing traffic, state business—Prohibiting. No person[,] singly, or in combination with others, shall engage in demonstrations or parades in such a manner as to disrupt the orderly flow of pedestrian or vehicular traffic on the state capitol grounds or the conduct of state business by state employees on the state capitol grounds or in any buildings on the state capitol grounds.

[Statutory Authority: RCW 43.17.060, 43.19.125 and 46.08.150. 81-11-001 (Order 81-1), § 236-12-430, filed 5/7/81; Order 12, § 236-12-430, filed 12/19/73; Order 4, § 236-12-430, filed 2/10/69; Emergency Order 2, § 236-12-430, filed 12/18/68.]

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 236-12-435 Camping on state capitol grounds. Camping on the state capitol grounds is prohibited unless permitted by the director of the department of general administration. Camping means arranging any type of structure, shelter or bedding, or parking a vehicle, for purposes of habitation.

[Statutory Authority: RCW 43.19011 [43.19.011], 43.19.125, and 46.08.150. 03-24-089, § 236-12-435, filed 12/3/03, effective 1/3/04.]

WAC 236-12-440 Permits for demonstrations, parades, processions. Any person or group of persons desiring to conduct a demonstration, parade[,] or procession on the state capitol grounds shall apply to the director for written approval. Application must be made, in writing, at least four days, excluding Saturdays, Sundays and holidays, prior to the time the demonstration, parade, or procession is to take place.

[Statutory Authority: RCW 46.08.150. 79-05-005 (Order 79-01), § 236-12-440, filed 4/11/79; 78-05-006 (Order 78-3), § 236-12-440, filed 4/7/78; Order 12, § 236-12-440, filed 12/19/73; Order 4, § 236-12-440, filed 2/10/69; Emergency Order 2, § 236-12-440, filed 12/18/68.]

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 236-12-450 Prohibiting access to areas of capitol grounds. No member of the general public shall be permitted in any area of the state capitol grounds which is identified by a sign indicating that such area is private and not open to the public.

[Order 12, § 236-12-450, filed 12/19/73; Order 3, § 236-12-450, filed 2/10/69; Emergency Order 1, § 236-12-450, filed 12/18/68.]

WAC 236-12-460 Regulating access to capitol buildings and parking garages. No person shall enter or remain in any state capitol building other than during normal office

hours, unless properly authorized to do so. No person shall enter or remain in any state capitol parking garage at any time, unless properly authorized to do so.

[Order 76-2, § 236-12-460, filed 3/15/76; Order 12, § 236-12-460, filed 12/19/73.]

WAC 236-12-470 Prohibiting access to state capitol buildings and grounds while armed with dangerous weapons or with devices used to disrupt state business. (1) No person shall carry any firearm or other dangerous weapon as described in chapter 9.41 RCW on the state capitol grounds or in any building on the state capitol grounds: Provided, That this regulation shall not apply to duly authorized federal, state, and local law enforcement officers or to any federal, state, and local government employee authorized to carry firearms in the course of their public employment; and: Provided, That a person may carry a firearm in accordance with chapter 9.41 RCW.

(2) No person may carry into any building on the state capitol grounds any voice-amplification equipment, blow horns, sirens, or other similar noise-producing devices which may be used to disrupt the conduct of state business by state employees.

[Statutory Authority: RCW 43.19.011, 43.19.125, and 46.08.150. 04-24-080, § 236-12-470, filed 12/1/04, effective 1/1/05. Statutory Authority: RCW 43.17.060, 43.19.125 and 46.08.150. 99-19-022, § 236-12-470, filed 9/7/99, effective 10/8/99; 81-11-001 (Order 81-1), § 236-12-470, filed 5/7/81; Order 76-7, § 236-12-470, filed 10/18/76.]

WAC 236-12-500 Violations unlawful. A violation of any of these regulations is unlawful. All violators are subject to removal from the state capitol grounds by Washington state patrol capitol detachment.

[Statutory Authority: RCW 43.17.060, 43.19.125 and 46.08.150. 99-19-022, § 236-12-500, filed 9/7/99, effective 10/8/99. Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-500, filed 4/7/78.]

WAC 236-12-600 Effective date. These regulations shall become effective when adopted pursuant to chapter 34.04 RCW and shall remain in full force and effect until amended or changed under the provisions of said chapter.

[Statutory Authority: RCW 46.08.150. 78-05-006 (Order 78-3), § 236-12-600, filed 4/7/78.]

Chapter 236-16 WAC

CAPITOL LAKE AND ADJOINING LANDS AND ROADWAYS

WAC

236-16-001	Promulgation.
236-16-010	Definitions.
236-16-020	Motorboats—Prohibitions.
236-16-025	Water skiing, etc.—Prohibited.
236-16-030	Launching sites—Motorboat routes.
236-16-040	Compliance with laws required.
236-16-050	Operation by manual means or by sail—Construction.
236-16-060	Use of roadways.
236-16-070	Penalties.
236-16-080	Effective date.
236-16-100	Muffling device required.
236-16-110	Docks, floats, piers, etc.—Speed.
236-16-120	Application of algacides, etc.

WAC 236-16-001 Promulgation. Pursuant to the authority granted by chapters 46.08 and 43.19 RCW, the

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director of the department of general administration hereby promulgates the following rules and regulations with respect to Capitol Lake and its adjoining lands and roadways.

[Promulgation, filed 4/15/65.]

WAC 236-16-010 Definitions. For the purpose of these rules:

(1) "Boat" shall include any vehicle or device capable of being operated in the water;

(2) "Motorboat" shall include any vehicle, device, or boat which is in itself a self-propelled unit and whether or not machinery is the principal source of propulsion;

(3) "Operate" shall mean to navigate or otherwise use a boat or motorboat.

(4) "Public transportation vehicles" shall include any motor vehicle operated by the state, county, city, or other public agency.

[Statutory Authority: RCW 46.08.150. 78-09-016 (Order 78-4), § 236-16-010, filed 8/8/78; § 1, filed 4/15/65.]

WAC 236-16-020 Motorboats—Prohibitions. The operation of all motorboats is prohibited in the area of Capitol Lake north of the railroad trestle crossing said lake unless prior written authorization is first obtained from the director of general administration.

[Order 75-5, § 236-16-020, filed 6/23/75; § 2, filed 4/15/65.]

WAC 236-16-025 Water skiing, etc.—Prohibited. Water skiing and the use of surfboards or other similar devices pulled behind a motorboat is prohibited on all areas of Capitol Lake unless prior written authorization is first obtained from the director of general administration.

[Order 75-5, § 236-16-025, filed 6/23/75. Formerly WAC 236-16-020 (part).]

WAC 236-16-030 Launching sites—Motorboat routes. All boats which shall be operated on Capitol Lake shall be launched **only** at designated launching sites approved by the director of general administration. If a motorboat is launched at any designated site north of the railroad trestle from which a motorboat is authorized to be launched, it shall proceed to the area wherein the operation of motorboats is permitted through designated approach channels only.

[§ 3, filed 4/15/65.]

WAC 236-16-040 Compliance with laws required. All boats operating on Capitol Lake shall be equipped and operated in conformity with all state, county, and municipal laws, ordinances and regulations which are pertinent thereto.

[§ 4, filed 4/15/65.]

WAC 236-16-050 Operation by manual means or by sail—Construction. Nothing in these rules shall be so construed as to prevent the operation of any motorboat in any prohibited area if the sole means of propulsion used is by paddle, oar, or other manual means or solely by means of canvas or sail.

[§ 5, filed 4/15/65.]

WAC 236-16-060 Use of roadways. All buses, trucks, cargo trailers and similar equipment which exceed a five-ton load limit and similar heavy duty vehicles are prohibited from traveling on the West Parkway Road and other roadways posted for restrictive use. This provision shall not apply to public transportation vehicles.

[Statutory Authority: RCW 46.08.150, 78-09-016 (Order 78-4), § 236-16-060, filed 8/8/78; § 6, filed 4/15/65.]

WAC 236-16-070 Penalties. These rules and regulations will be enforced under the provisions of RCW 46.08.160 and 46.08.170 and violations will be punished pursuant thereto.

[§ 7, filed 4/15/65.]

WAC 236-16-080 Effective date. The effective date of these rules and regulations shall be when adopted pursuant to chapter 34.04 RCW and RCW 46.08.150.

[§ 8, filed 4/15/65.]

WAC 236-16-100 Muffling device required. The exhaust of every internal combustion engine used on any motorboat shall be muffled by an efficient muffling device or system which reasonably muffles the noise of the exhaust. The use of a cutout, bypass, or similar muffler elimination device, is prohibited, except when used by motorboats competing in a regatta, race, or other special event, or on trial runs and tuneups therefor, for which prior written authorization has first been obtained from the director of general administration.

[Order 7, § 236-16-100, filed 7/23/69; Emergency Order 6 (part), filed 6/5/69.]

WAC 236-16-110 Docks, floats, piers, etc.—Speed. No person shall operate any motorboat at any time on Capitol Lake at a rate of speed in excess of five miles per hour within a distance of fifty feet from the shore or from any float, dock, pier, or other similar installation bordering on or placed in Capitol Lake unless prior written authorization is first obtained from the director of general administration.

[Order 75-5, § 236-16-110, filed 6/23/75; Order 7, § 236-16-110, filed 7/23/69; Emergency Order 6 (part), filed 6/5/69.]

WAC 236-16-120 Application of algicides, etc. No person shall deposit or apply in any manner any algicide, weedicide or pesticide in the waters of Capitol Lake or to the immediate shoreline thereof, without first obtaining the prior written approval of the director of general administration.

[Order 7, § 236-16-120, filed 7/23/69; Emergency Order 6 (part), filed 6/5/69.]

Chapter 236-18 WAC

REQUIREMENTS FOR COMMEMORATIVE AND ART WORKS ON STATE CAPITOL GROUNDS

WAC

236-18-010	Purpose and authority.
236-18-020	Roles, responsibilities, and definitions.
236-18-030	Criteria for major and minor works on state capitol grounds.
236-18-040	Administrative requirements for major and minor works on state capitol grounds.

(2005 Ed.)

236-18-050	Site selection criteria—General.
236-18-060	Guidelines for selecting sites for major works.
236-18-070	Guidelines for selecting designs for major works.
236-18-080	Procedure for development and review of major works proposals.
236-18-090	Standards for minor works on state capitol grounds.
236-18-100	Approval process for minor works on state capitol grounds.

WAC 236-18-010 Purpose and authority. Pursuant to the authority granted by section 140(3), chapter 149, Laws of 1997, the director of the department of general administration hereby establishes the following rules governing the design and placement of major and minor works, to include commemorative works and other works of art, on state capitol grounds. The purposes of this chapter are as follows:

(1) To ensure that major and minor works reflect subjects of lasting statewide significance for the people of Washington.

(2) To protect and maintain open space and preserve the natural views and vistas to and from the capitol, as envisioned by the Olmsted Brothers in their 1928 plan for the Washington state capitol grounds, and to conserve options for placement of works by future generations.

(3) To ensure that proposals for commemorative works and works of art on state capitol grounds are evaluated using a deliberate process, acknowledging the unique state capitol environment in which they are to be placed.

[Statutory Authority: Chapter 43.34, 43.19 RCW and 1997 c 149 § 140(3), 98-01-112, § 236-18-010, filed 12/18/97, effective 1/18/98.]

WAC 236-18-020 Roles, responsibilities, and definitions. As used in this chapter, the following definitions and roles apply:

(1) "Proposing entity" - Any individual or group advancing a proposal for placement of major or minor works on state capitol grounds.

(2) "State capitol committee" (SCC) - As established in RCW 43.17.070. The state capitol committee grants final approval for all development plans for state capitol grounds including the master plan, and for the design and site of major works to be located on state capitol grounds.

(3) "Capitol campus design advisory committee" (CCDAC) - As established in RCW 43.34.080(1):

The capitol campus design advisory committee is established as an advisory group to the capitol committee and the director of general administration to review programs, planning, design, and landscaping of state capitol facilities and grounds and to make recommendations that will contribute to the attainment of architectural, aesthetic, functional, and environmental excellence in design and maintenance of capitol facilities on campus and located in neighboring communities.

The CCDAC is further directed in 43.34.080(4)(e) to: . . . review plans and designs affecting state capitol facilities as they are developed. The advisory committee's review shall include . . . (e) Landscaping plans and designs, including planting proposals, street furniture, sculpture, monuments, and access to the capitol campus and buildings.

(4) "Director" - The director of the department of general administration. Under RCW 43.19.125 the director

". . . shall have custody and control of the capitol buildings and grounds." The director provides preliminary reviews, evaluates proposals for major and minor works, and provides technical assistance to those proposing placement of major or minor works on state capitol grounds. The director approves minor works proposals.

(5) "Department" - The department of general administration.

(6) "Washington state arts commission" (WSAC) - As established in RCW 43.46.005 through 43.46.095, and as specifically authorized in RCW 43.46.050:

The commission shall meet, study, plan, and advise the governor, the various departments of the state and the state legislature and shall make such recommendations as it deems proper for the cultural development of the state of Washington. WSAC may undertake major works on the state capitol grounds as part of its responsibilities under chapters 43.46, 43.17 and 43.19 RCW. The site selection and criteria for these works shall be developed in compliance with the provisions of this chapter.

(7) "State capitol grounds" - Those grounds as defined in WAC 236-12-015(5), as follows:

Those grounds owned by the state and otherwise designated as state capitol grounds, including the west capitol campus, the east capitol campus, Sylvester Park, the Old Capitol Building and Capitol Lake, ways open to the public and specified adjoining lands and roadways.

and including the north capitol campus, Centennial Park, the Tumwater campus and the Lacey campus.

(8) "West capitol campus" - Those state-owned grounds that constitute the state capitol grounds west of Capitol Way, including all of the grounds addressed in the 1928 Olmsted Brothers landscape plan for the state capitol grounds and the state capitol historic district, as designated in the National Register of Historic Places.

(9) "East capitol campus" - Those grounds described in RCW 79.24.500 which includes the campus area north of Maple Park (16th Avenue) and south of 11th Avenue, east of Capital Way and west of Interstate 5 and the Interstate 5 entrance to the state capitol.

(10) "North capitol campus" - Those state-owned grounds north of the west capitol campus and west of Columbia Street, south of 5th Avenue and east of the Deschutes Parkway around Capitol Lake to the Interstate 5 bridge.

(11) "Tumwater campus" - Those state-owned grounds in the city of Tumwater bounded on the west by Interstate 5, on the north by Israel Road, on the east by Linderson Way S.W., and on the south by Airdustrial Way S.W.

(12) "Lacey campus" - Those state-owned grounds in the city of Lacey, bounded on the north by Martin Way, on the west and south by Saint Martin's Park and Saint Martin's Abbey, and on the east by the Woodland Creek protection zone.

(13) "Master plan" - The master plan for the capitol of the state of Washington. As used in this chapter, master plan includes any subcampus plans for state capitol grounds that describe in greater detail the planned development and use of the areas covered by the master plan.

(14) "Major work" - Any statue, monument, sculpture, work of art, memorial, or other structural or landscape feature, including a garden or memorial grove, of notable impact to viewers and to its surroundings. The impact of a work is defined by the combined effect of its subject matter, size, placement, and the degree to which it commands the environmental context into which it is set. Examples include the Winged Victory monument commemorating World War I, and the Tivoli Fountain. The term does not include any such item located within the interior of a structure.

(15) "Minor work" - As determined by the director, a work of moderate or minimal impact to viewers and to its surroundings, defined by the combined effect of its subject matter, size, placement, and ability to blend into or contribute to the planned character of its immediate environment. Examples include individual or small groupings of plants such as trees or shrubs, benches and other campus furnishings, historic event or site plaques, small sculptural elements and artistic works.

[Statutory Authority: Chapter 43.34, 43.19 RCW and 1997 c 149 § 140(3), 98-01-112, § 236-18-020, filed 12/18/97, effective 1/18/98.]

WAC 236-18-030 Criteria for major and minor works on state capitol grounds. Major and minor works placed on the state capitol grounds shall:

(1) Maintain the dignity of the state capitol grounds, its existing memorials, grounds, and buildings, and surrounding environment;

(2) Preserve views and vistas of the capitol buildings, Mount Rainier and the Olympic Mountains;

(3) Be consistent with the organizing principles and policies of the master plan, relevant subcampus plans, and any other subcampus plans reviewed by the department and the capitol campus design advisory committee and approved by the state capitol committee;

(4) Reflect the rich diversity of Washington's people, and be nonpartisan in nature;

(5) Provide an enriching experience which illuminates and celebrates common values, and broadens understanding of Washington's heritage and culture; and

(6) Honor individuals or events of lasting significance for the people of the state of Washington, as reflected by broad public consensus;

(a) Major commemorative works shall not serve solely to memorialize an individual. Major works of art may be gifted to the state or dedicated in memory of an individual so long as the nature and primary purpose of the work remains artistic or aesthetic, to serve as an object of public enjoyment rather than as a monument to an individual.

(b) Minor works shall honor individuals or groups of individuals only after the 10th anniversary of the individual's death or the death of the last surviving member of a group, when the enduring, historical, statewide nature of their achievements has been demonstrated and broadly acknowledged;

(c) Major or minor works commemorating an event, including a military event or conflict, may be proposed during the lifetime of those who engaged in it, but not sooner than the 10th anniversary of the end of the event.

[Statutory Authority: Chapter 43.34, 43.19 RCW and 1997 c 149 § 140(3), 98-01-112, § 236-18-030, filed 12/18/97, effective 1/18/98.]

WAC 236-18-040 Administrative requirements for major and minor works on state capitol grounds. Prior to construction, proposing entities must execute an agreement with the department of general administration that addresses the following administrative requirements in proposals for major or minor works.

(1) All development and installation costs, including required modifications and improvements to campus roads, sidewalks and utilities, shall be provided by the proposing entity.

(2) The cost of new works shall be paid for by the proposing entity. Prior to construction or installation of an approved work, the director shall determine that the proposing entity has available sufficient funds to complete the project. The proposing entity shall also make provisions for coverage of all maintenance and repair costs throughout the existence of the work. This is commonly accomplished through an endowment fund estimated at ten percent of the original project cost, or may be set at an amount determined by the director. If a major or minor work is incorporated into a state-funded repair or improvement, an agreement will be negotiated between the proposing entity and the state specifying how the project costs including construction, maintenance and repairs will be shared.

(3) Complete conservation records that include specific information on materials and sources used in the execution, methods of fabrication, installation specifications, recommended method and frequency of maintenance, shall be provided to the state upon the completion of all new works.

Upon final placement and completion of a work that has been designed for or donated to the state for display on state capitol grounds, the state shall become sole owner of the work. The original artist or designer holds no rights to any work commissioned, donated, or purchased for display on state capitol grounds, including reproduction, access, modification, relocation, resale, etc., unless such rights are specifically allowed in formal written agreement between the director and the artist.

The state reserves the right to relocate or remove any works. Relocation planning will include consultation with the original artist and interested parties whenever practical.

Starting in 2030, following the centennial of the legislative building completion, and every fifty years thereafter, the state shall conduct a review of all monuments and memorials on state capitol grounds and recommend removal and appropriate disposition of those no longer meeting the criteria in WAC 236-18-030. The SCC shall approve all such actions.

[Statutory Authority: Chapter 43.34 RCW, 00-06-052, § 236-18-040, filed 2/28/00, effective 3/30/00. Statutory Authority: Chapter 43.34, 43.19 RCW and 1997 c 149 § 140(3), 98-01-112, § 236-18-040, filed 12/18/97, effective 1/18/98.]

WAC 236-18-050 Site selection criteria—General. Except for replacement trees, no major or minor works will be placed on state capitol grounds unless detailed subcampus plans for a given area have been approved. Subcampus plans have been fully implemented for the Olmsted portion of the west campus, also known as the state capitol historic district, Sylvester Park, and the Old Capitol Building block. These areas of the state capitol grounds are considered complete. Subcampus plans are maintained by the department.

(2005 Ed.)

Because it was proposed prior to the effective date of section 140(3), chapter 149, Laws of 1997 (directing the adoption of this rule), and because the state legislature, through House Joint Memorial 1997-4000, clearly expressed support for a memorial to law enforcement officers on the state capitol campus, a major or minor work honoring law enforcement officers who have died in service to their communities and fellow Washington state citizens may be considered for placement on the west campus if it is designed in such a way as to minimally impact the current and planned uses of the site and to blend with and complement existing campus and landscape features, and the work meets all other applicable criteria of this chapter.

Works directly associated with the activities of a specific state agency shall be considered for installation in the facility that houses that agency's main or subordinate office.

No donated work shall be accepted by the state for placement on state capitol grounds until a suitable site for the work has been selected and approved.

[Statutory Authority: Chapter 43.34, 43.19 RCW and 1997 c 149 § 140(3), 98-01-112, § 236-18-050, filed 12/18/97, effective 1/18/98.]

WAC 236-18-060 Guidelines for selecting sites for major works. Proposing entities must address the following considerations in selecting a site for a proposed major work. Formal proposals prepared by proposing entities must include a description of how the proposal considers and responds to each of these guidelines. These guidelines will be used by the department, CCDAC and SCC to evaluate and recommend or approve a final site.

(1) Setting. The space surrounding a work shall provide a setting that is compatible and supportive. In turn, the work in its setting shall be supportive of the surrounding landscape design and public functions, including those intended in the master plan.

(2) Size and scale. There must be a match between the size and scale of the work and its setting.

(3) Spatial envelopes. Freestanding works, through their presence, affect the territory in which they stand. The size of the surrounding spatial envelope defined by surrounding buildings and growth shall be considered since it is directly related to the size and scale of the work.

(4) Relationship to other existing works or features. The work shall not be of such size, scale or material as to interfere with any existing campus feature.

(5) Visual context. Visual works are perceived in relationship to their context, which may include open sky, landscape, or building facade. Their design and placement shall consider such contextual issues as silhouette, directionality, orientation, and background.

(6) Site significance. The size, location, prominence and visibility of the site shall be appropriate to the subject matter of work in the context of other existing works and the surrounding state capitol grounds environment.

(7) Relationship to master plan composition. The work and the site shall be considered together in terms of the way they affect or establish relationships with existing axes, vistas, entry points, landmarks, buildings, and open space; and the way they may affect sensitive natural and historic features of the campus or impact current or planned uses of the proposed site.

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(8) Additional issues may become apparent in the process of site selection for a specific theme, subject matter, or work, and shall be considered.

[Statutory Authority: Chapter 43.34, 43.19 RCW and 1997 c 149 § 140(3). 98-01-112, § 236-18-060, filed 12/18/97, effective 1/18/98.]

WAC 236-18-070 Guidelines for selecting designs for major works. Proposing entities must address the following guidelines in proposing a design for a major work. Formal proposals prepared by proposing entities must include a description of how the design considers and responds to each of these guidelines. GA, CCDAC and SCC will use the following guidelines to evaluate and recommend or approve a final design selection.

(1) Legibility and meaning. The intended message of the work shall be clear and understandable, regardless of its type or style. The work shall convey meaning of enduring value that will continue its significance for future generations.

(2) Approachability and accessibility. Works shall be designed to permit people to engage with them: To have visual clues as to their location and to get close enough to be able to read them and examine details. Because major works often are gathering points, they shall be designed to meet Americans with Disability Act standards and, when necessary, provide such amenities as seating, paving, handrails, and ramps.

(3) Materials. Materials shall be chosen for their durability, sculptural qualities, visibility, and maintainability. Consideration shall also be given to rhythm and harmony with the existing setting.

(4) Vulnerability. The design of major and minor works shall be conscious of the potential for vandalism and minimize the opportunity for intentional defacement or destruction.

(5) Climatic context. The design shall consider issues of sunlight and shade, wind, rain and the variety of Washington seasons.

(6) Evening illumination. Major and minor works may be enhanced with night illumination integral to the work's design. Such illumination shall not conflict with other works, open space, buildings and their inhabitants, and the overall landscape.

(7) Completion. Works that by their nature are not complete at the time of installation, such as those to which names or dates are to be added over time, are strongly discouraged.

(8) Text and inscriptions. Lists of any kind are discouraged. Text and inscriptions shall be meaningful to the broadest possible audience. Inscriptions and text on monuments, works of art and related plaques shall be limited to interpretive information about the work itself or the subject it commemorates. Dedication plaques shall be limited to name of the artist or designer, name of the proponent group, and the date completed or dedicated. The proposed use of donor tiles not defined as plaques shall be approved as part of the overall design of a work.

[Statutory Authority: Chapter 43.34 RCW. 00-06-052, § 236-18-070, filed 2/28/00, effective 3/30/00. Statutory Authority: Chapter 43.34, 43.19 RCW and 1997 c 149 § 140(3). 98-01-112, § 236-18-070, filed 12/18/97, effective 1/18/98.]

WAC 236-18-080 Procedure for development and review of major works proposals. The department and the state capitol committee will follow a procedure for reviewing and evaluating major works proposed for placement on state capitol grounds, with the advice and assistance of the capitol campus design advisory committee and the Washington state arts commission. As appropriate, the department may also consult with the office of archeology and historic preservation of the state department of community, trade and economic development, and with the department's state facilities accessibility advisory committee.

