

Chapter 420-12 WAC

GRANT ASSISTANCE RULES

WAC

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WAC 420-12-010 Scope of chapter. (1) This chapter contains general rules for grant program eligibility, applications, and projects funded with money from or through the board.

(2) The director may apply the rules in this chapter to programs administered by the office but which are not subject to the board's approval.

[Statutory Authority: RCW 77.85.120 (1)(d) and chapter 34.05 RCW. WSR 16-07-085, § 420-12-010, filed 3/17/16, effective 4/17/16. Statutory Authority: RCW 42.17.250, [42.17].260(5), [42.17.]290, 43.21C.120(1), chapters 34.05, 42.30, 77.85 RCW. WSR 01-04-052, § 420-12-010, filed 2/2/01, effective 3/5/01.]

WAC 420-12-020 Application requirements and the evaluation process. (1) The board shall adopt a technical review and evaluation process to guide it in allocating funds to and among applicants. The board's technical review and evaluation process for applications and habitat project lists shall:

(a) Be developed, to a reasonable extent, through the participation of interested parties and specialists, and include best available science;

(b) Consider regional recovery plans goals, objectives, and strategies;

(c) Be adopted by the board in open public meetings;

(d) Be made available in published form to interested parties;

(e) Be designed for use by an independent state technical review panel or team of evaluators with relevant expertise when selected for this purpose; and

(f) Be in accord with RCW 77.85.130, 77.85.135, and 77.85.240 and other applicable statutes.

(2) The office shall administer the technical review and evaluation process adopted by the board and prepare funding options or recommendations for the director to present for the board's consideration.

(3) The office shall inform all applicants of the application requirements and the technical review and evaluation process. All grant requests must be completed and submitted to the office in the format prescribed by the director.

If the director determines that the applicant is eligible to apply for federal funds administered by the board, the appli-

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cant must execute any additional forms necessary for that purpose.

(4) All applications for funding submitted to the office that meet the application requirements will be referred to the director for review and recommendations. In reaching a recommendation, the director shall seek the advice and counsel of the office's staff and other recognized experts, including an independent state technical review panel or team of evaluators or from other parties with relevant experience.

[Statutory Authority: RCW 77.85.120 (1)(d) and chapter 34.05 RCW. WSR 16-07-085, § 420-12-020, filed 3/17/16, effective 4/17/16. Statutory Authority: RCW 42.17.250, [42.17].260(5), [42.17.]290, 43.21C.120(1), chapters 34.05, 42.30, 77.85 RCW. WSR 01-04-052, § 420-12-020, filed 2/2/01, effective 3/5/01.]

WAC 420-12-030 Grant program deadlines. (1) Applications must be submitted by the due date approved by the board. Unless otherwise authorized by the board, the director and staff have no authority to extend the application filing deadlines. Excepted are applications for programs where the director specifically establishes another deadline to accomplish new or revised statutory direction, board direction, or to meet a federal grant application deadline.

(2) To prepare a project agreement, certain documents or materials in addition to the application may be required by the office. These documents or materials must be provided by the applicant to the office at least two calendar months after the date the board or director approves funding for the project or earlier to meet a federal grant program requirement. After this period, the board or director may rescind the offer of grant funds and reallocate the grant funds to another project(s).

(3) An applicant has three calendar months from the date the office sends the project agreement to sign and return the agreement to the office. After this period, the board or director may reject any agreement not signed and returned, and reallocate the grant funds to another project(s).

(4) Compliance with the deadlines is required unless it is extended by the board or director. Such extensions are considered based on several factors which may vary with the type of extension requested, including any one or more of the following:

(a) Current status and progress made to meet the deadline;

(b) The reason the established deadline could not be met;

(c) When the deadline will be met;

(d) Impact on the board's evaluation process;

(e) Equity to other applicants; and

(f) Such other information as may be relevant.

[Statutory Authority: RCW 77.85.120 (1)(d) and chapter 34.05 RCW. WSR 16-07-085, § 420-12-030, filed 3/17/16, effective 4/17/16. Statutory Authority: RCW 42.17.250, [42.17].260(5), [42.17.]290, 43.21C.120(1), chapters 34.05, 42.30, 77.85 RCW. WSR 01-04-052, § 420-12-030, filed 2/2/01, effective 3/5/01.]

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WAC 420-12-040 Eligible matching resources. (1) Applicant resources used to match board funds must be eligible in the grant program. Sources of matching resources include, but are not limited to, any one or more of the following:

- (a) Appropriations and cash;
- (b) Value of the applicant's expenses for labor, materials, and equipment;
- (c) Value of donated real property, labor, services, materials, and equipment use; and
- (d) Grant funds.

(2) Agencies and organizations may match board funds with other state funds, including recreation and conservation funding board funds, so long as the other state funds are not administered by the board and if otherwise allowed by state law. For the purposes of this subsection, grants issued by other agencies under the Jobs for Environment program and the Forests & Fish program are not considered to be administered by the board.

(3) The eligibility of federal funds to be used as a match is governed by federal requirements and thus may vary with individual proposals and grant cycles.

