



DEPARTMENT OF  
**ECOLOGY**  
State of Washington

## **Remedial Action Grants for Local Governments**

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*2018–2021 Guidance*

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April 2020 revision note: in Section 1.7 on p. 13, "below the mean income" has been removed.

Ecology currently identifies a highly impacted community as one where the population of the census tract containing the Site is over the 80th percentile in one or more of five areas:

- Low income (~~below the mean income~~)
- (etc.)

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# **Remedial Action Grants for Local Governments**

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*2018-2021 Guidance*

Toxics Cleanup Program

Washington State Department of Ecology

Olympia, Washington

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- Figure 9-1 Pete Kmet and Mary O’Herron, Department of Ecology

## Acronyms & Abbreviations

Acronym or Abbreviation	Definition
AMR	Average Market Rate
ASTM	American Society for Testing Materials
CAP	Cleanup Action Plan
DNR	Washington State Department of Natural Resources
EAGL	Ecology Administration of Grants and Loans
EIM	Environmental Information Management
HB 2072	House Bill 2072
IPG	Integrated Planning Grant
ISIS	Integrated Site Information System
MCL	Maximum Contaminant Level
MTCA	Model Toxics Control Act
NFA	No Further Action
NRDA	Natural Resource Damage Assessment
NRD	Natural Resource Damage
PLP	Potentially Liable Person (MTCA term)
PRP	Potentially Responsible Party (Federal Cleanup Law term)
RCW	Revised Code of Washington (Statute)
SAW	Secure Access Washington
SB 5296	Senate Bill 5296
TCP	Ecology's Toxics Cleanup Program
VCP	Voluntary Cleanup Program
VIN	Vehicle Identification Number
WAC	Washington Administrative Code (Rule)

## Executive Summary

The Remedial Action Grant program helps local governments with the costs of investigating and cleaning up facilities that are contaminated with hazardous substances, and provides funding to help local governments plan for property reuse in conjunction with, or as a precursor to, cleanup under Integrated Planning Grants.

This *Remedial Action Grants for Local Governments: 2018-2021 Guidance* (hereafter referred to as “Guidance”) provides information about remedial action grants and loans, requirements and processes. This Guidance was updated in September 2019 and is applicable to all remedial action grant and loan agreements. All grant and loan Applicants and Recipients are responsible for reading and understanding this Guidance before entering into a Remedial Action grant or loan agreement with Ecology.

The updated Guidance includes the following changes to the program:

- Changed how Ecology determines whether a community is highly impacted when considering environmental justice (Section 1.7).
- Incorporated the new statutory requirement that Ecology “may not award a grant or loan for a remedial action unless the local government has obtained all of the required permits for the action within one year of the effective date of the enacted budget.” This requirement was enacted by the Legislature in 2019 as part of Engrossed Substitute Senate Bill (ESSB) 5993 (Section 1.10).
- For Integrated Planning Grants, established an ongoing solicitation process and changed how applications are evaluated (Sections 5.3 through 5.6).
- For Independent Remedial Action Grants, added requirement that Applicants must complete a cultural resources consultation during their independent cleanup if they apply to enter the Voluntary Cleanup Program on or after January 1, 2020 (Section 7.1).
- For Independent Remedial Action Grants, continuous reimbursement grants are not being offered during the 2019-21 biennium (Section 7.2).
- For Independent Remedial Action Grants, established an ongoing solicitation process and changed how applications are evaluated (Sections 7.3 through 7.8).
- For Integrated Planning Grants and Independent Remedial Action Grants, eliminated the pending plan requirement (Section 11.2).
- Updated the list of economically disadvantaged counties, cities, and towns eligible for reduced local match, as of July 1, 2019 (Appendix B).