(1) The purpose of the procedure is to:

(a) Ensure that major works on state capitol grounds are carefully selected, designed, constructed and located to meet the criteria established in WAC 236-18-030 and address the guidelines provided in WAC 236-18-060 and 236-18-070;

(b) Preserve open space as a complete, precious and protected landscape feature of the state capitol grounds that invites public recreation and participation;

(c) Preserve options for placement of works on state capitol grounds for future generations. To further this purpose the department and the SCC shall:

(i) Encourage those proposing commemorative works to consider alternatives to monuments, such as groves, gardens, sculpture, fountains, and the naming of existing campus features;

(ii) Strongly encourage groups with related or similar interests to combine their proposals;

(iii) Encourage proposing entities to consider temporary works, or to consider temporary placement on state capitol grounds of works to be permanently located at other sites;

(iv) Cooperate with local authorities to develop opportunities for proposed works of significance to Washington state citizens which may be located outside the west campus of the state capitol grounds but within the capital community of Olympia, Tumwater and Lacey;

(d) Provide instructions to guide proposing entities in developing successful major works proposals.

(2) The procedure for development and review of major works proposals will follow the steps below.

1. Proposing entity.

a) Submits a preliminary proposal to the director for the development and placement of a major work on state capitol grounds. The preliminary proposal must describe:

- The concept and subject matter;
- How the proposal meets the criteria in WAC 236-18-030;

• Preconceived design and site considerations, if any, to include size of the work;

• A description of the kinds of activities the site and the work may need to accommodate (public gatherings or ceremonies, for example);

- Anticipated cost and planned source of funding.

b) Designates a single spokesperson for the proposing entity.

2. Department of general administration (GA).

a) Provides advice and assistance as needed in understanding and addressing the criteria in WAC 236-18-030 and makes available to proposing entities a copy of the master plan.

b) Reviews the preliminary proposal to determine if it meets the criteria in WAC 236-18-030 and should proceed to step three.

c) Informs the state capitol committee (SCC) of all proposals received and reviewed.

3. GA director and spokesperson for the proposing entity.

Provide an initial briefing to the members of the SCC on the preliminary proposal. The purpose of this briefing is to identify threshold issues or concerns with the proposing entity's concept, subject, or siting considerations. Capitol campus design advisory committee (CCDAC) members shall also receive initial briefings at this time.

4. SCC.

a) Grants approval to proceed with site selection (step 5); or

b) Denies approval; or

c) Refers the proposal to the CCDAC for review and advice; and/or

d) Requests that the proposing entity reconsider aspects of their proposal.

5. Proposing entity.

Once preliminary proposal has been approved by the SCC, describes the conditions and characteristics of the proposed work that may affect its location, developing a set of criteria that describe a preferred setting and design. In the case of existing works, the criteria will relate only to the setting for the work.

6. GA.

a) Reviews appropriate subcampus plans to identify planned sites meeting the criteria developed by the proposing entity. GA will consult with the proposing entity, and may provide a campus tour, discuss possible locations, and point out any constraints or barriers to various locations.

b) Selects a short list of sites that best meet the criteria.

c) Establishes specific design and site development guidelines for each site. These specific guidelines describe in greater detail the opportunities or restrictions on design development that are unique to each site.

7. CCDAC and WSAC.

Review selected sites and the development guidelines established by GA. CCDAC and WSAC may meet together or separately. Either body may:

a) Recommend revisions to GA's site development guidelines; or

b) Recommend that the proposing entity reconsider aspects of their preliminary proposal; or

c) Offer recommendations for consideration by the SCC.

8. GA director and spokesperson for the proposing entity.

a) Brief the SCC on the sites and site development guidelines.

b) If the proposal is for a work yet to be selected or designed, the proposing entity also describes:

- The selection/design process to be used;
- Anticipated budget and source of funding; and
- Preconceived design considerations within the context

of the proposed sites.

9. SCC.

a) Grants site approval and, if the proposal is for placement of an existing work, authorizes the department to acquire the work; or

b) Requests further consideration by GA and CCDAC.

10. Proposing entity.

a) Once the site has been approved by the SCC, begins a process to design or select the work if the proposed work is yet to be selected or designed. This step may take several forms: A design competition; selection from a list of appropriate available works; selection of an artist or team which might include an artist, architect, or landscape architect who will design and produce a custom work. GA may provide assistance in this process. One representative of the department and one representative of the CCDAC shall be included in the proposing entity's selection process and final selection committee. The proposing entity is also encouraged to include a visual artist or other design professional as appropriate.

b) Selects final design proposal or proposes a completed work.

c) Submits a formal proposal to GA and the SCC that describes:

- How the proposal meets the criteria in WAC 236-18-030;

- How the proposal considers and responds to the guidelines provided in WAC 236-18-060 and 236-18-070;

- How the proposal addresses the administrative requirements of WAC 236-18-040; and

- Scale drawings or illustrations. A scale model may also be provided.

11. CCDAC, WSAC.

Review the formal proposal, meeting together or separately, and make recommendations to the director and to the SCC.

12. GA director and spokesperson for the proposing entity.

Present the formal proposal to the SCC for approval.

13. SCC.

a) Grants final approval; or

b) Requests that the CCDAC, WSAC, and GA director continue to work with the proposing entity to redevelop the proposal.

c) May require future check points.

[Statutory Authority: Chapter 43.34 RCW. 00-06-052, § 236-18-080, filed 2/28/00, effective 3/30/00. Statutory Authority: Chapter 43.34, 43.19 RCW and 1997 c 149 § 140(3). 98-01-112, § 236-18-080, filed 12/18/97, effective 1/18/98.]

WAC 236-18-090 Standards for minor works on state capitol grounds. The requirements of WAC 236-18-040 and the guidelines established in WAC 236-18-060 and 236-18-070 shall apply for design and placement of minor works to the extent applicable, as determined by the director on a case-by-case basis. Minor works may include small artistic works and sculptural elements.

Plaques. Historic markers describing a memorialized person, historic place or event, or plaques describing a work or identifying significant natural features shall be fabricated to meet the following standards:

(1) Material - cast bronze.

(2) Letter style - bookman.

(3) Border style - single line edge.

(4) Background texture - pebble.

(5) Finish - bronze satin face and edges, natural colored background, semi-gloss polyurethane finish.

(6) Size - no larger than two hundred sixteen square inches (approximately 12" x 18"), no smaller than eighty square inches (approximately 8" x 10").

(7) Mounting - plaques shall be mounted on a concrete or cut stone base with a tilted face 12" or less above grade, to be determined by location of the plaque.

Living memorials. Living memorials consist of trees, shrubs, gardens, or other plantings to commemorate an individual or event. When proposing the placement of a living memorial on state capitol grounds the life expectancy of the memorial and the cost of maintenance shall be considered by the proposing entity. Selection of plant types shall be coordinated with the department for compatibility with landscape plans and existing plantings. The department shall encourage the replacement of existing, aging, or ill trees and shrubs in lieu of new plantings. When a living memorial dies, it will not be automatically replanted. Living memorials dedicated to individuals will not be permanently marked. The department will maintain records of all living memorial plantings.

Fixtures and furnishings. Benches and other campus furnishings shall comply with Washington state capitol campus exterior furnishings and fixtures design guidelines. These guidelines are available from the department.

[Statutory Authority: Chapter 43.34, 43.19 RCW and 1997 c 149 § 140(3), 98-01-112, § 236-18-090, filed 12/18/97, effective 1/18/98.]

WAC 236-18-100 Approval process for minor works on state capitol grounds. Proposing entities must submit a proposal to the director for placement of a minor work on state capitol grounds. The proposal shall include:

(1) A description of the work;

(2) An explanation of why the proposing entity believes it fits the definition of a minor work;

(3) A description of how the proposal meets the criteria in WAC 236-18-030 and the requirements of WAC 236-18-040, and considers and responds to the applicable guidelines under WAC 236-18-060 and 236-18-070.

The director will confirm that a proposed work is a "minor work" based on the definition provided in this rule, and may grant approval or request additional information. Review or approval by the capitol campus design advisory committee, the Washington state arts commission and the state capitol committee is not required; however, the director may seek their advice at his or her discretion.

The department will work with the proposing entity on design and siting considerations.

[Statutory Authority: Chapter 43.34, 43.19 RCW and 1997 c 149 § 140(3), 98-01-112, § 236-18-100, filed 12/18/97, effective 1/18/98.]

Chapter 236-20 WAC

STATE VEHICLE MARKING REQUIREMENTS AND EXCEPTIONS

WAC

236-20-010	Promulgation.
236-20-020	Definitions.
236-20-030	Approval of distinctive insignia.
236-20-040	Exceptions to marking requirements.

[Title 236 WAC—p. 20]

WAC 236-20-010 Promulgation. The purpose of this chapter is to establish procedures for obtaining approval for the use of a distinctive departmental, office, agency, institutional or commission insignia in marking of state owned or controlled vehicles and for permitting exceptions to the vehicle marking requirements.

[Order 75-8, § 236-20-010, filed 11/17/75.]

WAC 236-20-020 Definitions. Agencies—As used in this chapter, the word "agencies" includes state departments, offices, agencies, boards, commissions[,] or institutions financed in whole or in part by funds appropriated by the legislature.

[Statutory Authority: RCW 46.08.065, 99-18-029, § 236-20-020, filed 8/25/99, effective 9/25/99; Order 75-8, § 236-20-020, filed 11/17/75.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 236-20-030 Approval of distinctive insignia. Agencies may request approval of a distinctive insignia [for use] in lieu of the state seal in marking vehicles. A standard decal must include the words "State of Washington," agency's name and "for official use only." The request for approval shall be sent to the the director of general administration. A scale drawing in color, or other example, shall accompany the request. The director or designee will approve or deny the request [and] notify the agency.

[Statutory Authority: RCW 46.08.065, 99-18-029, § 236-20-030, filed 8/25/99, effective 9/25/99; Order 75-8, § 236-20-030, filed 11/17/75.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 236-20-040 Exceptions to marking requirements. (1) Requests for exceptions shall be forwarded to the director of general administration by the head of the agency owning or controlling the vehicle. Requests for exceptions normally will not be granted unless the vehicle is used more than 50% of the time for law enforcement, confidential public health work, public assistance fraud or support investigative purposes.

(2) Vehicles leased or rented on a casual basis for a period less than ninety days and not issued a state exempt license plate need not be marked.

(3) Vehicles issued confidential license plates under the provisions of section 2, chapter 169, Laws of 1975 1st sess. and chapter 46.08 RCW, are exempt from marking requirements.

[Statutory Authority: RCW 46.08.065, 99-18-029, § 236-20-040, filed 8/25/99, effective 9/25/99; Order 75-8, § 236-20-040, filed 11/17/75.]

Chapter 236-20A WAC

DISPLAY OF FLAGS—STATE CAPITOL GROUNDS

WAC

236-20A-001	Promulgation.
236-20A-004	"State capitol grounds" defined.
236-20A-010	Flag plazas.
236-20A-020	Display of flags on state buildings.

(2005 Ed.)

WAC 236-20A-001 Promulgation. Pursuant to the authority granted by chapters 34.04 and 43.19 RCW, the director of the department of general administration hereby establishes the following rules and regulations to govern the display of flags on the state capitol grounds.

[Order 76-3, § 236-20-001 (codified as WAC 236-20A-001), filed 3/15/76.]

WAC 236-20A-004 "State capitol grounds" defined. "State capitol grounds" shall be construed to be those grounds designated by statute as state capitol grounds, including the east capitol campus, Sylvester Park and the old capitol building.

[Order 76-3, § 236-20-004 (codified as WAC 236-20A-004), filed 3/15/76.]

WAC 236-20A-010 Flag plazas. The flag plazas on the east and west capitol campus are designated as the official locations for display of the United States and Washington state flags on the state capitol grounds. The United States flag and the Washington state flag will be flown permanently at these locations.

The flags of visiting United States governors and dignitaries and other flags may be flown at the discretion of the governor of the state of Washington.

No other flags will be flown on any poles at the east or west capitol flag plazas.

[Statutory Authority: RCW 43.19.125, 85-10-037 (Order 85-01), § 236-20A-010, filed 4/29/85; Order 76-3, § 236-20-010 (codified as WAC 236-20A-010), filed 3/15/76.]

WAC 236-20A-020 Display of flags on state buildings. The United States flag and the Washington state flag may be displayed from buildings on the state capitol grounds in such place and in such manner as the director of general administration may direct. No flags other than the United States flag and the Washington state flag may be displayed upon any pole or other place designated for the official display of flags, except as provided by law or directed by the governor of the state of Washington.

[Order 76-3, § 236-20-020 (codified as WAC 236-20A-020), filed 3/15/76.]

Chapter 236-22 WAC

SELF-INSURANCE REQUIREMENTS AS TO LOCAL GOVERNMENTS

WAC

236-22-010	Preamble and authority.
236-22-020	Definitions.
236-22-030	Adoption of program.
236-22-031	Program financing.
236-22-032	Nondiscrimination in contributions.
236-22-033	Nondiscrimination in joint program assessments.
236-22-034	Disclosures.
236-22-035	Wellness programs.
236-22-036	Termination provisions.
236-22-037	Financial plans.
236-22-038	Third party administrator contracts.
236-22-040	Risk management.
236-22-050	Claims administration.
236-22-060	Financial reports.
236-22-070	State risk manager may waive requirements.
236-22-080	Conflict of interest.
236-22-100	Expense and operating cost fees.
236-22-200	Appeals of fees.
236-22-210	Appeals of cease and desist orders.

(2005 Ed.)

WAC 236-22-010 Preamble and authority. These rules [and regulations governing] [for] local government self-insurance transactions are adopted by the state risk manager to [implement chapter 48.62 RCW relating to] [regulate the management and operations of both] individual and joint local government [self insurance] [self-insured health and welfare benefit and property and liability risk] programs. The rules set forth in this chapter do not supersede the rules which govern the operation of self-insured employee benefit plans by school districts and educational service districts under chapter 392-130 WAC.

[Statutory Authority: Chapter 48.62 RCW, 93-16-079, § 236-22-010, filed 8/3/93, effective 9/3/93; 92-12-092, § 236-22-010, filed 6/3/92, effective 7/1/92.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 236-22-020 Definitions. (1) "Actuary" means any person who is qualified under WAC 284-05-060 to provide actuarial services.

(2) "Assessment" means the monies paid by the members to a joint self-insurance program.

(3) "Beneficiary" means any individual entitled, under a local government self-insurance program for health and welfare benefits, to payment of all or part of a covered claim.

(4) "Claim adjustment expense" means expenses, other than claim payments, incurred in the course of investigating and settling claims.

(5) "Claim" means a demand for payment for damages or policy benefit because of the occurrence of an event such as (a) for health and welfare benefits, a covered service or services being delivered; or (b) for property and liability, the destruction or damage of property or related deaths or injuries. Unless specifically referenced, the term "claim" is used for both health and welfare and property and liability programs.

(6) "Competitive process" means a documented formal process providing an equal and open opportunity to qualified parties and culminating in a selection based on criteria which may include such factors as the party's fees or costs, ability, capacity, experience, reputation, responsiveness to time limitations, responsiveness to solicitation requirements, quality of previous performance, and compliance with statutes and rules relating to contracts or services.

(7) "Contribution" means the amount paid or payable by the employee into a health and welfare self-insurance program.

(8) "Incurred but not reported, or IBNR" shall mean claims and claim adjustment expenses for covered events which have occurred but have not yet been reported to the self-insurance program as of the date of the financial statement. IBNR claims include (a) known loss events that are expected to be later presented to be claims, (b) unknown loss events that are expected to become claims, and (c) expected future development on claims already reported.

(9) "Individual self-insurance program" means a program established and maintained by a local government entity to self-insure health and welfare benefits or property and liability risks on its own behalf.

[Title 236 WAC—p. 21]

(10) "Joint self-insurance program" means any two or more local government entities which have entered into a cooperative risk sharing agreement pursuant to the provisions of the Interlocal Cooperation Act (chapter 39.34 RCW) and/or subject to regulation under chapter 48.62 RCW.

(11) "Liability for unpaid claims" means the amount needed to provide for the estimated ultimate cost of settling claims which have occurred on or before a particular date. The estimated liability includes the amount of money that will be needed for future payments on both claims which have been reported and IBNR claims.

(12) "Liability for unpaid claim adjustment expenses" means the amount needed to provide for the estimated ultimate costs required to investigate and settle claims for covered events that have occurred on or before a particular date, whether or not reported to the government entity at that date.

(13) "Member" means a local government entity which is a past or present legal participant in a local government joint self-insurance program.

(14) "Self-insurance program" means any individual or joint local government entity self-insurance program subject to regulation under chapter 48.62 RCW.

(15) "Stop-loss insurance" means insurance against the risk of economic loss assumed under a self-insurance program.

(16) "Third party administrator" means:

a) An independent association, agency, entity or enterprise which, through a contractual agreement is responsible for the overall operational and financial management of the self-insurance program;

b) An independent association, agency, entity or enterprise which, through a contractual agreement, provides a professional service for the analysis, design, implementation, or termination of a self-insurance program; or

c) An independent association, agency, entity or enterprise which, through a contractual agreement, administers the claim payment process on behalf of a self-insurance program. Such claim administration process includes, but is not limited to, receiving requests for claim payments, investigation, verification and adjustment of the claim. Claim payment disbursement is also considered an administrative process.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-020, filed 8/3/93, effective 9/3/93.]

WAC 236-22-030 Adoption of program. (1) All self-insurance programs shall provide that the governing body of the local government entity establishing or maintaining a program adopt the self-insurance program by resolution or ordinance. The resolution or ordinance shall include but not be limited to funding and expenditure mechanisms. Self-insurance programs in operation on January 1, 1992 shall meet the requirements of this subsection no later than December 31, 1994.

(2) The interlocal agreement of a joint self-insurance program shall be adopted by resolution or ordinance by each participating member's governing body.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-030, filed 8/3/93, effective 9/3/93.]

WAC 236-22-031 Program financing. (1) All self-insurance programs shall provide for program financing

to pay claims, claims adjustment expenses and the liability for unpaid claims and claims adjustment expenses as they become payable.

(2) All self-insurance programs shall provide a method by which the program financing will be adjusted when it has been determined to be actuarially insufficient, or when the program is unable to meet debts as they become payable. Any increases shall be large enough to make the program actuarially sufficient.

(3) All individual and joint health and welfare self-insurance program's and all joint property and liability self-insurance program's claim financing levels shall be determined annually by an actuary's recommendation, unless these self-insurance programs purchase annual aggregate stop-loss insurance and funds the self-insured portion to the stop-loss insurance attachment point.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-031, filed 8/3/93, effective 9/3/93.]

WAC 236-22-032 Nondiscrimination in contributions. Contribution rate schedules for individual and joint health and welfare self-insurance programs shall be consistent and nondiscriminatory among beneficiaries of the self-insurance program. This provision is not intended to prohibit choice of coverage for beneficiaries, classes of beneficiaries, or bargaining groups from several offered by the self-insurance program, or to prohibit different contribution schedules between classes of beneficiaries or bargaining groups.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-032, filed 8/3/93, effective 9/3/93.]

WAC 236-22-033 Nondiscrimination in joint program assessments. Joint self-insurance program assessment formula shall be consistent and nondiscriminatory among new and existing members. Joint self-insurance programs shall not engage in practices that set standard assessment rates lower for new members than those established for existing members.

This provision shall not be construed to prohibit individual choice of coverage by members from several offered by the self-insurance program.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-033, filed 8/3/93, effective 9/3/93.]

WAC 236-22-034 Disclosures. (1) All health and welfare self-insurance programs shall furnish each employee or retiree covered by the program a written description of the benefits allowable under the program, together with (a) applicable restrictions, limitations, and exclusions, (b) the procedure for filing a claim for benefits, (c) the procedure for requesting an adjudication of disputes or appeals arising from beneficiaries regarding the payment or denial of any claim for benefits, and (d) a schedule of any direct monetary contributions toward the program financing required by the employee. Such benefits or procedures shall not be amended without written notice to the covered employees and retirees at least thirty days in advance of the effective date of the change unless exigent circumstances can be demonstrated.

(2) All joint self-insurance programs shall furnish to each member of the program written statements which describe: (a) All coverages or benefits currently provided by the program, including any applicable restrictions, limitations, and exclusions; (b) the method by which members pay assessments; (c) the procedure for filing a claim; and (d) the procedure for a member to request an adjudication of disputes or appeals arising from coverage, claim payment or denial, membership, and other issues. Such statements shall not be amended without written notice to the members at least thirty days in advance of the effective date of the change.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-034, filed 8/3/93, effective 9/3/93.]

WAC 236-22-035 Wellness programs. Health and welfare self-insurance programs may offer coverage for preventative care, wellness programs, and/or other cost containment measures.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-035, filed 8/3/93, effective 9/3/93.]

WAC 236-22-036 Termination provisions. (1) All individual and joint health and welfare self-insurance programs and all joint property and liability self-insurance programs shall maintain a written plan which provides for the partial or complete termination of the program and for liquidation of its assets upon termination of the program. The termination procedure shall include, but not be limited to, a provision for the settling of all its liabilities for unpaid claims and claim adjustment expenses.

(2) All joint self-insurance programs shall provide for the termination of membership of a member.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-036, filed 8/3/93, effective 9/3/93.]

WAC 236-22-037 Financial plans. (1) All self-insurance programs shall maintain a written plan for managing the financial resources of the program. The financial plan shall include (a) a procedure for accounting for monies received, payments made and liabilities of the program; (b) an investment policy; and (c) the preparation of accurate annual financial statements of the program.

(2) No financial plan of a self-insurance program shall permit interfund loans from assets held against liabilities for unpaid claims and claim adjustment expenses except for those amounts which are clearly inactive or in excess of liabilities for unpaid claim and claim adjustment expenses.

(3) No financial plan of a joint self-insurance program shall permit loans from assets held against liabilities for unpaid claims and claim adjustment expenses to any member.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-037, filed 8/3/93, effective 9/3/93.]

WAC 236-22-038 Third party administrator contracts. (1) Before contracting for third party administrator professional services, all self-insurance programs shall establish and maintain written standards and procedures for contracting with third party administrators. Entering a contract for services shall not relieve the entity of its ultimate manage-

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rial and financial responsibilities. The procedures shall, as a minimum:

(a) Provide a method of third party administrator selection using a competitive process;

(b) Require a written description of the services to be provided, remuneration levels, and contract period;

(c) Provide for the confidentiality and ownership of the information, data and other intellectual property developed or shared during the course of the contract;

(d) Provide for the expressed authorization of the self-insurance program to enter the third party administrator's premises to inspect and audit the records and performance of the third party administrator which pertains to the program; and

(e) Require the compliance with all applicable local, state and federal laws.

(2) None of the above shall otherwise relieve the entity from other contracting requirements imposed on those entities.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-038, filed 8/3/93, effective 9/3/93.]

WAC 236-22-040 Risk management. Individual and joint property and liability self-insurance programs shall have a written risk management program which addresses risk finance, loss control, risk avoidance and risk transfer.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-040, filed 8/3/93, effective 9/3/93.]

WAC 236-22-050 Claims administration. (1)(a) All self-insurance programs shall have a written claims administration program which contains, as a minimum, claim filing procedures, internal financial control mechanisms, and claim and claim adjustment expense reports.

(b) All individual and joint health and welfare self-insurance programs and all joint property and liability self-insurance programs shall have a written claim appeal procedure which contains, as a minimum, a time limit for filing an appeal, a time limit for response, and a provision for a second level of review.

(2)(a) All self-insurance programs may contract for claims administration services with a qualified third party administrator, provided all the requirements under subsection (1) above are included in the contract.

(b) Individual and joint property and liability self-insurance programs may perform claims administration services on their own behalf. Individual and joint health and welfare self-insurance programs may perform claims administration services on their own behalf, provided the state risk manager is supplied with documentation and a detailed written explanation in support of the self-insurance program's proposed claims administration activities. The documentation and proposal shall include, as a minimum, the following:

1. The nature, type and anticipated volume of claims to be administered.

2. The number of employment positions established or to be established which are required to perform the self-insurance program's claim administration functions, including an organizational chart showing reporting responsibilities.

3. Qualifications of personnel having claim reserving and settlement authority.

4. A projection of expected claim administration expenses.

(3) All self-insurance programs shall have conducted by an independent qualified professional not currently performing claims administration services to the program, a review of claim reserving, adjusting and payment procedures no less than every three years. Such review shall be in writing and retained for a period not less than three years.

(4) Joint self-insurance programs shall maintain a dedicated claim account from which only claim and claim adjustment expenses can be paid.

(5) Joint self-insurance programs shall maintain written claim and claim adjustment expense reports for all claims made against the self-insurance program and, separate written reports for each individual member.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-050, filed 8/3/93, effective 9/3/93.]

WAC 236-22-060 Financial reports. (1) Every individual and joint health and welfare self-insurance program and every joint property and liability self-insurance program authorized to transact business in the state of Washington shall record and annually report its revenue, claim and claim expense experience, and other data as required by the state risk manager. Multistate programs shall report both its Washington state revenues, claim and claim expense experience and other data required by the state risk manager and its overall income, claim and claim expense experience. Such reports shall be submitted to the state risk manager no later than one hundred twenty days following the completion of the joint program's fiscal year.

(2) All joint self-insurance programs authorized to transact business in the state of Washington shall submit quarterly financial reports to the state risk manager. Such reports shall be submitted to the state risk manager no later than sixty days following the completion of each of the program's four quarters within its fiscal year.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-060, filed 8/3/93, effective 9/3/93.]

WAC 236-22-070 State risk manager may waive requirements. The state risk manager may waive any of the requirements of WAC 236-22-030 through section 236-22-050 and 236-22-060(2) if, in the state risk manager's opinion: (1) Circumstances warrant a waiver, and (2) waiver will not jeopardize the financial condition of the self-insurance program.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-070, filed 8/3/93, effective 9/3/93.]

