



Municipal Stormwater Grants of Regional or Statewide Significance SFY 2021-23

Funding Guidelines

State Department of Ecology
Olympia, Washington

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ADA Accessibility

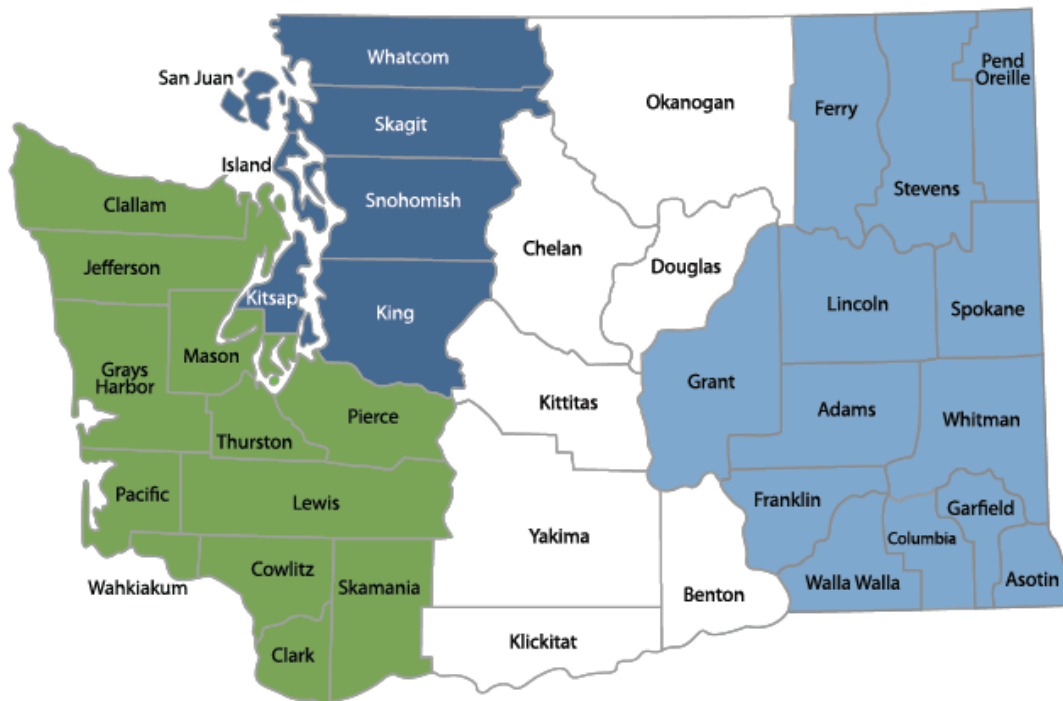
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¹ www.ecology.wa.gov/contact

Department of Ecology's Regional Offices

Map of Counties Served



Southwest Region
360-407-6300

Northwest Region
425-594-0000

Central Region
509-575-2490

Eastern Region
509-329-3400

Region	Counties served	Mailing Address	Phone
Southwest	Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Mason, Lewis, Pacific, Pierce, Skamania, Thurston, Wahkiakum	PO Box 47775 Olympia, WA 98504	360-407-6300
Northwest	Island, King, Kitsap, San Juan, Skagit, Snohomish, Whatcom	3190 160th Ave SE Bellevue, WA 98008	425-649-7000
Central	Benton, Chelan, Douglas, Kittitas, Klickitat, Okanogan, Yakima	1250 W Alder St Union Gap, WA 98903	509-575-2490
Eastern	Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman	4601 N Monroe Spokane, WA 99205	509-329-3400
Headquarters	Across Washington	PO Box 46700 Olympia, WA 98504	360-407-6000

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DEPARTMENT OF
ECOLOGY
State of Washington

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Funding Program Purpose

The Municipal Grant of Regional or Statewide Significance (GROSS) program will provide financial assistance to Phase I and Phase II cities and counties for projects that support implementation of the National Pollutant Discharge Elimination System (NPDES) Municipal Stormwater General Permits statewide or across a region. Project benefits may include, but are not limited to:

- Assistance for a number of permittees in a region or statewide to implement permit requirements.
- Development of a product that can be used regionally or statewide.
- Regional or statewide access to advances in stormwater management technology or resources.

Funding for this program is provided to Ecology by the 2021 Washington State Legislature as part of the Ecology Operating Budget. Ecology anticipates awarding up to \$1.1 million dollars through this program. Capital construction projects are not eligible for this funding program.

Program schedule

Table 1 Funding program schedule

May 21, 2021	Applications open in EAGL
July 30, 2021 4:59pm	Applications close
September 17, 2021	Funding offers announced
September 17, - December 31, 2021	Agreement negotiation & development
January 30, 2022	First progress report due
April 30, 2023	Agreements expire
May 30, 2023	Final payment requests due to Ecology

Applicant eligibility

This competitive grant program is open to all cities or counties in Washington State covered by a Phase I or Phase II Municipal Stormwater General Permit. Ports, universities, school districts, drainage districts, state agencies, or other secondary permittees are not eligible to apply directly for this funding program but may partner with a permitted city or county. For information on local governments covered by the permits and permit requirements, see [Ecology's Stormwater Permit website](#)².