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# Chapter 1: Introduction

## 1.1 Purpose and Applicability

This *Remedial Action Grants for Local Governments: 2018-2021 Guidance* (Guidance) is intended to help local governments understand the Department of Ecology's (Ecology) administrative and fiscal policies and procedures for remedial action grants. The Guidance was updated in September 2019 and applies to all remedial action grants and loans<sup>1</sup>. The updated Guidance includes the following changes to the program:

- Changed how Ecology determines whether a community is highly impacted when considering environmental justice (Section 1.7).
- Incorporated the new statutory requirement that Ecology “may not award a grant or loan for a remedial action unless the local government has obtained all of the required permits for the action within one year of the effective date of the enacted budget.” This requirement was enacted by the Legislature in 2019 as part of Engrossed Substitute Senate Bill (ESSB) 5993 (Section 1.10).
- For Integrated Planning Grants, established an ongoing solicitation process and changed how applications are evaluated (Sections 5.3 through 5.6).
- For Independent Remedial Action Grants, added requirement that Applicants must complete a cultural resources consultation during their independent cleanup if they apply to enter the Voluntary Cleanup Program on or after January 1, 2020 (Section 7.1).
- For Independent Remedial Action Grants, continuous reimbursement grants are not being offered during the 2019-21 biennium (Section 7.2).
- For Independent Remedial Action Grants, established an ongoing solicitation process and changed how applications are evaluated (Sections 7.3 through 7.8).
- For Integrated Planning Grants and Independent Remedial Action Grants, eliminated the spending plan requirement (Section 11.2).
- Updated the list of economically disadvantaged counties, cities, and towns eligible for reduced local match, as of July 1, 2019 (Appendix B).

The governing rule for remedial action grants, Chapter 173-322A WAC, Remedial Action Grants and Loans, is also applicable to these agreements. The definitions of terms used in this Guidance can be found in that rule and in Chapter 173-340 WAC, the Model Toxics Control Act Cleanup Regulation, at <http://apps.leg.wa.gov/WAC/default.aspx?cite=173-340-200>.

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<sup>1</sup> When the term “grant” is used in this Guidance, unless the context otherwise requires, it generally applies to both grants and loans.

All grant applicants and recipients<sup>2</sup> should read and understand this Guidance, the remedial action grant rules, and the applicable version of Ecology’s “Yellow Book”, the *Administrative Requirements for Recipients of Ecology Grants and Loans Managed in EAGL*. (The applicable version is either at <https://fortress.wa.gov/ecy/publications/SummaryPages/1701004.html> or the one identified in the general terms and conditions of your grant or loan agreement.)

Applicants and grant recipients are responsible for understanding the scope of work in their agreement, program requirements, cost eligibility, and any general and special terms and conditions in their agreements or prospective agreements.

This Guidance is intended to provide a summary of the rule requirements for remedial action grants and provide an explanation of those requirements. If any provisions in this Guidance are found to be in conflict with the rule language in Chapter 173-340 WAC or Chapter 173-322A WAC, the rule language governs.

## 1.2 Program History

In 1988, Washington voters passed Initiative 97, known as the Model Toxics Control Act (MTCA). This was subsequently codified as Chapter 70.105D RCW. The Act authorizes remedial action grants and designates them top priority among grants funded under the Act.

Funds for grants and loans come from a tax on the first possession of certain hazardous substances in Washington. The Act, as amended by Engrossed Substitute Senate Bill 5993 (ESSB 5993) in 2019, directs a portion of the revenue from the Hazardous Substance Tax to the Model Toxics Control Capital Account, which can be used by Ecology for remedial action grants and loans to local governments. The Act also directs Ecology to “adopt rules for grant issuance and performance.”

In May 1990, the state adopted Chapter 173-322 WAC, Remedial Action Grants. This rule created the program described in this Guidance. Ecology has since amended this rule several times:

- Added Safe Drinking Water Action Grants (1993);
- Added new grants and amended existing grants to improve their operation (2005);
- Amendments to improve the usability of Oversight Remedial Action Loans (2007).

The passage of SB 5296 and HB 2072 in the 2013 legislative session made numerous changes to the statutes that govern remedial action grants. As a result, Ecology rescinded Chapter 173-322 WAC and replaced it with Chapter 173-322A WAC.

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<sup>2</sup> As used in this Guidance, the term “Applicant” applies before receipt of the grant, and “Recipient” applies after the grant has been awarded.



