

# Municipal Research News

LOCAL GOVERNMENT  
SUCCESS

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## About MRSC

Municipal Research and Services Center (MRSC) is a nonprofit organization dedicated to proactively supporting the success of local governments through one-on-one consultation, research tools, online and in-person training, and timely, unbiased information on issues impacting all aspects of local governments.

For over 90 years, local governments in Washington State have turned to MRSC for assistance. Our trusted staff attorneys, policy consultants, and finance experts have decades of experience and provide personalized guidance through Ask MRSC and our extensive online resources. Every year we help thousands of staff and elected officials research policies, comply with state and federal laws, and improve day-to-day operations through best practices.

Municipal Research News is published biannually to inform, engage, and educate readers about ongoing and emerging issues. In print and online at the MRSC Insight blog, we cover such major topics as the Growth Management Act and the ever-evolving complexities of the Public Records Act, to name a few. When the legal landscape changes, we are here to clarify the issues and help local government leaders access the information they need to better serve their communities.



## Washington Trivia Question

Which county hosts the first official state park, designated as such on July 20, 1915? (Bonus for the park name.)

Answer on page 10

Your ideas and comments are appreciated. If you have news you would like to share, please contact the editor, Leah LaCivita, at llacivita@mrsc.org

# Municipal Research News

LOCAL GOVERNMENT SUCCESS

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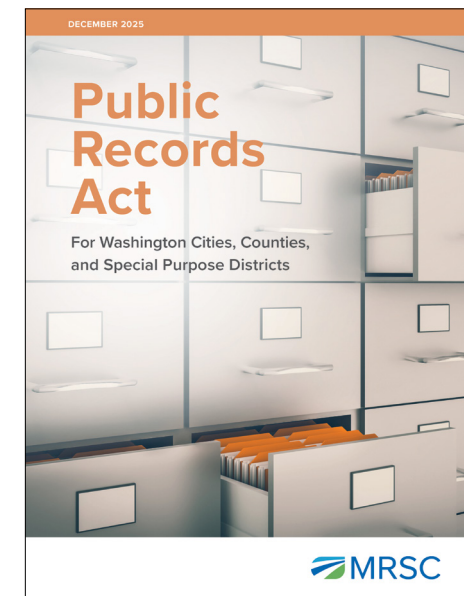
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# MRSC HIGHLIGHTS

## MRSC Publications: Providing Detailed Guidance to Local Governments for 8 Decades

Did you know that MRSC offers downloadable publications on a variety of topic impacting Washington local governments? These items can be accessed via the Publications tab on our website. Here is a quick overview of our most popular publications

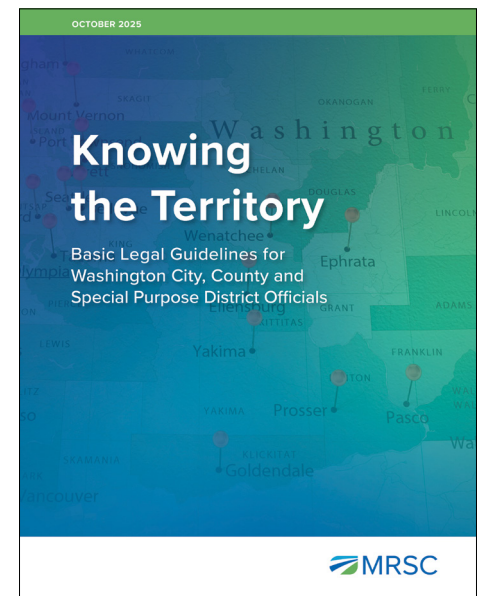
- **Open Public Meetings Act** – a comprehensive overview of the OPMA that includes tricky topics like procedural requirements, exemptions, and penalties.
- **Public Records Act for Washington Cities, Counties, and Special Purpose Districts** – a guide to PRA requirements for public agencies that details how to process records requests, manage exemptions, and deliver records efficiently.