² <https://ecology.wa.gov/Regulations-Permits/Permits-certifications/Stormwater-general-permits/Municipal-stormwater-general-permits>

Local governments receiving funding under other Ecology stormwater grant programs are not precluded from applying for these grants of regional and statewide significance.

Partnerships

Applicants are strongly encouraged to form partnerships to address issues of common concern and to provide economies of scale. Eligible partners include, but are not limited to, other Phase I and Phase II permittees, the Washington State Department of Transportation, conservation districts, secondary permittees (such as ports, universities, and school and drainage districts), as well as associations, non-profit organizations, and non-permitted local governments.

Maximum grant award and match requirements

The maximum funding award for this program is \$300,000 per project. There is no minimum grant award. Grant recipients are not required to provide matching dollars.

Eligible projects

All projects must support implementation of permit-required municipal stormwater programs and must demonstrate and sustain long-term benefits to multiple permittees across a region or statewide.

Ecology will distribute the available funds to the highest ranked proposals for projects of regional or statewide significance that address the activities listed below. In addition, Ecology welcomes and will rank any proposals consistent with the criteria listed in Funding Program Purposes.

The lead permittee for a project may include costs for administering the funding agreement and managing the project, including coordinating with other partners and participants in the region.

Project categories and examples

The following list of project categories was developed to assist applicants in developing project applications. The listed projects are examples of the type of projects that could be completed under this grant program.

Funding is not limited to these to these project examples.

Public Education and Outreach

Projects in this category may develop and implement a regional social marketing campaigns to engage a target audience and affect behavior change.

This may include:

- Regional programs that connect the actions of individual community members to stormwater and surface water quality using stewardship activities, outdoor education, or hands-on practices to an identified target audience(s).
- Campaigns to reduce one or more toxic chemicals (e.g. PCBs) that can be implemented by jurisdictions statewide.

Training Programs

- Develop a standardized curriculum for trainings required by Municipal NPDES permits.
- Develop and implement relevant social marketing training for eastern and western Washington designed to improve implementation of behavior change campaigns.
- Develop and implement Source Control for an existing development training program.
- Develop college-level curriculum that can be integrated into Ecology's LID (Low Impact Development) certification program.
- Develop a LID certificate program for home builders, or others in the professional fields, which builds on Ecology's LID training curriculum.
- Develop and implement a training program or webinar presenting success stories, approaches and lessons learned for applying the minimum technical requirements on linear projects (i.e., roadways, trails, sidewalks).

Technical Tools

- Research and analyze the performance of specific LID techniques through field and lab studies (e.g., monitor and compare pollutant removal of filter strips or swales) in Washington State and provide recommendations for updating design criteria.
- Collect and collate updated rainfall data from specific stations across the state for use in WWHM (Western Washington Hydrologic Model) or to update eastern Washington rainfall maps.
- Develop a stormwater inspection and maintenance checklist/standards/protocols for stormwater treatment and flow control Best Management Practices (BMPs)/facilities that are defined in the Stormwater Management Manuals for eastern and western Washington (WMMWW/SWMMEW).
- Develop a template for municipal operations and maintenance practices, policies, and procedures to reduce stormwater impacts and/or templates for municipal Stormwater Pollution Prevention Programs (SWPPP).
- Develop a stormwater inspection and maintenance checklist/standards/protocols for stormwater treatment and flow control Best Management Practices (BMPs)/facilities that are permitted/regulated by the Permittee.
- Produce geographically comprehensive, integrated maps of regional Municipal Separate Storm Sewer Systems (MS4) for use in regional stormwater planning activities. Build upon previous mapping efforts, providing for standardized data dictionaries and jurisdiction-specific Geographical Information System (GIS) data, to develop watershed-based or regionally significant municipal separate storm sewer system maps.

Data collection may include topographic, groundwater, geologic, MS4, land use, zoning, utilities, drainage patterns, physical features, precipitation and other data that will directly assist in stormwater planning efforts.

- Develop and analyze alternative strategies to promote and improve permit compliance (peer-to-peer evaluation/program reviews).
- Develop an open source geospatial application/database to track inspection and maintenance activities, or asset management to support SWMP decision-making.

Other

This category includes all projects that support implementation of the NPDES Municipal Stormwater General Permits statewide or across a region that meet eligibility criteria but do not fall within the categories listed above.

- Develop environmental justice and stormwater tools to assist stormwater managers implement SWMP (e.g. Public involvement, education and outreach).
- Stormwater coordination workshop, to show off best practices, build team capacity, and new relationships for effective permit implementation.
- Comprehensive review of how local governments set and modify stormwater utility rates to ensure sufficient funding for jurisdiction-wide stormwater services as well as land-owner incentive programs for utility rate reduction (e.g., public schools, on-site stormwater management). Provide recommendations for utility rate structures and incentive programs for Washington's municipalities.
- Develop a regional/statewide spills reporting (including telephone hotline, online portal, and mobile device application), tracking (related to source identification and other Illicit Discharge Detection and Elimination [IDDE] information) and referral (including appropriate referrals to state, federal and local agencies) system.