WAC 236-22-080 Conflict of interest. All self-insurance programs shall meet the following standards regarding restrictions on the financial interests of the program administrators:

(1) No member of the board of directors; trustee; administrator, including a third party administrator; or any other person having responsibility for the management or administration of a program or the investment or other handling of the program's money shall:

(a) Receive directly or indirectly or be pecuniarily interested in any fee, commission, compensation, or emolument arising out of any transaction to which the program is or is expected to be a party except for salary or other similar compensation regularly fixed and allowed for because of services regularly rendered to the program.

(b) Receive compensation as a consultant to the program while also acting as a member of the board of directors, trustee, administrator, or as an employee.

(c) Have any direct or indirect pecuniary interest in any loan or investment of the program.

(2) No consultant, third party administrator or legal counsel to the self-insurance program shall directly or indirectly receive or be pecuniarily interested in any commission or other compensation arising out of any contract or transaction between the self-insurance program and any insurer, health care service contractor, or health care supply provider. This provision shall not preclude licensed insurance brokers or agents from receiving compensation for insurance transactions performed within the scope of their licenses, provided such compensation is disclosed to the self-insurance program's governing body.

(3) No third party administrator shall serve as an officer or on the board of directors of a self-insurance program.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-080, filed 8/3/93, effective 9/3/93.]

WAC 236-22-100 Expense and operating cost fees. (1) The state risk manager, with concurrence from the [two] [property and liability] advisory board[s.] [and the health and welfare advisory board], shall fix [assessments to cover initial expenses and operating costs of the boards and the state risk manager's office in administering chapter 48.62 RCW. Such assessments shall be levied against each joint property and liability self-insurance program and each individual and joint health and welfare benefit self-insurance program regulated by chapter 48.62 RCW. Such assessments shall be based upon each self-insurance program's share of the initial expenses and operating costs of the property and liability advisory board, the health and welfare advisory board,] [fees based upon actual time and expenses incurred for the review and investigation of every joint property and liability risk and every individual and joint health and welfare benefit self-insurance programs by the advisory boards] and the state risk manager's office.

(2) The state risk manager, with concurrence from the advisory boards, shall determine the [assessment rate on a fiscal year basis prescribing the self-insurance program's share pursuant to the provisions of subsection (1) of this section until the regulatory program for local government self-insurance programs is fully implemented.

(3) These assessments shall be payable by the assessed program to the state of Washington, division of risk management, on July 1 and January 1 of each year until the regulatory program for local government self-insurance programs is fully implemented. Any program failing to remit its assessment when due is subject to denial of permission to operate or to a cease and desist order until the assessment] [review and investigation fees on a fiscal year basis.

(3) The review and investigation fees shall be paid by the self-insurance program to the state of Washington, depart-

ment of general administration within thirty days of invoice. Any self-insurance program failing to remit its fee when due is subject to denial of permission to operate or to a cease and desist order until the fee is paid.

(4) A self-insurance program [referenced in subsection (1) of this section,] which has voluntarily or involuntarily terminated[,] shall [continue to] pay [an administrative cost assessment. This assessment shall continue until such time as all liabilities and all] [review and investigation fees until such time as all liabilities for unpaid claims and claim adjustment expenses and all administrative] responsibilities of the self-insurance program have been satisfied.

(5) The state risk manager [shall assess each prospective joint self-insurance program, and each prospective individual health and welfare benefit self-insurance program, an initial investigation fee at a rate determined annually by the state risk manager, with the concurrence of the advisory boards. Such fee shall be sufficient][, with concurrence from the property and liability advisory board and the health and welfare advisory board shall charge an initial investigation fee in an amount necessary] to cover the costs for the initial review and approval of [that] [a] self-insurance program. [The fee must accompany the initial submission of the plan of operation and management.]

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-100, filed 8/3/93, effective 9/3/93; 92-12-092, § 236-22-100, filed 6/3/92, effective 7/1/92.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 236-22-200 Appeals of fees. (1)(a) A self-insurance program which disagrees with a fee for services issued to it by the state risk manager shall notify the state risk manager in writing within thirty days after receipt of the invoice. The writing shall include the self-insurance program's reasons for challenging the fee and any other information the self-insurance program deems pertinent.

(b) The state risk manager shall review any fee challenged by a self-insurance program, together with the reasons for the challenge. Within fourteen days of receipt of notification from the self-insurance program, the state risk manager shall respond in writing to the self-insurance program, either reaffirming the fee or modifying it, and stating the reasons for the decision.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-200, filed 8/3/93, effective 9/3/93.]

WAC 236-22-210 Appeals of cease and desist orders. (1) Within ten days after a joint program covering property or liability risks, or an individual or joint program covering health and welfare benefits has been served with a cease and desist order under RCW 48.62.091(3), the entity may request an administrative hearing. The hearing provided may be held in such a place as is designated by the state risk manager and shall be conducted in accordance with chapter 34.05 RCW and chapter 10-08 WAC.

[Statutory Authority: Chapter 48.62 RCW. 93-16-079, § 236-22-210, filed 8/3/93, effective 9/3/93.]

(2005 Ed.)

Chapter 236-28 WAC SMALL WORKS ROSTER

WAC

236-28-010	Purpose and authority.
236-28-020	Notice required by agency establishing small works roster.
236-28-030	Contractors application form—Information required.
236-28-070	Denial or removal of contractors from small works roster—Reasons.
236-28-080	Denial or removal from roster—Notice and hearing.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

236-28-040	Contractors to be categorized general or specialty—Categories of special contractors enumerated. [Statutory Authority: RCW 39.04.150. 83-02-024 (Order 83-1), § 236-28-040, filed 12/29/82.] Repealed by 84-19-058 (Order 84-1), filed 9/19/84. Statutory Authority: RCW 34.04.025.
236-28-050	Contractors categorized by size of projects—Categories enumerated. [Statutory Authority: RCW 39.04.150. 83-02-024 (Order 83-1), § 236-28-050, filed 12/29/82.] Repealed by 84-19-058 (Order 84-1), filed 9/19/84. Statutory Authority: RCW 34.04.025.
236-28-060	Minority or women's business enterprise—Defined. [Statutory Authority: RCW 39.04.150. 83-02-024 (Order 83-1), § 236-28-060, filed 12/29/82.] Repealed by 84-19-058 (Order 84-1), filed 9/19/84. Statutory Authority: RCW 34.04.025.

WAC 236-28-010 Purpose and authority. This chapter of the Washington Administrative Code is adopted pursuant to chapter 98, Laws of 1982, which requires the director of the department of general administration to adopt by rule a procedure to prequalify contractors for inclusion on a small works roster established by the state agencies enumerated in section 2, chapter 98, Laws of 1982. The procedure set forth in this chapter shall be utilized by those agencies in establishing a small works roster.

[Statutory Authority: RCW 39.04.150. 83-02-024 (Order 83-1), § 236-28-010, filed 12/29/82.]

WAC 236-28-020 Notice required by agency establishing small works roster. Agencies desiring to establish an initial small works roster shall give notice to the contracting community encouraging contractors to submit applications for inclusion on the small works roster. Such notice may be given by advertisements in publications widely circulated to the contracting community, by notices mailed directly to trade associations or to individual contractors, or by any effort reasonably calculated to assure that all contractors in the state of Washington become aware of the opportunity to be included on the small works roster.

[Statutory Authority: RCW 39.04.150. 83-02-024 (Order 83-1), § 236-28-020, filed 12/29/82.]

WAC 236-28-030 Contractors application form—Information required. Contractors desiring to be included on a small works roster established by a state agency pursuant to chapter 98, Laws of 1982, shall submit a completed application form on a form prescribed by the director, department of general administration. Copies of the form may be obtained from the division of engineering and architecture and will contain the following information:

(a) Name of contracting firm, including designation as corporation, partnership, sole proprietorship, or otherwise;

- (b) Address of contracting firm;
- (c) Telephone number of contracting firm;
- (d) State contractor's license number;
- (e) Indication of type of construction firm by categories enumerated; on the form.
- (f) State of Washington department of revenue tax number;
- (g) An indication of those counties in which the contractor is interested in being considered for projects;
- (h) Indication whether contractor is certified as a minority or women's business enterprise pursuant to chapter 326-20 WAC.

Upon receipt of the application, the agency shall enter the information set forth therein into its small works roster, and send a copy of the information which is entered to the applicant contractor. Contractors should not consider themselves to be enrolled in a small works roster until they have received this verification.

It is the responsibility of the contractor to notify the agency of any incorrect information set forth on the notice of verification, and to notify the agency of any change in the information set forth in its application as such changes may occur from time to time.

[Statutory Authority: RCW 34.04.025. 84-19-058 (Order 84-1), § 236-28-030, filed 9/19/84. Statutory Authority: RCW 39.04.150. 83-02-024 (Order 83-1), § 236-28-030, filed 12/29/82.]

WAC 236-28-070 Denial or removal of contractors from small works roster—Reasons. A contractor may be denied placement on or, after such placement, may be removed from, a small works roster for any one or more of the following reasons:

- (a) The information set forth in the contractor's application is not accurate;
- (b) The contractor fails to notify the agency maintaining the small works roster of any changes in the information set forth in its original application for placement on the small works roster within thirty days of the effective date of such change.
- (c) The contractor has failed to respond to five solicitations for bids on jobs offered through the small works roster;
- (d) The contractor's past performance demonstrates a lack of qualification in any specialty area indicated by the contractor in the application for placement on the small works roster;
- (e) The contractor fails to complete and return to the agency maintaining the small works roster any periodic update submitted by the agency to determine the contractor's ongoing interest in maintaining its placement on the small works roster.

[Statutory Authority: RCW 39.04.150. 83-02-024 (Order 83-1), § 236-28-070, filed 12/29/82.]

WAC 236-28-080 Denial or removal from roster—Notice and hearing. Whenever the agency maintaining a small works roster believes that grounds exist for denying an application for placement on a small works roster, or removing the name of a contractor from a small works roster, notice of said grounds shall be given to the contractor by first-class mail. If the contractor fails to object or request a hearing within twenty days after the mailing of said notice, then the

denial or removal shall be made effective. If the contractor requests a hearing within forty-five days after the mailing of the notice, then a hearing will be conducted in accordance with chapter 34.04 RCW.

[Statutory Authority: RCW 39.04.150. 83-02-024 (Order 83-1), § 236-28-080, filed 12/29/82.]

Chapter 236-48 WAC OFFICE OF STATE PROCUREMENT

WAC

236-48-002	Purpose.
236-48-003	Definitions.
236-48-011	Public notice.
236-48-012	Receipt of bids, quotes or proposals.
236-48-013	Amendment of invitation for bid, request for quotation or request for proposal.
236-48-021	Supplier lists.
236-48-024	Removal or suspension.
236-48-025	Appeal, reapplication or reinstatement.
236-48-035	Bid guarantee.
236-48-036	Performance guarantees.
236-48-071	Form of bid, quote or proposal.
236-48-079	Standard specifications.
236-48-083	Acceptance of alternate bid, quote or proposal.
236-48-085	In-state preference bids.
236-48-094	Partial award.
236-48-096	Bid award preference.
236-48-098	Rejection.
236-48-099	Acceptance of terms.
236-48-111	Handling of bids and proposals if publicly opened.
236-48-121	Mistakes in bid(s) or proposals detected prior to opening.
236-48-122	Mistakes in bid(s) or proposals detected during or after bid opening.
236-48-123	Disclosure of information.
236-48-124	Informalities in bids, quotes, or proposals.
236-48-132	Notice of cancellation or rejection of bids.
236-48-141	Protests and appeals—Form and substance.
236-48-142	Office of state procurement protest procedure prior to award.
236-48-143	Office of state procurement protest procedure after award.
236-48-152	Offset against contractor payments.
236-48-153	Delivery date.
236-48-165	Change in product offered.
236-48-166	Contract extension.
236-48-167	Additions or deletions to contract or purchase order.
236-48-190	Surplus property disposal priorities.
236-48-1901	Surplus property—Exceptions to disposal priorities.
236-48-1902	Surplus property—Intent of state surplus priorities.
236-48-191	Surplus property auction.
236-48-192	Sealed bid—Surplus property.
236-48-193	Negotiation—Surplus property.
236-48-194	Guarantee of quality, etc., state responsibility for—Surplus property.
236-48-195	Weight merchandise—Surplus property.
236-48-196	Removal—Surplus property.
236-48-197	Withdrawal from sale or rejection of bids—Surplus property.
236-48-198	Sale of surplus property to state elected officials or employees.
236-48-230	Leases.
236-48-250	Use of credit, charge cards or purchasing cards.
236-48-251	Distribution of credit, charge cards or purchasing cards.
236-48-252	Credit limits.
236-48-253	Payment of credit or purchasing card bills.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

236-48-001	Promulgation. [Promulgation, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
236-48-004	Procedure followed in the solicitation of bids. [Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-004, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-004, filed 8/22/89, effective 9/22/89. Statutory Authority:

	Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-004, filed 8/26/83; Order 77-2, § 236-48-004, filed 1/28/77.] Repealed by 98-01-113, filed 12/18/97, effective 1/18/98. Statutory Authority: RCW 43.19.180 - [43.19.]1932.	236-48-081	Interpretation of specifications. [Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-081, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-081, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-081, filed 1/28/77.] Repealed by 99-13-138, filed 6/18/99, effective 7/19/99. Statutory Authority: Chapter 43.19 RCW.
236-48-005	Exceptions to formal sealed bid procedure. [Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-005, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-005, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-005, filed 8/26/83; Order 77-2, § 236-48-005, filed 1/28/77.] Repealed by 99-13-138, filed 6/18/99, effective 7/19/99. Statutory Authority: Chapter 43.19 RCW.	236-48-082	Request for samples, descriptive literature. [Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-082, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-082, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-082, filed 8/26/83; Order 77-2, § 236-48-082, filed 1/28/77.] Repealed by 99-13-138, filed 6/18/99, effective 7/19/99. Statutory Authority: Chapter 43.19 RCW.
236-48-009	Bids in general. [Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-009, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-009, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-009, filed 1/28/77.] Repealed by 99-13-138, filed 6/18/99, effective 7/19/99. Statutory Authority: Chapter 43.19 RCW.	236-48-084	Prebid conferences. [Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-084, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-084, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-084, filed 1/28/77.] Repealed by 99-13-138, filed 6/18/99, effective 7/19/99. Statutory Authority: Chapter 43.19 RCW.
236-48-010	Bids—In general. [§ 1, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.	236-48-090	Acceptance, rejection of bids. [§ 9, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
236-48-020	Bidder's mailing list application. [§ 2, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.	236-48-093	Award. [Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-093, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-093, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-093, filed 8/26/83; Order 77-2, § 236-48-093, filed 1/28/77.] Repealed by 99-13-138, filed 6/18/99, effective 7/19/99. Statutory Authority: Chapter 43.19 RCW.
236-48-023	Nonacceptance. [Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-023, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-023, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-023, filed 1/28/77.] Repealed by 99-13-138, filed 6/18/99, effective 7/19/99. Statutory Authority: Chapter 43.19 RCW.	236-48-095	Exception to award to lowest responsible bidder. [Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-095, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-095, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-095, filed 1/28/77.] Repealed by 96-17-088, filed 8/21/96, effective 9/21/96. Statutory Authority: RCW 34.05.354.
236-48-026	Reapplication or reinstatement. [Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-026, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-026, filed 1/28/77.] Repealed by 99-13-138, filed 6/18/99, effective 7/19/99. Statutory Authority: Chapter 43.19 RCW.	236-48-097	Standard notice of award. [Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-097, filed 8/26/83; Order 77-2, § 236-48-097, filed 1/28/77.] Repealed by 99-13-138, filed 6/18/99, effective 7/19/99. Statutory Authority: Chapter 43.19 RCW.
236-48-030	Bid forms. [§ 3, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.	236-48-100	Time of bids. [§ 10, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
236-48-040	Telegraphed bids. [§ 4, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.	236-48-101	Time of bids. [Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-101, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-101, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-101, filed 1/28/77.] Repealed by 99-13-138, filed 6/18/99, effective 7/19/99. Statutory Authority: Chapter 43.19 RCW.
236-48-041	Telegraphed bids. [Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-041, filed 8/26/83; Order 77-2, § 236-48-041, filed 1/28/77.] Repealed by 99-13-138, filed 6/18/99, effective 7/19/99. Statutory Authority: Chapter 43.19 RCW.	236-48-110	Alteration of bid prohibited. [§ 11, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
236-48-050	Telephone bids. [§ 5, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.	236-48-120	Handling of bids at opening. [§ 12, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
236-48-051	Telephone bids. [Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-051, filed 8/26/83; Order 77-2, § 236-48-051, filed 1/28/77.] Repealed by 99-13-138, filed 6/18/99, effective 7/19/99. Statutory Authority: Chapter 43.19 RCW.	236-48-130	Delivery date guarantee. [§ 13, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
236-48-052	Facsimile bids. [Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-052, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-052, filed 8/22/89, effective 9/22/89.] Repealed by 99-13-138, filed 6/18/99, effective 7/19/99. Statutory Authority: Chapter 43.19 RCW.	236-48-131	Cancellation of invitation to bid or rejection of all bids. [Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-131, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-131, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-131, filed 8/26/83; Order 77-2, § 236-48-131, filed 1/28/77.] Repealed by 96-17-088, filed 8/21/96, effective 9/21/96. Statutory Authority: RCW 34.05.354.
236-48-060	Hand carried bids. [§ 6, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.	236-48-140	Complaints. [§ 14, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
236-48-061	Hand carried bids. [Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-061, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-061, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-061, filed 1/28/77.] Repealed by 99-13-138, filed 6/18/99, effective 7/19/99. Statutory Authority: Chapter 43.19 RCW.	236-48-150	Breach of contract. [§ 15, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
236-48-070	Letter bids. [§ 7, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.	236-48-151	Violation of contract terms. [Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-151, filed 4/12/91,
236-48-080	Standard specifications. [§ 8, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.		

- effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-151, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-151, filed 1/28/77.] Repealed by 99-13-138, filed 6/18/99, effective 7/19/99. Statutory Authority: Chapter 43.19 RCW.
- 236-48-155 Recording of conversations. [Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-155, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-155, filed 1/28/77.] Repealed by 99-13-138, filed 6/18/99, effective 7/19/99. Statutory Authority: Chapter 43.19 RCW.
- 236-48-160 Penalty. [§ 16, filed 1/21/66.] Repealed by Order 77-1, filed 1/28/77.
- 236-48-161 Performance bonds. [Order 77-2, § 236-48-161, filed 1/28/77.] Repealed by 89-17-094 (Order 89-02), filed 8/22/89, effective 9/22/89. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538.
- 236-48-162 Product fitness. [Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-162, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-162, filed 1/28/77.] Repealed by 99-13-138, filed 6/18/99, effective 7/19/99. Statutory Authority: Chapter 43.19 RCW.
- 236-48-163 Nondiscrimination. [Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-163, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-163, filed 1/28/77.] Repealed by 99-13-138, filed 6/18/99, effective 7/19/99. Statutory Authority: Chapter 43.19 RCW.
- 236-48-164 Price escalation. [Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-164, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-164, filed 1/28/77.] Repealed by 99-13-138, filed 6/18/99, effective 7/19/99. Statutory Authority: Chapter 43.19 RCW.
- 236-48-200 Sale of surplus property to state elected officials or employees. [Order 75-7, § 236-48-200, filed 9/12/75.] Repealed by Order 77-1, filed 1/28/77.
- 236-48-240 Late payments. [Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-240, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-240, filed 8/26/83; Order 77-2, § 236-48-240, filed 1/28/77.] Repealed by 98-01-115, filed 12/18/97, effective 1/18/98. Statutory Authority: RCW 43.19.180 - [43.19].1932.
- 236-48-254 Gasoline credit cards. [Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-254, filed 8/26/83.] Repealed by 99-13-138, filed 6/18/99, effective 7/19/99. Statutory Authority: Chapter 43.19 RCW.
- 236-48-300 Enforcement of rules and regulations. [Order 77-2, § 236-48-300, filed 1/28/77.] Repealed by 99-13-138, filed 6/18/99, effective 7/19/99. Statutory Authority: Chapter 43.19 RCW.

WAC 236-48-002 Purpose. The purpose of this chapter is to set forth rules and regulations applicable to the purchase or sale of goods and services by, through, or under authority delegated by, the office of state procurement.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-002, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-002, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-002, filed 1/28/77.]

WAC 236-48-003 Definitions. As used in this chapter the following terms shall have the following meanings; additional terms shall have meanings as outlined under WAC 236-49-010:

(1) **Agency.** Shall include state of Washington institutions, the offices of the elective state officers, the supreme court, the court of appeals, the administrative and other departments of state government, and the offices of all appointive officers of the state. "Agency" does not include

the legislature but does include colleges, community colleges and universities who choose to participate in state contract(s).

(2) **All or nothing award.** A method of award resulting from a competitive solicitation by which the purchaser will award all items to a single bidder.

(3) **Alternate.** A substitute offer of goods and services which is not at least a functional equal in features, performance and use and which materially deviates from one or more of the specifications in a competitive solicitation.

(4) **Bid.** A written offer to perform a contract to purchase or supply goods or services in response to an invitation for bid.

(5) **Bidder.** A supplier who submits a bid, quotation or proposal.

(6) **Bidder's bond.** As used in RCW 43.19.1915 shall mean either a bid guarantee or performance guarantee as addressed herein and as further outlined in WAC 236-48-035 through 236-48-036.

(7) **Brand.** A specification identifying a manufacturer of the goods described in a competitive solicitation to identify a standard of quality against which other products will be evaluated.

(8) **Confidential information.** Any information meeting the criteria in RCW 42.17.310 or any information designated as confidential pursuant to state law.

(9) **Contractor.** Individual, company, corporation, firm, or combination thereof with whom purchaser develops a contract for the procurement of goods and services.

(10) **Delegated authority.** Authority to purchase goods and/or services delegated to an agency by office of state procurement pursuant to RCW 43.19.190(4) and which is delegated in one of the following forms:

(a) General. Those purchases delegated by the office of state procurement which are common to multiple state agencies.

(b) Specific. Those purchases delegated to specific agencies for continuing individual commodity requirements.

(c) Limited. Those purchases delegated to a specific agency for one-time commodity requirements.

(11) **Direct buy limit.** Dollar amount pursuant to RCW 43.19.1906(2) below which competition is not required.

(12) **Director.** Except where otherwise specifically noted shall mean the state purchasing and material control director, who is the assistant director, office of state procurement.

(13) **Emergency purchase.** A purchase made pursuant to RCW 43.19.200 in which the normal competitive purchasing procedures have been waived by a declaration of emergency issued by the agency director as defined in RCW 43.19.200.

(14) **Equal.** An offer of goods and/or services which meets or exceeds the quality, performance and use of the specifications identified in a competitive solicitation.

(15) **Fair market price.** The price determined by the purchasing activity to be consistent with current market value for the goods or services being purchased from community rehabilitation programs and eligible programs of the department of social and health services which has been determined pursuant to RCW 43.19.530.

(16) **Formal sealed bid procedure.** Procedure by which the purchasing activity solicits written competitive bids or

proposals from a sufficient number of prospective bidders thought to be of advantage to the state to assure adequate price and product competition by means of a written invitation for bid (IFB) or request for proposal (RFP) or other solicitation method setting forth specifications and all material and objectively measurable criteria for the intended purchase. Unless exception(s) are authorized in the solicitation document for electronic bid procedures, all bids are to be submitted in sealed envelopes to the location indicated in the bid documents and must be received by the time indicated therein. No disclosure of bids or bid information is made prior to the public bid opening. After the bid opening, all bid information shall be referred to the purchasing activity and treated as confidential working papers until after award at which time all bids become public information. The award is to be made in accordance with RCW 43.19.1911.

(17) **Goods and/or services.** Material, supplies, services, and equipment offered for sale by a supplier(s) and required by an agency to accomplish continuing and necessary functions and not otherwise statutorily exempted from chapter 43.19 RCW.

(18) **Informality.** An immaterial variation from the exact requirements of the competitive solicitation, having no effect or merely a minor or negligible effect on quality, quantity, or delivery of the supplies or performance of the services being procured, and the correction or waiver of which would not affect the relative standing of, or be otherwise prejudicial to bidders.

(19) **Invitation for bid.** The form utilized to solicit bids in the formal, sealed bid procedure and any amendments thereto issued in writing by the purchasing activity. Factors impacting cost and conditions of responsiveness and responsibility are normally evaluated. Noncost factors may be evaluated and all factors may be weighted if considered appropriate.

(20) **Office of state procurement.** The division of purchasing of the department of general administration in RCW 43.19.180 et seq. Whenever a purchase or sale is made by the office of state procurement on behalf of another agency, the office of state procurement is acting in the capacity of agent for such agency.

(21) **Prompt payment discount.** A discount offered by the bidder to encourage timely payment by purchaser within the stated term identified by bidder.

(22) **Proposal.** An offer to perform a contract to supply goods or services in response to a request for proposal.

(23) **Public agency.** Shall include all agencies outlined under RCW 39.34.020.

(24) **Purchase.** Shall include purchase, lease, renting or lease-purchase of goods and services.

(25) **Purchasing activity.** The office of state procurement or an agency authorized by state statute to conduct acquisition of goods and services or delegated that authority by the office of state procurement.

