

Chapter 286-13 WAC

GENERAL GRANT ASSISTANCE RULES

WAC

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WAC 286-13-010 What is the purpose of this chapter? This chapter contains general rules affecting grant program eligibility, applications, and projects funded with money from or through the committee. Further rules are in chapter 286-26 WAC (Nonhighway and off-road vehicle program), chapter 286-27 WAC (Washington wildlife and recreation program), chapter 286-30 WAC (Firearms and archery range recreation program), chapter 286-35 WAC (Initiative 215 boating facilities program), chapter 286-40 WAC (Land and water conservation fund program) and chapter 286-42 WAC (Aquatic lands enhancement account program).

[Statutory Authority: RCW 79.90.245, 2004 c 276 and RCW 46.09.240. 05-01-030, § 286-13-010, filed 12/3/04, effective 1/3/05. Statutory Authority: RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1) and 77.12.720(4). 96-08-044, § 286-13-010, filed 3/29/96, effective 4/29/96. Statutory Authority: RCW 43.98A.060(1), [43.98A].070(5), 43.99.080, 46.09.240 and 77.12.720. 94-17-095, § 286-13-010, filed 8/17/94, effective 9/17/94.]

WAC 286-13-020 Application form. (1) All grant requests must be completed and submitted in the format prescribed by the committee unless otherwise allowed by the director.

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

[Statutory Authority: RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1) and 77.12.720(4). 96-08-044, § 286-13-020, filed 3/29/96, effective 4/29/96. Statutory Authority: RCW 43.98A.060(1), [43.98A].-070(5), 43.99.080, 46.09.240 and 77.12.720. 94-17-095, § 286-13-020, filed 8/17/94, effective 9/17/94.]

WAC 286-13-030 Application review. (1) All applications for funding submitted to the committee will be referred to the director for review and recommendations. In reaching a recommendation, the director shall seek the advice and counsel of the committee's staff and other recognized experts, including those gathered at technical review and evaluation meetings or from other parties with experience in the field.

(2) The committee shall inform all applicants of the specific project application process and methods of review, including current evaluation tests and instruments, by delineating these items in the manuals or other publicly available formats.

[Statutory Authority: RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1) and 77.12.720. 98-08-014, § 286-13-030, filed 3/18/98, effective 4/18/98. Statutory Authority: RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1) and 77.12.720(4). 96-08-044, § 286-13-030, filed 3/29/96, effective 4/29/96. Statutory Authority: RCW 43.98A.060(1), [43.98A].070(5), 43.99.080, 46.09.240 and 77.12.720. 94-17-095, § 286-13-030, filed 8/17/94, effective 9/17/94.]

WAC 286-13-040 What are the grant program deadlines and how can the deadlines be waived? (1) **Applications.** To allow time for review, applications must be submitted at least four calendar months before the funding meeting at which the applicant's project is first considered. Applications must be completed in final form and on file with the committee at least one calendar month before this meeting. *Excepted* are applications for the National Recreational Trails Funding Act, Riparian Habitat, and Youth Athletic Facilities Programs, and programs where the director specifically establishes another deadline to accomplish new or revised statutory direction.

(2) **Plans.** Plans required for participation in committee grant programs must be complete and on file with the committee at least three calendar months before the funding meeting at which the applicant's project is first considered. On the director's acceptance of the plan, the applicant shall be granted eligibility to submit applications for a period of up to six years.

(3) **Matches.** To allow time for development of funding recommendations, written assurance must be provided whenever matching resources are to be considered as a part of an application. This assurance must be provided by the applicant to the committee at least one calendar month before the meeting at which the project is to be considered for funding.

(4) **Project agreement.** An applicant has three calendar months from the date of the committee's mailing of the project agreement to execute and return the agreement to the committee's office. After this period, the committee or director may reject any agreement not signed and returned and reallocate the grant funds to another project(s).

(5) **Waivers.** Compliance with these deadlines is required for eligibility unless a waiver is granted by the director. Such waivers are considered based on several factors which may vary with the type of waiver requested, including:

- (a) When the applicant started the application/planning process (for application and plan deadline waivers);
- (b) Progress made;
- (c) When final plan adoption will occur (for plan deadline waivers);

- (d) The cause of the delay (procedural or content related, etc.);
- (e) Impact on the committee's evaluation process;
- (f) Equity to other applicants; and
- (g) Such other information as may be relevant.