Ineligible projects and project elements

Ineligible project or project components include, but are not limited to:

- Costs incurred prior to July 1, 2021.
- Grant administration costs that exceed 15% of the total eligible cost.
- Indirect costs that exceed 30 percent of salaries and benefits.
- Capital construction projects.
- Projects that do not support Municipal NPDES permit implementation.
- Give-a-ways or incentives.
- Costs to prepare and submit grant applications.
- TAPE review process for proprietary treatment systems.
- Project activities that are funded by Stormwater Action Monitoring program.
- Project objectives and activities that have been funded by other Ecology funding sources, including this program.

[Additional information about general expense eligibility](https://apps.ecology.wa.gov/publications/SummaryPages/1701004.html) is published in the Administrative Requirements for Recipients of Ecology Grants and Loans (*Yellow Book*) which is available online at: <https://apps.ecology.wa.gov/publications/SummaryPages/1701004.html>.

Applicants should also review Appendix A of this document, *Ecology General Terms and Conditions*. These conditions apply to all projects that receive funding through this program.

How to apply

All applications must be submitted electronically via the EAGL system prior to 5:00 on July 30, 2021. The “Submit” button will disappear at 4:59 on July 30, 2021 and you will not be able to submit your application. Ecology will not accept late submittals or hard copies of application materials.

New EAGL users (including your authorized signatory) must register for a Secure Access Washington (SAW) account prior to beginning the application process. **New user account approval may take up to two weeks.**

Consultants may enter information in EAGL as a writer, but may not hold the role of Authorized Official or Authorized Signatory and may not submit an application on behalf of an applicant.

[To access EAGL](https://ecology.wa.gov/About-us/How-we-operate/Grants-loans), or to register for a SAW account, please visit our website <https://ecology.wa.gov/About-us/How-we-operate/Grants-loans>.

Scoring and evaluation criteria

Ecology staff will evaluate projects based on responses provided in the application and materials uploaded into EAGL. Projects **must score a minimum of 600 points** to be eligible for funding. Projects will be evaluated and ranked on the following criteria:

Table 2 Scoring and evaluation criteria

Category	Evaluation Criteria	Maximum Possible Points
Project Purpose (275 points)	Supports implementation of permit-required municipal stormwater programs.	75
	Directly benefits multiple permittees’ stormwater management programs.	75
	Demonstrates regional or statewide significance or value (i.e., is transferable).	100
	Project will sustain long-term benefits and/or deliverables are durable.	25

Project Description and Scope of Work (300 points)	Clear project goals.	50
	Detailed description of project tasks.	50
	Applicant has identified all tasks necessary to complete project.	25
	Detailed description of measurable outcomes for applicants.	75
	Includes specific deliverables to Ecology (linked to tasks).	50
	Detailed schedule (including major dates and milestones).	50
Project Team and Project Management (175 points)	Clear team structure with appropriate roles and responsibilities for various partners. Includes appropriate estimates of time dedicated by team members to the project.	75
	Highly qualified staff, appropriate levels-of-effort and assignments, and multiple permittees are actively engaged in project delivery process.	75
	Past project performance on similar water quality projects is described and successes or lessons learned are documented.	25
Project Budget and Readiness to Proceed (250)	Budget is consistent with level of effort described in the scope of work, with a good rationale for how it was calculated.	150
	Readiness to proceed (e.g., ILAs developed, SEPA, contractors selected or RFP developed, approval from local governments, etc.)	100

Funding agreement negotiation and management

Funding agreement negotiation

Funding recipients will be notified via email. Ecology will assign a project management team to each funded project. This team will include a project manager, a financial manager, and may also include a technical advisor. The Ecology project team will work with the Recipient to negotiate and develop an Ecology funding agreement including a final scope of work and budget.

The funding agreement is the formal written contractual arrangement signed by authorized representatives of the Recipient and Ecology. The agreement, at a minimum, will include: an approved scope of work, total project costs, a budget, performance schedule and *Ecology General Terms and Conditions*.

Work done after July 1, 2021, but prior to completion of the negotiation and signature process, is performed at the Recipient's own risk and may not be eligible for reimbursement.

Progress reporting and requests for reimbursements

All grant payments are made on a reimbursement basis. **Recipients are required to enter a quarterly progress report in the EAGL system within 30 days of the close of each quarter.**

These reports may include a request for reimbursement and are commonly referred to as PRPRs (Progress Report/Payment Request). **PRPRs are required even if no expenses are incurred by the recipient that quarter.** If there is a delay in signing the funding agreement, the first quarterly report may include work from previous quarters

If a Recipient fails to submit two or more consecutive quarterly reports via the EAGL grant management system, Ecology may consider this non-performance. ECOLOGY may initiate actions to amend or terminate funding agreements that fail to provide quarterly reports, or fail to spend down funds in a timely manner.

This management strategy is necessary to prevent Ecology water quality dollars from remaining obligated to projects that will not request reimbursements for the full value of the grant award. This will ensure that Ecology water quality dollars provide the maximum water quality benefits over the Biennia.