(26) **Quotation.** An offer to perform a contract to supply goods and/or services in response to a request for quotation.

(27) **Recovered material.** Goods containing recovered materials as defined in RCW 43.19.537 et seq. and federal, regional, or state guidelines approved by the director.

(28) **Request for quotation.** The form used to solicit written quotations in accordance with RCW 43.19.1906(2).

The request and the quote in response may be either written or oral as specified by the purchasing activity. Factors impacting cost and conditions of responsiveness and responsibility are normally evaluated. Noncost factors may be evaluated and all factors may be weighted if considered appropriate.

(29) **Request for proposal.** The form utilized to solicit written proposals from potential suppliers. Both cost and noncost factors are evaluated in addition to conditions of responsiveness and responsibility to achieve best value. A weighted point assignment method of evaluation may be used if considered appropriate.

(30) **Requisition.** A standard state form which serves as a procurement request and which requests the office of state procurement to purchase stated requirements.

(31) **Sealed bid limit.** That dollar amount established by RCW 43.19.1906(2) or subsequently amended by the office of financial management due to inflationary trends above which the formal sealed bid procedure will be used.

(32) **Single source purchase.** A purchase of goods or services which is clearly and legitimately limited to a single source of supply.

(33) **Solicitation.** The process of notifying prospective bidders or offerors that the purchasing activity desires to receive competitive bids, quotes or proposals for furnishing goods or services. Also includes reference to the actual document used in that process.

(34) **Specifications.** The explicit requirements furnished with a competitive solicitation upon which a purchase order or contract is to be based. Specifications set forth the characteristics of the goods and/or services to be purchased or sold so as to enable the bidder or supplier to determine and understand requirements of the purchaser. Specifications may be in the form of a description of the physical or performance characteristics, a reference brand or both. It may include a description of any requirement for inspecting, testing, or preparing a material, equipment, supplies, or service for delivery.

(35) **State contract.** Contracts for goods and/or services administered by the office of state procurement on behalf of agencies which normally include quantity and fixed term. The contract document will identify the conditions under which usage by agencies is required.

(36) **State procurement officer.** An employee of the office of state procurement designated as a state procurement officer, contract administrator, or similar designation by the director, including, where appropriate, the director and other management personnel.

(37) **Supplier.** A vendor of purchased goods and services.

(38) **Supplier list.** List of potential bidders maintained by the office of state procurement or purchasing activity from which names may be drawn for solicitation of bids, quotes or proposals.

(39) **Used equipment.** Goods offered for sale to the state which do not have a full factory warranty and which are not being rented, leased, or otherwise in the actual possession of the state agency considering the purchase at the time of the purchase transaction.

[Statutory Authority: Chapter 43.19 RCW. 99-15-070, § 236-48-003, filed 7/19/99, effective 8/19/99; 91-09-035, § 236-48-003, filed 4/12/91, effective

5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-003, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-003, filed 1/28/77.]

WAC 236-48-011 Public notice. A listing or copy of all purchases being made through formal sealed bid by or through the office of state procurement shall be posted in the foyer of the office of state procurement and/or posted via internet website or made available via other electronic means. Purchases made by agencies shall be posted or otherwise publicized by that purchasing activity in accordance with policy established by that agency.

[Statutory Authority: Chapter 43.19 RCW. 99-15-070, § 236-48-011, filed 7/19/99, effective 8/19/99. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-011, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-011, filed 8/26/83; Order 77-2, § 236-48-011, filed 1/28/77.]

WAC 236-48-012 Receipt of bids, quotes or proposals. The date and time selected for opening of bids, quotes or proposals shall be determined by the purchasing activity. Bidders shall be provided sufficient time to prepare and submit their bid, quote or proposal. The purchasing activity shall have the discretion to lengthen or shorten bid, quote or proposal dates, should special circumstances or needs dictate a shorter or longer time frame. When extending or shortening the time allowed to submit a bid, quote, or proposal, the purchasing activity shall issue an addendum notifying bidders of the revised opening/due date. If it is determined that this information will not reach bidders in time to respond, the purchasing activity shall attempt to notify each prospective bidder by telephone or other available means of communication. All bids must be received in the office of the purchasing activity by the date and time specified in the document or addenda. No deviations will be allowed. Late bids or proposals will be returned unopened unless retention is deemed by the purchasing activity to be in the best interests of the agency. Late bids or proposals may be opened only by authorized personnel for identification purposes. Quotations must be received by close of the normal business day on the date indicated. Late quotations will not be considered or returned to bidders. Time of receipt will be determined by the official time stamp located at the purchasing activity or in the case of electronic bids, time of receipt shall be as identified in the solicitation document issued by the purchasing activity.

[Statutory Authority: Chapter 43.19 RCW. 99-15-070, § 236-48-012, filed 7/19/99, effective 8/19/99; 91-09-035, § 236-48-012, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-012, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-012, filed 8/26/83; Order 77-2, § 236-48-012, filed 1/28/77.]

WAC 236-48-013 Amendment of invitation for bid, request for quotation or request for proposal. An invitation for bid, request for quotation or request for proposal may be changed or amended by the purchasing activity, provided the change is issued prior to the opening date and time specified. Any material information provided a prospective bidder shall be furnished by the purchasing activity to all bidders receiving a copy of the original solicitation. Oral interpretations of contract terms and conditions shall not be binding.

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[Statutory Authority: Chapter 43.19 RCW. 99-15-070, § 236-48-013, filed 7/19/99, effective 8/19/99; 91-09-035, § 236-48-013, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-013, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-013, filed 1/28/77.]

WAC 236-48-021 Supplier lists. Supplier lists may be maintained by the office of state procurement. Opportunities for doing business with the office of state procurement include:

- (1) Register on supplier list; or
- (2) Review website maintained by the office of state procurement; or
- (3) Contact office of state procurement staff for information about current opportunities.

[Statutory Authority: Chapter 43.19 RCW. 99-15-070, § 236-48-021, filed 7/19/99, effective 8/19/99; 91-09-035, § 236-48-021, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-021, filed 8/22/89, effective 9/22/89; Order 77-2 § 236-48-021, filed 1/28/77.]

WAC 236-48-024 Removal or suspension. The director, or designee, may remove or suspend a supplier from any supplier list(s) maintained by the office of state procurement for cause. Impacted state agencies will be notified of such action(s). Agencies may continue to do business with such supplier if they choose to do so or they may sever that relationship at their discretion. Examples of reasons for removal or suspension include but are not limited to the following:

- (1) Illegal act(s);
- (2) Repetitive failure to respond to invitations to bid;
- (3) Unreasonable number of "no bid" responses;
- (4) Any material failure to perform, e.g., delivery, quality;
- (5) Any significant detrimental change in supplier status, e.g., financial condition, lines carried, service ability;
- (6) Unauthorized product substitution, or representation of an alternate as an equal; or
- (7) Discriminatory practices.

Any supplier so removed or suspended shall be notified in writing of the reason(s) therefore, the conditions of any removal or suspension, and/or corrective action required for reinstatement.

[Statutory Authority: Chapter 43.19 RCW. 99-15-070, § 236-48-024, filed 7/19/99, effective 8/19/99. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-024, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-024, filed 8/26/83; Order 77-2, § 236-48-024, filed 1/28/77.]

WAC 236-48-025 Appeal, reapplication or reinstatement. Any supplier removed from a supplier list maintained by the office of state procurement or who is not placed upon such list after request, may appeal the decision to the director or designee. If such an appeal is made, it must be submitted in writing within ten days of notification of the action taken.

If a supplier's application to be placed on a supplier list has been refused, or if a supplier has been removed or suspended from such list, that supplier may reapply to be placed on such list, or apply for reinstatement when the conditions for reinstatement have been met.

[Statutory Authority: Chapter 43.19 RCW. 99-15-070, § 236-48-025, filed 7/19/99, effective 8/19/99. Statutory Authority: RCW 43.19.180 - 43.19.-

1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-025, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-025, filed 1/28/77.]

WAC 236-48-035 Bid guarantee. When required in the competitive solicitation, all bidders shall provide with their bid a bid guarantee unilaterally payable to the purchasing activity. The amount of the bid guarantee shall be identified in the competitive solicitation document in dollars and shall be sufficient to cover damages to the purchasing activity in the event that bidder fails to accept a contract award with the purchasing activity. Failure of bidder to accept an award will result in forfeiture of the bid guarantee and such funds made payable to the Washington state treasury as liquidated damages.

Bid guarantees may be in the form of a certified check, cashier's check, escrow agreement, or irrevocable letter of credit drawn on a separate account in a banking or savings and loan institution regulated by the state of Washington or federal government, cash or a surety bond with a surety company. Surety bonds or escrow agreements must be on a form approved by the purchasing activity. Personal or company checks are not acceptable. Failure to submit a bid guarantee in the specified form will be a cause for rejection. Bid guarantees shall be returned to bidders after award of contract. Interest will not be paid on funds deposited directly with the state.

[Statutory Authority: Chapter 43.19 RCW. 99-15-070, § 236-48-035, filed 7/19/99, effective 8/19/99; 91-09-035, § 236-48-035, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-035, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-035, filed 1/28/77.]

WAC 236-48-036 Performance guarantees. When required in the competitive solicitation, the successful bidder shall post a performance guarantee unilaterally payable to the purchasing activity. The amount of the performance guarantee shall be identified in the competitive solicitation in dollars and/or a percentage of contract worth sufficient to redress damages to the purchasing activity in the event of breach by the contractor(s). The required performance guarantee shall be in the form of a certified check, cashier's check, escrow agreement, irrevocable letter of credit drawn on a separate account in a banking or savings and loan institution regulated by the state or federal government, cash, or surety bond with a surety company. Surety bonds or escrow agreements must be on a form approved by the purchasing activity. Personal or company checks are not acceptable. The performance guarantee shall be held by the purchasing activity or deposited to the purchasing activity's account until contract terms have been fully executed to the satisfaction of the state. Interest will not be paid on funds deposited directly with the purchasing activity. Failure to submit a performance guarantee as required shall be grounds for contract termination.

[Statutory Authority: Chapter 43.19 RCW. 99-15-070, § 236-48-036, filed 7/19/99, effective 8/19/99; 91-09-035, § 236-48-036, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-036, filed 8/22/89, effective 9/22/89.]

WAC 236-48-071 Form of bid, quote or proposal. To receive consideration, bids, quotes, and proposals must be legible and shall be made on the form provided by the pur-

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chasing activity, or on a letter containing the information. If a letter is used it must meet the satisfaction of the purchasing activity, be properly headed and signed, properly marked on the outside of the envelope, received by the date and time specified, and be accompanied by a signed and completed solicitation form provided by the purchasing activity. Unless otherwise authorized, bids, quotes and proposals must be filled out in ink or with electronic printer or other similar office equipment and properly signed by an authorized representative of the bidder. All changes and/or erasures shall be initialed in ink. Unsigned bids will be rejected on opening. However, the purchasing activity may accept such bids if it is determined that satisfactory evidence was submitted prior to opening date and time which clearly indicates the bidder's desire to be bound by his/her bid such as a signed cover letter.

In lieu of the requirement for an original signature as outlined above, the purchasing activity may implement a policy which authorizes the use of digital signature(s) or electronic submission of bid, quote or proposals provided that such policy provides adequate safeguards to ensure the integrity of the sealed bid process.

[Statutory Authority: Chapter 43.19 RCW. 99-15-070, § 236-48-071, filed 7/19/99, effective 8/19/99; 91-09-035, § 236-48-071, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-071, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-071, filed 8/26/83; Order 77-2, § 236-48-071, filed 1/28/77.]

WAC 236-48-079 Standard specifications. Specifications contained in the competitive solicitation will, to the maximum extent feasible, be nonrestrictive so as to provide an equal basis for competition and participation by an optimum number of qualified bidders. The purchasing activity may specify a brand name or equal provided that the intent in doing so is to establish a standard of quality against which other brands will be evaluated. When doing so, the purchasing activity should not substitute the word "equivalent" for "equal" in the competitive solicitation document. All bids, quotes or proposals which offer a different trade name, make, or catalog number must state whether the item offered is an equal or an alternate, and literature which describes the item offered must be provided. The final decision as to whether an item is an equal or an alternate shall rest with the purchasing activity. In the event of discrepancies in specifications, or doubts as to meaning, the bidder shall immediately request clarification from the purchasing activity. To facilitate consistent responses and to ensure all bidders receive the same information, all such questions shall be directed only to that person directly assigned by the purchasing activity or otherwise identified in the bid, quote or proposal document.

[Statutory Authority: Chapter 43.19 RCW. 99-15-070, § 236-48-079, filed 7/19/99, effective 8/19/99; 91-09-035, § 236-48-079, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-079, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-079, filed 8/26/83; Order 77-2, § 236-48-079, filed 1/28/77.]

WAC 236-48-083 Acceptance of alternate bid, quote or proposal. The purchasing activity need not accept alternate bids, quotes or proposals but shall have the discretion to do so if it substantially conforms to the bid specifications. Unless their bid, quotation or proposal is clearly identified as

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an alternate, bidders warrant the goods and/or services offered to be at least equal to specifications indicated by purchaser and shall submit with their bid, quotation or proposal complete documentation to enable the purchasing activity to evaluate. Bids, quotations or proposals without sufficient documentation may be rejected. If a bidder misrepresents goods and/or services bid as being an equal when it is an alternate, their bid, quotation or proposal may be rejected and bidder will be liable for damages caused by the misrepresentation.

Where required by the purchasing activity, the bidder shall, at bidder's expense, provide product samples and/or descriptive literature with returned bid, quote or proposal. If not received within the required time period or as otherwise required, the purchasing activity may reject the bid, quote or proposal as nonresponsive. If not destroyed in testing or if sample is not required by the purchasing activity to be retained for demonstration purposes, bidders may request return of samples at their expense. Samples not claimed within ten days after notification may be disposed of as deemed necessary without cost to the purchasing activity.

If necessary, the purchasing activity may require competitive demonstrations at bidder's expense to ensure that the proposed product satisfactorily meets the purchaser's needs.

[Statutory Authority: Chapter 43.19 RCW. 99-15-070, § 236-48-083, filed 7/19/99, effective 8/19/99; 91-09-035, § 236-48-083, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-083, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-083, filed 1/28/77.]

WAC 236-48-085 In-state preference bids. The office of state procurement shall compile a list of each state, relating to state purchasing practices, whose statutes or regulations grant a preference to suppliers located within that state or goods manufactured within that state. This list shall be updated on an annual basis and shall include only those states with currently active in-state preference clauses for procuring goods and services and the list shall contain the percentage of preference allowed. States with only reciprocity legislation will not be included on the list. The office of state procurement shall compile the list and notify impacted state agency, college and university purchasing offices. In determining whether to assess a percentage increase against a bidder, and the amount of that increase, the purchasing activity will consider only the business address from which the bid or proposal was submitted. The purchasing activity will add the appropriate percentage increase to each bid or proposal bearing the address from a state with in-state preference rather than subtracting a like amount from Washington state bidders.

This action will be used only when evaluating bids or proposals for award. In no instance shall the increase be paid to a supplier whose bid is accepted.

This WAC section applies only to formal invitations for bid and requests for proposals solicited in accordance with chapter 43.19 RCW.

[Statutory Authority: Chapter 43.19 RCW. 99-15-070, § 236-48-085, filed 7/19/99, effective 8/19/99. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-085, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-085, filed 8/26/83.]

WAC 236-48-094 Partial award. The purchasing activity shall have the discretion to award on an "all or nothing" basis as outlined in the competitive solicitation document or to accept any portion of the items bid, excluding others unless the bidder stipulates all or nothing in their bid.

[Statutory Authority: Chapter 43.19 RCW. 99-15-070, § 236-48-094, filed 7/19/99, effective 8/19/99; 91-09-035, § 236-48-094, filed 4/12/91, effective 5/13/91; Order 77-2, § 236-48-094, filed 1/28/77.]

WAC 236-48-096 Bid award preference. In conducting purchases of goods and/or services, preference shall be given to the extent allowed by statute:

(1) Under RCW 43.19.534, to those goods and services produced in whole or in part by Class II inmate programs operated by the department of corrections as described in WAC 236-49-055.

(2) To goods containing recovered material as outlined under RCW 43.19.538 provided that the purchasing activity sets forth in the competitive solicitation a minimum percent content of recovered material that must be certified by the producer of the goods to qualify for the preference. Bids for goods so certified shall be given a preference of ten percent of the amount of the bid in determining the lowest responsive bid for any item or grouping of items to be awarded to a single bidder. This preference shall be separate from and applied after any other preferences allowed by statute. The minimum content of recovered material shall be not less than fifteen percent provided that for those goods for which the Environmental Protection Agency has adopted procurement guidelines under the Resource Conservation and Recovery Act of 1976 (Public Law 94-580, 42 U.S.C. §6901 et seq.), as amended, the minimum content of recovered material shall not be less than specified in the most current adopted issue of those guidelines. The producer of the goods shall certify the post consumer and recovered or waste material content at the time of submitting bid. To qualify for the preference, the goods shall otherwise be at least functionally equal to all other specifications and use requirements. The preference shall be used for bid evaluation purposes only and the actual dollars bid shall be the contracted amount. In the event of a tie for lowest responsive bid between products otherwise meeting all bid specifications, the purchasing activity shall consider the larger post consumer material content as a factor in determining the award. Should the purchasing activity determine that the use of this preference does not encourage the use of more recovered material for reasons including inadequate competition, economics, environmental constraints, quality or availability, the purchasing activity shall issue, consider and award bids without the preference. For the purpose of meeting Resource Conservation and Recovery Act requirements for state agency purchase of goods complying with Environmental Protection Agency recovered or waste guidelines, the office of state procurement may adopt specifications requiring that only goods meeting these guidelines are responsive and may consider bids for such goods though the cost exceeds ten percent of goods not meeting such guidelines.

[Statutory Authority: Chapter 43.19 RCW. 99-15-070, § 236-48-096, filed 7/19/99, effective 8/19/99. Statutory Authority: RCW 43.19.534. 94-21-017, § 236-48-096, filed 10/6/94, effective 11/6/94. Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-096, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 -

43.19.538. 89-17-094 (Order 89-02), § 236-48-096, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-096, filed 8/26/83; Order 77-2, § 236-48-096, filed 1/28/77.]

WAC 236-48-098 Rejection. No rejection notice will be sent to unsuccessful bidders whose net pricing (or scoring) after evaluation is higher than awarded. Bidders whose bids are nonresponsive will be rejected and will be notified of the reasons for such rejection.

[Statutory Authority: Chapter 43.19 RCW. 99-15-070, § 236-48-098, filed 7/19/99, effective 8/19/99; 91-09-035, § 236-48-098, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-098, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-098, filed 8/26/83; Order 77-2, § 236-48-098, filed 1/28/77.]

WAC 236-48-099 Acceptance of terms. Acceptance of bids, quotes, or proposals shall be expressly limited to the terms and conditions of the solicitation document issued by the purchasing activity. All material alterations, additional or different terms proposed by the bidder shall be rejected unless otherwise provided for in the solicitation document issued by the purchasing activity.

[Statutory Authority: Chapter 43.19 RCW. 99-15-070, § 236-48-099, filed 7/19/99, effective 8/19/99; 91-09-035, § 236-48-099, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-099, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-099, filed 8/26/83; Order 77-2, § 236-48-099, filed 1/28/77.]

WAC 236-48-111 Handling of bids and proposals if publicly opened. The purchasing activity's official bid supervisor shall decide when the time set for bid opening has arrived and shall so declare to those present. The bid supervisor shall then personally and publicly open all bids and read pertinent information as determined by the purchasing activity for recording. The solicitation form may not be completed, signed, or amended by bidders after official opening time. The bid supervisor will, on request, read the documents in detail provided that sufficient time is available. All bids become the property of the purchasing activity when received and must remain under the control of the bid supervisor or staff.

[Statutory Authority: Chapter 43.19 RCW. 99-15-070, § 236-48-111, filed 7/19/99, effective 8/19/99. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-111, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-111, filed 1/28/77.]

WAC 236-48-121 Mistakes in bid(s) or proposals detected prior to opening. Mistakes in bids or proposals detected prior to opening may be corrected by the bidder by withdrawing the original bid or proposal and submitting a corrected bid or proposal to the purchasing activity before the time specified for opening. If there is not sufficient time prior to the time specified for opening to withdraw the original bid or proposal and submit a corrected bid or proposal, the bidder, or an authorized representative, may correct the mistake on the face of the original bid or proposal: Provided, That the corrected bid or proposal is time stamped by the purchasing activity upon resubmission prior to the time designated for opening.

(2005 Ed.)

[Statutory Authority: Chapter 43.19 RCW. 99-15-070, § 236-48-121, filed 7/19/99, effective 8/19/99; 91-09-035, § 236-48-121, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-121, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-121, filed 1/28/77.]

WAC 236-48-122 Mistakes in bid(s) or proposals detected during or after bid opening. Bidder mistakes in a bid or proposal detected during or after bid opening may not be corrected. If the bidder submits evidence in writing satisfactory to the purchasing activity that a mistake has been made by the bidder in the calculation of its bid or proposal, the purchasing activity may allow the bid or proposal to be withdrawn: Provided, That the claim of mistake and the evidence in support thereof must be made and provided within three business days after the bid or proposal has been opened. Compliance with this section within the specified time limit, shall relieve the bidder of forfeiture of its bid guarantee. If the purchasing activity subsequently reissues the solicitation, the bidder having made the mistake may not participate in that bid or proposal.

[Statutory Authority: Chapter 43.19 RCW. 99-15-070, § 236-48-122, filed 7/19/99, effective 8/19/99. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-122, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-122, filed 1/28/77.]

WAC 236-48-123 Disclosure of information. After bids, quotes or proposals have been received, all such information becomes the property of the purchasing activity and shall not be released or otherwise distributed until after the evaluation has been completed and final award(s) announced. Evaluation team members shall maintain confidentiality of information to ensure the integrity of the process. After award and distribution of award information or posting of such information electronically for public review, the bids, quotes, and proposals of all bidders shall be open to public inspection at the offices of the purchasing activity during normal office hours. Copies of documents subject to public disclosure will be made available upon request in accordance with purchasing activity policy. The purchasing activity assumes no responsibility for the confidentiality of bids, quotes or proposals after award.

Any document(s) or information which the bidder believes is exempt from public disclosure per RCW 42.17-310 shall be clearly identified by bidder and placed in a separate envelope marked with bid number, bidder's name, and the words "proprietary data" along with a statement of the basis for such claim of exemption. The state's sole responsibility shall be limited to maintaining the above data in a secure area and to notify bidder of any request(s) for disclosure within a period of five years from date of award. Failure to so label such materials or failure to provide a timely response after notice of request for public disclosure has been given shall be deemed a waiver by the bidder of any claim that such materials are, in fact, so exempt.

[Statutory Authority: Chapter 43.19 RCW. 99-15-070, § 236-48-123, filed 7/19/99, effective 8/19/99; 91-09-035, § 236-48-123, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-123, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-123, filed 8/26/83; Order 77-2, § 236-48-123, filed 1/28/77.]

WAC 236-48-124 Informalities in bids, quotes, or proposals. The purchasing activity reserves the right to waive informalities in bids, quotes or proposals.

[Statutory Authority: Chapter 43.19 RCW. 99-15-070, § 236-48-124, filed 7/19/99, effective 8/19/99; 91-09-035, § 236-48-124, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-124, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-124, filed 8/26/83.]

WAC 236-48-132 Notice of cancellation or rejection of bids. In the event of a cancellation of a competitive solicitation or if all bids are rejected, all bidders will be notified by mail, facsimile or electronic means by the purchasing activity.

[Statutory Authority: Chapter 43.19 RCW. 99-15-070, § 236-48-132, filed 7/19/99, effective 8/19/99; 91-09-035, § 236-48-132, filed 4/12/91, effective 5/13/91; Order 77-2, § 236-48-132, filed 1/28/77.]

WAC 236-48-141 Protests and appeals—Form and substance. Purchasing activities shall make available to bidders upon request a copy of their policy which outlines how the protest review process will be administered within their agency. All protests and appeals must be in writing, signed by the protestant or appellant or an authorized agent and delivered within the time frame(s) outlined by the protest policy. Protests must be addressed to that individual within the purchasing activity assigned review responsibilities. Such writing must state all facts and arguments on which the protestant or appellant is relying as the basis for its action. Such protestant or appellant shall also attach, or supply on demand by the purchasing activity, any relevant exhibits related, or referred to in the protest. Copies of all protests, appeals, and exhibits shall be mailed, faxed or delivered by the protestant or appellant to the bidder or bidders against whom the protest is made at the same time such protest, appeal, and exhibits are submitted to the purchasing activity.

[Statutory Authority: Chapter 43.19 RCW. 99-15-070, § 236-48-141, filed 7/19/99, effective 8/19/99; 91-09-035, § 236-48-141, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-141, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-141, filed 1/28/77.]

WAC 236-48-142 Office of state procurement protest procedure prior to award. Prior to award, a bidder desiring to protest the bid of another bidder, the specifications or the manner in which the solicitation process has been conducted must notify the state procurement officer in charge of the solicitation of his/her intent to file a protest as soon as possible after he/she becomes aware of the reason(s) for the protest. Such protest(s) must be received not later than five business days after notification has been given to the state procurement officer of bidder's intent to protest. Should the protest not be received within that time frame, the state procurement officer may proceed with the award.

