

Chapter 420-12 WAC

GRANT ASSISTANCE RULES

WAC

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

[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. 01-04-052, § 420-12-010, filed 2/2/01, effective 3/5/01.]

WAC 420-12-020 Application form. (1) All grant requests must be completed and submitted in the format and manner prescribed by the board.

(2) If the director determines that the applicant is eligible to apply for federal funds administered by the board, the applicant must execute any additional forms necessary for that purpose.

[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. 01-04-052, § 420-12-020, filed 2/2/01, effective 3/5/01.]

WAC 420-12-030 Deadlines—Applications and agreements. (1) Applications. To allow time for review, applications must be submitted by the announced due date. Unless otherwise authorized by the board, the director and staff have no authority to extend the application filing deadlines.

(2) Project agreement. An applicant has three calendar months from the date of the board's mailing of the project agreement document to execute and return the agreement to the board's office. After this period, the board or director may reject any agreement not completed, signed and returned, and may reallocate the grant funds to another project(s). The director may waive compliance with this deadline for good cause.

[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. 01-04-052, § 420-12-030, filed 2/2/01, effective 3/5/01.]

WAC 420-12-040 Eligible matching resources. (1) Applicant resources used to match board funds may include: Cash, certain federal funds, the value of privately owned donated real estate, equipment, equipment use, materials, labor, or any combination thereof. The specific eligible matches for any given grant cycle shall be detailed in the pub-

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lished manual. The director shall require documentation of values.

(2) Agencies and organizations may match board funds with other state funds, including IAC 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) Private donated real property, or the value of that property, must consist of real property (land and facilities) that would otherwise qualify for board grant funding.

(4) 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 42.17.250, [42.17].260(5), [42.17.]290, 43.21C.120(1), chapters 34.05, 42.30, 77.85 RCW. 01-04-052, § 420-12-040, filed 2/2/01, effective 3/5/01.]

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

(1) The project agreement shall be prepared by the director after approval of the project by the board at a public meeting. The director shall execute the agreement on behalf of the board and submit the document to the applicant. After the applicant signs the agreement, the applicant becomes and is referred to as the project sponsor. The parties are then bound by the agreement's terms. The applicant shall not proceed with the project until the agreement has been signed and the project start date listed in the agreement has arrived, unless the applicant has received specific authorization pursuant to WAC 420-12-070.

(2) 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 a concurrent project agreement with the applicable federal agency, if and as necessary.

[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. 01-04-052, § 420-12-050, filed 2/2/01, effective 3/5/01.]

WAC 420-12-060 Disbursement of funds. Except as otherwise provided in this rule, the director will authorize disbursement of project funds only on a reimbursable basis, after the project sponsor has spent its own funds and has presented a billing showing satisfactory evidence of property rights acquired and/or compliance with partial or all provisions of the project agreement.

(1) Reimbursement method. Reimbursement shall be requested on voucher forms authorized by the director.

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Requests must include all documentation as detailed in the manual in effect at the time reimbursement is requested.

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

(3) Partial payment. Partial reimbursements may be made during the course of a project on presentation of billings showing satisfactory evidence of partial acquisition or development by the project sponsor. The director may require written assurance that full project completion is scheduled by a specific date. In the event of appropriation reductions or terminations, the project agreement shall allow the board to suspend or terminate future obligations and payments.

(4) Direct payment. Direct payment to escrow of the board's share of the approved cost of real property may be made following board approval of an acquisition project when the project sponsor indicates a temporary lack of funds to purchase the property. Prior to release of the board's share of escrow funds, the project sponsor must provide the director with a copy of a binding sale agreement between the project sponsor and the seller and evidence of deposit of the project sponsor's share (if any) 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) Payment deadline. 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)](b), 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. 01-04-052, § 420-12-060, filed 2/2/01, effective 3/5/01.]

WAC 420-12-070 Retroactive expenses and increased costs. The definitions in WAC 420-04-010 apply to this section.

(1) The board shall not reimburse expenses for activities undertaken, work performed or funds expended before the date on which the agreement was signed. This policy is referred to as the board's prohibition on retroactivity. The only exceptions are as outlined in the adopted reimbursement manual, for certain preliminary expenses.

(2) If such exceptions do not apply, a waiver may be issued to avoid the prohibition on retroactivity only under the following circumstances, for retroactive land acquisition cost reimbursements:

The director may grant a waiver of retroactivity when an applicant documents, in writing, that a condition exists which may jeopardize the project. When evidence warrants, the director may grant the applicant permission to proceed prior to the signing of an agreement by issuing the written waiver. This waiver of retroactivity shall not be construed as an approval of the proposed project. If the project is subsequently approved for board funding, the expenditures described in the waiver incurred shall be eligible for assistance if they otherwise satisfy the reimbursement requirements under WAC 420-12-060.

(3) Cost increases. The board shall reimburse only for allowable expenses under WAC 420-12-070. If costs increase after the agreement is signed, a project sponsor is solely responsible, unless the adopted manual for the relevant grant cycle specifically establishes a cost-increase method for that cycle.

[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. 01-04-052, § 420-12-070, filed 2/2/01, effective 3/5/01.]

WAC 420-12-075 Nonconformance and repayment.

In the event any project sponsor's expenditure of board grant moneys is determined by the board or director to conflict with applicable statutes, rules and/or related manuals, or the project agreement, the board reserves the right to demand repayment to the appropriate state account, by written notice from the director to the project sponsor. Such repayment requests may be made following consideration of an applicable report from the state auditor's office.

[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. 01-04-052, § 420-12-075, filed 2/2/01, effective 3/5/01.]

WAC 420-12-080 Acquisition projects—Deed of right, conversions, leases and easements. For acquisition projects sponsors must execute a binding instrument or instruments which contain:

(1) For fee, less-than-fee, and easement acquisition projects:

- (a) A legal description of the property acquired;
- (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.

Without prior approval of the board, 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 of at least equal fair market value at the time of conversion, and of as nearly feasible equivalent usefulness and location.

(2) For lease acquisition projects, a binding agreement which contains a legal description of the property and rights acquired and which meets the following criteria. The interest:

- (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;
- (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 42.17.250, [42.17].260(5), [42.17].290, 43.21C.120(1), chapters 34.05, 42.30, 77.85 RCW. 01-04-052, § 420-12-080, filed 2/2/01, effective 3/5/01.]

WAC 420-12-085 Development projects—Conversion to other uses. (1) Without prior approval of the board, a facility or site aided or developed 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 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 42.17.250, [42.17].260(5), [42.17.]290, 43.21C.120(1), chapters 34.05, 42.30, 77.85 RCW. 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. 01-04-052, § 420-12-090, filed 2/2/01, effective 3/5/01.]