Table 3 Progress report due dates

Quarter	EAGL Report Due No Later Than
January - March	April 30
April - June	July 30
July - September	October 30
October - December	January 30

For more information about submitting PRPRs, please visit the [Ecology Grants and Loan website](https://ecology.wa.gov/About-us/How-we-operate/Grants-loans/Grant-loan-guidance) at: <https://ecology.wa.gov/About-us/How-we-operate/Grants-loans/Grant-loan-guidance>.

Project close-out

Recipients will be required to submit an EAGL close out form (RCOR) and a separate two-page summary report as part of the grant close out process. The template for the 2-page summary report is available on [Ecology's Grants and Loans General resources website](https://ecology.wa.gov/About-us/How-we-operate/Grants-loans/Find-a-grant-or-loan/Water-Quality-grants-and-loans/General-resources) at:

<https://ecology.wa.gov/About-us/How-we-operate/Grants-loans/Find-a-grant-or-loan/Water-Quality-grants-and-loans/General-resources>.

Funding agreements for the GROSS grant program will expire on or before April 30, 2023. All work on the project, including the 2-page summary, must be completed. Work performed after the grant expiration date will not be eligible for reimbursement. The final request for payment must be submitted within 30 days of the grant expiration date, May 30, 2023. After this thirty-day period, Ecology may close the funding agreement and de-obligate any remaining funds.

In extenuating circumstances, Ecology may extend a grant beyond the original negotiated expiration date. Funding agreement extensions:

- Require a formal amendment process and signatures from the recipient authorized signatory and Ecology,
- **Must be requested through EAGL a minimum of three months prior to the grant expiration date.**

No grants will be extended beyond June 30, 2023.

Appendix A. Ecology Funding Agreement General Terms and Conditions

GENERAL TERMS AND CONDITIONS AS OF LAST UPDATED 7-1-2019 VERSION

1. ADMINISTRATIVE REQUIREMENTS

- RECIPIENT shall follow the "Administrative Requirements for Recipients of Ecology Grants and Loans – EAGL Edition."
(<https://fortress.wa.gov/ecy/publications/SummaryPages/1701004.html>)
- RECIPIENT shall complete all activities funded by this Agreement and be fully responsible for the proper management of all funds and resources made available under this Agreement.
- RECIPIENT agrees to take complete responsibility for all actions taken under this Agreement, including ensuring all sub grantees and contractors comply with the terms and conditions of this Agreement. ECOLOGY reserves the right to request proof of compliance by subgrantees and contractors.
- RECIPIENT's activities under this Agreement shall be subject to the review and approval by ECOLOGY for the extent and character of all work and services.

2. AMENDMENTS AND MODIFICATIONS

This Agreement may be altered, amended, or waived only by a written amendment executed by both parties. No subsequent modification(s) or amendment(s) of this Agreement will be of any force or effect unless in writing and signed by authorized representatives of both parties. ECOLOGY and the RECIPIENT may change their respective staff contacts and administrative information without the concurrence of either party.

3. ACCESSIBILITY REQUIREMENTS FOR COVERED TECHNOLOGY

The RECIPIENT must comply with the Washington State Office of the Chief Information Officer, OCIO Policy no. 188, Accessibility (<https://ocio.wa.gov/policy/accessibility>) as it relates to

“covered technology.” This requirement applies to all products supplied under the agreement, providing equal access to information technology by individuals with disabilities, including and not limited to web sites/pages, web-based applications, software systems, video and audio content, and electronic documents intended for publishing on Ecology’s public web site.

4. ARCHAEOLOGICAL AND CULTURAL RESOURCES

RECIPIENT shall take reasonable action to avoid, minimize, or mitigate adverse effects to archeological and historic resources. The RECIPIENT must agree to hold harmless the State of Washington in relation to any claim related to historical or cultural artifacts discovered, disturbed, or damaged due to the RECIPIENT’s project funded under this Agreement.

RECIPIENT shall:

- a) Contact the ECOLOGY Program issuing the grant or loan to discuss any Cultural Resources requirements for their project:
 - For capital construction projects or land acquisitions for capital construction projects, if required, comply with Governor Executive Order 05-05, Archaeology and Cultural Resources.
 - For projects with any federal involvement, if required, comply with the National Historic Preservation Act.
 - Any cultural resources federal or state requirements must be completed prior to the start of any work on the project site.
- b) If required by the ECOLOGY Program, submit an Inadvertent Discovery Plan (IDP) to ECOLOGY prior to implementing any project that involves ground disturbing activities. ECOLOGY will provide the IDP form.

RECIPIENT shall:

- Keep the IDP at the project site.
 - Make the IDP readily available to anyone working at the project site.
 - Discuss the IDP with staff and contractors working at the project site.
 - Implement the IDP when cultural resources or human remains are found at the project site.
- c) If any archeological or historic resources are found while conducting work under this Agreement:
 - Immediately stop work and notify the ECOLOGY Program, the Department of Archaeology and Historic Preservation at (360) 586-3064, any affected Tribe, and the local government.
 - d) If any human remains are found while conducting work under this Agreement:
 - Immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner’s Office, and then the ECOLOGY Program.
 - e) Comply with RCW 27.53, RCW 27.44.055, and RCW 68.50.645, and all other applicable local, state, and federal laws protecting cultural resources and human remains.