The state procurement officer shall consider all of the facts available and issue a decision in writing within ten business days after receipt of the protest, unless more time is needed. The protestant and, where applicable, the bidder(s) against whom the protest is made will be notified if additional time is necessary. If the protesting bidder or the bidder against whom the protest is made is not satisfied with the

decision of the state procurement officer, he/she shall have the right to appeal to the director, office of state procurement. Such appeal must be received by the director within five business days after notification of the state procurement officer's decision. The director shall consider all of the facts available and issue a decision in writing within ten business days after receipt of the appeal, unless more time is needed. The appealing bidder will be notified if additional time is necessary.

Unless an emergency exists as determined by the director, award of the contract, if one is to be made, will be postponed until after the director has issued a decision. Unless the director subsequently considers it necessary to pursue further clarification(s), the decision of the director on the protest is final.

[Statutory Authority: Chapter 43.19 RCW. 99-15-070, § 236-48-142, filed 7/19/99, effective 8/19/99. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-142, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-142, filed 1/28/77.]

WAC 236-48-143 Office of state procurement protest procedure after award. Protests after award will not be considered unless the protest concerns a matter which arises after the award or could not reasonably have been known or discovered prior to award. Such protests shall be received by the director, office of state procurement not later than five business days after distribution of the award information by the office of state procurement. If the protest is mailed the protestant shall immediately notify by telephone, or some other means of instant communication, the state procurement officer in charge of the bid and the bidder that has received the award that a protest is being made. The director shall consider all of the facts available and issue a decision on the protest within ten business days after receipt thereof, unless more time is needed. In such event, the protestant and the bidder that has received the award shall be notified of any delay. If the director upholds the award, the decision of the director is final, unless the director subsequently considers it necessary to pursue further clarifications.

If the director finds that the award should not have been made he/she shall notify the bidder which received the award of his/her intent to cancel the award and the reasons therefore. The bidder that has received the award shall then have five business days after receipt of notification in which to appeal the decision to cancel the award to the director of general administration. The director of general administration shall consider all of the facts available and issue a decision within ten business days after receipt of the appeal, unless more time is needed. If more time is needed, the appellant and the protestant shall be so notified.

If the director of general administration agrees that the award should be canceled he/she shall order the director of the office of state procurement to cancel the award. Unless the director of general administration subsequently considers it necessary to pursue further clarifications, the decision of the director of general administration shall be final.

If an award is cancelled, the director, office of state procurement, after consideration of all pertinent factors, may decide to reject all bids, quotes or proposals and solicit new bids, quotes or proposals. Barring such a decision, an award

shall be made to the next lowest responsive and responsible bidder.

[Statutory Authority: Chapter 43.19 RCW. 99-15-070, § 236-48-143, filed 7/19/99, effective 8/19/99. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-143, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-143, filed 1/28/77.]

WAC 236-48-152 Offset against contractor payments. In addition to other methods of collection available, the purchasing activity may offset any damages for which the contractor is responsible against payments owing to the contractor from any agency which may be indebted to the contractor.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-152, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-152, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-152, filed 1/28/77.]

WAC 236-48-153 Delivery date. Whenever a specific delivery date has been stipulated by the purchasing activity in a solicitation document, that date shall be an essential condition of any contract subsequently entered into by the parties. If a contractor is unable to meet the delivery date, he/she shall notify the purchasing activity at the earliest possible time. The contractor shall include in such notification the proposed revised delivery date. The purchaser shall then have the option to accept such revised dates, or cancel and purchase elsewhere. The purchasing activity shall have the option of pursuing liquidated damage provisions or other legal remedies outlined in the solicitation document, statute or regulation.

[Statutory Authority: Chapter 43.19 RCW. 99-15-070, § 236-48-153, filed 7/19/99, effective 8/19/99; 91-09-035, § 236-48-153, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-153, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-153, filed 1/28/77.]

WAC 236-48-165 Change in product offered. After award, a contractor shall not be allowed to substitute goods or services from that offered: Provided, however, If the goods or services offered are no longer available to the contractor for reasons beyond its control or if the short term needs of an agency are more fully met by the proposed substitute goods or services, the purchasing activity may consider a request by the bidder or contractor for substitution. All such requests must be in writing, must set forth the reasons the product or service is no longer available, and/or must be accompanied by samples, record of performance, certified copies of tests by impartial and recognized laboratories, or such additional data as the purchaser may request. Samples and data shall be furnished sufficiently in advance to allow for investigation before a decision is made. The bidder or contractor shall warrant that the substitute article is equal or better than the specified article. If the change results in any cost savings to the bidder or contractor, the cost savings shall be reflected in full in a reduction in price to the purchasing activity. State contracts may only be amended by the office of state procurement.

[Statutory Authority: Chapter 43.19 RCW. 99-15-070, § 236-48-165, filed 7/19/99, effective 8/19/99; 91-09-035, § 236-48-165, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - (2005 Ed.)

43.19.538. 89-17-094 (Order 89-02), § 236-48-165, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-165, filed 1/28/77.]

WAC 236-48-166 Contract extension. If contract provisions allow, a contractor and the purchasing activity may mutually agree to extend a contract for predetermined periods pursuant to the terms and conditions included in the original contract.

Justification for extension must be fully documented in the contract file. The decision to pursue a contract extension shall include a review of price competitiveness, changes in the marketplace for such commodity or service, and/or other relevant factors. The contractor shall be notified in writing of the purchasing activities desire to pursue a contract extension prior to the expiration date of the contract. Extensions, to be effective, must be in writing and signed by authorized representatives of both the contractor and purchasing activity.

[Statutory Authority: Chapter 43.19 RCW. 99-15-070, § 236-48-166, filed 7/19/99, effective 8/19/99; 91-09-035, § 236-48-166, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-166, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-166, filed 8/26/83; Order 77-2, § 236-48-166, filed 1/28/77.]

WAC 236-48-167 Additions or deletions to contract or purchase order. Where consistent with statutory and contract provisions, the office of state procurement may increase or decrease the items, quantities, delivery locations or agencies specified in a state contract or purchase order. Contract provisions shall specify the extent to which this option may be exercised. Where consistent with statute and contract provisions, purchasing activities may do likewise for purchases which they administer.

[Statutory Authority: Chapter 43.19 RCW. 99-15-070, § 236-48-167, filed 7/19/99, effective 8/19/99; 91-09-035, § 236-48-167, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-167, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-167, filed 8/26/83; Order 77-2, § 236-48-167, filed 1/28/77.]

WAC 236-48-190 Surplus property disposal priorities. Excess and/or surplus property will be offered for sale, transfer, or donation as designated below and according to the following priorities:

- (1) Sale or transfer to state agencies (including state universities and colleges);
- (2) Sale or transfer to other tax-supported educational agencies;
- (3) Sale or transfer to tax-supported agencies, municipalities or political subdivisions within the state of Washington;
- (4) Sale or transfer to public benefit nonprofit corporations;
- (5) Donation of surplus, tangible personal property to qualified shelters as described in and in accordance with RCW 43.19.1920.
- (6) Sale to the general public including by auction, sealed bid and negotiation; and
- (7) Other action as needed, such as destruction where it has been determined that the item has no sale value.

[Statutory Authority: Chapter 43.19 RCW. 99-15-070, § 236-48-190, filed 7/19/99, effective 8/19/99. Statutory Authority: RCW 43.19.1919. 94-22-056, § 236-48-190, filed 11/1/94, effective 12/2/94. Statutory Authority:

RCW 43.19.1919 and HB 2106. 92-09-016, § 236-48-190, filed 4/3/92, effective 5/4/92; Order 77-2, § 236-48-190, filed 1/28/77.]

WAC 236-48-1901 Surplus property—Exceptions to disposal priorities. Excess and/or surplus property may be disposed of without offering to other state agencies if the director of general administration determines that it is in the best interest of the state. In this event, the following guidelines will apply:

(1) Items will be transferred or sold for reasonable cost if practical.

(2) Items for which a reasonable cost cannot be obtained will be donated to a nonprofit organization (which is registered under state law and exempt from federal income tax liability) with an ongoing equipment rehabilitation program.

(3) Recipients of donated items, if not designated by the director of general administration, will be determined by state surplus property.

(4) Successful donees will be notified by state surplus property and removal will be the responsibility of the donee.

(5) Items that can be documented to have a higher overhead cost than can be realized from their sale, can, at the discretion of the director of general administration, be scrapped or dumped if there is not an acceptable donee organization available.

(6) All surplus actions, including those described in the regulation, will require submittal of the appropriate surplus document form to general administration.

[Statutory Authority: RCW 43.19.1919. 89-18-004 (Order 89-3), § 236-48-1901, filed 8/24/89, effective 9/24/89.]

WAC 236-48-1902 Surplus property—Intent of state surplus priorities. Surplus property purchased, transferred or donated pursuant to the priorities of WAC 236-48-190 (1) through (5) is intended for the sole use of the purchaser, transferee or donee. Entities with priority under WAC 236-48-190 (1) through (5) shall not profit from the immediate resale of surplus property.

The director of general administration may take action against accounts in arrears or priority buyers who do not comply with the intent of this section. An account is in arrears when it is sixty days past due or ninety days past issuance of invoice. Such action includes, but is not limited to, cancellation or suspension of shopping privileges, cancellation or suspension of priority shopping status.

[Statutory Authority: RCW 43.19.1919. 94-22-056, § 236-48-1902, filed 11/1/94, effective 12/2/94.]

WAC 236-48-191 Surplus property auction. Auctions shall be advertised to the general public, provisions being made for interested parties to inspect items either at the auction site or user's location.

[Order 77-2, § 236-48-191, filed 1/28/77.]

WAC 236-48-192 Sealed bid—Surplus property. Public notice shall be given of the sealed bid and the date set for public bid openings. In addition, information will be provided to interested parties describing the merchandise in question, together with an opportunity for inspection of the same.

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[Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-192, filed 8/26/83; Order 77-2, § 236-48-192, filed 1/28/77.]

WAC 236-48-193 Negotiation—Surplus property. Negotiation shall be the method of disposal whenever it is determined by the director that such procedure is the most advantageous to the state. The reasons for choosing negotiation shall be set forth in writing and placed in the file relating to the disposition.

[Order 77-2, § 236-48-193, filed 1/28/77.]

WAC 236-48-194 Guarantee of quality, etc., state responsibility for—Surplus property. All sales of surplus property are "as is," and the state takes no responsibility for and makes no guarantees with respect to items sold: Provided, That the state shall make a statement of the condition of the merchandise, including major known defects, before sale. No sale shall be invalid due to defects discovered after sale which may have been discovered by a reasonable inspection of the property before sale.

[Order 77-2, § 236-48-194, filed 1/28/77.]

WAC 236-48-195 Weight merchandise—Surplus property. If the property to be disposed of is measured by weight, the successful bidder shall furnish to the custodian of the property, a certified weight ticket showing the gross tare and net weight of the shipment with a notation on the ticket of the driver on or off of the vehicle for each load. The empty and loaded weight ticket must bear the same date. Weighing shall take place at the certified public scale nearest to the point of pickup.

[Order 77-2, § 236-48-195, filed 1/28/77.]

WAC 236-48-196 Removal—Surplus property. Surplus property must be removed within a reasonable time after purchase, or if a specific time is stated, within that time.

[Order 77-2, § 236-48-196, filed 1/28/77.]

WAC 236-48-197 Withdrawal from sale or rejection of bids—Surplus property. The state may withdraw from sale the item(s) scheduled for disposal at any time prior to the formation of a contract. The state may also reject any or all bids if the best interests of the state so require.

[Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-197, filed 8/26/83; Order 77-2, § 236-48-197, filed 1/28/77.]

WAC 236-48-198 Sale of surplus property to state elected officials or employees. Surplus property available for disposal under the provisions of RCW 43.19.1919 shall not be sold to state elected officials, officers or employees, except at public sale: Provided, however, An item valued at less than direct buy limit and declared surplus of a personal nature such as a chair, desk or bookcase, which in some way depicts or represents the office in which they have served, may be sold to an elected official after leaving office at private sale as used equipment: Provided further, That commissioned officers of the Washington state patrol or other statewide law enforcement activity retired for service or for nonmental or nonstress related disabilities may purchase his or her career service handgun at private sale as used equipment.

(2005 Ed.)

[Statutory Authority: RCW 43.19.190 and 43.19.1919. 97-04-025, § 236-48-198, filed 1/28/97, effective 2/28/97. Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-198, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.190(11) and 43.17.060. 90-16-075, § 236-48-198, filed 7/30/90, effective 8/30/90. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-198, filed 8/26/83; Order 77-2, § 236-48-198, filed 1/28/77.]

WAC 236-48-230 Leases. For goods to be leased with an option to purchase or lease-purchased, agencies are responsible for coordinating the finance agreement where applicable with the office of state treasurer prior to the purchasing activity conducting the purchase.

[Statutory Authority: Chapter 43.19 RCW. 99-15-070, § 236-48-230, filed 7/19/99, effective 8/19/99; 91-09-035, § 236-48-230, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-230, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-230, filed 1/28/77.]

WAC 236-48-250 Use of credit, charge cards or purchasing cards. All credit, charge cards or purchasing cards, other than those for gasoline, vehicle rental, travel, and telephone, shall be ordered by the director of an agency or designee. It shall not be mandatory upon an agency to obtain credit, charge cards or purchasing cards.

[Statutory Authority: Chapter 43.19 RCW. 99-15-070, § 236-48-250, filed 7/19/99, effective 8/19/99. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-250, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-250, filed 8/26/83.]

WAC 236-48-251 Distribution of credit, charge cards or purchasing cards. Agency heads (or their designees) shall institute a system for responsibility, control and distribution of credit, charge or purchasing cards within each agency. Control shall be so structured that, upon request of the office of state procurement, each agency will be able to report the number of cards used, the type of cards used, the amount of purchases made by card within a stated time together with any problems they have encountered.

[Statutory Authority: Chapter 43.19 RCW. 99-15-070, § 236-48-251, filed 7/19/99, effective 8/19/99. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-251, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-251, filed 8/26/83.]

WAC 236-48-252 Credit limits. When an agency determines that the use of credit, charge or purchasing cards will be to its advantage, the source will be the existing state contract. The office of state procurement will establish an aggregate credit limit for each agency. Each agency director will then establish a credit limit for each card ordered within that aggregate limit. Any requests for exception to the agency aggregate monetary limit must be made in writing by the agency head to the director, office of state procurement, who will approve or deny. Dollar limitations shall not apply to travel related expenditures such as food, lodging, airfare, and vehicle rental.

[Statutory Authority: Chapter 43.19 RCW. 99-15-070, § 236-48-252, filed 7/19/99, effective 8/19/99. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-252, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-252, filed 8/26/83.]

(2005 Ed.)

WAC 236-48-253 Payment of credit or purchasing card bills. Statements received from the financial institution or firm issuing credit or purchasing cards shall be handled in the same manner as an invoice bearing a prompt payment discount. Payments shall be made in full each month to avoid late payment penalties or interest charges imposed by credit card issuers.

[Statutory Authority: Chapter 43.19 RCW. 99-15-070, § 236-48-253, filed 7/19/99, effective 8/19/99; 83-18-004 (Order 83-03), § 236-48-253, filed 8/26/83.]

Chapter 236-49 WAC

RELATIONSHIP AND PROCEDURES BETWEEN DIVISION OF PURCHASING AND STATE AGENCIES

WAC

- 236-49-001 Purpose.
- 236-49-010 Definitions.
- 236-49-020 Washington state purchasing structure.
- 236-49-055 Preference for correctional industries Class II products.
- 236-49-060 State purchasing cooperative.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 236-49-030 Delegated authority. [Statutory Authority: Chapter 43.19 RCW. 91-09-034, § 236-49-030, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-49-030, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-49-030, filed 1/28/77.] Repealed by 99-13-138, filed 6/18/99, effective 7/19/99. Statutory Authority: Chapter 43.19 RCW.
- 236-49-040 Types of purchasing. [Statutory Authority: Chapter 43.19 RCW. 91-09-034, § 236-49-040, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-49-040, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-49-040, filed 1/28/77.] Repealed by 99-13-138, filed 6/18/99, effective 7/19/99. Statutory Authority: Chapter 43.19 RCW.
- 236-49-050 Emergency purchases. [Order 77-2, § 236-49-050, filed 1/28/77.] Repealed by 78-02-060 (Order 78-1), filed 1/23/78. Statutory Authority: RCW 43.19.190 (11) and (12).
- 236-49-061 Cooperative purchasing program fee. [Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-49-061, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-49-061, filed 8/26/83.] Repealed by 99-13-138, filed 6/18/99, effective 7/19/99. Statutory Authority: Chapter 43.19 RCW.

WAC 236-49-001 Purpose. The purpose of this chapter is to outline the purchasing structure within the state of Washington and to identify the responsibilities of, and relationships between, those purchasing activities. The requirements by which state agencies shall conduct their acquisitions are outlined in general authorities delegated by the office of state procurement and/or via policy outlined by higher educational facilities.

[Statutory Authority: Chapter 43.19 RCW. 99-15-070, § 236-49-001, filed 7/19/99, effective 8/19/99. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-49-001, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-49-001, filed 1/28/77.]

WAC 236-49-010 Definitions. As used in this chapter the following terms shall have the following meanings; addi-

tional terms shall have meanings as outlined under WAC 236-48-003:

(1) Materials management center. That activity managed by the department of general administration office of state procurement whose function is to provide for the:

(a) Centralized storage and distribution of commonly used supplies and equipment to ensure administrative efficiency and economy in such purchases by state agencies;

(b) Centralized storage of agency goods, backhaul of agency goods from remote locations to Olympia and management of the administration and distribution of the emergency food assistance program (TEFAP) funding and food commodities in accordance with federal regulations.

(2) Political subdivision. Any agency, political subdivision, or unit of local government of Washington state including, but not limited to, municipal corporations, quasi-municipal corporations, special purpose districts, and local service districts; any agency of Washington state government; any agency of the United States; any Indian tribe recognized as such by the federal government; and any political subdivision of another state of the United States.

(3) Public benefit nonprofit corporation. An entity registered with the office of secretary of state as outlined by RCW 39.34.055 which maintains a tax exempt status under 26 U.S.C. Sec. 501 (c)(3) with the Internal Revenue Service and which is receiving local, state or federal funds either directly or through a political subdivision.

(4) Purchase order. A standard state form used by the office of state procurement and institutions of higher education and signed by an authorized official of the purchasing activity which notifies the contractor to provide the stated material, equipment, supplies, or services under the terms and conditions set forth thereon or as outlined in the contract.

[Statutory Authority: Chapter 43.19 RCW. 99-15-070, § 236-49-010, filed 7/19/99, effective 8/19/99; 91-09-034, § 236-49-010, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-49-010, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-49-010, filed 1/28/77.]

WAC 236-49-020 Washington state purchasing structure. The office of state procurement has been charged by the legislature with the responsibility to purchase all goods and/or services needed for the support, maintenance and use of all state institutions, colleges, community colleges and universities, the offices of the elective state officers, the supreme court, the court of appeals, the administrative and other departments of state government, and the offices of all appointive officers of the state. Colleges, community colleges and universities have statutory authority for conducting their own acquisitions but shall implement policies and procedures which adhere to statutory provisions and legislative intent outlined under applicable sections of chapter 43.19 RCW. The legislature has the responsibility of making purchases necessary for the operation of the legislature.

The office of state procurement has authority to delegate to state agencies other than institutions of higher education authorization to purchase or sell goods or services required by that agency which agencies may purchase and shall identify guidelines by which those agencies shall conduct their acquisitions. Agencies receiving delegation of authority must remain in substantial compliance with procurement stat-

utes, regulations and requirements outlined by the office of state procurement to obtain continued delegation of authority.

[Statutory Authority: Chapter 43.19 RCW. 99-15-070, § 236-49-020, filed 7/19/99, effective 8/19/99; 91-09-034, § 236-49-020, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-49-020, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-49-020, filed 1/28/77.]

WAC 236-49-055 Preference for correctional industries Class II products. The following provisions outline purchase requirements for correctional industries, Class II goods and services:

(1) Correctional industries will identify the goods and services available for purchase through the office of state procurement and confirm the same in writing to the director of the department of general administration at least one hundred twenty days before the expiration of any existing contract(s). The writing from correctional industries will include a request that the office of state procurement tender to correctional industries a mandatory use contract to sell these goods and services to state agencies, the legislature and departments in accordance with RCW 43.19.534. A mandatory use contract as defined in the procurement document will be executed between the office of state procurement and correctional industries that complies with state law and covers all specified Class II goods and services that are produced in whole, or in part, by correctional industries.

(2) All goods and services covered by the general administration mandatory use contract are to be purchased from correctional industries. General administration will administer these contracts.

(3) Any state agency, branch of the legislature or department may apply for an exemption from the correctional industries purchase preference by using the form developed by general administration. If the request for exemption is approved, that approval shall apply for the specified product or product line for a period of one year from the date of approval of the exemption. The approval shall apply to all customers of that agency requesting that product or product line.

(4) However, goods or services produced by Class II correctional industries programs which primarily replace goods manufactured or services obtained from outside the state of Washington are not subject to the criteria contained in subsection (3) of this section, and shall be purchased solely from correctional industries.

(5) Correctional industries, Class II purchasing requirements supersede the second proviso of RCW 43.19.190(2), where correctional industries offers the goods or services through state contract and the goods are manufactured and/or services are obtained from outside the state of Washington.

[Statutory Authority: Chapter 43.19 RCW. 99-15-070, § 236-49-055, filed 7/19/99, effective 8/19/99. Statutory Authority: RCW 43.19.534. 94-21-017, § 236-49-055, filed 10/6/94, effective 11/6/94.]

WAC 236-49-060 State purchasing cooperative. The office of state procurement may establish a state purchasing cooperative composed of state agencies, political subdivisions and authorized private nonprofit entities. The office of state procurement may also enter into agreements with other

purchasing cooperatives outside the state as it deems appropriate. Authorized entities desiring to purchase goods or services from contracts or purchases administered by the office of state procurement shall first ensure current membership in the state purchasing cooperative. Participants may utilize state contracts, participate in procurement training activities sponsored by the office of state procurement and benefit from staff expertise and/or assistance in administering their own procurement programs. The office of state procurement shall fully recover costs of administering this program from members.

[Statutory Authority: Chapter 43.19 RCW, 99-15-070, § 236-49-060, filed 7/19/99, effective 8/19/99. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538, 89-17-094 (Order 89-02), § 236-49-060, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW, 83-18-004 (Order 83-03), § 236-49-060, filed 8/26/83.]

Chapter 236-51 WAC COMPETITIVE CONTRACTING

WAC

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GENERAL PURPOSE AND DEFINITIONS

WAC 236-51-001 Purpose. Under RCW 41.06.142, agencies may competitively contract for services that state employees have customarily and historically provided. The law directs the department of general administration to adopt rules to ensure that the submittal and evaluation of bids are fair and objective, and that there exists a competitive market for the service. The department of general administration's objective in writing these rules is to provide clear, simple, fair, and consistent guidance in complying with the law.

[Statutory Authority: RCW 41.06.142, 04-07-104, § 236-51-001, filed 3/17/04, effective 7/1/05.]

WAC 236-51-005 Scope of chapter. This chapter applies to all services customarily and historically provided by state employees, except:

- (1) As described in RCW 41.06.142(3) and 41.06.070;
- (2) In the case of emergency purchases, which may be made in response to unforeseen circumstances beyond the control of the agency which present a real, immediate, and extreme threat to the proper performance of essential functions or which may reasonably be expected to result in excessive loss or damage to property, bodily injury, or loss of life. When an emergency purchase is made, the agency head shall submit written notification of the purchase, within three days of the purchase, to the director of general administration. This notification shall contain a description of the purchase, description of the emergency and the circumstances leading up to the emergency, and an explanation of why the circumstances required an emergency purchase; or
- (3) If state employees will not be displaced.

[Statutory Authority: RCW 41.06.142, 04-07-104, § 236-51-005, filed 3/17/04, effective 7/1/05.]

WAC 236-51-006 If state employees will not be displaced. If state employees will not be displaced, agencies shall comply with RCW 41.06.142 (1)(a), (d) and (e), and applicable laws and rules governing the purchase of such services.

[Statutory Authority: RCW 41.06.142, 04-07-104, § 236-51-006, filed 3/17/04, effective 7/1/05.]

WAC 236-51-010 Definitions. The following words, terms, and phrases, used in this chapter shall have the following meanings, unless the context clearly indicates otherwise.

- (1) "Agency" means an office, department, board, commission, institution of higher education, or other separate unit or division, however designated, of the state government and all personnel thereof; it includes any unit of state government established by law, the executive officer or members of

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which are either elected or appointed, upon which the statutes confer powers and impose duties in connection with operations of either a governmental or proprietary nature.

(2) "Appeal" means both a request for an adjudicative proceeding or the actual adjudicative proceeding presided over by an administrative law judge from the office of administrative hearings in accordance with chapter 34.05 RCW.

(3) "Award" means to grant a contract to a successful bidder or bidders, which occurs on the date as specified in the award notice.

(4) "Bid" means a written offer to perform services by contract in response to a solicitation.

(5) "Bidder" means a party who submits a bid or proposal for consideration by an agency issuing a solicitation.

(6) "Competitive contracting" means the process by which classified employees compete with businesses, individuals, nonprofit organizations, or other entities for the performance of services those employees have customarily and historically performed.

(7) "Complainant" means bidder or potential bidder who files a complaint about the bidding process to the agency head or designee on allowable grounds.