- **Budget Suggestions** has the latest on topics that might impact your city or county budget, including state shared revenue distributions, new finance-related legislation, economic trends, budget procedures, and more. Updated annually in July.
- **Knowing the Territory: Basic Legal Guidelines for Washington City, County and Special District Officials** – helps local officials stay out of legal trouble by discussing roles and responsibilities, conflicts of interest, recent legislation, and more.
- **Contracting for Services: Guidelines for Local Governments in Washington State** – covers contracting for professional architectural and engineering (A&E) services, purchased services, and personal services/consultants.
- **Public Works Contracting: Best Practices** – provides helpful tips and best practices for the traditional low bid or “design-bid-build” public works model.

Not mentioned but also available are Revenues Guides and Bidding Books—specifically targeting cities and counties, County Commissioner Guide, Mayor and Councilmember Handbook, and more. Best of all, these publications are available free of charge.

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## GOT CLEAN ENERGY PROJECTS? Free Program Helps Local Agencies Recoup Some Program Costs

Washington State has been a leader in addressing climate impacts and has invested in programs intended to move us toward a clean energy future. This article highlights a state program that provides both legal and technical assistance to entities that may be eligible for federal clean energy tax credits. It also includes case studies from local governments that have utilized the program and obtained federal tax credits.

BY JILL DVORKIN, LEGAL CONSULTANT & LEAH LACIVITA, COMMUNICATIONS COORDINATOR

### BACKGROUND ON ELECTIVE PAY PROVISIONS OF THE INFLATION REDUCTION ACT (IRA)

Historically, tax-exempt entities, including state and local governments, were unable to benefit from federal clean energy tax credits. Since these entities don't pay federal income tax, they had no tax burden to offset with a tax credit. However, in 2022, Congress passed the Inflation Reduction Act (IRA) which created an opportunity for agencies that invest in clean energy infrastructure and technology to receive various federal tax credits as direct, elective payments.

How it works:

- A local government undertakes a qualifying clean energy project or investment.
- The local government then preregisters and files an annual tax return with the Internal Revenue Service (IRS) to claim a “refund” for the investment tax credit.
- If the forms are properly filed and the project or investment meets the eligibility criteria, the IRS pays the “refund” directly to the local government (even though it does not offset any taxes owed).

### RECENT LEGISLATIVE CHANGES IMPACTING ELIGIBLE PROJECTS

When the IRA was passed in 2022, there was a broad range of clean energy projects and investments eligible for elective pay provisions. In 2025, Congress passed the One Big Beautiful Bill (OBBB), HR 1, that limits or phases out some of the credits and imposes additional requirements impacting eligibility. Changes include, but are not limited to:

- Repealing the clean commercial vehicle credit (Section 45W) for vehicles acquired after September 30, 2025.
- Repealing the electric vehicle infrastructure credit (Section 30C) for property placed in service after June 30, 2026.
- Accelerating the phase-out of certain credits for solar and wind projects.

Nevertheless, there are still significant opportunities for local governments to

take advantage of the elective pay provisions—including tax credits. Depending on when projects can begin construction, entities can still receive tax credits for solar and wind projects developed within reasonable timelines. The credit timelines for battery storage, geothermal, and ground-source heat pumps were also not impacted by HR 1.

To help determine project eligibility and to assist local governments through the IRS filing process, the Washington State Department of Commerce has created the free resource, the Washington Clean Energy Tax Credit Assistance Program (CETCAP).

### CETCAP

CETCAP has helped more than 200 organizations install clean energy projects, unlocking hundreds of thousands of dollars in federal incentives. The program provides free legal, technical, and filing support for qualified projects statewide, helping reduce the cost of essential clean-energy upgrades.

CETCAP is open to Washington schools, hospitals, tribes, municipalities, and other tax-exempt institutions. Through federal elective pay, eligible entities can receive cash payments after completing approved projects, typically covering about 30% of project costs, with bonus credits that can increase savings to as much as 70%.

CETCAP can help entities determine eligibility of completed projects, plan projects, meet compliance deadlines, navigate complex qualification rules, and prepare accurate filings—all at no cost. CETCAP is supported with funding from Washington's Climate Commitment Act (Chapter 70A.65 RCW).

### CASE STUDIES

Both King County and the Snohomish County Public Utility District have worked with the CETCAP program to apply for credits for existing clean energy projects.

**King County:** The county outlines ambitious goals to reduce greenhouse gas emissions, prepare for climate impacts, and support sustainable, resilient frontline communities in its Strategic Climate Action Plan (2025). Working with the CETCAP program, the county filed for \$6.5 million in federal energy tax credit for several projects.