## 1.3 Categories of Grants

There are several categories of remedial action grants. They are:

- [Oversight Remedial Action Grants](#) – These grants help pay for local governments’ cleanup<sup>3</sup> of contaminated sites<sup>4</sup> where the work is being conducted under an enforcement order, agreed order, or consent decree issued under Chapter 70.105D RCW (Model Toxics Control Act or MTCA). Cleanups conducted under an order or decree issued by EPA under the federal cleanup law are also eligible for Oversight Remedial Action Grants.
- [Extended Grant Agreements](#) – Extended Grant Agreements are a subset of Oversight Remedial Action Grants. Extended Grant Agreements can be provided for cleanups that will cost more than \$20 million and the cleanup will extend over several years. These agreements can provide more certainty that grant funds will be available in future years. (See Section 6.8 for more information).
- [Oversight Remedial Action Loans](#) – These are intended to provide local governments with access to low interest loans to help fulfill their match requirement for Oversight Remedial Action Grants.
- [Independent Remedial Action Grants](#) (IRAG) – These grants are offered at the end of a project to help to offset some of the expense involved in an independent remedial action when a local government conducts a cleanup that is reviewed under Ecology’s Voluntary Cleanup Program (VCP).
- [Safe Drinking Water Action Grants](#) – These grants help local governments provide safe drinking water to areas where a site has contaminated drinking water.
- [Area-wide Groundwater Investigation Grants](#) – These grants enable local governments to facilitate redevelopment within their jurisdiction by conducting a study of the groundwater in a limited geographic area that has groundwater contamination caused by multiple sites.
- [Integrated Planning Grants](#) (IPG) – These grants provide opportunities for local governments to develop an integrated plan for cleanup and future land use of a contaminated site or group of sites.
- [Site Assessment Grants](#) – This grant program has been discontinued because of a lack of stable funding in the 2015-17 and 2017-19 biennia.

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<sup>3</sup> As used in this Guidance, the term “cleanup” means the same as “remedial action” and includes both investigations and cleanup actions.

<sup>4</sup> As used in this Guidance, the terms “contaminated site” and “site” means the same as “hazardous waste site” under WAC 173-322A.

- Methamphetamine Lab Assessment and Cleanup Action Grants – Funding for cleanup of a local government-owned meth lab site may be provided through an Independent Remedial Action Grant. Remedial Action Grant funds may not be used to cleanup private property, or test private or public housing or businesses for drug use residuals.
- Derelict Vessel Grants – The Toxics Cleanup Program is not currently providing funding for Derelict Vessels. The Department of Natural Resources (DNR) has a derelict vessel removal and disposal grant program. Although Ecology’s Derelict Vessel Grants are no longer offered, when insufficient funding is available through DNR’s program, Ecology may provide funding to local governments to remove hazardous substances from derelict vessels under an Independent or Oversight Remedial Action Grant. Remedial action grant funds cannot be used to remove or scrap a derelict vessel. For more information on the Department of Natural Resource Derelict Vessel Removal Program, visit <https://www.dnr.wa.gov/programs-and-services/aquatics/derelict-vessels/derelict-vessel-inventory-and-funding>, by email at [dvrp@dnr.wa.gov](mailto:dvrp@dnr.wa.gov), or call 360-902-1574.

## 1.4 How Do I Apply for a Remedial Action Grant?

RCW 70.105D.030(4) requires Ecology to submit to the legislature a ten-year financing report for remedial action funding needs under MTCA. This report, submitted by September 20<sup>th</sup> of each even-numbered year, provides the foundation for Ecology’s biennial budget for cleanups, including remedial action grants.

In the winter of each even-numbered year, Ecology solicits potential grant projects from local governments. These projects are then ranked using the criteria in the rule and this Guidance and assembled into a prioritized funding list. For a project to be considered for inclusion in Ecology’s biennial budget, it must be in this ten-year report. Ecology summarizes IPGs, IRAGs, Area-wide Groundwater Investigation Grants, and Safe Drinking Water Grants each as a grant category for the ten-year report. IPGs and IRAGs are solicited on an ongoing basis throughout the biennium (see section 5.3 and 7.3 respectively for more information).

To ensure notification during the solicitation process, local governments should be consulting with the appropriate Regional Office contact<sup>5</sup> to express their interest in applying for a grant as soon as they anticipate incurring future contaminated site investigation or cleanup expenses.

To complete the solicitation process, applicants will be directed to access a specific biennial funding opportunity in EAGL and complete a grant application. This will include information about the project and funding needs. Ecology will evaluate the applications and develop a budget request to the Governor.

Once the budget is enacted, Applicants will be notified by Ecology if their projects have been funded. Successful applicants will then work with an Ecology grant manager to finish the application process by providing any additional information needed to complete the grant.