(8) "Conflict of interest" means having a personal or financial interest that is in conflict with the proper discharge of state duties, including the transaction of state business with an entity or individual in which a state employee has an interest.

(9) "Date of award" means the date on which the agency and the successful bidder sign the contract.

(10) "Day," whether calendar or business day, means 8:00 a.m. to 5:00 p.m. Pacific Standard Time or Pacific Daylight Time, whichever is in effect. Business day excludes weekends and state holidays. Calendar day is every day including weekends and state holidays. If the end of a period calculated using calendar days falls on a weekend or state holiday, it will be extended to 5:00 p.m. of the next business day.

(11) "Displaced employee" means a classified employee whose position or work would be eliminated, resulting in the employee being laid off or assigned to a different job classification, as a result of an award via the competitive contracting process.

(12) "Efficiency improvement" means the enhanced value and/or quality that an agency achieves as a result of a change to a service or the ways a service is provided. This enhancement may come at a higher cost but its relative value offsets it. Such improvements may include, but are not limited to:

- (a) Reduced preparation or process time;
- (b) Greater accessibility or availability of service; or
- (c) Improved data quality and timeliness.

(13) "Employee business unit" means a group of employees who perform services for which an agency proposes to competitively contract and who:

(a) Notify the agency of their intent to submit a bid for the performance of those services through competitive contracting; or

(b) Receive award of a contract from the agency as a result of being the successful bidder.

(14) "Employee business unit leader" means a member of the employee business unit chosen and granted authority

by the other employee business unit members to represent the interests of the employee business unit in the bid process.

(15) "Employee notice" means the notice the agency is required to provide in RCW 41.06.142 (4)(a), "At least ninety calendar days prior to the date the contracting agency requests bids from private entities for a contract for services provided by classified employees, the contracting agency shall notify the classified employees whose positions or work would be displaced by the contract."

(16) "Fully allocated costs" means those costs associated with a service, including the cost of employees' salaries and benefits, space, equipment, materials, and other costs necessary to perform the service but does not include the state or agency's indirect overhead costs unless those costs can be attributed directly to the function in question and would not exist if that function were not performed by the state.

(17) "In writing" means written communication from one party to another including, but not limited to, electronic means.

(18) "Indirect costs" means state or agency costs linked to services which may not be assigned directly. Indirect costs include various administrative and support activities provided to a service by other units from within the agency or by other state government entities. These indirect costs are generally assigned to a service through cost allocation methods.

(19) "Notice of intent to award" means a written announcement of the apparent awardee(s) and the expected date of award.

(20) "Performance work statement" means a statement of the technical, functional and performance characteristics or requirements of the work to be performed. The statement identifies essential functions to be performed, determines performance factors, including the location of the work, the units of work, the quantity of work units, and the quality and timeliness of the work units.

(21) "Potential bidder" means a business, individual, nonprofit organization, employee business unit, or other entity capable of providing the services being considered for competitive contracting.

(22) "Quality assurance plan" means a plan by which an agency will monitor a contract awardee's performance to ensure that the standards of the performance work statement are met within the costs, quality of service, delivery, and other standards of the contract.

(23) "Resource plan" means a detailed written plan created by potentially displaced employees or the employee business unit and submitted to the agency for approval of the use of state resources including, but not limited to: State funds, facilities, tools, property, employees and their time requested for:

(a) Potentially displaced employees to prepare an alternative within the sixty calendar day window, as described in RCW 41.06.142 (4)(a), using state resources other than those offered by an agency; or

(b) The employee business unit to prepare its bid.

(24) "Responsible bidder" means a bidder who has the capability in all respects to perform in full the contract requirements and meet the elements of responsibility. In determining the "lowest responsible bidder," in addition to cost, the following elements shall be given consideration:

(a) The ability, capacity, and skill of the bidder to perform the contract or provide the service required;

(b) The character, integrity, reputation, judgment, experience, and efficiency of the bidder;

(c) Whether the bidder can perform the contract within the time specified;

(d) The quality of performance of previous contracts or services;

(e) The previous and existing compliance by the bidder with laws relating to the contract or services; and

(f) Such other information as may be secured having a bearing on the decision to award the contract.

(25) "Sealed bid" means a bid that is submitted in a manner to prevent its contents from being revealed or known before the deadline for submission of all bids.

(26) "Solicitation" means the process of notifying potential bidders that the agency desires to receive competitive bids or proposals for furnishing services. This includes references to the actual document used in that process, such as the bid or request for proposal and any amendments to such documents.

(27) "State employee" or "employee" mean an employee in the classified service subject to the provisions of chapter 41.06 RCW.

[Statutory Authority: RCW 41.06.142. 04-07-104, § 236-51-010, filed 3/17/04, effective 7/1/05.]

PRELIMINARY STEPS TO COMPETITIVE CONTRACTING

WAC 236-51-100 Determining the existence of a competitive market. (1) Under the law, an agency that considers contracting for services historically and customarily performed by state employees shall determine whether a competitive market exists for the service.

(2) For the purposes of this chapter, a competitive market exists when there are two or more separate businesses, individuals, nonprofit organizations, or other entities capable of providing the services being considered for competitive contracting.

(3) Agencies shall not consider an employee business unit as an entity capable of providing the service when determining the existence of a competitive market for that service.

[Statutory Authority: RCW 41.06.142. 04-07-104, § 236-51-100, filed 3/17/04, effective 7/1/05.]

WAC 236-51-110 Agencies shall notify employee(s) of intent to solicit bids. As required by RCW 41.06.142 (4)(a), the agency shall provide written notice to all potentially displaced employees of the agency's intent to solicit bids. The notice shall include at a minimum:

(1) A statement that the agency will pursue competitive contracting of specified services;

(2) The agency's determination that a competitive market exists;

(3) The date that the agency intends to solicit bids;

(4) A statement that employees whose position or work will be displaced have sixty calendar days from the date of notification to offer alternatives to competitive contracting as described in RCW 41.06.142 (4)(a) and an agency contact for submitting alternatives;

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(5) The amount and type of state resources allocated by the agency to assist employees in developing alternatives within the time frame described in subsection (4) of this section; and

(6) A statement that employees whose positions or work will be displaced may compete in competitive contracting as one or more employee business units.

[Statutory Authority: RCW 41.06.142. 04-07-104, § 236-51-110, filed 3/17/04, effective 7/1/05.]

WAC 236-51-115 Employees wanting to use state resources other than those offered by an agency. If potentially displaced employees want to use state resources other than those offered by the agency to develop alternatives pursuant to WAC 236-51-110(5), they shall submit a written resource plan to the agency for consideration. No state resources other than those offered by the agency pursuant to WAC 236-51-110(5) shall be used in developing alternatives without prior written agency approval.

[Statutory Authority: RCW 41.06.142. 04-07-104, § 236-51-115, filed 3/17/04, effective 7/1/05.]

WAC 236-51-120 Agency response to a potentially displaced employee alternative. (1) An agency shall respond in writing to all potentially displaced employee alternatives.

(2) If no potentially displaced employee alternatives are accepted, the agency shall notify in writing all potentially displaced employees of:

(a) Its intent to proceed with soliciting bids on the date indicated in the agency's original notification referred to in WAC 236-51-110(3) or in twenty calendar days, whichever is greater; and

(b) The amount and type of state resources allocated by the agency to assist potentially displaced employees in developing the notice referred to in WAC 236-51-200.

(3) Failure to comply with subsection (2)(a) of this section is an allowable ground for complaint under WAC 236-51-510(1).

[Statutory Authority: RCW 41.06.142. 04-07-104, § 236-51-120, filed 3/17/04, effective 7/1/05.]

EMPLOYEE BUSINESS UNITS IN THE BID PROCESS

WAC 236-51-200 An employee business unit shall notify the agency of its formation. (1) Potentially displaced employees that decide to compete by forming an employee business unit shall notify the agency in writing before the agency's intended day to solicit bids pursuant to WAC 236-51-110 and provide the following information:

(a) A list of those potentially displaced employees forming the employee business unit;

(b) The employee business unit leader(s); and

(c) A resource plan outlining the employee business unit's request for use of state resources needed to prepare the employee business unit's bid.

(2) The agency shall not consider a bid from an employee business unit if the employee business unit fails to notify the agency of its formation as provided in subsection (1) of this section.

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[Statutory Authority: RCW 41.06.142. 04-07-104, § 236-51-200, filed 3/17/04, effective 7/1/05.]

WAC 236-51-205 Agency's response to an employee business unit resource plan. (1) An agency shall respond, in writing, to an employee business unit resource plan prior to soliciting bids. The response will either approve of the resource plan in its entirety, or modify it based on available state resources and the needs of the agency to meet its mission.

(2) An employee business unit shall not use state resources to prepare its bid prior to receiving the agency's response as provided in subsection (1) of this section.

[Statutory Authority: RCW 41.06.142. 04-07-104, § 236-51-205, filed 3/17/04, effective 7/1/05.]

WAC 236-51-210 Agencies shall identify state standards. If an agency intends to require the use of state standards it shall identify them in the solicitation document. State standards may include, but are not limited to: Financial, accounting, audit, payroll, human resources, procurement, record retention, or other systems, methods, infrastructure, or practices. Agencies shall use technology standards established by the Washington state department of information services, information services board.

[Statutory Authority: RCW 41.06.142. 04-07-104, § 236-51-210, filed 3/17/04, effective 7/1/05.]

WAC 236-51-215 An employee business unit's bid shall include all costs related to delivering the service. Pursuant to RCW 41.06.142 (4)(e), an employee business unit's bid shall include the fully allocated cost of the service. These fully allocated costs include, but are not limited to:

(1) Direct costs; which are costs that the service consumes or expends and thus are chargeable to the service. These direct costs include, but are not limited to:

- (a) Salaries, wages, overtime, and benefits of employees directly performing the service;
- (b) Purchased services, supplies and materials;
- (c) Space, rents, and leases;
- (d) Equipment and depreciation;
- (e) One-time, transition, or start-up costs; and
- (f) Travel.

(2) Indirect costs that would be reduced or eliminated if the service currently being provided by employees were instead provided by an outside contractor.

(3) Inflation assumptions.

[Statutory Authority: RCW 41.06.142. 04-07-104, § 236-51-215, filed 3/17/04, effective 7/1/05.]

WAC 236-51-220 An employee business unit shall designate a point of contact for the competitive contracting process. The employee business unit leader or their designee from within the employee business unit shall represent the employee business unit membership in the competitive contracting process. Representation includes, but is not limited to:

- (1) Authority to contractually obligate the employee business unit;
- (2) Receiving and submitting notices (including the notice to the agency of employee business unit formation);

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- (3) Participating in any presolicitation conference;
- (4) Signing solicitation documents and submittals;
- (5) Seeking clarifications and amendments of solicitations;
- (6) Acknowledging award and conducting negotiations;
- (7) Filing complaints;
- (8) Filing appeals; and
- (9) Committing to a performance agreement or quality assurance plan.

[Statutory Authority: RCW 41.06.142. 04-07-104, § 236-51-220, filed 3/17/04, effective 7/1/05.]

WAC 236-51-225 Limits on performance of services not contained in a contract. An employee business unit awarded a contract by an agency shall not perform or bid on solicitations for services not contained in its contract unless their agency approves in writing.

[Statutory Authority: RCW 41.06.142. 04-07-104, § 236-51-225, filed 3/17/04, effective 7/1/05.]

SOLICITING BIDS

WAC 236-51-300 General administration may establish formats. The department of general administration may establish formats, guidelines, procedures, or instructions concerning solicitation, determining fully allocated costs, or submittal and evaluation of bids for use by agencies, employee business units, and other bidders.

[Statutory Authority: RCW 41.06.142. 04-07-104, § 236-51-300, filed 3/17/04, effective 7/1/05.]

WAC 236-51-302 Solicitation development. Employees whose work or positions may be displaced and potential bidders may provide technical assistance in the preparation of the solicitation document and performance work statement provided that their assistance does not create an unfair advantage over other bidders. Potentially displaced employees and potential bidders shall not determine the award methodology and scoring to be used in the evaluation of bids.

[Statutory Authority: RCW 41.06.142. 04-07-104, § 236-51-302, filed 3/17/04, effective 7/1/05.]

WAC 236-51-305 Solicitation content. Solicitations shall include:

- (1) Complete bidder instructions;
- (2) Submittal requirements;
- (3) Performance work statement;
- (4) Cost and noncost evaluation criteria;
- (5) Name and address of the person designated to receive complaints and appeals;
- (6) Agency's plan for publication and notice of award/intent to award; and
- (7) Contract requirements, which shall include, but are not limited to:
 - (a) State standards as provided in WAC 236-51-210;
 - (b) Compliance and adherence to a quality assurance plan;
 - (c) Measurable standards for the performance of the contract;
 - (d) Methods used to measure contract performance, costs, service delivery quality, and other contract standards;

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- (e) Terms and conditions;
- (f) Provisions requiring an entity other than an employee business unit to consider employment of state employees who may be displaced by the contract;
- (g) Cancellation provisions for improper or failed performance;
- (h) Complaint process; and
- (i) Appeal process.

[Statutory Authority: RCW 41.06.142. 04-07-104, § 236-51-305, filed 3/17/04, effective 7/1/05.]

WAC 236-51-306 Cost evaluation criteria. (1) An agency shall compare its current service cost against the total cost of contracting with the most responsive employee business unit and nonemployee business unit as part of its evaluation process.

(2) The total cost of contracting shall not include solicitation related costs such as, but not limited to:

- (a) An evaluator's time;
- (b) Bid-related expenses; or
- (c) The cost of complaints or appeal.

(3) The most responsive employee and nonemployee business unit's bid shall include, but is not limited to:

(a) Bid price. The nonemployee business unit's bid price will include any applicable state tax paid by the agency on the purchase of services;

(b) Required one-time, transition, or start-up costs for implementing the proposal and recognized during the contract in the year those costs would be incurred; and

(c) Inflation assumptions.

(4) An agency shall adjust the bids of the most responsive employee and nonemployee business unit in accordance with the following factors:

(a) The agency's conversion or transition costs relative to each bid;

(b) Contract administration costs incurred by the agency to administer either contract. Contract administration costs may differ depending on the performance monitoring requirements of the agency;

(c) Revenue impact to the state from changes to the tax base or collections that would result from an award of a contract to perform the service. Examples include, but are not limited to, state sales and use, business and occupation, inventory, fuel, and real estate tax; provided that a revenue impact does not mean, nor imply, that any added fees or charges for state services may be part of a bid.

(5) Agencies shall consider costs associated with the state's assumed risks in the evaluation of bid costs. If the agency cannot reasonably estimate the state's assumed risk costs, the agency shall structure the solicitation to eliminate these costs from the evaluation process. These costs include, but are not limited to:

(a) Insurance. Agencies shall calculate casualty, liability and property insurance premiums in cost estimates and enter these costs as appropriate for assets and risk coverage.

(b) Performance bonds. When a solicitation requires nonemployee business unit bidders to provide a performance bond, the agency shall exclude the cost from the nonemployee business unit's bid price. The solicitation bid structure should facilitate the elimination of this cost from the nonemployee business unit's bid.

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[Statutory Authority: RCW 41.06.142. 04-07-104, § 236-51-306, filed 3/17/04, effective 7/1/05.]

WAC 236-51-310 Amendment of solicitation. An agency may amend or change a solicitation provided the change is issued prior to the specified bid opening date and time. Any material information that an agency provides to one potential bidder shall be provided to all potential bidders consistent with WAC 236-51-320. Oral interpretations of the solicitation shall not be binding.

[Statutory Authority: RCW 41.06.142. 04-07-104, § 236-51-310, filed 3/17/04, effective 7/1/05.]

WAC 236-51-320 Public notice—Solicitations, amendments, and notices. (1) Agencies shall post or otherwise publicize competitive contracting solicitations, amendments, notice of intent to award, notice of award, or notice of cancellation using methods and/or systems established by the department of general administration.

(2) In addition to using methods and systems provided above, agencies may post or otherwise publicize competitive contracting solicitations, amendments, notice of intent to award, notice of award, or notice of cancellation via other methods and/or systems of their choosing.

[Statutory Authority: RCW 41.06.142. 04-07-104, § 236-51-320, filed 3/17/04, effective 7/1/05.]

THE BIDDING PROCESS

WAC 236-51-400 Receiving bids. (1) Bidders shall submit sealed bids in writing. Electronic submittal systems and processes may be utilized provided the submittal meets the definition of a sealed bid and the other requirements of this section.

(2) The agency shall ensure that bids remain sealed until the opening date and time specified in the solicitation.

(3) The agency shall open all sealed bids at the same time.

(4) Bidders shall submit bids to the agency no later than the opening date and time, and at the place specified, in the solicitation. An agency shall reject any bid received at a place different than, or on a date and time later than, what was specified in the solicitation.

(5) The agency may modify bid submission dates. When modifying the time allowed for submitting a bid, the agency shall issue an amendment as required by WAC 236-51-310 and provide notice consistent with WAC 236-51-320.

[Statutory Authority: RCW 41.06.142. 04-07-104, § 236-51-400, filed 3/17/04, effective 7/1/05.]

WAC 236-51-405 Bid information disclosure. Upon submission, all bids become the property of the agency and, except for purposes of evaluation, shall not be released or otherwise distributed until after the agency completes the evaluation and issues its notice of intent to award. Evaluation team members shall maintain confidentiality of information to ensure the integrity of the process. After award and distribution of award information or posting of such information electronically for public review, the bids, quotes, and proposals of all bidders shall be open to public inspection at the offices of the purchasing activity during normal office hours.

[Title 236 WAC—p. 43]

Copies of documents subject to public disclosure will be made available upon request in accordance with purchasing activity policy. The purchasing activity assumes no responsibility for the confidentiality of bids, quotes or proposals after award. Any document(s) or information which the bidder believes is exempt from public disclosure per RCW 42.17.-310 shall be clearly identified by bidder and placed in a separate envelope marked with bid number, bidder's name, and the words "proprietary data" along with a statement of the basis for such claim of exemption. The state's sole responsibility shall be limited to maintaining the above data in a secure area and to notify bidder of any requests for disclosure within a period of five years from date of award. Failure to so label such materials or failure to provide a timely response after notice of request for public disclosure has been given shall be deemed a waiver by the bidder of any claim that such materials are, in fact, so exempt.

[Statutory Authority: RCW 41.06.142. 04-07-104, § 236-51-405, filed 3/17/04, effective 7/1/05.]

WAC 236-51-410 Bid evaluation. (1) RCW 41.06.142 (4)(d)(i) prohibits employees who prepared the employee business unit's bid or who perform any of the services to be contracted from participating in the bid evaluation process.

(2) Members of an EBU or others who provided technical assistance to the EBU in the development of their bid shall be excluded from being evaluators.

(3) Evaluators cannot have a personal or financial interest in the outcome of the award.

(4) Evaluators shall sign declaratory statements certifying that they have no conflicts of interest and assuring confidentiality.

(5) Evaluators shall use only the evaluation criteria stated in the solicitation in evaluating bids.

[Statutory Authority: RCW 41.06.142. 04-07-104, § 236-51-410, filed 3/17/04, effective 7/1/05.]

THE COMPLAINT PROCESS

WAC 236-51-500 Who may file. Bidders or potential bidders may file complaints regarding the bidding process.

[Statutory Authority: RCW 41.06.142. 04-07-104, § 236-51-500, filed 3/17/04, effective 7/1/05.]

WAC 236-51-502 Time and place for filing complaints. Complaints shall be filed with the contracting agency head or designee identified in the solicitation prior to the expected date of award.

[Statutory Authority: RCW 41.06.142. 04-07-104, § 236-51-502, filed 3/17/04, effective 7/1/05.]

WAC 236-51-505 Form of complaints. Complaints shall be submitted in writing and shall include the following:

(1) Complainant's name, address, and telephone number;
(2) Identification of the specific grounds for filing the complaint; and

(3) The relevant facts, arguments, exhibits, and supporting evidence known to the complainant and related to each identified ground.

[Statutory Authority: RCW 41.06.142. 04-07-104, § 236-51-505, filed 3/17/04, effective 7/1/05.]

[Title 236 WAC—p. 44]

WAC 236-51-510 Grounds for filing a complaint.

Complaints must be based on the bidding process, which includes, but is not limited to, one or more of the following factors:

- (1) The manner in which the solicitation was conducted;
- (2) Undue constraint of competition by requirements of the solicitation;
- (3) Inadequate and/or improper criteria in the solicitation document;
- (4) Bias or discrimination; or
- (5) Conflict of interest.

[Statutory Authority: RCW 41.06.142. 04-07-104, § 236-51-510, filed 3/17/04, effective 7/1/05.]

WAC 236-51-515 Agency's response to complaints.

The agency shall respond to all complaints in writing prior to the award of the contract. If necessary, an agency shall extend the date of award to respond to all complaints.

[Statutory Authority: RCW 41.06.142. 04-07-104, § 236-51-515, filed 3/17/04, effective 7/1/05.]

THE AWARD PROCESS

WAC 236-51-600 Notice of intent to award. (1) An agency shall issue a notice of intent to award after concluding negotiations authorized under WAC 236-51-605, if any, and prior to the date of award. This notice shall also include a statement that any complaints must be filed prior to the expected date of award.

(2) Agencies shall notify all bidders of the intent to award consistent with WAC 236-51-320.

[Statutory Authority: RCW 41.06.142. 04-07-104, § 236-51-600, filed 3/17/04, effective 7/1/05.]

WAC 236-51-605 Negotiations. The agency may enter into negotiations exclusively with the apparent successful bidder for the purpose of, but not limited to:

- (1) Determining if the bid may be improved;
- (2) Clarifying elements of the bid that are not sufficiently precise or direct; or
- (3) Securing better terms and conditions for the agency.

[Statutory Authority: RCW 41.06.142. 04-07-104, § 236-51-605, filed 3/17/04, effective 7/1/05.]

WAC 236-51-610 Award. (1) On the date of award, the agency shall send an award notice to all bidders in accordance with WAC 236-51-320.

(2) The award notice shall include the right to appeal, the appeal deadline, and the address for submitting an appeal. See WAC 236-51-700.

[Statutory Authority: RCW 41.06.142. 04-07-104, § 236-51-610, filed 3/17/04, effective 7/1/05.]

WAC 236-51-615 Cancellation of solicitation. An agency may cancel a solicitation or reject all bids after the bid opening, but before the award, if the agency determines that:

- (1) The award will not achieve anticipated cost savings or efficiency improvements as required by RCW 41.06.142 (1)(e);

(2) The solicitation did not include all factors for the agency to determine cost savings or efficiency improvements;

(3) No responsive bid has been received from a responsible bidder;

(4) The solicitation and evaluation process was not fair, equitable, or objective; or

(5) There have been changes in business or market conditions that significantly impact the agency's original intent to competitively contract the service.

[Statutory Authority: RCW 41.06.142. 04-07-104, § 236-51-615, filed 3/17/04, effective 7/1/05.]

WAC 236-51-620 Notice of cancellation. If an agency cancels a competitive contracting solicitation, the agency shall post a notice of cancellation in writing pursuant to WAC 236-51-320. The notice shall include the specific reason for cancellation.

[Statutory Authority: RCW 41.06.142. 04-07-104, § 236-51-620, filed 3/17/04, effective 7/1/05.]

APPEALING AN AWARD

WAC 236-51-700 Time and place for filing appeal.

An appeal shall be filed after contract award with the contracting agency head or designee as identified in the solicitation. The appeal shall be filed within twenty calendar days after the date of the award. An administrative law judge does not have jurisdiction to consider an appeal filed after this deadline.

[Statutory Authority: RCW 41.06.142. 04-07-104, § 236-51-700, filed 3/17/04, effective 7/1/05.]

WAC 236-51-710 Who may file an appeal. An appeal may only be filed by the following parties with regard to the respective specified grounds:

(1) Unsuccessful bidders with regard to elements of the bid submittal and evaluation process;

(2) Complainants with regard to an agency response to their complaint; or

(3) Displaced or potentially displaced employees with regard to an agency's:

(a) Adherence to the statutory notice requirements of RCW 41.06.142 (4)(a); or

(b) Determination of the existence of a competitive market as provided in RCW 41.06.142 (4)(d).

[Statutory Authority: RCW 41.06.142. 04-07-104, § 236-51-710, filed 3/17/04, effective 7/1/05.]

WAC 236-51-715 Form of an appeal. Appeals shall be submitted in writing to the head of the agency that awarded the contract or to that person's designee. An appeal shall include, but not be limited to, the following information:

(1) Appellant's name, contact person, and/or representative with respective address, and telephone numbers;

(2) Identification and brief description of the grounds relied on for filing an appeal and a brief description of the issues to be resolved.

[Statutory Authority: RCW 41.06.142. 04-07-104, § 236-51-715, filed 3/17/04, effective 7/1/05.]

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WAC 236-51-720 Stay of award. An agency may stay award decisions or actions pending resolution of an appeal.

[Statutory Authority: RCW 41.06.142. 04-07-104, § 236-51-720, filed 3/17/04, effective 7/1/05.]

WAC 236-51-725 Transmission of an appeal. (1) An appeal shall be transmitted by the agency to the office of administrative hearings within five business days after receipt.

(2) The agency shall provide the office of administrative hearings with the following information:

(a) The name of the agency contact in the matter and any contact information;

(b) The name of the appellant and any contact information, including address and telephone number;

(c) The name and any contact information for other bidders;

(d) The name and address of the agency contact for billing purposes; and

(e) The name and address of the agency contact where the file should be sent after the office of administrative hearings closes the appeal.