The county received \$4.6 million in tax credits for a battery storage system installed at the West Point Treatment Plant. The plant's 16.8-megawatt battery system was designed to prevent spills of untreated wastewater during power disruptions. Though the plant opened in just 2024, the battery system kept critical pumps working during 78 power interruptions in 2025.

The county also received \$285,000 in tax credits for solar projects at wastewater

treatment and solid waste facilities. One project recipient was the Bow Lake transfer station in Tukwila, the busiest station in the county. The photovoltaic system on the roof of the administrative build-

ing generates 2.5% of the building's annual energy use. Other energy efficient measures built into the site include onsite rainwater collection and storage (used to clean the facility); drought resistant native plants landscaping; and low-flow water fixtures.

Another \$1.5 million in credits helped the county build its fleet of light-duty electric vehicles, and \$88,000 in credits helped to recover costs associated with adding nine EV charging ports at Metro bus



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bases, which will help power new battery-electric buses.

**Snohomish County Public Utility District (PUD):** The PUD provides electricity to over 367,000 customers in Snohomish County and on Camano Island and water services to 23,000 customers in the north-east section of the Snohomish County.

In 2024, the PUD and the City of Everett began construction on a 400-kilowatt solar array in South Everett. This was the second such project for the PUD, with the first being the Arlington Microgrid, installed in 2019. This array is included in the PUD's Community Solar program, which allows customers to buy into the program at a per unit price and receive a monthly credit on their bill based on their units' production.

The PUD's South Everett Solar Project solar array will generate enough electricity to power approximately 40 homes. Instead of selling energy units to customers, the funds generated by this solar array will be donated to the Community Energy Fund, which provides emergency bill assistance for income-qualified customers. The PUD is currently working through the CETCAP program to apply for tax credits that could offset cost of developing the South Everett solar array, freeing up agency funds for other clean energy programs.

### CONCLUSION

Local governments with clean energy projects should visit Commerce's CETCAP webpage to determine whether such projects might be eligible for federal tax credits. The assistance provided is free and the program is only available for a limited time, so agencies should act fast.



Leah LaCivita, Communications Coordinator, writes about a variety of issues and profiles innovative local government programs and projects in Washington State. [llacivita@mrsc.org](mailto:llacivita@mrsc.org)

# ASK MRSC

## Questions about Special Events

As summer approaches and many local governments prepare for an increase in outdoor activities, like parades, street fairs, or festivals. Here are a few questions we have received regarding special events.

**Our town is hosting a 4th of July celebration. We would like to contract with the Lion's Club to provide a beer and wine garden during the event. Are there regulations that would prohibit that kind of arrangement?**

A town or its festival could contract with a nonprofit to provide services during an event, including managing a beer and wine garden area. Hiring a third party to run a beer garden during the city's 4th of July event is acceptable so long as local code allows alcohol consumption on municipal property, and the vendor applies for and receives a special occasion license from the Washington State Liquor and Cannabis Board (LCB). However, a town should probably not pay for the alcohol itself because of the absence of a municipal purpose and the prohibition on the gifts of public funds in Art. VIII, Sec. 7 of the state constitution.

**Can a private group use our city parks for a special event (a 10k race) where they charge fees to participants?**

If the question is whether your local government can legally allow the described events in its parks, the answer is generally "yes" based on a city's broad authority in RCW 67.20.010 to acquire, supervise, and operate parks.

In allowing these events, however, the city should require any private groups to obtain a use permit that addresses things like event length; anticipated attendees; whether alcohol will be sold or consumed (in which case, a license need to be procured); the sale of food, beverages, or other items; and public safety and sanitation, among other matters.

Our Special Events Permits webpage covers common requirement included in many special events permitting programs and offers local examples of permit programs, fee schedules, and application forms. Additionally, our Public Facility Rental and Use webpage contains general information about the rental and use of public parks for events and includes sample park use policies.

**Our city is a sponsor for a music festival at a city park. The nonprofit hosting the festival wants to add a beer garden. What should the city be concerned about?**

The city needs to think as both an agency that has issued permits to allow the event to happen on municipal property and as a sponsor of the event.