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<sup>5</sup> See contacts listed under each grant later in this Guidance.

This new application process will be implemented for the first time for the 2019-2021 biennium. The solicitation will begin in February 2018 using this new remedial action grant solicitation and application process.

To apply for a remedial action grant, you will need to first establish an online account to login with the state system and then you need an EAGL account set up with Ecology.

To gain access to the EAGL system, Applicants must first register through Secure Access Washington (SAW). Once a SAW account has been set up, you can login and request access to EAGL. This EAGL account approval process can take a few days and you might be contacted by an Ecology representative to complete your account. Once the EAGL account has been authorized, applicants and grant recipients can login and use EAGL to apply for and manage their grants. Each EAGL user within a recipient organization needs their own SAW and EAGL account. You may not share accounts.

Create a SAW account at <https://secureaccess.wa.gov/ecy/eagl>. The instructions are easy to follow.

For video tutorials on creating SAW and EAGL accounts, see [Ecology's EAGL YouTube playlist](#)

For more information on the EAGL system, see <https://ecology.wa.gov/About-us/How-we-operate/Grants-loans>. For assistance with EAGL or an application, contact one of the following Ecology Grant Financial Managers:

- Dan Koroma: 360-407-7187 or [Dan.Koroma@ecy.wa.gov](mailto:Dan.Koroma@ecy.wa.gov).
- Lydia Lindwall: 360-407-6210 or [Lydia.Lindwall@ecy.wa.gov](mailto:Lydia.Lindwall@ecy.wa.gov).

**Table 1-1:** Remedial Action Grants and Loans at a Glance.

Type of Grant	Base Funding	Additional Funding			Funding Limit (total eligible cost)
		Economic Disadvantage (Up to 25%)	Innovative Technology (Up to 15%)	Reduced Match (Up to 90%)	
Integrated Planning Grants	Up to 100%	--	--	--	\$200,000 for single site; \$300,000 for multiple sites
Oversight Grants	Up to 50%	YES	YES	YES	None
Extended Grants (b)	Up to 50%	NO	NO	NO	None
Independent Remedial Action Grants	Up to 50%	YES	NO	YES	\$600,000
Area-wide Groundwater Investigation Grants	Up to 100%	--	--	--	\$500,000
Safe Drinking Water Action Grants	Up to 90%	NO	NO	NO	None
<b>Oversight Remedial Action Loans</b>					
Type of Loan	Amount	Loan Duration	Interest Rate (d)	Deferred Payment	Funding Limit
Standard Loan	Up to Grant Match	≤ 5 years	30% AMR	No	None
		5 to 20 years	60% AMR		
Financial Hardship Loan	Up to Grant Match	Site-Specific	Site-Specific	Yes	None

a. For sites costing \$20 million or more and extending over more than one biennium.

b. Total eligible project costs for Reduced Match Grants are limited to \$5 million.

c. AMR = Average market rate for tax exempt municipal bonds.

## 1.5 Ecology's Budget and the Ten-Year Plan

The state of Washington operates on a two-year budget called a biennial budget. This two-year budget cycle starts on July 1<sup>st</sup> of each odd-numbered year and ends two years later on June 30<sup>th</sup> of the next odd-numbered year. For example, the budget for July 1, 2019 through June 30, 2021, is called the 2019-2021 biennial budget. Any one-year period from July 1<sup>st</sup> through June 30<sup>th</sup> of the following year is called a state fiscal year.

When MTCA was passed by the voters as Initiative 97 in 1988, it created a tax on the first possession of hazardous substances (Hazardous Substance Tax or HST). Moneys generated by this tax were deposited into three accounts (collectively referred to as the MTCA accounts). In 2019, Engrossed Substitute Senate Bill 5993 (ESSB 5993) made significant changes to both the HST and the structure of the MTCA accounts.<sup>6</sup>

First, the bill eliminated the three old accounts and replaced them with the following three new accounts:

- Model Toxics Control Operating Account.
- Model Toxics Control Capital Account.
- Model Toxics Control Stormwater Account.

Second, the bill changed the HST structure for liquid petroleum products from a value-based to a volume-based tax. Starting July 1, 2019, the HST rate on liquid petroleum products is \$1.09 per barrel, and will increase annually by the Implicit Price Deflator for non-residential structures starting July 1, 2020 (Fiscal Year 2021). The HST applied to non-liquid petroleum products remains taxed at 7/10<sup>th</sup> of 1% of the wholesale value of the substance.