[Statutory Authority: RCW 79.90.245, 2004 c 276 and RCW 46.09.240. 05-01-030, § 286-13-040, filed 12/3/04, effective 1/3/05. Statutory Authority: RCW 34.05.370, 46.09.240(1), 79A.25.210, 79A.15.070, 79A.25.080, chapter 42.17 RCW. 01-17-056, § 286-13-040, filed 8/14/01, effective 9/14/01. Statutory Authority: RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1) and 77.12.720. 98-08-014, § 286-13-040, filed 3/18/98, effective 4/18/98; 97-17-004, § 286-13-040, filed 8/7/97, effective 9/7/97; 96-08-044, § 286-13-040, filed 3/29/96, effective 4/29/96. Statutory Authority: RCW 43.98A.060(1), [43.98A].070(5), 43.99.080, 46.09.240 and 77.12.720. 94-17-095, § 286-13-040, filed 8/17/94, effective 9/17/94.]

WAC 286-13-045 What rules govern eligible matching resources? (1) When requiring a match from an applicant for committee administered funds, or giving preference to an applicant that provides a match, it is the intent of the committee to do so to foster local commitment to the proposed project and to demonstrate that commitment, and to make funds from a given grant program (and revenue source) available to a greater number of projects.

(2) Applicant resources used to match committee funds include, but are not limited to: Cash; local impact/mitigation fees; certain federal funds; the value of donations such as privately owned real estate, equipment, equipment use, materials, and labor; or any combination thereof.

(3) An agency's or organization's match may include state and federal funds, including funds from other grant programs administered by the committee. However, the committee may require the agency or organization to provide a portion of the match in local resources.

(4) Private donated real property, or the value of that property, must consist of real property (land and facilities) that would normally qualify for committee grant funding.

(5) State agency projects may be assisted by one hundred percent funding from committee sources *except* where prohibited by law.

(6) The eligibility of some federal and state funds to be used as a match is governed by federal and state requirements and thus may vary with individual program policies.

[Statutory Authority: RCW 79A.15.060(1), 79A.15.070(5), 79A.25.005, 79A.25.080(2), 79A.25.210. 06-05-024, § 286-13-045, filed 2/7/06, effective 3/10/06. Statutory Authority: RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1) and 77.12.720. 98-08-014, § 286-13-045, filed 3/18/98, effective 4/18/98; 97-08-003, § 286-13-045, filed 3/20/97, effective 4/20/97. Statutory Authority: RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1) and 77.12.720(4). 96-08-044, § 286-13-045, filed 3/29/96, effective 4/29/96.]

WAC 286-13-050 Final decision. The committee will review recommendations for grant projects at regularly scheduled funding sessions. It retains the authority and responsibility to accept or deviate from these recommendations and, where statutory authority exists, it alone will make the final decision concerning the funding of a project.

[Statutory Authority: RCW 43.98A.060(1), [43.98A].070(5), 43.99.080, 46.09.240 and 77.12.720. 94-17-095, § 286-13-050, filed 8/17/94, effective 9/17/94.]

WAC 286-13-060 Project agreement. For every funded project, an agreement must be executed as provided in this section.

(1) The project agreement shall be prepared by the director subsequent to approval of the project by the committee at a public meeting. The director shall execute the agreement on behalf of the committee and tender the document to the applicant. On execution by the applicant, who through this action becomes the sponsor, the parties are bound by the agreement's terms. The applicant may not proceed with the project until the agreement has been executed and the project start date listed in the agreement has arrived, unless specific authorization pursuant to WAC 286-13-085 (1)(a) has been given by the director.

(2) If the project is approved by the committee 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.

[Statutory Authority: RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1) and 77.12.720(4). 96-08-044, § 286-13-060, filed 3/29/96, effective 4/29/96. Statutory Authority: RCW 43.98A.060(1), [43.98A].070(5), 43.99.080, 46.09.240 and 77.12.720. 94-17-095, § 286-13-060, filed 8/17/94, effective 9/17/94.]

WAC 286-13-070 Disbursement of funds. Except as otherwise provided herein, the director will authorize disbursement of project funds only on a reimbursable basis, after the 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 must be requested on voucher forms authorized by the director and 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.

(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.

(4) Exceptions.

(a) State agencies' Initiative 215 (Marine Recreation Land Act) appropriations. Prior to the 1995-1997 biennium (July 1, 1995,) state agencies were required to submit voucher forms with the supporting documentation specified in the manual in effect at the time of completion of project acquisition, relocation or development.