Through local code, cities can prohibit alcohol on their property, or they can designate specific locations where alcohol is allowed. Cities can also set conditions for facility use through rental agreements, permits, fees, insurance, etc.

As a permit-issuer, the city should see if the municipal code currently allows for alcohol on park property, and if so, what are the processes that a vendor must follow to operate in the park. The city should also ensure that the vendor has obtained a special occasion license from the LCB.

As a sponsor, the city should consult any sponsor agreements to ensure that city's intellectual property—such as a logo or trademark—is used in such a way that adheres to local policies or restrictions.

Finally, a good idea would be to reach out to your insurance carrier about the festival to make sure the city is doing everything expected under their coverage as both a permitting agency and as an event sponsor.

**We are updating our special event permit program and seeking examples of other codes that include parking requirements.**

Here are some examples of codes related to special event venues that touch on parking:

- Clark County Section 40.240.290: Commercially sponsored special events—including weddings, receptions, farm dinners, or similar events—are required to meet event parking requirements.
- Grandview Section 5.25.050: Special event permit applications are required for a variety of event types and must include provisions for parking. Events conducted in event centers, churches, schools, and wineries are exempt from permit requirements.
- Normandy Park Section 4.12.110: Special event permits may be denied if parking or shuttle accommodations are not adequate enough to prevent impacts on general parking and traffic near the event venue.

**Have a Question? Ask MRSC.** Call us at (206) 625-1300 or (800) 933-6772 or submit your question online at [mrsc.org](http://mrsc.org)

Ask MRSC

# First Amendment Audits Explained:

## Common Questions and Agency Guidance

BY HARRY BOESCHE, LEGAL CONSULTANT



MRSC commonly gets questions from various agencies about First Amendment audits, which can leave agencies confused about the rights of auditor rights as well as the rights and responsibilities of agencies. This article gives an overview of what a First Amendment audit is and answers some frequently asked questions (FAQs) about audits and auditors.

### WHAT ARE FIRST AMENDMENT AUDITS?

While First Amendment audits are not formally defined, they are commonly understood as individuals or groups contacting or visiting government agencies to 'test' agency employee understanding and respect for individual First Amendment rights.

### WHO CONDUCTS FIRST AMENDMENT AUDITS?

Auditor identity varies widely. They may act alone or in a group. They commonly visit agencies wearing masks, and they may refuse to identify themselves. Auditors can engage in a variety of confrontational or disruptive tactics, including:

- visiting agency premises with confrontational demands;

- attending agency meetings to cause disruptions or to give challenging public comments;
- making numerous and extensive public records requests;
- bombarding an agency with e-mails that assert agency 'violations' of law or rights; or
- filming interactions with public agency employees and premises and then posting the recordings online to enlarge their social media presence or get monetary donations from viewers.

These and other auditor tactics can leave agency personnel uncomfortable, confused, angry, and/or frightened. Does the First Amendment allow these auditor tactics in pursuit of the above goals? Here are some FAQ's local governments have raised about First Amendment auditor rights.

### Are auditors allowed to film an agency's public meetings?

Generally, yes, auditors are allowed to film public meetings. The court in *Zink v. City of Mesa* held that agency restrictions on filming public meetings generally violate RCW 42.30.040, which prohibits conditions on public meeting attendance. But the *Zink* court also noted two important exceptions to a public meeting attendee's ability to film the meeting.

- First, governing bodies can limit or prohibit filming that 'interrupts' a meeting. Meeting interruptions are events that make it unfeasible to conduct an orderly meeting (see RCW 42.30.050). While auditor filming can make meeting attendees uncomfortable or uneasy, that alone likely isn't enough to declare a meeting interruption. However, other acts (besides unobtrusive filming) that disrupt the meeting's order or that impede the governing body's ability to receive needed information may rise to the level of interruptions.
- Second, because of their frequently confidential nature, agencies can prohibit public attendance and filming during executive sessions within meetings. (For more information, visit our webpage on Executive Session Basics.)

### Are there areas of an agency's premises that auditors cannot film?

Can an agency make certain areas off-limits? For example, can agencies prohibit auditors from filming where customers discuss medical or other private information?