The first \$50 million per biennium of the liquid petroleum tax revenue is deposited into the Motor Vehicle Fund to be used exclusively for transportation stormwater purposes until a new \$2 billion “additive transportation funding act” is passed by the Legislature. The remainder of the liquid petroleum tax revenue is deposited into the new MTCA accounts established as follows:

- 60% into the Model Toxics Control Operating Account.
- 25% into the Model Toxics Control Capital Account.
- 15% into the Model Toxics Control Stormwater Account.

The budget includes both an operating budget and a capital budget. The operating budget primarily addresses ongoing operating costs such as Ecology's personnel, facility, and contract expenses. For Ecology's Toxic Cleanup Program, the majority of these expenses are funded out of the Model Toxics Control Operating Account with additional funding from a variety of other accounts and federal grants. The capital budget primarily addresses one-time expenditures such as construction projects. The Remedial Action Grant program is primarily funded by the capital budget and relies on revenue deposited in the Model Toxics Control Capital Account.

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<sup>6</sup> For more information about ESSB 5993 and the bill text, see <https://app.leg.wa.gov/billsummary?BillNumber=5993&Initiative=false&Year=2019>.

The State Legislature meets from mid-January to mid-April each odd numbered year to establish the budget for the upcoming biennium. Prior to this, state agencies must develop their budgets for the Governor's and legislature's consideration. For this reason, solicitation of projects from local governments begins early, one year before the legislature meets.

RCW 70.105D.030(4) requires Ecology to submit to the legislature a ten year financing report for remedial action funding needs under MTCA. The report is to be submitted by September 20<sup>th</sup> of each even-numbered year and is developed in coordination with local governments with cleanup obligations. It provides an estimate of the funds needed to clean up sites known to Ecology and identifies cleanups that are likely to occur within the next ten years. Ecology may periodically update the ten-year plan as more sites needing funding are identified and cost estimates are refined.

The report, along with other information, is used to develop Ecology's biennial budget recommendations for cleanups, including remedial action grants. Typically, only a subset of sites that need funds are included in the biennial budget, as Ecology's budget recommendations must be within available resources.

In general, the schedule for Ecology's budget process for the awarding of remedial action grants is as follows. The actual timeframe may vary somewhat depending on whether the legislature can reach agreement on a budget during its regular 105-day session and on direction from the Governor.

## **Biennial Budget Process – Even Numbered Years**

**Ongoing Solicitation:** Ecology accepts Integrated Planning Grants (IPGs) and Independent Remedial Action Grants (IRAGs) on an ongoing basis throughout the biennium. Please see Chapters 5 and 7 respectively for more information.

**January – March:** Ecology solicits projected ten-year grant needs from local governments. Applications with these projections must be submitted by the date identified in the solicitation to be considered for inclusion in Ecology's budget.

**March – May:** Ecology evaluates applications to prioritize projects for funding using the information provided by local governments and the criteria found in the rule and Guidance. This includes consideration of which previously-funded projects should be carried over to the new biennium when a grant has not been fully expended and prior grant performance. Ecology prepares the ten-year financing report for the legislature.

**June:** Budget instructions from the Governor's Office of Financial Management are published. These instructions set requirements and provide guidance for Ecology to develop its proposed budget.

**July – September:** Ecology's Director, in consultation with Ecology Program Managers and Senior Budget Staff, evaluates proposed budgets from the various Ecology programs and prepares Ecology's budget for submittal to the Governor's Office. Ten-year financing report is due to the legislature.

**October – December:** The budget and policy staff in the Governor’s Office of Financial Management evaluate proposed budgets from the various state agencies and prepare the Governor’s budget for submission to the legislature. Under the State Constitution, the Governor is required to submit a proposed budget to the legislature by December 20<sup>th</sup>.

## **Biennial Budget Process – Odd Numbered Years**

**January – April:** The budget is deliberated and adopted by the legislature. If an agreement on the budget cannot be reached during the normal legislative session, the Governor may call the legislature back into one or more 30-day Special Sessions until an agreement is reached.

**May – June:** The Office of Financial Management instructs each agency on its operating and capital budgets as passed by the legislature. Ecology’s Director, in consultation with Ecology Program Managers and Senior Budget Staff, provides each program its authorized budget and spending rate.