5. ASSIGNMENT

No right or claim of the RECIPIENT arising under this Agreement shall be transferred or assigned by the RECIPIENT.

6. COMMUNICATION

RECIPIENT shall make every effort to maintain effective communications with the RECIPIENT's designees, ECOLOGY, all affected local, state, or federal jurisdictions, and any interested individuals or groups.

7. COMPENSATION

- a) Any work performed prior to effective date of this Agreement will be at the sole expense and risk of the RECIPIENT. ECOLOGY must sign the Agreement before any payment requests can be submitted.
- b) Payments will be made on a reimbursable basis for approved and completed work as specified in this Agreement.
- c) RECIPIENT is responsible to determine if costs are eligible. Any questions regarding eligibility should be clarified with ECOLOGY prior to incurring costs. Costs that are conditionally eligible require approval by ECOLOGY prior to expenditure.
- d) RECIPIENT shall not invoice more than once per month unless agreed on by ECOLOGY.
- e) ECOLOGY will not process payment requests without the proper reimbursement forms, Progress Report and supporting documentation. ECOLOGY will provide instructions for submitting payment requests.
- f) ECOLOGY will pay the RECIPIENT thirty (30) days after receipt of a properly completed request for payment.
- g) RECIPIENT will receive payment through Washington State's Office of Financial Management's Statewide Payee Desk. To receive payment you must register as a statewide vendor by submitting a statewide vendor registration form and an IRS W-9 form at website, <https://ofm.wa.gov/it-systems/statewide-vendorpayee-services>. If you have questions about the vendor registration process, you can contact Statewide Payee Help Desk at (360) 407-8180 or email PayeeRegistration@ofm.wa.gov.
- h) ECOLOGY may, at its sole discretion, withhold payments claimed by the RECIPIENT if the RECIPIENT fails to satisfactorily comply with any term or condition of this Agreement.
- i) Monies withheld by ECOLOGY may be paid to the RECIPIENT when the work described herein, or a portion thereof, has been completed if, at ECOLOGY's sole discretion, such payment is reasonable and approved according to this Agreement, as appropriate, or upon completion of an audit as specified herein.
- j) RECIPIENT must submit within thirty (30) days after the expiration date of this Agreement, all financial, performance, and other reports required by this agreement. Failure to comply may result in delayed reimbursement.

8. COMPLIANCE WITH ALL LAWS

RECIPIENT agrees to comply fully with all applicable federal, state and local laws, orders, regulations, and permits related to this Agreement, including but not limited to:

- a) RECIPIENT agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington which affect wages and job safety.
- b) RECIPIENT agrees to be bound by all applicable federal and state laws, regulations, and policies against discrimination.
- c) RECIPIENT certifies full compliance with all applicable state industrial insurance requirements.
- d) RECIPIENT agrees to secure and provide assurance to ECOLOGY that all the necessary approvals and permits required by authorities having jurisdiction over the project are obtained. RECIPIENT must include time in their project timeline for the permit and approval processes.

ECOLOGY shall have the right to immediately terminate for cause this Agreement as provided herein if the RECIPIENT fails to comply with above requirements.

If any provision of this Agreement violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

9. CONFLICT OF INTEREST

RECIPIENT and ECOLOGY agree that any officer, member, agent, or employee, who exercises any function or responsibility in the review, approval, or carrying out of this Agreement, shall not have any personal or financial interest, direct or indirect, nor affect the interest of any corporation, partnership, or association in which he/she is a part, in this Agreement or the proceeds thereof.

10. CONTRACTING FOR GOODS AND SERVICES

RECIPIENT may contract to buy goods or services related to its performance under this Agreement. RECIPIENT shall award all contracts for construction, purchase of goods, equipment, services, and professional architectural and engineering services through a competitive process, if required by State law. RECIPIENT is required to follow procurement procedures that ensure legal, fair, and open competition.

RECIPIENT must have a standard procurement process or follow current state procurement procedures. RECIPIENT may be required to provide written certification that they have followed their standard procurement procedures and applicable state law in awarding contracts under this Agreement.

ECOLOGY reserves the right to inspect and request copies of all procurement documentation, and review procurement practices related to this Agreement. Any costs incurred as a result of procurement practices not in compliance with state procurement law or the RECIPIENT's normal procedures may be disallowed at ECOLOGY's sole discretion.

11. DISPUTES

- a) When there is a dispute with regard to the extent and character of the work, or any other matter related to this Agreement the determination of ECOLOGY will govern, although the RECIPIENT shall have the right to appeal decisions as provided for below:
 - a) RECIPIENT notifies the funding program of an appeal request.
 - b) Appeal request must be in writing and state the disputed issue(s).
 - c) RECIPIENT has the opportunity to be heard and offer evidence in support of its appeal.
 - d) ECOLOGY reviews the RECIPIENT's appeal.
 - e) ECOLOGY sends a written answer within ten (10) business days, unless more time is needed, after concluding the review.

The decision of ECOLOGY from an appeal will be final and conclusive, unless within thirty (30) days from the date of such decision, the RECIPIENT furnishes to the Director of ECOLOGY a written appeal. The decision of the Director or duly authorized representative will be final and conclusive.