(b) Direct payment. Direct payment to escrow of the committee's share of the approved cost of real property may be made following committee approval of an acquisition project when the sponsor indicates a temporary lack of funds to purchase the property. Prior to release of the committee's share of escrow funds, the sponsor must provide the director with a copy of a binding sale agreement between the sponsor and the seller and evidence of deposit of the sponsor's share (if any) into an escrow account.

[Statutory Authority: RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1) and 77.12.720. 98-08-014, § 286-13-070, filed 3/18/98, effective 4/18/98. Statutory Authority: RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1) and 77.12.720(4). 96-08-044, § 286-13-070,

filed 3/29/96, effective 4/29/96. Statutory Authority: RCW 43.98A.060(1), [43.98A].070(5), 43.99.080, 46.09.240 and 77.12.720. 94-17-095, § 286-13-070, filed 8/17/94, effective 9/17/94.]

WAC 286-13-080 What rules govern expenses incurred before execution of a project agreement? Except as hereinafter provided, the committee will not approve the disbursement of funds for expenses incurred before execution of a project agreement.

[Statutory Authority: RCW 79A.15.060(1), 79A.15.070(5), 79A.25.005, 79A.25.080(2), 79A.25.210. 06-05-024, § 286-13-080, filed 2/7/06, effective 3/10/06. Statutory Authority: RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1) and 77.12.720(4). 96-08-044, § 286-13-080, filed 3/29/96, effective 4/29/96. Statutory Authority: RCW 43.98A.060(1), [43.98A].070(5), 43.99.080, 46.09.240 and 77.12.720. 94-17-095, § 286-13-080, filed 8/17/94, effective 9/17/94.]

WAC 286-13-085 Retroactive and increased costs. See WAC 286-04-010 for definition of terms for the following section.

Under most conditions, eligible expenses may only be reimbursed for activities that occur within the period cited in the project agreement. This is known as the committee's prohibition on retroactivity. To avoid this prohibition, a waiver may be issued.

(1) Retroactive land acquisition costs.

The director may grant a waiver of retroactivity when-ever an applicant asserts, in writing, that a condition exists which may jeopardize the project. When evidence warrants, the director may grant the applicant permission to proceed by issuing the 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 assistance. If the project is to remain eligible for grant support 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.

(2) Retroactive development costs. The only retroactive development costs eligible for reimbursement consideration are preliminary expenses (e.g., engineering costs).

However, solely in respect to WWRP projects on LEAP Capital Document 5, the director is authorized to grant a waiver of retroactivity which establishes eligibility for future reimbursement of all appropriate development costs. Such applicants' retroactivity requests must be in writing, and provide sufficient justification. Reimbursement of expenditures is subject to the provisions of WAC 286-13-070. This authority shall be effective until the execution of a project agreement or June 30, 1997, whichever occurs first.

(3) Cost increases.

(a) Cost increases for approved projects may be granted by the committee if financial resources are available.

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

(c) If an approved project recommended for federal funding is denied by the appropriate federal agency, the sponsor may request that the committee increase assistance by an equivalent amount; such requests shall be considered on their merits.

(2/7/06)

(d) The director may approve a sponsor's acquisition, development, and/or noncapital project cost increase request so long as the total request does not exceed ten percent of the project's approved initial cost. The director's approval of an acquisition project cost increase is limited to a parcel-by-parcel appraised and reviewed value.

[Statutory Authority: RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1) and 77.12.720. 98-08-014, § 286-13-085, filed 3/18/98, effective 4/18/98; 97-08-003, § 286-13-085, filed 3/20/97, effective 4/20/97. Statutory Authority: RCW 43.98A.060(1), 43.98A.070(5) and 43.99.080(2). 96-15-082, § 286-13-085, filed 7/18/96, effective 8/18/96. Statutory Authority: RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1) and 77.12.720(4). 96-08-044, § 286-13-085, filed 3/29/96, effective 4/29/96. Statutory Authority: RCW 43.98A.060(1), [43.98A].070(5), 43.99.080, 46.09.240 and 77.12.720. 94-17-095, § 286-13-085, filed 8/17/94, effective 9/17/94.]

WAC 286-13-090 Federal assistance. Insofar as is possible under the committee's statewide plan(s) provided under WAC 286-04-020(3) applications will be administered and approved in a manner that will maximize any federal assistance available for the benefit of projects in Washington.

[Statutory Authority: RCW 43.98A.060(1), [43.98A].070(5), 43.99.080, 46.09.240 and 77.12.720. 94-17-095, § 286-13-090, filed 8/17/94, effective 9/17/94.]

WAC 286-13-100 Nonconformance and repayment.