**July – August:** Ecology’s Toxics Cleanup Program prepares a monthly spending plan (called “allotments”). These allotments reflect the work that can be completed within available funds and may require adjustments to work plans, contracts, staffing levels and grant amounts. Ecology then notifies local governments which projects were funded by the legislature. Recipients prepare and submit a detailed scope of work, budget, and schedule to implement the grant. Ecology’s Grant Financial Managers use this information to prepare grant agreements. During the course of the grant, recipients complete spending plans (if required for the grant) to identify when they will bill Ecology for their eligible costs.

### **Remainder of Biennium**

Ecology’s Toxics Cleanup Program Management Team<sup>7</sup> meets routinely to review expenditures to date and projected expenditures at grant sites. If unallocated funds are available, or grant-funded projects become significantly delayed, these unspent funds may be allotted to other priority projects. New projects, those Ecology learned of since the ten-year plan was initially prepared, may be factored into this process.

Ecology also begins preparation of the next biennium’s budget, following the process described above.

### **Supplemental Budget**

Halfway through the biennium, the legislature makes a mid-biennia adjustment to the budget based on updated revenue and expense projections. This occurs during a 60-day regular legislative session in odd numbered years and is called the “supplemental budget.” If less funds are available than were projected for the biennial budget, adjustments are made. This may include reducing or slowing down grant reimbursements, especially at sites where work has yet to begin.

If revenues to the MTCA accounts have increased and additional funds are available for remedial action grants, Ecology could fund additional projects based on the priority list previously

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<sup>7</sup> Ecology’s Toxics Cleanup Program Management Team consists of the Program Manager, Section Managers from Headquarters and each of Ecology’s four Regional Offices, and senior budget and policy support staff.

approved by the legislature and newly discovered high priority projects that have been added to the ten-year plan.

## 1.6 Availability of Funding

Grants are contingent on appropriations made by the legislature and on cash being available in the MTCA accounts. Projects are typically funded for the work that can be completed within a biennium. Although the priority is to fund ongoing projects, the fact that a local government is eligible or has received funding for initial phases of remedial action is no guarantee of continued funding.



The obligation of Ecology to make payments is contingent on the availability of funds, which is approved by the legislature. When an agreement crosses over state fiscal biennia, funds not yet spent must be included in Ecology's budget request for the next biennium and be re-appropriated by the legislature.

When substantial progress has not been made on a project in the biennium the grant is awarded, Ecology may decide to not request that the legislature carry unspent grant funds forward in the next biennium. Even if the project is included in Ecology's budget, each time a biennial funding line is crossed, there is a risk that funds will not be re-appropriated. If this occurs, agreements that fail to receive funding would be closed and any unspent funds would be returned to the MTCA accounts.

The legislature has directed Ecology to manage the MTCA accounts on a cash basis to reduce carryover between biennia and the need for re-appropriation. This means that future grants will only be provided for work that can be completed in the biennium for which funds are requested. If funds are left in an agreement at the end of a biennium and those carryover of funds are needed, any additional funding for future biennia may receive a lower priority for funding until the carryover funds are spent.

## 1.7 Environmental Equity/Justice

Providing equitable environmental protection to all residents in our state is important to Ecology and the state of Washington. This is consistent with MTCA's key policy that "Each person has a fundamental and inalienable right to a healthful environment, and each person has a responsibility to preserve and enhance that right."<sup>8</sup>

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<sup>8</sup> RCW 70.105D.010(1)



This principle is often referred to as “environmental equity” or “environmental justice.” Ecology defines environmental equity (justice) as:

*The proportionate and equitable distribution of environmental benefits and risks among diverse economic and cultural communities. It ensures that the policies, activities, and the responses of government do not differently impact diverse social and economic groups. Environmental equity promotes a safe and healthy environment for all people.<sup>9</sup>*

Ecology Policy 1-12 encourages staff to consider environmental justice in our work. The remedial action grant rule aligns with MTCA and this policy by including consideration of “highly impacted communities” when prioritizing grant applications. A highly impacted community is defined in WAC 173-322A-100(24) “... a community that the department has determined is likely to bear a disproportionate burden of public health risks from environmental pollution.”