[Statutory Authority: RCW 77.85.120 (1)(d) and chapter 34.05 RCW. WSR 16-07-085, § 420-12-040, filed 3/17/16, effective 4/17/16. Statutory Authority: RCW 77.85.120 (1)(d). WSR 14-13-071, § 420-12-040, filed 6/13/14, effective 7/14/14. Statutory Authority: RCW 42.17.250, [42.17].260(5), [42.17.]290, 43.21C.120(1), chapters 34.05, 42.30, 77.85 RCW. WSR 01-04-052, § 420-12-040, filed 2/2/01, effective 3/5/01.]

WAC 420-12-045 Final decision. (1) The board shall review recommendations from the director for grant awards at regularly scheduled open public meetings.

(2) The board retains the authority and responsibility to accept or deviate from the director's recommendations and make the final decision concerning the funding of an application or change to a funded project. Unless otherwise required by law, the board's decision is the final decision.

[Statutory Authority: RCW 77.85.120 (1)(d) and chapter 34.05 RCW. WSR 16-07-085, § 420-12-045, filed 3/17/16, effective 4/17/16.]

WAC 420-12-050 Project agreement. (1) For every funded project, an agreement shall be executed within the deadlines in WAC 420-12-030 and as provided in this section.

(2) The project agreement shall be prepared by the office after approval of the project by the board at a public meeting. The project agreement is executed upon the signature of the office and the applicant and the parties are then bound by the agreement's terms. The applicant shall not proceed until the project agreement has been executed, unless specific authorization pursuant to WAC 420-12-070 has been given by the director.

(3) If the project is approved by the board to receive a grant from federal funds, the director shall not execute an agreement or amendment with the applicant until federal funding has been authorized through execution of an agreement with the applicable federal agency.

[Statutory Authority: RCW 77.85.120 (1)(d) and chapter 34.05 RCW. WSR 16-07-085, § 420-12-050, filed 3/17/16, effective 4/17/16. Statutory Authority: RCW 42.17.250, [42.17].260(5), [42.17.]290, 43.21C.120(1), chapters 34.05, 42.30, 77.85 RCW. WSR 01-04-052, § 420-12-050, filed 2/2/01, effective 3/5/01.]

WAC 420-12-060 Disbursement of funds. (1) Except as otherwise provided in this chapter, the office will authorize disbursement of project funds only on a reimbursable basis at the percentage identified in the project agreement after the sponsor has presented an invoice documenting costs incurred and compliance with the provisions of the project agreement.

(2) The amount of reimbursement may never exceed the cash spent on the project by the sponsor.

(3) Reimbursement shall not be approved for any donations, including donated real property.

(4) Direct payment to an escrow account of the office's share of the approved cost of real property and related costs may be made following office approval when the sponsor indicates a temporary lack of funds to purchase the property on a reimbursement basis. Prior to release of the office's share into escrow, the sponsor must provide the office with a copy of a binding agreement between the sponsor and the seller, all required documentation, and evidence of deposit of the sponsor's share, identified in the project agreement, into an escrow account.

(5) Advance payments may be made in limited circumstances only, pursuant to the policy outlined in the adopted reimbursement manual.

(6) As required by RCW 77.85.140, sponsors who complete salmon habitat projects approved for funding from habitat project lists will be paid by the board within thirty days of project completion. This means the board will issue a reimbursement within thirty days of the sponsor's completion of the billing requirements described in the board's reimbursement policy manual.

[Statutory Authority: RCW 77.85.120 (1)(d) and chapter 34.05 RCW. WSR 16-07-085, § 420-12-060, filed 3/17/16, effective 4/17/16. Statutory Authority: RCW 77.85.120 [(1)](b). WSR 02-05-050, § 420-12-060, filed 2/15/02, effective 3/18/02. Statutory Authority: RCW 42.17.250, [42.17].260(5), [42.17.]290, 43.21C.120(1), chapters 34.05, 42.30, 77.85 RCW. WSR 01-04-052, § 420-12-060, filed 2/2/01, effective 3/5/01.]

WAC 420-12-070 Retroactive, preagreement, and increased costs. (1) Unless otherwise provided in this chapter, the office shall not approve the disbursement of funds for costs incurred before execution of a project agreement.

(2) The office will only reimburse costs that occur within the period of performance in the project agreement.

(3) The director may grant a waiver of retroactivity for acquiring real property whenever an applicant asserts, in writing, the justification for the critical need to purchase the property in advance of the project agreement along with any documentation required by the director. When evidence warrants, the director may grant the applicant permission to proceed prior by issuing a written waiver. This waiver of retroactivity will not be construed as an approval of the proposed project. If the project is subsequently approved, however, the costs incurred will be eligible for grant funding. If the project is to remain eligible for funding from federal funds, the director shall not authorize a waiver of retroactivity to the applicant until the federal agency administering the federal funds has issued its own waiver of retroactivity as provided under its rules and regulations. A waiver may be issued for more than one grant program.

(4) The only retroactive acquisition, development, and restoration costs eligible for grant funding are preagreement costs as defined by the board.

(5) Cost increases for approved projects may be granted by the board or director if financial resources are available.