The parties agree that this dispute process will precede any action in a judicial or quasi-judicial tribunal.

Appeals of the Director's decision will be brought in the Superior Court of Thurston County. Review of the Director's decision will not be taken to Environmental and Land Use Hearings Office.

Pending final decision of a dispute, the RECIPIENT agrees to proceed diligently with the performance of this Agreement and in accordance with the decision rendered.

Nothing in this Agreement will be construed to limit the parties' choice of another mutually acceptable method, in addition to the dispute resolution procedure outlined above.

12. ENVIRONMENTAL DATA STANDARDS

- a) RECIPIENT shall prepare a Quality Assurance Project Plan (QAPP) for a project that collects or uses environmental measurement data. RECIPIENTS unsure about whether a QAPP is required for their project shall contact the ECOLOGY Program issuing the grant or loan. If a QAPP is required, the RECIPIENT shall:
 - Use ECOLOGY's QAPP Template/Checklist provided by the ECOLOGY, unless ECOLOGY Quality Assurance (QA) officer or the Program QA coordinator instructs otherwise.
 - Follow ECOLOGY's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies, July 2004 (Ecology Publication No. 04-03-030).

- Submit the QAPP to ECOLOGY for review and approval before the start of the work.
- b) RECIPIENT shall submit environmental data that was collected on a project to ECOLOGY using the Environmental Information Management system (EIM), unless the ECOLOGY Program instructs otherwise. The RECIPIENT must confirm with ECOLOGY that complete and correct data was successfully loaded into EIM, find instructions at: <http://www.ecy.wa.gov/eim>.
- c) RECIPIENT shall follow ECOLOGY's data standards when Geographic Information System (GIS) data is collected and processed. Guidelines for Creating and Accessing GIS Data are available at: <https://ecology.wa.gov/Research-Data/Data-resources/Geographic-Information-Systems-GIS/Standards>. RECIPIENT, when requested by ECOLOGY, shall provide copies to ECOLOGY of all final GIS data layers, imagery, related tables, raw data collection files, map products, and all metadata and project documentation.

13. GOVERNING LAW

This Agreement will be governed by the laws of the State of Washington, and the venue of any action brought hereunder will be in the Superior Court of Thurston County.

14. INDEMNIFICATION

ECOLOGY will in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the Scope of Work.

To the extent that the Constitution and laws of the State of Washington permit, each party will indemnify and hold the other harmless from and against any liability for any or all injuries to persons or property arising from the negligent act or omission of that party or that party's agents or employees arising out of this Agreement.

15. INDEPENDENT STATUS

The employees, volunteers, or agents of each party who are engaged in the performance of this Agreement will continue to be employees, volunteers, or agents of that party and will not for any purpose be employees, volunteers, or agents of the other party.

16. KICKBACKS

RECIPIENT is prohibited from inducing by any means any person employed or otherwise involved in this Agreement to give up any part of the compensation to which he/she is otherwise entitled to or receive any fee, commission, or gift in return for award of a subcontract hereunder.

17. MINORITY AND WOMEN'S BUSINESS ENTERPRISES (MWBE)

RECIPIENT is encouraged to solicit and recruit, to the extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated under this Agreement.

- a) Contract awards or rejections cannot be made based on MWBE participation; however, the RECIPIENT is encouraged to take the following actions, when possible, in any procurement under this Agreement:
 - a) Include qualified minority and women's businesses on solicitation lists whenever they are potential sources of goods or services.
 - b) Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.
 - c) Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.
 - d) Use the services and assistance of the Washington State Office of Minority and Women's Business Enterprises (OMWBE) (866-208-1064) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.

18. ORDER OF PRECEDENCE

In the event of inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) applicable federal and state statutes and regulations; (b) The Agreement; (c) Scope of Work; (d) Special Terms and Conditions; (e) Any provisions or terms incorporated herein by reference, including the "Administrative Requirements for Recipients of Ecology Grants and Loans"; (f) Ecology Funding Program Guidelines; and (g) General Terms and Conditions.

19. PRESENTATION AND PROMOTIONAL MATERIALS

ECOLOGY reserves the right to approve RECIPIENT's communication documents and materials related to the fulfillment of this Agreement:

- a) If requested, RECIPIENT shall provide a draft copy to ECOLOGY for review and approval ten (10) business days prior to production and distribution.
- b) RECIPIENT shall include time for ECOLOGY's review and approval process in their project timeline.
- c) If requested, RECIPIENT shall provide ECOLOGY two (2) final copies and an electronic copy of any tangible products developed.

Copies include any printed materials, and all tangible products developed such as brochures, manuals, pamphlets, videos, audio tapes, CDs, curriculum, posters, media announcements, or gadgets with a message, such as a refrigerator magnet, and any online communications, such as web pages, blogs, and twitter campaigns. If it is not practical to provide a copy, then the RECIPIENT shall provide a description (photographs, drawings, printouts, etc.) that best represents the item.

Any communications intended for public distribution that uses ECOLOGY's logo shall comply with ECOLOGY's graphic requirements and any additional requirements specified in this Agreement. Before the use of ECOLOGY's logo contact ECOLOGY for guidelines.