The short answer is yes—the First Amendment does not necessarily allow auditors to film all areas of a public agency's premises. Instead, auditor filming rights depend on whether a specific filming location includes any features that reasonably convey public filming restrictions. If it does, an auditor's filming rights may be more limited, and the agency may have a greater ability to regulate or prohibit auditor filming. Courts must ultimately consider the following in First Amendment cases:

1. Whether a location is 'basically compatible' with First Amendment expression, and

2. Whether the public could reasonably expect to exercise First Amendment rights in that location.

Courts consider several factors in answering these two questions, including whether a location's physical layout and historical use support First Amendment expression, and whether the area includes any signs, barriers, or boundaries indicating restrictions on free expression or public access. Courts also look at agency policies related to the location's public use, and whether the agency consistently enforces those policies to restrict expressive acts like filming.

Based on these factors, auditor filming rights are stronger in areas like sidewalks, parks, and the open public portions of agency lobbies, while agencies have a greater ability to restrict auditor filming in private areas or locations restricted to certain persons, such as restrooms, private offices, conference rooms, employee-only areas behind public agency counters, or police facilities accessible only to law enforcement.

### Are agencies required to honor public records requests submitted by First Amendment auditors?

Yes, agencies must generally honor all public records requests, regardless of who submits them, and must do so in accordance with agency policies and Public Records Act (PRA: RCW 42.56) requirements. The PRA gives agencies very few instances to 'distinguish' among requesters by treating them differently based on their identity or request purpose. A requester's status as a First Amendment auditor is not, by itself, a basis to distinguish them from other requesters, and agencies should generally process an auditor's public records request like any other.

By the same token, auditors have no 'special' public records rights above those of other requesters, so agencies processing an auditor's request must do so according to PRA requirements and their customary policies—agencies do not have to acquiesce to an auditor's 'demand' for immediate public records disclosure.

Despite the above, the specific records an auditor seeks might justify inquiring into the purpose of the request. For example, if an auditor requests a list of individual

names, the *SEIU v. DSHS* case requires a responding agency to investigate and ensure that the records request has not been made for a commercial purpose.

### Our agency has court facilities. Can auditors film court proceedings?

Court facilities and proceedings are part of the judicial branch and regulated by different filming authorities. Washington Supreme Court General Rule (GR) 16 regulates "news media" courtroom photography and recording, seeking to balance First Amendment rights with concerns over courtroom privacy and a judge's inherent ability to control court proceedings. RCW 5.68.010(5) defines "news media" to include those "in the regular business of news gathering and disseminating news or information to the public by any means," which is a broad definition that could arguably include First Amendment auditors.

Under GR 16, filming court proceedings requires a judge's advance permission, and the filming cannot distract court proceeding participants or adversely affect the "dignity and fairness of the proceedings." This rule gives the presiding judge reasonable discretion in setting limits on filming in the courtroom based on "sufficient reasons" and "particularized findings on the record."

### What happens if an auditor films where sensitive or confidential information is displayed?

At MRSC, we get questions regarding employees who work in public-facing positions (i.e., front counters) and may have sensitive or confidential information displayed on their computer screens or personal effects at their desks. Can these employees refuse to be filmed by an auditor in order to protect these items?

Generally, no. While this may be distressing to hear, there is no reasonable expectation of privacy in spaces that are publicly accessible and viewable. If an auditor films within a location allowing First Amendment expression (see the 'filming rights in public facilities' question above), anything reasonably *within the auditor's vantage point* is subject to filming. This can include documents, computer screens, employees, and areas surrounding desks or workspaces that are within the auditor's view.

Agency employees can take practical steps to protect sensitive information or items using computer privacy screens or positioning physical items (e.g., a plant) in such a way to block the public's visual access to sensitive information/items.

### AGENCY TIPS FOR FIRST AMENDMENT AUDITS

First Amendment audits are likely to continue. Agencies can consider employing these helpful tips:

- Communicate with other nearby agencies when an audit is anticipated (or after it occurs) to share information and insights for better preparation.
- Train employees, supervisors, and elected officials regarding First Amendment auditor rights and corresponding agency responsibilities.
- Train public-facing staff to ensure they have the understanding and resources they need to effectively handle an audit (and to keep any personal sensitive information safe).
- Review policies, procedures, and enforcement practices regarding public access and use of agency facilities, and update these if necessary.
- Consider the physical characteristics and signage within agency facilities—do these features convey restrictions on access and/or expressive acts (e.g., filming)?

