

Definition of a Project

Statutory Definition for Purposes of Using State Forces

[RCW 47.28.030](#) has placed a dollar limitation on the use of state forces if the work involves the construction, alteration, repair, or improvement of a state highway. When such work is of an emergency nature as defined in [RCW 47.28.170](#), state forces may be used to perform the work or any portion of it when the estimated cost is less than \$100,000. To calculate the state costs, [RCW 47.28.035](#) requires that the estimate must include the aggregate of all amounts to be paid for labor, material, and equipment on one continuous or interrelated project where work is to be performed simultaneously. The statute also warns the department not to divide a project into units of work or classes of work to give the appearance that the estimated cost of using state forces is within the dollar limitation set forth in [RCW 47.28.030](#). Therefore in determining the scope of a proposed project and the work activities to be included, the department must follow the criteria for a project as set forth in [RCW 47.28.035](#). If this is not done, the department may be accused of artificially dividing the work into more than one project to avoid the dollar limitation on the use of state forces.

Definition of Continuous and Interrelated

With the statute's objective in mind one must remember that a project consists of a series of activities or events that must be accomplished to produce an intended result. The project is generally "continuous" in nature (both length and depth) until each required activity is completed to produce the desired outcome. Also, each activity alone cannot create the final result. They must be "interrelated" with other activities to establish the final goal and objective. The activities are part of the overall project and logically could not be considered as separate and independent projects. Since individual activities or units of work are only components of a single project, the statute precludes the department from treating them as separate projects in order to increase the use of state forces.

Definition of Simultaneously

The statute also refers to work being performed "simultaneously." This term must be interpreted in view of what actually happens on a project. It's obvious not all of the activities can be done at the exact same time. However, they must be accomplished before the entire project is completed. For example if the road is washed out, the end result is to replace the road. To accomplish this the activities would include replacement of fill, riprap, crushed surfacing, paving, striping, and guardrail. The work activities are not being phased because of future funding or other reasons; but simply continuing on until the work is completed and the new road is in place. As long as the activities are being carried in a logical sequence to produce the end result, the work is being done "simultaneously" for purposes of the statute.

Other Considerations

1. If various work activities could be treated as separate projects as defined by [RCW 47.28.035](#) but they have been combined for accounting and/or contracting convenience, the reasons for the combination should be documented. This prevents an appearance that the dollar limitation on state force use has been exceeded.
2. [RCW 47.28.035](#) provides a definition of what is considered to be a project for purposes of estimating the costs of using state forces. That definition must be applied uniformly by the department in making such estimates.
3. If the decision is made to divide the work activities into separate projects, document the reasons for it. Make sure the decision is based on legitimate reasons as opposed to separating the work for the sole purpose of being able to use more state forces.

To better understand how the statutory definition of a project would apply to various fact situations, the following examples are provided.

- **Example 1** – Assume two major slides occur causing extensive damage to the roadway. The damaged areas are separated on the roadway by only a few feet. Technically the work to clear and repair the two areas is not continuous because of the separation. However since the distance is so minimal, the work in both areas would be considered as one continuous project. Also [RCW 47.28.035](#) refers to “. . . one continuous or interrelated project.” In the example all of the work is interrelated because both areas would have to be repaired before that section of roadway could be used by the traveling public. Thus for purposes of the statute, the work activities at both locations would be treated as one single project.
- **Example 2** – Two major slides occur on the same highway but are located several miles apart. Unlike Example 1, the distance between the slides is substantial so work at the two locations would not be considered as one continuous project. Also the repair work at location one can be completed to open that section of the roadway independent of the repair work at the second location. Thus, the work at the two sites is not interrelated. As a consequence the work at the slide areas would be considered two separate projects.
- **Example 3** – A slide covers 1 mile of road. In order to restore the road for traffic use, the following work activities must be done: (1) removal of debris; (2) replacement of fill material; (3) repair of the shoulders; (4) repaving; and (5) placement of new guardrail. Each of these activities is interrelated in order to put the road back into service. The work is also being done in a logical sequence so it is being performed “simultaneously.” Therefore the sum total of the work would be considered as one project instead of five separate jobs for purposes of estimating the cost of using state forces.

- **Example 4** – Three slides occur on the same highway. Two are located 10 feet apart and the third one is located 5 miles to the north. The only work activities involved to open the roadway in all three locations is to remove the debris and clean the ditches. The issue of what is considered a project for purposes of [RCW 47.28.035](#) only applies where the activity involves either “construction, repair, alteration, or improvement work.” Unlike Examples 1, 2, and 3, the work activities in this example would be considered emergency maintenance work. Therefore state forces can be used to do all of the work regardless of costs and regardless of whether the three work areas are classified as one or more projects.
- **Example 5** – A storm does damage to a bridge structure and two culverts in the same area. Work is done immediately to repair the culverts. However because of lack of funding or other legitimate reasons, a decision is made to delay repair work to the bridge. Since the repair work on the culverts can be accomplished without repairing the bridge, the two activities are not interrelated. Also, the bridge work will occur at a later date so the work is not continuous. Therefore, the repair of the culverts and the subsequent bridge repair work can be treated as two separate projects.
- **Example 6** – Work is done to correct unstable slopes in multiple locations. Each site can be corrected independent of the improvement work at the other sites. Also, the work is not continuous because of the separate locations. Therefore, the improvement work at each location would be considered a separate project.
- **Example 7** – One rest area is damaged. The repairs include removal of debris, replacing sections of the sidewalk, and repaving. The work is continuous because all of the repairs are being made at one location. These activities are also interrelated because the repairs must be done in order to put the rest area in the condition it was prior to the damage. The individual repair activities cannot be considered as separate projects but must be treated as one project for purposes of estimating the cost of using state forces.

Conclusion

The purpose of [RCW 47.28.035](#) is to preclude the department from dividing a proposed project into separate units of work or classes of work in order to avoid the dollar limitation on the use of state forces. Therefore, the statute defines what a project is for that purpose. There will be many situations where the application of the statutory definition does not provide a clear answer as to whether the proposed work can be incorporated into more than one project. If in those situations the work activities are in fact divided into separate projects, the decision can be justified as long as the department can show that the reason for it was not to circumvent the statutory restrictions on state force use.

