

Chapter 173-323 WAC

GRANTS AND LOANS

WAC

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WAC 173-323-010 Applicability. (1) This chapter only applies to grants and loans issued by ecology that are funded under chapter 70.105D RCW, Hazardous waste cleanup—Model Toxics Control Act (MTCA), and that are not regulated by another chapter of the WAC that provides requirements for a specific grant or loan program. Ecology will maintain a list of these other chapters on the agency web site.

(2) This chapter contains general rules for grant and loan issuance and performance, and applies to the following types of grants and loans issued by the department of ecology:

- (a) Competitive.
- (b) Formula.
- (c) One-time.

[Statutory Authority: RCW 70.105D.070(8). WSR 18-01-096 (Order 16-10), § 173-323-010, filed 12/18/17, effective 1/18/18.]

WAC 173-323-020 Definitions. Agreement effective date means the date on which the grant or loan agreement becomes effective, as specified in the grant or loan agreement. This is the earliest date eligible costs can be incurred.

Agreement expiration date means the latest date eligible costs can be incurred, as specified in the grant or loan agreement.

Competitive grants and loans mean grants or loans that are evaluated and awarded based on prioritization, scoring, or ranking.

Ecology means the Washington state department of ecology.

Eligible costs mean costs that meet all criteria established in the agreement and grant or loan program funding guidelines.

Formula grants and loans mean grants or loans awarded based on distribution factors, such as population.

Grant means an award of financial assistance given to a recipient to carry out work for a public purpose or public good authorized by law.

Grant or loan agreement or agreement means the formal, written, contractual document that details the terms and conditions, scope of work, budget, and schedule of the grant or loan, and that is signed by the authorized signatories of the recipient and ecology.

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Grant or loan program means a financial assistance program with a distinct set of requirements that provides grant or loan funding to eligible applicants.

Loan means an agreement involving lending money to a recipient.

One-time grant or loan means a grant or loan that is **not formula or competitive and** involves one or more of the following:

(a) Designation by the legislature or governor; such as a recipient, project, or type of work.

(b) Identification of recipient(s) based on input from an advisory or stakeholder group(s).

(c) An environmental or human health emergency, priority, or concern.

Signature date means the date the ecology authorized signatory signs the agreement.

[Statutory Authority: RCW 70.105D.070(8). WSR 18-01-096 (Order 16-10), § 173-323-020, filed 12/18/17, effective 1/18/18.]

WAC 173-323-030 Grant and loan announcements.

Competitive and formula grants and loans

(1) Ecology must announce the availability of funding opportunities for competitive and formula grants and loans. The announcement must include, at a minimum, a description of:

- (a) Purpose of the grant or loan.
- (b) Funding cycle for the grant or loan.
- (c) Amount of funding available, if known.
- (d) Eligibility criteria for the grant or loan.
- (e) Information about how to apply.
- (f) Application deadlines.
- (g) Ecology contact information.

One-time grants and loans

(2) Ecology is not required to announce the availability of funding opportunities for one-time grants or loans.

Unused funds

(3) Ecology is not required to announce the availability of unused funds. Ecology awards unused funds based on the requirements in WAC 173-323-060. Unused funds are one or all of the following:

(a) Funds awarded by ecology, but not used by the recipient.

(b) Funds offered by ecology, but not accepted by the recipient.

(c) Funds not awarded by ecology in the initial distribution cycle.

[Statutory Authority: RCW 70.105D.070(8). WSR 18-01-096 (Order 16-10), § 173-323-030, filed 12/18/17, effective 1/18/18.]

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WAC 173-323-040 Application. (1) All applicants must use the electronic system identified by ecology to apply for grants and loans. Applicants without access to the electronic system must use a process approved by ecology.

(2) The applicant must complete the application process and provide all required information, including:

- (a) Applicant information.
- (b) Project location and description.
- (c) Scope of work and tasks for the project.
- (d) Requested funding amount for the project.
- (e) Any other information required by ecology for the specific type of grant or loan.

(3) For formula or competitive grants and loans, the applicant must submit the application by the due date, if a due date is included in the announcement. Ecology may approve a later due date.

(4) Ecology may request additional information to assist in the application evaluation process.