RECIPIENT shall acknowledge in the communications that funding was provided by ECOLOGY.

20. PROGRESS REPORTING

- a) RECIPIENT must satisfactorily demonstrate the timely use of funds by submitting payment requests and progress reports to ECOLOGY. ECOLOGY reserves the right to amend or terminate this Agreement if the RECIPIENT does not document timely use of funds.
- b) RECIPIENT must submit a progress report with each payment request. Payment requests will not be processed without a progress report. ECOLOGY will define the elements and frequency of progress reports.
- c) RECIPIENT shall use ECOLOGY's provided progress report format.
- d) Quarterly progress reports will cover the periods from January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Reports shall be submitted within thirty (30) days after the end of the quarter being reported.
- e) RECIPIENT must submit within thirty (30) days of the expiration date of the project, unless an extension has been approved by ECOLOGY, all financial, performance, and other reports required by the agreement and funding program guidelines. RECIPIENT shall use the ECOLOGY provided closeout report format.

21. PROPERTY RIGHTS

- a) Copyrights and Patents. When the RECIPIENT creates any copyrightable materials or invents any patentable property under this Agreement, the RECIPIENT may copyright or patent the same but ECOLOGY retains a royalty free, nonexclusive, and irrevocable license to reproduce, publish, recover, or otherwise use the material(s) or property, and to authorize others to use the same for federal, state, or local government purposes.
- b) Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish ECOLOGY information; present papers, lectures, or seminars involving information supplied by ECOLOGY; or use logos, reports, maps, or other data in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to ECOLOGY.
- c) Presentation and Promotional Materials. ECOLOGY shall have the right to use or reproduce any printed or graphic materials produced in fulfillment of this Agreement, in any manner ECOLOGY deems appropriate. ECOLOGY shall acknowledge the RECIPIENT as the sole copyright owner in every use or reproduction of the materials.
- d) Tangible Property Rights. ECOLOGY's current edition of "Administrative Requirements for Recipients of Ecology Grants and Loans," shall control the use and disposition of all real and personal property purchased wholly or in part with funds

furnished by ECOLOGY in the absence of state and federal statutes, regulations, or policies to the contrary, or upon specific instructions with respect thereto in this Agreement.

- e) Personal Property Furnished by ECOLOGY. When ECOLOGY provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to ECOLOGY prior to final payment by ECOLOGY. If said property is lost, stolen, or damaged while in the RECIPIENT's possession, then ECOLOGY shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.
- f) Acquisition Projects. The following provisions shall apply if the project covered by this Agreement includes funds for the acquisition of land or facilities:
 - 1. RECIPIENT shall establish that the cost is fair value and reasonable prior to disbursement of funds provided for in this Agreement.
 - 2. RECIPIENT shall provide satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this Agreement. Such evidence may include title insurance policies, Torrens certificates, or abstracts, and attorney's opinions establishing that the land is free from any impediment, lien, or claim which would impair the uses intended by this Agreement.
- g) Conversions. Regardless of the Agreement expiration date, the RECIPIENT shall not at any time convert any equipment, property, or facility acquired or developed under this Agreement to uses other than those for which assistance was originally approved without prior written approval of ECOLOGY. Such approval may be conditioned upon payment to ECOLOGY of that portion of the proceeds of the sale, lease, or other conversion or encumbrance which monies granted pursuant to this Agreement bear to the total acquisition, purchase, or construction costs of such property.

22. RECORDS, AUDITS, AND INSPECTIONS

RECIPIENT shall maintain complete program and financial records relating to this Agreement, including any engineering documentation and field inspection reports of all construction work accomplished.

All records shall:

- a) Be kept in a manner which provides an audit trail for all expenditures.
- b) Be kept in a common file to facilitate audits and inspections.
- c) Clearly indicate total receipts and expenditures related to this Agreement.
- d) Be open for audit or inspection by ECOLOGY, or by any duly authorized audit representative of the State of Washington, for a period of at least three (3) years after the final grant payment or loan repayment, or any dispute resolution hereunder.

RECIPIENT shall provide clarification and make necessary adjustments if any audits or inspections identify discrepancies in the records.

ECOLOGY reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state has been properly invoiced. Any remedies and penalties allowed by law to recover monies determined owed will be enforced. Repetitive instances of incorrect invoicing or inadequate records may be considered cause for termination.

All work performed under this Agreement and any property and equipment purchased shall be made available to ECOLOGY and to any authorized state, federal or local representative for inspection at any time during the course of this Agreement and for at least three (3) years following grant or loan termination or dispute resolution hereunder.

RECIPIENT shall provide right of access to ECOLOGY, or any other authorized representative, at all reasonable times, in order to monitor and evaluate performance, compliance, and any other conditions under this Agreement.

23. RECOVERY OF FUNDS

The right of the RECIPIENT to retain monies received as reimbursement payments is contingent upon satisfactory performance of this Agreement and completion of the work described in the Scope of Work.

All payments to the RECIPIENT are subject to approval and audit by ECOLOGY, and any unauthorized expenditure(s) or unallowable cost charged to this Agreement shall be refunded to ECOLOGY by the RECIPIENT.

RECIPIENT shall refund to ECOLOGY the full amount of any erroneous payment or overpayment under this Agreement.

