

761—165.7(465B) Advance eligibility of land acquisition and preliminary design costs incurred prior to funding commitment by commission.

165.7(1) *Need for advance eligibility.* If there is extreme urgency involving land acquisition or preliminary design and a necessity to protect or preserve a project corridor or to proceed with the preparation of project construction plans prior to a recreational trails program funding commitment, a potential applicant may submit a written request to the department for a determination of advance eligibility to incur costs for land acquisition or preliminary design immediately. A determination of advance eligibility by the department will allow specified costs incurred prior to a funding commitment by the commission to be eligible for reimbursement with recreational trails program funding without jeopardizing the project's eligibility for funding approval but does not imply or guarantee that the commission will commit recreational trails program funding to a subsequent application.

165.7(2) *Request, justification and review.* The request is to be received by the department prior to the expenditure and is to include justification regarding the extreme urgency and necessity to incur costs prior to a recreational trails program funding commitment. A request for land acquisition is to also include a description of the land to be acquired, a summary of the estimated costs, and a map showing the parcels to be acquired. Preliminary design requests are to include a description of the project scope, location map, and proposed cross section. If the request will include consultant design costs, a draft agreement between the jurisdiction and the consultant is to be submitted that includes the scope of services to be rendered. Costs for recreational trails program application preparation and submission or project feasibility, route alignment studies or other planning expenses as cited in paragraphs 165.6(2) "c" and "d" remain ineligible for recreational trails program funding and are not to be included in a request for determination of advance eligibility. The department will review the submittal. The department will provide written confirmation of the determination of advance eligibility following receipt of a request consistent with this rule.

165.7(3) *Eligibility of costs for reimbursement.* Any cost incurred before the request is received by the department will be ineligible for reimbursement. Costs receiving a determination of advance eligibility are to be noted in the subsequent recreational trails program funding application submitted to the department. Land acquired or design work completed following a determination of advance eligibility will not be eligible for reimbursement with recreational trails program funds if the property acquired or design work completed is not necessary to construct the proposed recreational trails program project included in the subsequent application. Design costs receiving a determination of advance eligibility are not to exceed 10 percent of the total construction costs for the project. An application for funding that includes the expenditure is to be received by the department within two years following the determination of advance eligibility, or the costs may become ineligible for recreational trails program funding.

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