[Statutory Authority: RCW 70.105D.070(8). WSR 18-01-096 (Order 16-10), § 173-323-040, filed 12/18/17, effective 1/18/18.]

WAC 173-323-050 Evaluation process. (1) Ecology reviews and evaluates applications to determine eligibility and funding.

(2) Ecology determines project funding based on a grant or loan program evaluation process.

(3) Ecology evaluates all applications submitted within all required deadlines.

Competitive and formula grants and loans

(4) When evaluating competitive and formula grant and loan applications, ecology considers:

- (a) Eligibility of the applicant and whether the project meets the eligibility criteria.
- (b) Whether the application demonstrates all of the following:
 - (i) Readiness to proceed.
 - (ii) Feasibility of the project.
 - (iii) Availability of matching funds, if applicable.
- (c) The applicant's past grant or loan performance.

One-time grants and loans

(5) When evaluating a one-time grant or loan application, ecology considers:

- (a) Whether the project is eligible for the funding based on the authority for the funding or, when appropriate, the specific direction of the legislature or governor.
- (b) Whether the project is an effective use of available funds.
- (c) The applicant's past grant or loan performance.

[Statutory Authority: RCW 70.105D.070(8). WSR 18-01-096 (Order 16-10), § 173-323-050, filed 12/18/17, effective 1/18/18.]

WAC 173-323-060 Awarding funds. (1) Ecology must award grants and loans:

- (a) Consistent with all federal and state laws and rules authorizing the funding and any specific direction by the legislature.
- (b) Subject to available funds.
- (c) Based on evaluations of grant or loan applications submitted.

(2) Ecology has discretion to determine what the final award amount will be.

[Statutory Authority: RCW 70.105D.070(8). WSR 18-01-096 (Order 16-10), § 173-323-060, filed 12/18/17, effective 1/18/18.]

WAC 173-323-070 Grant or loan agreement. (1) Ecology works with the recipient to prepare the grant or loan agreement.

(2) A grant or loan agreement issued and managed in ecology's electronic system must include, at a minimum:

- (a) Project description.
- (b) Expected outcomes.
- (c) Project budget and funding distribution.
- (d) Agreement effective date and expiration date.
- (e) Description of tasks and deliverables.
- (f) Contact information for ecology and the recipient.
- (g) Signatures of authorized signatories.
- (h) General terms and conditions that specify requirements related, but not limited to:
 - (i) Amendments and modifications.
 - (ii) Assignment limits on transfer of rights or claims.
 - (iii) Inadvertent discovery of human remains and/or cultural resources.
 - (iv) Compliance with all laws.
 - (v) Conflict of interest.
 - (vi) Disputes.
 - (vii) Environmental data standards.
 - (viii) Governing law.
 - (ix) Indemnification.
 - (x) Independent status of the parties to the agreement.
 - (xi) Order of precedence for laws, rules, and the agreement.
 - (xii) Property rights, copyrights, and patents.
 - (xiii) Records, audits, and inspections.
 - (xiv) Recovery of funds.
 - (xv) Severability.
 - (xvi) Suspension.
 - (xvii) Sustainable practices.
 - (xviii) Termination.
 - (xix) Third-party beneficiary.
 - (xx) Waiver of agreement provisions.
- (i) Special terms and conditions, if any.
- (j) Agreement-specific terms and conditions, if any.
- (k) General federal conditions, if any.
- (l) Other items, if any, necessary to meet the goals of the grant or loan program.

[Statutory Authority: RCW 70.105D.070(8). WSR 18-01-096 (Order 16-10), § 173-323-070, filed 12/18/17, effective 1/18/18.]

WAC 173-323-080 Amendments to the grant or loan agreement. (1) A change to any of the following items requires an amendment to the agreement:

- (a) Scope of work or the objectives of the project.
- (b) Budget, whether for an increase or decrease.
- (c) Funding, whether for an increase or decrease.
- (d) Redistributing costs among budget tasks that exceed ten percent deviation of the total eligible costs of the funding distribution.
- (e) Funding distributions, including share percentages.
- (f) Agreement effective or expiration date, whether to shorten or extend.

(g) Special terms and conditions or agreement-specific terms and conditions.

(2) Administrative changes do not require an amendment. Examples of administrative changes include updates to contact names, addresses, and phone numbers.