(a) Each cost increase request will be considered on its merits.

(b) The director may approve a cost increase delegated by the board. The director's approval of an acquisition project cost increase is limited to a parcel-by-parcel appraised and reviewed value.

[Statutory Authority: RCW 77.85.120 (1)(d) and chapter 34.05 RCW. WSR 16-07-085, § 420-12-070, filed 3/17/16, effective 4/17/16. Statutory Authority: RCW 42.17.250, [42.17].260(5), [42.17.]290, 43.21C.120(1), chapters 34.05, 42.30, 77.85 RCW. WSR 01-04-052, § 420-12-070, filed 2/2/01, effective 3/5/01.]

WAC 420-12-075 Nonconformance and repayment.

Any project cost deemed by the board or director to conflict with applicable statutes, rules and/or related manuals, or the project agreement, must be repaid, upon written request by the director, to the appropriate state account per the terms of the project agreement. Such repayment requests may be made in consideration of an applicable report from the state auditor's office.

[Statutory Authority: RCW 77.85.120 (1)(d) and chapter 34.05 RCW. WSR 16-07-085, § 420-12-075, filed 3/17/16, effective 4/17/16. Statutory Authority: RCW 42.17.250, [42.17].260(5), [42.17.]290, 43.21C.120(1), chapters 34.05, 42.30, 77.85 RCW. WSR 01-04-052, § 420-12-075, filed 2/2/01, effective 3/5/01.]

WAC 420-12-080 Acquisition project long-term obligations. (1) Without prior approval of the board, the project area of a facility or property acquired with money granted by the board shall not be converted to a use other than that for which funds were originally approved. The board shall only approve such a conversion under conditions which assure the substitution of other land that is eligible for grant funding and of at least equal fair market value at the time of conversion, and of as nearly feasible equivalent usefulness and location.

(2) For acquisition projects of perpetual interest in real property, sponsors must execute a binding instrument(s) which contains the following provisions:

(a) A legal description of the property acquired with grant funds which defines the project area;

(b) A conveyance to the state of Washington of the right to use the described real property forever for the designated salmon habitat protection purposes; and

(c) A restriction on conversion of use of the land.

(3) For acquisition of nonperpetual interests in real property, except for leases, sponsors must execute a binding instrument(s) which contains the following provisions:

(a) A legal description of the property acquired which defines the project area;

(b) A conveyance to the state of Washington of the right to use the described real property for the term of the nonperpetual interest for the designated salmon habitat protection purposes; and

(c) A restriction on conversion of use of the land.

(4) For acquisition of lease interests, sponsors must execute a binding instrument(s) which contains a legal description of the project area and rights acquired which:

(a) Must be for at least fifty years unless precluded by state law;

(b) May not be revocable at will;

(c) Must have a value supported through standard appraisal techniques;

(d) Must be paid for in lump sum at initiation; and

(e) May not be converted, during the lease period, to a use other than that for which funds were originally approved, without prior approval of the board.

[Statutory Authority: RCW 77.85.120 (1)(d) and chapter 34.05 RCW. WSR 16-07-085, § 420-12-080, filed 3/17/16, effective 4/17/16. Statutory Authority: RCW 42.17.250, [42.17].260(5), [42.17.]290, 43.21C.120(1), chapters 34.05, 42.30, 77.85 RCW. WSR 01-04-052, § 420-12-080, filed 2/2/01, effective 3/5/01.]

WAC 420-12-085 Restoration projects—Conversion to other uses. (1) Without prior approval of the board, a facility or project area restored with money granted by the board, shall not be converted to a use other than that for which funds were originally approved.

(2) The board shall only approve such a conversion under conditions which assure that:

(a) All practical alternatives to the conversion have been evaluated and rejected on a sound basis;

(b) A new restoration project or facility will be provided to serve as a replacement which:

(i) Is of reasonably equivalent habitat utility and location;

(ii) Will be administered under similar stewardship methods as the converted development;

(iii) Will satisfy need(s) identified in the project sponsor's watershed strategy or plan; and

(iv) Includes only elements eligible under the board's program from which funds were originally allocated.

(3) The board may condition any conversion approval as needed to protect the public habit investment.

[Statutory Authority: RCW 77.85.120 (1)(d) and chapter 34.05 RCW. WSR 16-07-085, § 420-12-085, filed 3/17/16, effective 4/17/16. Statutory Authority: RCW 42.17.250, [42.17].260(5), [42.17.]290, 43.21C.120(1), chapters 34.05, 42.30, 77.85 RCW. WSR 01-04-052, § 420-12-085, filed 2/2/01, effective 3/5/01.]

WAC 420-12-090 Condemnation not eligible. The board shall not approve any grant for proposals where the title to property is acquired through or as a direct result of condemnation proceedings. All acquisitions must be on a willing-seller basis.

[Statutory Authority: RCW 42.17.250, [42.17].260(5), [42.17.]290, 43.21C.120(1), chapters 34.05, 42.30, 77.85 RCW. WSR 01-04-052, § 420-12-090, filed 2/2/01, effective 3/5/01.]