

**WAC 173-322A-350 Safe drinking water action grants.** (1) **Purpose.** The purpose of safe drinking water action grants is to assist local governments, or a local government applying on behalf of a purveyor, in providing safe drinking water to areas contaminated by, or threatened by contamination from, hazardous waste sites.

(2) **Project eligibility.** For the purposes of this grant, a project consists of safe drinking water actions at a single hazardous waste site. A project may extend over more than one biennium. To be eligible for a grant, a project must meet all of the following requirements:

(a) The applicant must be a local government;

(b) The applicant must be a purveyor or the applicant must be applying on behalf of a purveyor;

(c) The applicant or purveyor must be in substantial compliance, as determined by the department of health, with applicable rules of the state board of health or the department of health, including chapter 246-290 WAC (Group A public water supplies), chapter 246-292 WAC (Waterworks operator certification), chapter 246-293 WAC (Water System Coordination Act), and chapter 246-294 WAC (Drinking water operating permits);

(d) The drinking water source must be affected or threatened by one or more hazardous substances originating from a hazardous waste site;

(e) The department of ecology has determined that the drinking water source:

(i) Exhibits levels of hazardous substances that exceed the maximum contaminant levels (MCLs) established by the state board of health and set forth in WAC 246-290-310;

(ii) Exhibits levels of hazardous substances that exceed the cleanup levels established by the department of ecology under Part VII of chapter 173-340 WAC; or

(iii) Is threatened to exceed the levels of hazardous substances identified in (e)(i) or (ii) of this subsection;

(f) If the safe drinking water action includes water line extensions, the extensions must be consistent with the coordinated water system plan prepared under chapter 70.116 RCW and any plans for new development prepared under chapter 36.70 or 36.70A RCW for the geographic area containing the affected water supplies; and

(g) The applicant must not be required to conduct the safe drinking water action under an order or decree.

(3) **Funding priority.** The department will prioritize eligible projects for funding or limit funding for eligible projects based on the priorities in WAC 173-322A-210 and the following factors:

(a) The threat posed by the hazardous waste site to drinking water;

(b) Whether the drinking water serves a highly impacted community;

(c) The per capita cost of providing safe drinking water;

(d) The ability of the grant to expedite the provision of safe drinking water;

(e) The ability of the grant to leverage other public or private funding for the provision of safe drinking water;

(f) The readiness of the applicant to start and complete the work to be funded by the grant and the performance of the applicant under prior grant agreements; and

(g) Other factors as determined and published by the department.

(4) **Application process.**

(a) **Project solicitation.** Biennially, the department will solicit project proposals from local governments to develop its budget and update its ten-year financing plan for remedial action grants and loans. The department may update its ten-year financing plan as needed during the biennium. Project proposals must be submitted on forms provided by the department and include sufficient information to make the determinations in (c) of this subsection. To be considered for inclusion in the department's budget for remedial action grants and loans, project proposals should be submitted by the dates published by the department.

(b) **Application submittal.** Applications must be submitted on forms provided by the department and include sufficient information to make the determinations in (c) and (d) of this subsection. Completed applications should be submitted by the dates published by the department.

(c) **Project evaluation and ranking.** Project proposals and applications will be reviewed by the department for completeness and evaluated to determine:

- (i) Project eligibility under subsection (2) of this section; and
- (ii) Funding priority under subsection (3) of this section.

(d) **Agreement development.** The department will make funding decisions only after funds have been appropriated. After deciding to fund an eligible project, the department will negotiate with the applicant the scope of work and budget for the grant and develop the agreement. The department will consider:

- (i) Funding priority under subsection (3) of this section;
- (ii) Cost eligibility under subsections (5) and (6) of this section;

(iii) Allowable funding under subsection (7) of this section; and  
(iv) Availability of state funds and other funding sources.

(e) **Fund management.** The department may adjust funding levels or fund additional eligible projects during a biennium if additional funds should become available.

(5) **Cost eligibility.** To be eligible for funding, a project cost must be eligible under this subsection and the terms of the grant agreement and be approved by the department.

(a) **Eligible costs.** Eligible costs for a safe drinking water action grant include, but are not limited to, reasonable costs for the following, if needed:

(i) Water supply source development and replacement, including pumping and storage facilities, source meters, and reasonable appurtenances;

(ii) Transmission lines between major system components, including interties with other water systems;

(iii) Treatment equipment and facilities;

(iv) Distribution lines from major system components to system customers or service connections;

(v) Bottled water, as an interim action;

(vi) Fire hydrants;

(vii) Service meters;

(viii) Project inspection, engineering, and administration;

(ix) Individual service connections, including any connection fees and charges;

(x) Drinking water well decommissioning under WAC 173-160-381; and

(xi) Other costs identified by the department of health as necessary to provide a system that operates in compliance with federal and state standards.

(b) **Ineligible costs.** Ineligible costs for a safe drinking water action grant include, but are not limited to, the following:

(i) The cost of developing the grant application or negotiating the grant agreement;

(ii) The cost of dispute resolution under the grant agreement;

(iii) Retroactive costs, except as provided under subsection (6) of this section;

(iv) The cost of oversizing or extending a water system for future development;

(v) The cost of individual service connections for undeveloped lots;

(vi) Local improvement district assessments;

(vii) Operation and maintenance costs;

(viii) Natural resource damage assessment and restoration costs and liability for natural resource damages under chapter 70.105D RCW or the federal cleanup law;

(ix) Legal costs including, but not limited to, the costs of seeking client advice, pursuing cost recovery, contribution, or insurance claims, participating in administrative hearings, pursuing penalties or civil or criminal actions against persons, penalties incurred by the recipient, defending actions taken against the recipient, and any attorney fees incurred by the recipient; and

(x) In-kind contributions.

(6) **Retroactive cost eligibility.** Retroactive costs are eligible for reimbursement if the costs are incurred during the period of a prior grant agreement, the costs are eligible under subsection (5) of this section, and the costs have not been reimbursed by the department.

(7) **Funding of eligible costs.**

(a) **Department share.** The department may fund up to ninety percent of the eligible costs.

(b) **Recipient share.** The recipient shall fund the percentage of the eligible costs not funded by the department under (a) of this subsection. The recipient may not use in-kind contributions to meet this requirement.

[Statutory Authority: Chapter 70.105D RCW. WSR 14-18-060 (Order 13-09), § 173-322A-350, filed 8/29/14, effective 9/29/14.]