(3) An amendment must be signed by all parties before it is effective.

[Statutory Authority: RCW 70.105D.070(8). WSR 18-01-096 (Order 16-10), § 173-323-080, filed 12/18/17, effective 1/18/18.]

WAC 173-323-090 Performance standards.

General provisions

(1) Nothing in this chapter influences, affects, or modifies existing ecology programs, rules, or enforcement of applicable laws and rules relating to activities funded by a grant or loan.

(2) Ecology and the recipient must fulfill their obligations under the terms of a grant or loan agreement.

(3) Ecology, or an auditor authorized by the state of Washington, may audit or inspect a recipient's grant or loan agreements and records.

(4) New ecology grant and loan agreements signed after the effective date of this chapter must be managed using ecology's designated electronic system. A recipient who cannot access the electronic system to meet a deadline or agreement requirements must use a process approved by ecology.

(5) Ecology may perform site visits to monitor the project, evaluate performance, and document compliance or any other conditions of the agreement.

Recipient standards

(6) Recipients must:

(a) Follow all applicable accounting and auditing laws and rules related to grants and loans.

(b) Use funds according to the agreement.

(c) Use funds according to the recipient's own policies and procedures, and according to all applicable laws and rules.

(d) Comply with all applicable laws, rules, orders, and permits when carrying out activities authorized by the agreement.

(e) Obtain preapproval for equipment purchases over the amount specified in the agreement.

(7) As specified in the grant or loan agreement, the recipient must submit the following to ecology:

(a) Progress reports.

(b) Payment requests.

(c) Equipment purchase reports.

(d) Documentation.

(e) A final closeout report.

(f) Any other required information.

Ecology standards

(8) Ecology must:

(a) Follow all applicable accounting and auditing laws and rules related to grants and loans.

(b) Monitor projects and review progress reports to assure compliance with applicable laws, rules, orders, permits, and terms and conditions of the agreement.

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(c) Confirm that ecology has received required documentation and the project is satisfactorily completed before approving final payment.

[Statutory Authority: RCW 70.105D.070(8). WSR 18-01-096 (Order 16-10), § 173-323-090, filed 12/18/17, effective 1/18/18.]

WAC 173-323-100 Reimbursement. (1) Ecology will only reimburse eligible costs incurred between the effective date and the expiration date of an agreement.

(a) Ecology will not reimburse costs until on or after the signature date of an agreement.

(b) Any costs incurred before the signature date are at the recipient's risk.

(2) The recipient must submit a progress report with a payment request and other documentation as required in the grant or loan agreement to be reimbursed.

(3) Ecology will not issue final payment until the closeout requirements in WAC 173-323-110 have been met.

[Statutory Authority: RCW 70.105D.070(8). WSR 18-01-096 (Order 16-10), § 173-323-100, filed 12/18/17, effective 1/18/18.]

WAC 173-323-110 Closing out the agreement. (1) The recipient must follow the closeout requirements in the agreement.

(2) Ecology is not obligated to reimburse the recipient the final payment if the recipient does not meet all closeout requirements within the time frames in the agreement.

(3) Ecology will close out the grant or loan agreement when it determines the recipient has met the closeout requirements or when the agreement has been terminated (see WAC 173-323-120).

[Statutory Authority: RCW 70.105D.070(8). WSR 18-01-096 (Order 16-10), § 173-323-110, filed 12/18/17, effective 1/18/18.]

WAC 173-323-120 Termination of agreement. (1) Failure by the recipient to comply with a grant or loan agreement may result in termination of the agreement.

(2) Ecology will attempt to contact the recipient regarding any issues with agreement compliance prior to terminating an agreement.

(3) Ecology's ability to make payments is contingent on availability of funding. In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date and prior to completion or expiration date of the agreement, ecology, at its sole discretion, may elect to terminate the agreement, in whole or part, or renegotiate the agreement, subject to new funding limitations or conditions. Ecology may also elect to suspend performance of the agreement until ecology determines the funding insufficiency is resolved.

(4) Ecology will document the termination of an agreement.

[Statutory Authority: RCW 70.105D.070(8). WSR 18-01-096 (Order 16-10), § 173-323-120, filed 12/18/17, effective 1/18/18.]