(3) The agency shall transmit all appeals to the headquarters of the office of administrative hearings in Olympia, Washington.

[Statutory Authority: RCW 41.06.142. 04-07-104, § 236-51-725, filed 3/17/04, effective 7/1/05.]

WAC 236-51-730 Procedures for hearing. (1) The office of administrative hearings shall issue the notice of hearing to the appellant, the agency, and other bidders.

(2) Bidders may intervene as a party to the appeal if they file a petition for intervention with the office of administrative hearings and all parties within ten business days after the issuance of the notice of hearing. The administrative law judge may limit intervention under RCW 34.05.443.

(3) The administrative law judge may schedule a pre-hearing conference.

(4) Hearings shall be scheduled for the earliest possible date available for the administrative law judge that does not result in prejudice to the parties.

(5) The hearing shall be recorded electronically at the discretion of the administrative law judge unless specified otherwise in law or rule.

(6) No transcript is required unless specified otherwise in law or rule.

(7) In any appeal under this chapter, the administrative law judge shall apply the model rules of procedure set forth in chapter 10-08 WAC, irrespective of the provisions of WAC 10-08-001(4) or other agency procedural rules.

[Statutory Authority: RCW 41.06.142. 04-07-104, § 236-51-730, filed 3/17/04, effective 7/1/05.]

WAC 236-51-735 Costs of hearing. All costs incurred by the office of administrative hearings in conducting the hearing shall be borne by the agency, and the office of administrative hearings shall bill the agency for the hearing costs incurred. Each party is responsible for its own costs of representation.

[Statutory Authority: RCW 41.06.142. 04-07-104, § 236-51-735, filed 3/17/04, effective 7/1/05.]

WAC 236-51-740 Burden of proof. The burden of proof is on the appellant to prove by a preponderance of the evidence that the contract was not properly awarded.

[Statutory Authority: RCW 41.06.142. 04-07-104, § 236-51-740, filed 3/17/04, effective 7/1/05.]

WAC 236-51-745 Decision of the administrative law judge. (1) If the administrative law judge finds against the appellant, the agency's decision to award stands.

(2) If the administrative law judge finds for the appellant, the administrative law judge shall:

(a) Remand back to the agency for reconsideration or action if the appeal was from an unsuccessful bidder with regard to the bid submittal and evaluation process;

(b) Remand back to the agency for reconsideration or action if the appeal was from a complainant with regard to their complaint; or

(c) Remand back to the agency to start the bidding process over if the appeal was from a displaced or potentially displaced employee with regard to:

(i) The statutory notice requirements of RCW 41.06.142 (4)(a); or

(ii) The determination of the existence of a competitive market as provided in RCW 41.06.142 (4)(d).

(3) The decision of the administrative law judge in any appeal under this chapter shall be considered a final order.

[Statutory Authority: RCW 41.06.142. 04-07-104, § 236-51-745, filed 3/17/04, effective 7/1/05.]

Chapter 236-56 WAC PUBLIC RECORDS

WAC

236-56-010	Purpose.
236-56-020	Scope-conflict with other regulations.
236-56-030	Definitions.
236-56-040	Description of central and field organization of department of general administration.
236-56-050	Organizations, operations and procedures.
236-56-060	Public records available.
236-56-070	Public records officer.
236-56-080	Office hours.
236-56-090	Requests for public records.
236-56-110	Exemptions.
236-56-120	Review of denials of public records requests.
236-56-130	Protection of public records.
236-56-140	Records index.
236-56-150	Address for requests.
236-56-160	Adoption of form.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

236-56-100	Copying. [Order 75-6, § 236-56-100, filed 8/20/75.] Repealed by 96-17-087, filed 8/21/96, effective 9/21/96. Statutory Authority: RCW 34.05.354.
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WAC 236-56-010 Purpose. The purpose of this chapter shall be to ensure compliance by the department of general administration with the provisions of chapter 1, Laws of 1973 (Initiative 276) (chapter 42.17 RCW), Disclosure—Campaign finances—Lobbying—Records; and in particular with sections 25-32 of that act, dealing with public records.

[Order 75-6, § 236-56-010, filed 8/20/75.]

[Title 236 WAC—p. 46]

WAC 236-56-020 Scope-conflict with other regulations. This chapter is intended to apply only to those divisions, sections, and agencies of the department of general administration for which separate rules and regulations on the subject of public records have not been or may not be promulgated. In case of any conflict between these rules and regulations, and other rules and regulations adopted for any division, section or agency of the department of general administration, adopted prior to or subsequent to these regulations, such other rules and regulations shall control and these rules and regulations shall be deemed inapplicable to such a division, section or agency.

[Order 75-6, § 236-56-020, filed 8/20/75.]

WAC 236-56-030 Definitions. (1) **Public records.** "Public record" includes any writing containing information relating to the conduct of governmental or the performance of any governmental or proprietary function prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics.

(2) **Writing.** "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds; or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

(3) **Department of general administration.** The department of general administration is established by chapter 43.19 RCW. The department of general administration shall hereinafter be referred to as the "department." Where appropriate, the term department also refers to the staff and employees of the department of general administration.

[Order 75-6, § 236-56-030, filed 8/20/75.]

WAC 236-56-040 Description of central and field organization of department of general administration. The department is an administrative, service and regulatory agency. The administrative office of the department and its staff are located at the General Administration Building, Olympia, Washington 98504. The department maintains permanent and temporary field offices and stations at other locations throughout the state of Washington for administrative convenience, but the central administrative office is the only place at which public records are permanently stored and the only place at which the department will accept requests for information or copies of public records and agency decisions.

[Order 75-6, § 236-56-040, filed 8/20/75.]

WAC 236-56-050 Organizations, operations and procedures. The department of general administration is the primary business and service agency of Washington state government.

The department is organized and reorganized from time-to-time pursuant to chapter 43.19 RCW and other provisions of Washington law. Detailed charts or records of the structure and organization of the department and its divisions will be made available to the public by request on the same terms and conditions as any other public record maintained by the agency.

Through its various divisions and operating units it carries on the following functions:

(1) Purchases and/or leases all goods and services needed by all state agencies with limited exceptions; disposes of unneeded personal property of all state agencies at public or private sale; contracts for testing of all goods and provides the manner of inspection of all goods on delivery, storage and distribution;

(2) Maintains an inventory record of all state owned personal property;

(3) As the contracting agency for the state of Washington, administers and manages the federal surplus property program and the U.S.D.A. donable food program including direct distribution;

(4) Manages the central stores operation for volume buying and leasing of supplies, equipment, and services for all state agencies including large warehousing facilities for centralized storage and distribution of items of common use;

(5) Acts as agent for all state agencies in the purchasing, leasing or renting of real estate needed for offices, warehouses, or similar purposes; acquires by purchase, lease and/or construction, real property to lease or sublet to state agencies; purchases land required for the four year and community colleges; performs property management for the east capitol site on rentals and leases and supervises income therefrom for bond redemption;

(6) Supervises the design and construction of new buildings and alterations in the capitol group and does comprehensive planning for the capitol area; provides similar services for other state buildings and all state institutions, four year colleges and community colleges, except the University of Washington and Washington State University, and all other agencies which do not maintain their own architectural staff;

(7) Supervises and conducts comprehensive facilities planning programs for all state agencies throughout the state to provide most efficient utilization of space, consolidation and grouping of agencies, and to determine needs for additional capital projects;

(8) Maintains and has the care, custody and control of all buildings and grounds of the capitol group including the west campus, east capitol site, Deschutes Basin, Deschutes Parkway and Capitol Lake including all access roads and the maintenance and care of all parking facilities;

(9) Maintains, manages and operates all parking facilities at the state capitol including promulgation of rules and regulations relative to pedestrian and vehicular traffic on the capitol grounds; supervises and manages rental income from parking facilities for bond redemption; maintains, manages and operates the Washington state motor pool;

(10) Maintains and operates a centralized messenger service for state agencies on and off the capitol grounds in the Olympia-Lacey-Tumwater area;

(11) Maintains and manages the general administration facilities and services revolving fund for recovery from all state agencies of costs incurred in the rendering of services, furnishing equipment, supplies, materials, providing or allocating facilities, and for all costs of operating and maintaining, repairing, remodelling or furnishing any building structure facility and all pertinent grounds connected therewith;

(12) Supervises the chartering, examination, regulation, liquidation or merging of all state banks, mutual savings

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banks, small loan companies, industrial loan companies, industrial development corporations, savings and loan institutions, credit unions and similar financial institutions or companies;

(13) Operates and manages the state archives, records center and records management program for state and local records and an essential records program to assure the continuity of civil government; operates a centralized microfilm bureau; supervises and manages within the facilities and services revolving fund the recovery of costs incurred in this program;

(14) Operates and manages the forms management center; provides guidance to state agencies in forms development and design, maintains inventories of standard forms for support of all state activities; coordinates forms procurement requirements with the state printer;

(15) Supervises, manages and operates the state data processing service center including all software and data communications, systems development and agency coordination, programming and systems, as well as operations;

(16) Manages, administers and operates statewide communications systems including statewide intercity telephone system (SCAN), WATS, CENTREXES, data communication, and similar systems; provides counsel and assistance to all state agencies relative to development of communication systems; administers and manages coordination of state systems with other governmental entities as required;

(17) Acts in conjunction with and in support of the state capitol committee in the designing and developing of overall plans, amendments and modifications of the capitol campus in its entirety;

(18) Provides staff support on various matters to the administrative board, state purchasing advisory committee, Washington state management improvement council, and various other committees.

The structure, operations and procedures of the department may change from time-to-time as prescribed by Washington law. The foregoing statements are not intended to be exhaustive or represented to be accurate in the indefinite future. Detailed information on the operation and procedures of the department at any given time will be available at the central administrative offices of the department and supplied upon request on the same terms and conditions as any other public record held by the department.

Titles 236, 50 and 419 WAC all pertain to the operation of the department of general administration or specific divisions or sections thereof.

[Order 75-6, § 236-56-050, filed 8/20/75.]

WAC 236-56-060 Public records available. All public records of the department, as defined in WAC 236-56-020 are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided in chapter 1, Laws of 1973 (chapter 42.17 RCW) or other provisions of law.

[Order 75-6, § 236-56-060, filed 8/20/75.]

WAC 236-56-070 Public records officer. The department's public records shall be in the charge of the public records officer designated by the department. The office of

the person so designated shall be located in the administrative office of the department. The public records officer shall be responsible for the following: The implementation of the department's rules and regulations regarding release of public records, coordinating the staff of the department in this regard, and generally insuring compliance by the staff with the public records disclosure requirements of chapter 1, Laws of 1973.

[Order 75-6, § 236-56-070, filed 8/20/75.]

WAC 236-56-080 Office hours. Public records shall be available for inspection and copying during the customary office hours of the department. For the purposes of this chapter, the customary office hours shall be from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

[Order 75-6, § 236-56-080, filed 8/20/75.]

WAC 236-56-090 Requests for public records. In accordance with requirements of chapter 1, Laws of 1973 that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copies or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the department which shall be available at its administrative office. The form shall be presented to the public records officer; or to any member of the department's staff, if the public records officer is not available, at the administrative office of the department during customary office hours. The request shall include the following information:

- (a) The name of the person requesting the record;
- (b) The time of day and calendar date on which the request was made;
- (c) The nature of the request;
- (d) If the matter requested is referenced within the current index maintained by the records officer, a reference to the requested record as it is described in such current index;
- (e) If the requested matter is not identifiable by reference to the department's current index, an appropriate description of the record requested.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or staff member to whom the request is made, to assist the member of the public in appropriately identifying the public record requested.

[Order 75-6, § 236-56-090, filed 8/20/75.]

WAC 236-56-110 Exemptions. (1) The department reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 236-56-090 is exempt under the provisions of section 31, chapter 1, Laws of 1973 (chapter 42.17 RCW) or some other applicable provision of law.

(2) In addition, pursuant to section 26, chapter 1, Laws of 1973, the department reserves the right to delete identifying details when it makes available or publishes any public

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record, in any cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 1, Laws of 1973. The public records officer will fully justify such deletion in writing.

(3) All denials of requests for public records will be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.

[Order 75-6, § 236-56-110, filed 8/20/75.]

WAC 236-56-120 Review of denials of public records requests. (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request for review must be accompanied by a copy of the written statement by the public records officer or other staff member which constituted or accomplished the denial.

(2) Upon receiving a written request for review of a decision denying a public record, the public records officer or other staff member denying the request shall refer to the director of the department. The director shall consider the matter and either affirm or reverse such denial. A final decision by the director (or, in his absence, one entitled to act on his behalf) shall be made promptly and within two business days following the original denial.

(3) Administrative remedies shall not be considered exhausted until the department has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first.

[Order 75-6, § 236-56-120, filed 8/20/75.]

WAC 236-56-130 Protection of public records. Records will be made available to the requester subject to the following restrictions:

- (a) The records may not be removed from the area designated.
- (b) The quantity of records may be limited in conformance with the requested use.
- (c) All possible care will be taken by the requester to prevent damage to the records.
- (d) Records may not be marked or altered in any way.
- (e) Use of liquids and fountain pens and eating, drinking, and smoking while utilizing the records is prohibited.
- (f) Records shall not be defaced in any way including writing on, folding or folding anew if in folded form, tracing or fastening with clips or other fasteners except those that may already exist in the file.
- (g) Records may not be cut or mutilated in any way.
- (h) Records must be kept in the order in which received.
- (i) All copying of records will be done by departmental personnel.
- (j) Records will be returned to the public records officer or his designee by the requester when no longer required and no later than the end of the customary office hours as set forth in WAC 236-56-080.

[Order 75-6, § 236-56-130, filed 8/20/75.]

WAC 236-56-140 Records index. (1) **Index.** The department has available to all person [persons] a current

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index which provides identifying information as to the following records issued, adopted or promulgated since its inception:

(a) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(b) Those statements of policy and interpretations of policy, statute and the constitution which have been adopted by the agency;

(c) Administrative staff manuals and instructions to staff that affect a member of the public;

(d) Planning policies and goals, and interim and final planning decisions;

(e) Factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies reports or surveys, whether conducted by public employees or others; and

(f) Correspondence, and materials referred to therein, by and with the agency relating to any regulatory, supervisory or enforcement responsibilities of the agency, whereby the agency determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public a subdivision of state government, or of any private party.

(2) **Availability.** The current index promulgated by the department shall be available to all persons under the same rules and on the same conditions as are applied to public records available for inspection.

[Order 75-6, § 236-56-140, filed 8/20/75.]

WAC 236-56-150 Address for requests. All communications with the department including but not limited to the submission of materials pertaining to its operation and/or the administration or enforcement of chapter 1, Laws of 1973 and these rules; requests for copies of the department's decisions and other matters, shall be addressed as follows: Department of General Administration, Attn: Public Records Officer, General Administration Building, Olympia, Washington 98504.

[Order 75-6, § 236-56-150, filed 8/20/75.]

WAC 236-56-160 Adoption of form. The department hereby adopts for use by all persons requesting inspection and/or copying or copies of its records, the form attached hereto as Appendix "A," entitled "Request for public record." [Form—Request for public records, was not attached when filed.]

[Order 75-6, § 236-56-160, filed 8/20/75.]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency.

Chapter 236-60 WAC

SUGGESTED DESIGN AND CONSTRUCTION STANDARDS OF SIDEWALK AND CURB RAMPS FOR THE PHYSICALLY HANDICAPPED PERSON WITHOUT UNIQUELY ENDANGERING THE BLIND

WAC

236-60-001	Purpose.
236-60-005	Scope.
236-60-010	Definition.
236-60-020	Design standards.

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236-60-030	Advance warning system for the blind.
236-60-040	Types of suggested textures.
236-60-050	Curb ramp types.
236-60-060	Curb ramp typical.
236-60-070	Curb ramp—Type "A."
236-60-080	Curb ramp—Type "B."
236-60-090	Curb ramp—Type "C."
236-60-100	Factors to be considered.

WAC 236-60-001 Purpose. The purpose of this chapter is to provide several suggested model design, construction, and location standards to aid counties, cities, and towns in constructing curb ramps to allow reasonable access to the crosswalk for physically handicapped persons without uniquely endangering blind persons in accordance with chapter 137, Laws of 1977 ex. sess. (chapter 35.68 RCW).

[Statutory Authority: RCW 35.68.076. 78-02-066 (Order 77-5), § 236-60-001, filed 1/24/78.]

WAC 236-60-005 Scope. The design construction and location standards set forth in chapter 236-60 WAC are suggestions only, and must be read in conjunction with the requirements of RCW 35.68.075 and any applicable code.

If these suggested standards are followed they should be used as a guide and not as a substitute for engineering judgment based on the conditions existing at any particular location.

[Statutory Authority: RCW 35.68.076. 78-02-066 (Order 77-5), § 236-60-005, filed 1/24/78.]

WAC 236-60-010 Definition. As used in this chapter, the following words shall have the following meanings:

(1) Handicapped pedestrian - a pedestrian, or person in a wheelchair, who has limited mobility, stamina, agility, reaction time, impaired vision or hearing, or who may have difficulty walking, with or without assistive devices.

(2) Curb ramp - an interruption in a curb with a ramp from roadway to walk which forms a part of the accessible route of travel, no part of which projects into the roadway. It includes a center ramp and two shoulder slopes.

(3) Center ramp - the sloped surface providing pedestrian access to the roadway.

(4) Shoulder slope - the sloped flared sides on each side of the center ramp, providing a gradual incline from the edge of the center ramp to the sidewalk.

(5) Landing - a level area at least as wide as and, as long as, the width (except as otherwise provided), and within or at a terminus of, a stair or ramp, but not less than 5'["10" in width.

(6) Main pedestrian path - the walkway used by the pedestrian traffic clear of utility poles, signs, and parking meters.

[Statutory Authority: RCW 35.68.076. 78-02-066 (Order 77-5), § 236-60-010, filed 1/24/78.]

WAC 236-60-020 Design standards. The following construction standards are applicable to all curb-ramps set forth in this chapter.

(1) The width of the center ramps shall be at least thirty-six inches.

(2) Shoulder slopes shall not exceed one inch in 6.

(3) The center ramp slope shall not exceed 1 in 12 and the cross slope shall not exceed 1 in 50.

[Title 236 WAC—p. 49]





- (4) Curb ramps should contain a slip-resistant surface.
- (5) The site of the curb ramp should be graded and drained to eliminate pooling of water or the accumulation of ice or water on the ramp, the ramp landing, or at the toe of the ramp.
- (6) Handrails shall not be used at any point of access along the curb ramp.
- (7) Curb ramps should be outside of the main pedestrian path.
- (8) Whenever curb ramps are placed in the main flow of pedestrian traffic, the following standards prevail:
 - (a) Align with the direction of pedestrian traffic.
 - (b) Advance warning system.
- (9) The curb ramp should be distinguished from surrounding surfaces either by color or texture.
- (10) There should be no abrupt change in elevation to exceed 1/2 inch.
- (11) A landing 5 feet x 5 feet should be located at top and bottom of every curb ramp.

[Statutory Authority: RCW 35.68.076. 78-02-066 (Order 77-5), § 236-60-020, filed 1/24/78.]

WAC 236-60-030 Advance warning system for the blind. Whenever curb ramps are placed in the main flow of pedestrian traffic, an advance warning system is necessary in order to aid the blind. Warning materials should be adapted to local conditions. This texture should be in advance of a ramp curb. (See WAC 236-60-060.)

[Statutory Authority: RCW 35.68.076. 78-02-066 (Order 77-5), § 236-60-030, filed 1/24/78.]

WAC 236-60-040 Types of suggested textures.

WAC 236-60-040 TYPES OF SUGGESTED TEXTURES		
1		Tactile surface, such as using metal insert in concrete with recessed pattern, and remove insert.
2		Brick-Masonry (Rough finish)
3		Aggregate stones shall be 5/8 inches maximum.
4		Traffic Buttons - not more than 1/4 inch high, 2 to 4 inches on center. Bright color. Buttons may be part of the concrete surface pattern.

Notes:

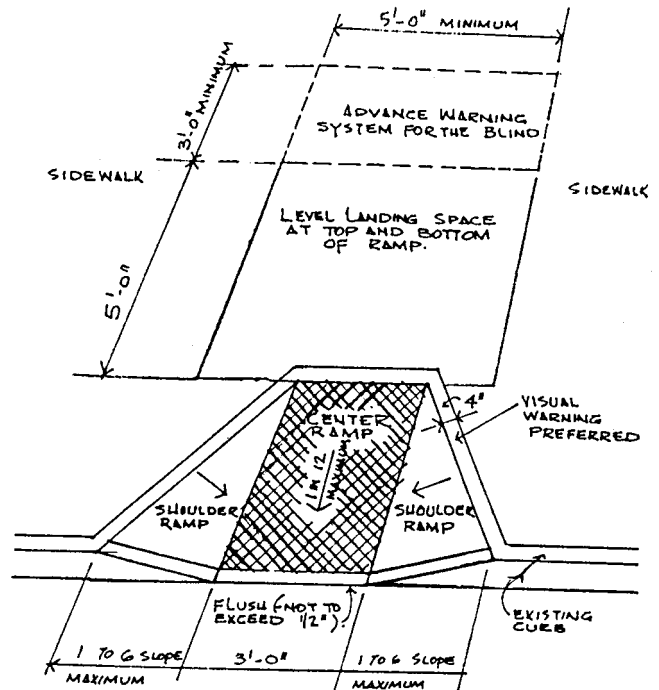
- (a) Type No. 1 is recommended for the center ramp surface.
- (b) These standards are not a substitute for engineering judgment. They provide design guidance.

[Statutory Authority: RCW 35.68.076. 78-02-066 (Order 77-5), § 236-60-040, filed 1/24/78.]

WAC 236-60-050 Curb ramp types. The curb ramp depicted in WAC 236-60-060 is the suggested design for a typical curb ramp including warning system. The drawings contained in WAC 236-60-070, 236-60-080, and 236-60-090 show the suggested location for curb ramps in three different but typical curb situations. All of these drawings are guidelines and are intended to show design concept.

[Statutory Authority: RCW 35.68.076. 78-02-066 (Order 77-5), § 236-60-050, filed 1/24/78.]

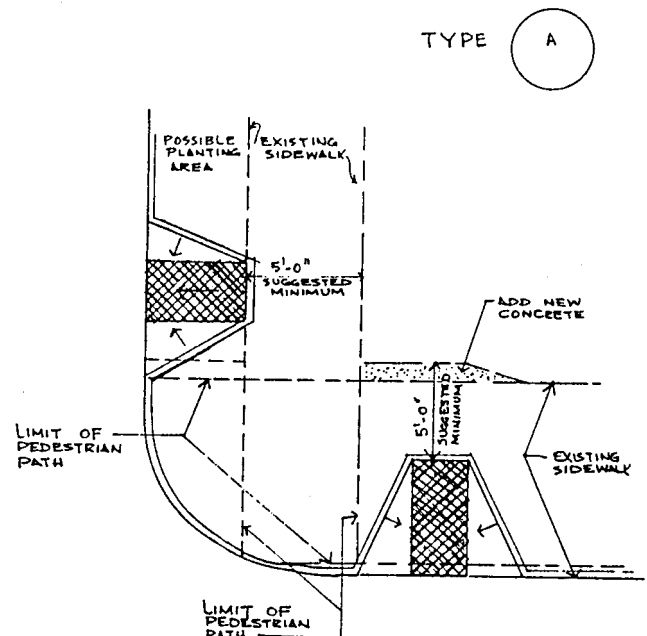
WAC 236-60-060 Curb ramp typical. The following is a design for a typical curb ramp:



- (1) Texturing of center ramp recommended, with metal grid placed in wet concrete and then removed to leave ridged surface pattern. Pattern not to exceed 1/2" width.
- (2) Advance warning strip (shown dotted), necessary when ramp is in direct line of main pedestrian path.

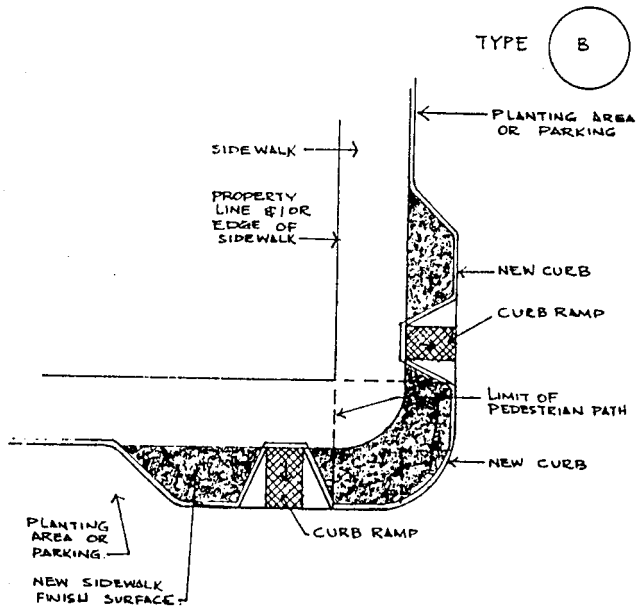
[Statutory Authority: RCW 35.68.076. 78-02-066 (Order 77-5), § 236-60-060, filed 1/24/78.]

WAC 236-60-070 Curb ramp—Type "A."



[Statutory Authority: RCW 35.68.076. 78-02-066 (Order 77-5), § 236-60-070, filed 1/24/78.]