Any sponsor expenditure of committee grant moneys deemed by the committee or director to conflict with applicable statutes, rules and/or related manuals must be repaid, upon written request by the director, to the appropriate state account. Such repayment requests may be made in consideration of an applicable report from the state auditor's office.

[Statutory Authority: RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1) and 77.12.720. 98-08-014, § 286-13-100, filed 3/18/98, effective 4/18/98. Statutory Authority: RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1) and 77.12.720(4). 96-08-044, § 286-13-100, filed 3/29/96, effective 4/29/96. Statutory Authority: RCW 43.98A.060(1), [43.98A].070(5), 43.99.080, 46.09.240 and 77.12.720. 94-17-095, § 286-13-100, filed 8/17/94, effective 9/17/94.]

WAC 286-13-110 Income, income use. (1) Income.

(a) Compatible source. The source of any income generated in a committee assisted project or project area must be compatible with the element(s) defined in the project agreement. The way the project or project area is defined varies with the source of funds provided by the committee. That is, income generated in a project assisted with funds that originate from:

(i) A state source must be consistent with the limits of the element(s) assisted by the committee (for example, within the area of an athletic field or habitat area).

(ii) The federal land and water conservation fund must be consistent within the boundary described in chapter 660.2.6.A. ("project area") of the *L&WCF Grants-in-Aid Manual*.

(b) Fees. User and/or other fees may be charged in connection with land acquired or facilities developed with committee grants if the fees are consistent with the:

(i) Value of any service(s) furnished; and

(ii) Value of any opportunity(ies) furnished; and

(iii) Prevailing range of public fees in the state for the activity.

Excepted are firearms and archery range recreation program safety classes (firearm and/or hunter) for which a facility/range fee must *not* be charged (RCW 77.12.720).

(2) Income use. Regardless of whether income or fees in a committee assisted area (including entrance, utility corridor permit, cattle grazing, timber harvesting, farming, etc.) are gained during or after the reimbursement period cited in the project agreement, unless precluded by state law the revenue may only be used to offset:

- (a) The sponsor's matching funds; and/or
- (b) The project's total cost; and/or
- (c) The expense of operation, maintenance, and/or repair of the facility or program assisted by the committee grant; and/or
- (d) The expense of operation, maintenance, and/or repair of other units in the sponsor's park and recreation and/or habitat conservation system; and/or
- (e) Capital expenses for similar acquisition and/or development.

[Statutory Authority: RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1) and 77.12.720. 97-17-004, § 286-13-110, filed 8/7/97, effective 9/7/97; 97-08-003, § 286-13-110, filed 3/20/97, effective 4/20/97. Statutory Authority: RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1) and 77.12.720(4). 96-08-044, § 286-13-110, filed 3/29/96, effective 4/29/96. Statutory Authority: RCW 43.98A.060(1), [43.98A].070(5), 43.99.080, 46.09.240 and 77.12.720. 94-17-095, § 286-13-110, filed 8/17/94, effective 9/17/94.]

WAC 286-13-115 Discrimination, preferences. (1)

Sponsors shall not discriminate against users of projects assisted with committee funds on the basis of race, creed, color, sex, religion, national origin, disability, marital status, or sexual orientation.

(2) Sponsors shall not express a preference for users of committee grant assisted projects on the basis of residence (including preferential reservation, membership, and/or permit systems). However, reasonable differences in admission and other fees may be maintained on the basis of residence. The committee does not encourage the imposition of such differential fees. Fees for nonresidents must not exceed twice the fee imposed on residents. Where there is no fee for residents but a fee is charged to nonresidents, the nonresident fee shall not exceed the amount that would be imposed on residents at comparable state or local public facilities.

[Statutory Authority: RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1) and 77.12.720. 97-17-004, § 286-13-115, filed 8/7/97, effective 9/7/97; 96-08-044, § 286-13-115, filed 3/29/96, effective 4/29/96. Statutory Authority: RCW 43.98A.060(1), [43.98A].070(5), 43.99.080, 46.09.240 and 77.12.720. 94-17-095, § 286-13-115, filed 8/17/94, effective 9/17/94.]

WAC 286-13-120 Permanent project signs. Permanent signs identifying that land was acquired or facilities developed with financial assistance from the committee are required unless waived by the director. Such waivers are considered based on agreed project goals.

[Statutory Authority: RCW 43.98A.060(1), [43.98A].070(5), 43.99.080, 46.09.240 and 77.12.720. 94-17-095, § 286-13-120, filed 8/17/94, effective 9/17/94.]