RECIPIENT shall refund by check payable to ECOLOGY the amount of any such reduction of payments or repayments within thirty (30) days of a written notice. Interest will accrue at the rate of twelve percent (12%) per year from the time ECOLOGY demands repayment of funds.

Any property acquired under this Agreement, at the option of ECOLOGY, may become ECOLOGY's property and the RECIPIENT's liability to repay monies will be reduced by an amount reflecting the fair value of such property.

24. SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, and to this end the provisions of this Agreement are declared to be severable.

25. STATE ENVIRONMENTAL POLICY ACT (SEPA)

RECIPIENT must demonstrate to ECOLOGY's satisfaction that compliance with the requirements of the State Environmental Policy Act (Chapter 43.21C RCW and Chapter 197-11 WAC) have been or will be met. Any reimbursements are subject to this provision.

26. SUSPENSION

When in the best interest of ECOLOGY, ECOLOGY may at any time, and without cause, suspend this Agreement or any portion thereof for a temporary period by written notice from ECOLOGY to the RECIPIENT. RECIPIENT shall resume performance on the next business day following the suspension period unless another day is specified by ECOLOGY.

27. SUSTAINABLE PRACTICES

In order to sustain Washington's natural resources and ecosystems, the RECIPIENT is fully encouraged to implement sustainable practices and to purchase environmentally preferable products under this Agreement.

- a) Sustainable practices may include such activities as: use of clean energy, use of double-sided printing, hosting low impact meetings, and setting up recycling and composting programs.
- b) Purchasing may include such items as: sustainably produced products and services, EPEAT registered computers and imaging equipment, independently certified green cleaning products, remanufactured toner cartridges, products with reduced packaging, office products that are refillable, rechargeable, and recyclable, 100% post-consumer recycled paper, and toxic free products.

For more suggestions visit ECOLOGY's web page, Green Purchasing, <https://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Sustainable-purchasing>.

28. TERMINATION

- a) For Cause
 - ECOLOGY may terminate for cause this Agreement with a seven (7) calendar day prior written notification to the RECIPIENT, at the sole discretion of ECOLOGY, for failing to perform an Agreement requirement or for a material breach of any term or condition. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.
 - Failure to Commence Work. ECOLOGY reserves the right to terminate this Agreement if RECIPIENT fails to commence work on the project funded within four (4) months after the effective date of this Agreement, or by any date mutually agreed upon in writing for commencement of work, or the time period defined within the Scope of Work.

- Non-Performance. The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance by the RECIPIENT of all of its obligations under this Agreement. In the event the RECIPIENT unjustifiably fails, in the opinion of ECOLOGY, to perform any obligation required of it by this Agreement, ECOLOGY may refuse to pay any further funds, terminate in whole or in part this Agreement, and exercise any other rights under this Agreement.
- Despite the above, the RECIPIENT shall not be relieved of any liability to ECOLOGY for damages sustained by ECOLOGY and the State of Washington because of any breach of this Agreement by the RECIPIENT. ECOLOGY may withhold payments for the purpose of setoff until such time as the exact amount of damages due ECOLOGY from the RECIPIENT is determined.

b) For Convenience

- ECOLOGY may terminate for convenience this Agreement, in whole or in part, for any reason when it is the best interest of ECOLOGY, with a thirty (30) calendar day prior written notification to the RECIPIENT, except as noted below. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.
- Non-Allocation of Funds. 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 the completion or expiration date of this 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. ECOLOGY may exercise any of these options with no notification or restrictions, although ECOLOGY will make a reasonable attempt to provide notice.
- In the event of termination or suspension, ECOLOGY will reimburse eligible costs incurred by the RECIPIENT through the effective date of termination or suspension. Reimbursed costs must be agreed to by ECOLOGY and the RECIPIENT. In no event shall ECOLOGY's reimbursement exceed ECOLOGY's total responsibility under the agreement and any amendments.
- If payments have been discontinued by ECOLOGY due to unavailable funds, the RECIPIENT shall not be obligated to repay monies which had been paid to the RECIPIENT prior to such termination.
- RECIPIENT's obligation to continue or complete the work described in this Agreement shall be contingent upon availability of funds by the RECIPIENT's governing body.

c) By Mutual Agreement

- ECOLOGY and the RECIPIENT may terminate this Agreement, in whole or in part, at any time, by mutual written agreement.

In Event of Termination

All finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, reports or other materials prepared by the RECIPIENT under this Agreement, at the option of ECOLOGY, will become property of ECOLOGY and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Nothing contained herein shall preclude ECOLOGY from demanding repayment of all funds paid to the RECIPIENT in accordance with Recovery of Funds, identified herein.

29. THIRD PARTY BENEFICIARY

RECIPIENT shall ensure that in all subcontracts entered into by the RECIPIENT pursuant to this Agreement, the state of Washington is named as an express third party beneficiary of such subcontracts with full rights as such.

30. WAIVER

Waiver of a default or breach of any provision of this Agreement is not a waiver of any subsequent default or breach, and will not be construed as a modification of the terms of this Agreement unless stated as such in writing by the authorized representative of ECOLOGY.