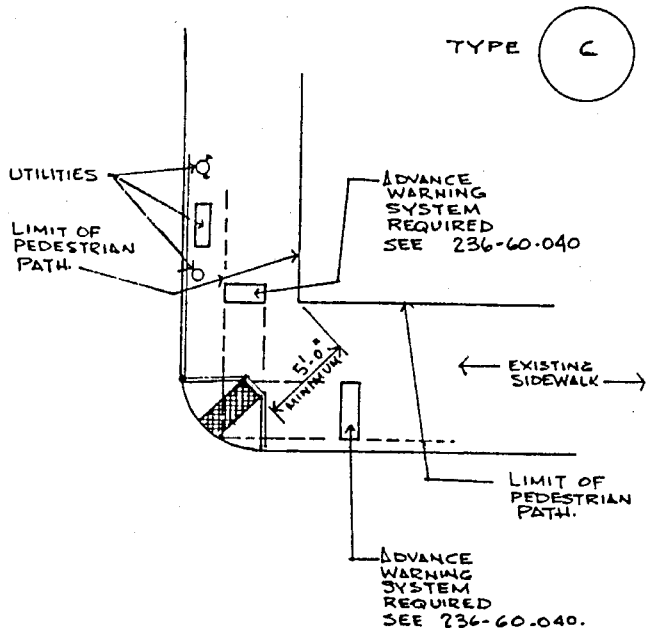
WAC 236-60-080 Curb ramp—Type "B."



(1) This curb ramp type can be used with the existing planting area or with the sidewalk extension into the parking area.

[Statutory Authority: RCW 35.68.076, 78-02-066 (Order 77-5), § 236-60-080, filed 1/24/78.]

WAC 236-60-090 Curb ramp—Type "C."



This curb ramp type is acceptable when utilities are a conflict and/or the street grade exceeds twenty-five to one (4%).

[Statutory Authority: RCW 35.68.076, 78-02-066 (Order 77-5), § 236-60-090, filed 1/24/78.]

WAC 236-60-100 Factors to be considered. Factors which should be considered by a city, town or county when deciding whether to follow or deviate from the design, sur- (2005 Ed.)

face textures and/or location standards set forth in this chapter include, but are not limited to, the following:

- (1) Street alignments and curb configurations that are substantially different from the curb situations shown.
- (2) An adjacent driveway or loading ramp.
- (3) Unusual sidewalk textures in the vicinity.
- (4) Steeper street grades.
- (5) Utility vaults.
- (6) Whether a different design or location would assist the handicapped pedestrian without uniquely endangering the blind.

[Statutory Authority: RCW 35.68.076, 78-02-066 (Order 77-5), § 236-60-100, filed 1/24/78.]

Chapter 236-70 WAC

A RULE TO FACILITATE PRIVATE INVESTMENT IN ENERGY CONSERVATION FOR STATE-OWNED FACILITIES

WAC

236-70-010	Authority.
236-70-020	Purpose.
236-70-030	Scope and coverage of this chapter.
236-70-040	Definitions.
236-70-050	Department of general administration responsibilities.
236-70-060	State agency responsibilities.
236-70-070	Procurement of energy conservation measures and services with private financing.
236-70-080	Monitoring and reporting requirements.

WAC 236-70-010 Authority. This rule is promulgated pursuant to RCW 43.19.680(4) and is intended to administratively implement that statute.

[Statutory Authority: RCW 43.19.680(4), 84-24-030 (Order 84-03), § 236-70-010, filed 11/30/84.]

WAC 236-70-020 Purpose. The purpose of this chapter is to establish rules which can be used to facilitate private investment in energy conservation measures and services for state-owned facilities.

[Statutory Authority: RCW 43.19.680(4), 84-24-030 (Order 84-03), § 236-70-020, filed 11/30/84.]

WAC 236-70-030 Scope and coverage of this chapter. The scope of this chapter is to provide guidelines for state agencies acquiring private financing for energy conservation measures and services, and for administration of this rule by the department of general administration. This chapter does not provide authority or guidance for private financing of nonenergy related projects.

[Statutory Authority: RCW 43.19.680(4), 84-24-030 (Order 84-03), § 236-70-030, filed 11/30/84.]

WAC 236-70-040 Definitions. The following words and terms have the following meanings for the purposes of this chapter:

"Base period" means a preceding twelve-month period, or longer, selected as the standard for measurement of energy consumption and energy savings due to implementation of energy conservation measures or services.

"Energy conservation maintenance and operating procedure" means modification or modifications in maintenance and operations of a facility, and any installations within the

facility, which are designed to reduce energy consumption in the facility and which require no significant expenditure of funds.

"Energy conservation measure" means an installation or modification of an installation in a facility which is primarily intended to reduce energy consumption or allow use of an alternative energy source.

"Energy consumption" means the amount of electrical energy and demand, natural gas, oil, propane or other fuel consumed in a facility in any billing period. It also applies to utility services, such as water and sewer, which require energy to be consumed to supply the services to the facility.

"Energy conservation service" means a service which provides preestablished levels of heating, cooling, lighting, and equipment use at reduced energy consumption levels. The services may include, but are not limited to, providing financing, design, installation, repair, maintenance, management, technical advice, and/or training.

"Energy cost savings" means energy savings converted into dollar savings.

"Energy savings" means the amount of energy expressed in standard units (e.g., therms, gallons, kilowatt hours) of energy saved by an energy conservation measure or service.

"Energy service company" means a company that provides energy conservation services.

"Facility" means a building, a group of buildings served by a central energy distribution system, components of a central energy distribution system, related structures and/or energy consuming appurtenances.

"Net benefit" means the energy cost savings less the cost of the energy conservation measure or service provided.

"Private investment or private financing" of energy projects means obtaining project funds by other than capital appropriation or governmental grants, and includes, but is not limited to, the following:

- "Guaranteed savings" means a program in which a company guarantees a user a predetermined reduction in energy costs. The company guarantees that energy costs plus all costs of the energy conservation measures or services provided will be less than the user's normal energy costs.

- "Leasing" means using a piece of property without transferring ownership. Leasing is an alternative to direct ownership of energy saving equipment. This is also known as an operating lease.

- "Municipal or capital leasing" means a tax exempt lease where the cost of equipment is amortized over the lease term. At the end of the lease period ownership passes to the lessee. This is also known as a lease purchase.

- "Shared savings" means a program in which the sole source of payment for energy conservation measures or services provided by a company is a predetermined percentage of the energy cost savings of the user resulting from the energy conservation measure or service.

- "Utility financing" means grants, loans, and resource acquisition payments provided by utilities for energy conservation.

- "Vendor financing" means financing provided by an equipment supplier, equipment manufacturer, company or contractor.

"Request for qualifications" means the document which communicates information to prospective contractors and should include, but not be limited to:

- A description of the problem;
- Expected results from the project;
- Extent and nature of anticipated contract services; and
- Criteria for evaluating statements of qualifications.

"State agency" means all departments, boards, commissions, colleges, community and technical colleges, and universities who own and operate or who have some responsibility for the ownership and operation of state facilities, related structures, and/or appurtenances.

"State-owned facilities" means those facilities which are owned outright by the state, those facilities which are being purchased by the state, and those facilities which the state has provided full or partial construction funding or provides full or partial operations funding.

[Statutory Authority: RCW 43.19.680(4). 00-08-040, § 236-70-040, filed 3/29/00, effective 4/29/00; 84-24-030 (Order 84-03), § 236-70-040, filed 11/30/84.]

WAC 236-70-050 Department of general administration responsibilities. The department of general administration shall be responsible for:

(1) Providing technical assistance through inter-agency agreements.

(2) Developing procedures for requesting qualifications of energy service companies consistent with RCW 43.19.680.

(3) Developing standards for bid documents for private financing.

(4) Developing standards for contract documents for energy conservation measures and services using private financing including the means of establishing the base period consumption, the methodology for computing energy savings and the method of payment.

(5) Soliciting bids or quotations for the lease or purchase of energy conservation measures using private financing for those state agencies included in RCW 43.19.190.

(6) Publishing requirements to procure energy conservation measures or services using energy service companies for those state agencies included in RCW 43.19.450.

(7) Developing procedures for evaluating financing proposals.

(8) Monitoring energy service company agreements, conducting annual reviews and providing technical assistance as needed.

[Statutory Authority: RCW 43.19.680(4). 00-08-040, § 236-70-050, filed 3/29/00, effective 4/29/00; 84-24-030 (Order 84-03), § 236-70-050, filed 11/30/84.]

WAC 236-70-060 State agency responsibilities. State agencies seeking private financing of energy conservation measures or services will be responsible for:

(1) Notifying the department of general administration of their intent, and providing justification for project implementation.

(2) Completing all applicable maintenance and operational items as required by RCW 43.19.670. This does not preclude seeking energy conservation services to facilitate implementation of maintenance and operating procedures.

(3) Providing the department of general administration with substantive data, information, calculations, contracts, or other material which are necessary in determining the cost effectiveness of the project and the financial alternatives.

(4) Preparing, or acquiring services for the preparation of, requests for qualifications for energy conservation measures and services using energy service companies.

(5) Providing building space and/or land for installation of energy conservation equipment.

(6) Providing maintenance and monitoring of installed energy conservation equipment unless otherwise specified.

(7) Reporting fuel and utility consumption survey information required by RCW 43.19.670 to the department of general administration.

(8) Providing for staff training on the function, operation and maintenance of energy conservation equipment.

(9) Reporting contract status on an annual basis to the department of general administration.

[Statutory Authority: RCW 43.19.680(4), 00-08-040, § 236-70-060, filed 3/29/00, effective 4/29/00; 84-24-030 (Order 84-03), § 236-70-060, filed 11/30/84.]

WAC 236-70-070 Procurement of energy conservation measures and services with private financing. (1) In procurement of energy conservation measures and services with private financing the state agency shall comply with:

- (a) Public works statutes - chapter 39.04 RCW;
- (b) Purchasing statutes - chapter 43.19 RCW; or
- (c) Personal services statutes - chapter 39.29 RCW.

(2) Whenever practicable, energy conservation measures or services shall be obtained by means of competitive bids and awarded to the lowest responsible bidder over the intended life of the contract.

(3) Whenever it is determined that energy conservation measures or services should be obtained by means other than by bidding, the state agency shall prepare a request for proposal. Proposals shall be obtained in writing and evaluated in accordance with the evaluation procedure contained in the request for proposal.

[Statutory Authority: RCW 43.19.680(4), 84-24-030 (Order 84-03), § 236-70-070, filed 11/30/84.]

WAC 236-70-080 Monitoring and reporting requirements. The following procedures are set forth for monitoring energy service company agreements and for reporting contract status to the department of general administration:

(1) The monitoring of installed energy equipment will be the responsibility of the state agency, unless otherwise specified, and will include reporting contractor response to maintenance and emergency situations to the department of general administration.

(2) The state agency will report facility operating changes, physical changes, equipment changes, equipment modifications or other changes which may affect energy consumption or base period figures to the department of general administration.

(3) The state agency, in cooperation with the department of general administration, will develop a schedule for annual review of energy service company agreements for the purpose of: Evaluating projected "vs" actual energy savings; adjusting base period and energy savings formula; evaluating

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purchase options; evaluating contractor performance; and negotiating contract disagreements and other contract changes which may provide the state with a greater net benefit.

[Statutory Authority: RCW 43.19.680(4), 00-08-040, § 236-70-080, filed 3/29/00, effective 4/29/00; 84-24-030 (Order 84-03), § 236-70-080, filed 11/30/84.]

Chapter 236-100 WAC

FLOOD MITIGATION STANDARDS FOR STATE AGENCIES

WAC

236-100-001	Authority.
236-100-010	Purpose.
236-100-011	Objectives.
236-100-012	Application.
236-100-013	Definitions.
236-100-014	Responsibilities of each state agency.
236-100-015	Flood mitigation standards.
236-100-016	Exemptions.

WAC 236-100-001 Authority. Pursuant to the authority granted by RCW 43.19.19361, 43.19.19368, and 43.17.060, the director of the department of general administration establishes the following risk management standards to be followed by all state agencies on flood mitigation.

[Statutory Authority: Chapters 43.17 and 43.19 RCW. 91-08-057, § 236-100-001, filed 4/2/91, effective 5/3/91.]

WAC 236-100-010 Purpose. The purpose of these standards is to discourage state development on flood plains whenever there is a practical alternative. This will result in reduced liability and costs associated with flood damage to state-owned real and personal property.

[Statutory Authority: Chapters 43.17 and 43.19 RCW. 91-08-057, § 236-100-010, filed 4/2/91, effective 5/3/91.]

WAC 236-100-011 Objectives. The objectives of these flood mitigation standards are:

- (1) To protect the people and the property of the state from unnecessary loss due to flood;
- (2) To restore and preserve the natural and beneficial values served by flood plains;
- (3) To minimize the impact of state development on wet lands and known flood plains;
- (4) To comply with chapter 86.16 RCW, Flood plain management, in which the state of Washington has adopted the National Flood Insurance Program regulations of the Federal Emergency Management Agency for flood plain management. The participation of the state in this program allows flood insurance to be sold to both the private and public sector, and satisfies some of the conditions necessary for the state to be self-insured for flood coverage, under the National Flood Insurance Program;
- (5) To comply with the requirements of the National Flood Insurance Program, thereby permitting state agencies to be eligible for federal financial assistance, including disaster relief funds for the replacement, permanent repair, or reconstruction of insurable state-owned properties damaged by the flood; and
- (6) To ensure that the state of Washington and its agencies are eligible to obtain flood insurance, or to be approved

for self-insurance by the Federal Insurance Administrator under the National Flood Insurance Program.

[Statutory Authority: Chapters 43.17 and 43.19 RCW. 91-08-057, § 236-100-011, filed 4/2/91, effective 5/3/91.]

WAC 236-100-012 Application. These standards apply uniformly to:

- (1) All state agencies;
- (2) Projects and proposals for state-owned developments, new construction, and property undergoing substantial improvement; and
- (3) New leases except for existing leases or renewed leases.

[Statutory Authority: Chapters 43.17 and 43.19 RCW. 91-08-057, § 236-100-012, filed 4/2/91, effective 5/3/91.]

WAC 236-100-013 Definitions. (1) "Agency" or "agencies" as used in this section means all Washington state agencies, boards, commissions, and all state institutions of higher education.

(2) "Development" means any man-made change to improved or unimproved real estate, including but not limited to: Buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

(3) "Facility" means something built to serve a particular function other than a structure.

(4) "New construction," for flood plain management purposes, means structures for which the start of construction commenced on or after the effective date of this regulation, WAC 236-100-001 through 236-100-016.

(5) "Property" or "properties" refer to state-owned developments, structures, facilities, and/or the contents of the structure in which the state has an interest.

(6) "Risk manager" means the assistant director of the office of risk management, department of general administration, or his/her designee.

(7) "Special flood hazard areas" refers to areas subject to inundation by a flood having a one percent or greater probability of being equaled or exceeded during any given year. This flood, which is referred to as the one hundred-year flood or the base flood, is the national standard on which the flood plain management and insurance requirements of the National Flood Insurance Program are based. Special flood hazard areas and one hundred-year flood plains are identified on flood insurance rate maps developed and issued by the Federal Emergency Management Agency.

(8) "Structure" means a walled and roofed building, including any gas or liquid storage tank, that is principally above ground and affixed to a permanent site.

(9) "Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent of the fair market value of the structure either:

- (a) Before the improvement or repair is started; or
- (b) If the structure has been damaged and is being restored, before the damage occurred.

[Statutory Authority: RCW 43.17.060 and chapter 43.19 RCW. 00-01-104, § 236-100-013, filed 12/16/99, effective 1/16/00. Statutory Authority: Chapters 43.17 and 43.19 RCW. 91-08-057, § 236-100-013, filed 4/2/91, effective 5/3/91.]

WAC 236-100-014 Responsibilities of each state agency. (1) Each state agency is responsible for reducing the liability and costs associated with flood damage to its state-owned property, both real and personal;

(2) When a proposal or project is initiated for the acquisition, development, and/or the construction of state-owned structures or facilities, the agency initiating the proposal shall determine the flood plain exposure and the fiscal impact of locating state-owned properties within special flood hazard areas;

(3) If the project or proposal for development, new construction, or substantial improvement is within a one hundred-year flood plain and/or special flood hazard area, then the initiating agency must include such information in its funding request to the office of financial management and shall include a statement that the project or proposal meets the requirements of WAC 236-100-015 or shall include a copy of the written exemption granted by the state risk manager; and

(4) It is the responsibility of each agency to establish and issue the necessary policies or procedures to assure that these flood plain management standards for state-owned and leased properties are carried out within their respective agency.

[Statutory Authority: Chapters 43.17 and 43.19 RCW. 91-08-057, § 236-100-014, filed 4/2/91, effective 5/3/91.]

WAC 236-100-015 Flood mitigation standards. (1) When planning the location, acquisition, and/or construction of state-owned developments, structures, or property, one hundred-year flood plains and special flood hazard areas, as identified on flood insurance rate maps or by other available sources, shall be avoided whenever feasible.

(2) If it is necessary to locate, acquire, and/or construct state-owned developments, structures, new construction, or substantial improvements within one hundred-year flood plains and/or special flood hazard areas, agencies must then adhere to the regulations of the National Flood Insurance Program (44 CFR Ch. 1).

(3) In addition to subsection (2) of this section, for all new construction and substantial improvements, both within and outside of any one hundred-year flood plain and/or special flood hazard area, the elevation of the lowest floor, including the basement, shall be at least the greater of either:

- (a) One foot above the one hundred-year flood elevation;
- or
- (b) At the five hundred-year flood elevation.

To achieve this flood protection, state agencies shall, whenever feasible, locate structures outside of one hundred-year flood plains and special flood hazard areas rather than filling in land within one hundred-year flood plains and/or special flood hazard areas.

(4) Developments, new construction, or substantial improvements which do not meet the requirements of subsections (2) and/or (3) of this section must receive an exemption as specified in WAC 236-100-016(2).

(5) For leased structures with state-owned contents, agencies shall avoid one hundred-year flood plains and/or special flood hazard areas, whenever feasible. If it is necessary for agencies to lease property within one hundred-year flood plains and/or special flood hazard areas, then such leased structure or structures and related development shall

meet the minimum requirements of the National Flood Insurance Program. Exemptions from these requirements for leased property must be obtained from the office of risk management pursuant to WAC 236-100-016(2).

[Statutory Authority: RCW 43.17.060 and chapter 43.19 RCW. 00-01-104, § 236-100-015, filed 12/16/99, effective 1/16/00. Statutory Authority: Chapters 43.17 and 43.19 RCW. 91-08-057, § 236-100-015, filed 4/2/91, effective 5/3/91.]

WAC 236-100-016 Exemptions. (1) Exemptions from the elevation requirements of WAC 236-100-015(3) are granted automatically for:

(a) Facilities where their use and purpose require construction below one hundred-year flood plains and/or special flood hazard areas (e.g., fish pens, fish ladders, holding ponds, dams, etc.);

(b) Roads, bridges, and highway facilities.

(2) All other exemptions from the elevation requirements of WAC 236-100-015 must be granted by the department of general administration, office of risk management. Agencies seeking an exemption must submit a purpose and use statement, including an explanation of why and how the structure, development, or substantial improvement will not comply with these flood mitigation standards. This information must be submitted in writing to the Risk Manager, Department of General Administration, Office of Risk Management, 303 General Administration Building, P.O. Box 40127, Olympia, Washington 98504. These requests will be reviewed on a case-by-case basis, and the risk manager will issue a letter of exemption no later than fourteen days after receipt of such request, if in his/her sole discretion it is appropriate to do so.

Denials of any exemptions may be appealed in writing to the Director of the Department of General Administration, 218 General Administration Building, MS: AX-22, Olympia, Washington 98504 within thirty days of the date of the denial letter.

[Statutory Authority: RCW 43.17.060 and chapter 43.19 RCW. 00-01-104, § 236-100-016, filed 12/16/99, effective 1/16/00. Statutory Authority: Chapters 43.17 and 43.19 RCW. 91-08-057, § 236-100-016, filed 4/2/91, effective 5/3/91.]

Chapter 236-200 WAC

ENERGY EFFICIENCY SERVICES ACCOUNT

WAC

236-200-010	Purpose.
236-200-020	Definitions.
236-200-030	Criteria and procedures for setting fees.
236-200-040	Energy life cycle cost analysis/energy conservation report fees.
236-200-050	Receipt of funds.
236-200-080	Working capital requirements.

WAC 236-200-010 Purpose. This chapter implements the provisions of section 415 and related sections of chapter 186, Laws of 1996, establishing criteria and procedures for setting a fee schedule, establishing working capital requirements, and receiving funds for the energy efficiency services account.

[Statutory Authority: Chapter 39.35C RCW. 00-08-039, amended and recodified as § 236-200-010, filed 3/29/00, effective 4/29/00. Statutory (2005 Ed.)

Authority: RCW 43.21F.045(12) and 1991 c 201 § 12. 92-01-120, § 194-20-010, filed 12/19/91, effective 1/19/92.]

WAC 236-200-020 Definitions. (1) "Department" means the state department of general administration.

(2) "Energy services" means the energy efficiency program that emerges from chapter 186, Laws of 1996, the mission of which is the fulfillment of the requirements of that legislation: To achieve cost-effective conservation improvements in state and school district facilities and to investigate and, if appropriate, to pursue development of cost-effective cogeneration in existing or new state facilities.

(3) "Energy life cycle cost analysis (ELCCA)" means the method of economic analysis which accounts for the initial cost and the cost of operation of a major facility or its systems over its economic life. (See RCW 39.35.030(7).) Chapter 39.35 RCW requires that an ELCCA be prepared prior to construction or alteration of a publicly owned or leased facility having twenty-five thousand square feet or more of usable floor space.

(4) "Energy conservation report (ECR)" means the report describing the ELCCA performed for schools, funded in part by the Washington superintendent of public instruction and reviewed by the department. The contents of the report and the submission procedures are outlined in the department's publication, "Energy Life Cycle Cost Analysis Guidelines for Public Agencies."

(5) "Energy efficiency project" means a project which reduces energy consumption or energy cost, or increases the efficient use of energy. It includes activities, measures, and/or equipment designed to achieve these results.

(6) "Cogeneration project" means a project which results in the sequential generation of two or more forms of energy from a common fuel or energy source.

[Statutory Authority: Chapter 39.35C RCW. 00-08-039, amended and recodified as § 236-200-020, filed 3/29/00, effective 4/29/00. Statutory Authority: RCW 43.21F.045(12) and 1991 c 201 § 12. 92-01-120, § 194-20-020, filed 12/19/91, effective 1/19/92.]

WAC 236-200-030 Criteria and procedures for setting fees. The department will charge fees sufficient to recover the cost of providing services to state agencies, school districts, and public agencies which undertake energy efficiency or cogeneration projects under the energy services program. Recoverable costs include, but are not limited to all necessary costs of providing services directly to public facilities, of monitoring and implementing utility agreements when utilities elect to offer designated services, and of monitoring agreements with private consultants or energy service companies who provide energy services. The department's fees are based on hourly rates and the billable hours of service providers, and include all technical and program costs, and associated administrative costs. Fees are negotiated between the department and the public facility being served, except for fees to review ELCCA's and ECR's.

[Statutory Authority: Chapter 39.35C RCW. 00-08-039, amended and recodified as § 236-200-030, filed 3/29/00, effective 4/29/00. Statutory Authority: RCW 43.21F.045(12) and 1991 c 201 § 12. 92-01-120, § 194-20-030, filed 12/19/91, effective 1/19/92.]

WAC 236-200-040 Energy life cycle cost analysis/energy conservation report fees. Fees for ELCCA and ECR

reviews will be established to recover the department's actual costs in conducting the reviews. The department's fee for an ELCCA or ECR review will not exceed two thousand dollars or one-tenth of one percent of the project's total design and construction cost, whichever is less, unless mutually agreed by the public agency and the department. The department shall annually evaluate whether energy savings resulting from its review of ELCCA's and ECR's justify the costs of performing the reviews.

[Statutory Authority: Chapter 39.35C RCW. 00-08-039, amended and recodified as § 236-200-040, filed 3/29/00, effective 4/29/00. Statutory Authority: RCW 43.21F.045(12) and 1991 c 201 § 12. 92-01-120, § 194-20-040, filed 12/19/91, effective 1/19/92.]

WAC 236-200-050 Receipt of funds. The department requires full payment of its invoices in the form of a check made payable to the department or an electronic fund transfer. For ELCCA's and ECR's submitted for review, public facilities will be invoiced when the review takes place. For all other energy conservation or cogeneration services, public facilities will be invoiced on a monthly basis unless other financing arrangements are mutually agreed upon in advance.

[Statutory Authority: Chapter 39.35C RCW. 00-08-039, amended and recodified as § 236-200-050, filed 3/29/00, effective 4/29/00. Statutory Authority: RCW 43.21F.045(12) and 1991 c 201 § 12. 92-01-120, § 194-20-050, filed 12/19/91, effective 1/19/92.]

WAC 236-200-080 Working capital requirements. The department establishes an initial goal of building within the energy efficiency services account a working capital account balance equal to a minimum of one month of operating costs.

[Statutory Authority: Chapter 39.35C RCW. 00-08-039, amended and recodified as § 236-200-080, filed 3/29/00, effective 4/29/00. Statutory Authority: RCW 43.21F.045(12) and 1991 c 201 § 12. 92-01-120, § 194-20-080, filed 12/19/91, effective 1/19/92.]