Pursuing these strategies can help agencies demystify First Amendment audits and better prepare for and successfully navigate one should an auditor show up on agency property.



Harry Boesche, Legal Consultant, a municipal attorney with over 20 years of experience. Harry writes on a wide range of issues, including labor and employment law and civil procedure. [hboesche@mrsc.org](mailto:hboesche@mrsc.org)

# No More Pennies for Your Thoughts



BY ERIC LOWELL, MRSC FINANCE CONSULTANT

On February 9, 2025, the White House instructed the U.S. Department of the Treasury to cease production of the penny, and the last regular minting of the penny was in November 2025.

Not long after, I began receiving inquiries from local governments regarding how to manage financial transactions without pennies. As it turns out, the U.S. will be following the same process that Canada has used since it discontinued production of the Canadian penny in 2012—which is to round a transaction up or down based on the total bill of sale.

This article covers guidance on how to discontinue penny use at local government service counters when handling cash transactions.

## NATIONAL ADVICE AND GUIDANCE

The National Conference of State Legislators (NCLS) addressed this topic in its report, *Elimination of the Penny: Cents-able Considerations*, noting that the federal government left policy implementation up to the states, and providing guidance for rounding cash transactions to zero or five cents.

In December 2025, the Treasury published its *Penny Production Cessation FAQs*, which mirrors NCLS' rounding guidance, then Governor Ferguson signed HB 2334 into law (effective June 11, 2026) this March. This bill establishes clear guidelines for cash transactions absent the use of pennies.

## ROUNDING CASH TRANSACTIONS

Rounding only occurs on the final amount due from the buyer. This includes the price of the goods or services, all applicable taxes and fees, as well as any discounts or price adjustments made by the seller.

If the final digit in a cash-based transaction ends in one or two cents, the transaction may be rounded down to zero cents. If the final digit in a cash-based transaction ends in six or seven

cents, the transaction may be rounded down to five cents. If the final digit in a cash-based transaction ends in three or four cents, the transaction may be rounded up to five cents. If the final digit in a cash-based transaction ends in eight or nine cents, the transaction may be rounded up to 10 cents.

Below is a simple table for reference.

If final digit in a cash transaction is:	Round final digit to:
3, 4, 5, 6, or 7¢	5¢
8, 9, 0, 1, or 2¢	0¢

The table below demonstrates how this works using sample transactions.

If the price is:	Round cash transaction:
\$52.01	Down to \$52.00
\$83.73	Up to \$83.75
\$83.76	Down to \$83.75
\$25.28	Up to \$25.30

**Only financial transactions paid in cash (legal tender) will be impacted.**

Only financial transactions *paid in cash* (legal tender) will be impacted. All other forms of payment should still be calculated to the penny. This includes checks, money orders, credit cards, debit cards, and electronic payments.

Another important note: If a customer or the local government can either pay to the penny or provide change to the penny, then rounding would not be required.

## CASH HANDLING POLICIES AND RECOMMENDATIONS

Since the process for rounding cash transactions is now state law, local governments technically would *not* be required to adopt a policy for rounding

cash transactions. Minimally, though, I recommend local governments review their policies and procedures related to cash receipting to determine whether any updates need to be made.

## CONCLUSION

As local governments consider how to incorporate round-up or -down equations into daily financial practice, remember that only cash transactions need be impacted.



Eric Lowell, Finance Consultant, writes about local government finance. Eric received a B.A. in Secondary Education from Arizona State University and a B.S. in Accounting from Central Washington University. [elowell@mrsc.org](mailto:elowell@mrsc.org)



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## Washington Trivia Answer

Set on the seaward side of Chuckanut Mountain near Bellingham, **Larrabee State Park in Whatcom County** is known for its postcard views of Samish Bay and the San Juan Islands.



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 Wednesday, May 27 | 9 AM - 4:30 PM | Sequim, WA

**Fundamentals of Budgeting for Local Government 2026: Sequim**  
 Thursday, May 28 | 9 AM - 4:30 PM | Sequim, WA

**BARS Coding Basics 2026: Wenatchee**  
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