Ecology currently identifies a highly impacted community as one where the population of the census tract containing the Site is over the 80th percentile in one or more of five areas:

- Low income
- Less than a high school education
- Minority
- Under 5 years of age
- Over 65 years of age

Additionally, a Site is also considered within a highly impacted community if it is linguistically isolated. A community is linguistically isolated if more than 5% or 1,000 people within the census tract speak English “less than very well”. This approach mirrors the recommendations from the U.S. Environmental Protection Agency for including environmental justice concerns into environmental work.

The U.S. Environmental Protection Agency has other information on their environmental justice website at <https://www.epa.gov/environmentaljustice> .

More data on public health aspects of environmental justice can be found on the Washington State Department of Health’s website at <https://www.doh.wa.gov/DataandStatisticalReports/EnvironmentalHealth/WashingtonTrackingNetworkWTN/Resources/EnvironmentalJusticeIssues>.

The Washington Tracking Network is a map-based tool maintained by Department of Health to facilitate searching for and displaying health concerns that have links to environmental health, which can be accessed at <https://www.doh.wa.gov/DataandStatisticalReports/EnvironmentalHealth/WashingtonTrackingNetworkWTN>.

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<sup>9</sup> Ecology Executive Policy 1-12, available upon request.

## 1.8 Investments in Environmental Benefits

In 2001, the legislature amended RCW 70.105D.100 to require Recipients to include a description of the project's environmental benefits in their grant application. To meet this requirement, EAGL's application forms include a list of potential environmental benefits. Applicants need to identify which of these benefits apply to their project when they submit their grant application. These will be taken into consideration when evaluating applications.

## 1.9 Redevelopment Opportunity Zones (ROZ)

SB 5296, passed by the 2013 legislature and codified in RCW 70.105D.150, authorizes cities, counties and port districts to establish "redevelopment opportunity zones." In general terms, these zones are envisioned as a way to focus local governments' and Ecology's resources within a limited geographic area typically with multiple contaminated sites to accelerate cleanups in these areas so that redevelopment can occur more expeditiously. RCW 70.105D.150 specifies the requirements for establishing redevelopment opportunity zones.

Within these zones, *local governments* are authorized to:

- Create a "brownfield renewal authority" with broad powers to facilitate cleanup and redevelopment. (see RCW 70.105D.160)
- Access a "brownfield redevelopment trust fund account," created within the state's budget, which can be used to secure long-term funding for cleanup. (see RCW 70.105D.140)<sup>10</sup>

Within these zones, *Ecology* is authorized to:

- Enter into agreed orders with prospective purchasers to accelerate the study of sites with redevelopment potential.
- Enter into mixed funding settlement agreements with prospective purchasers where public funding is commensurate with a public benefit other than cleanup.
- Prioritize grants for integrated planning and area-wide groundwater remedial actions within these zones.

Local governments already have a broad array of governance and financing tools to facilitate redevelopment within their communities. Redevelopment opportunity zones and associated authorities (above) are intended to supplement, not replace, existing authorities.<sup>11</sup>

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<sup>10</sup> This account currently contains no funds. The legislature needs to appropriate funds to this account and authorize expenditures for a specific project to activate it. This could include local and private funds deposited in the account.

<sup>11</sup> For additional information, see Municipal Services and Research Center of Washington:

Community Renewal Law: <http://www.mrsc.org/subjects/econ/ed-comrenewal.aspx>

Public Corporations/Public Development Authorities: <http://www.mrsc.org/subjects/econ/ed-pda.aspx>

Washington Statutes Related to Financing Economic Development: [http://www.mrsc.org/subjects/econ/ed\\_laws.aspx](http://www.mrsc.org/subjects/econ/ed_laws.aspx)

As noted in the discussion above, some limited additional access to, and priority for, certain grants under MTCA is provided by the statute for redevelopment opportunity zones. Ecology has decided to not broaden the effect of these new authorities through rule-making at this time. This decision may be revisited in the future as additional experience is obtained.

## 1.10 Permit Requirements

Ecology may not award a grant or loan for a remedial action unless the local government has obtained all of the required permits for the action within one year of the effective date of the enacted budget. This requirement was imposed by the Legislature in 2019 as part of Engrossed Substitute Senate Bill (ESSB) 5993. See RCW 70.105D.200(5).

## 1.11 Consideration of Insurance, Contribution, and Cost Recovery Claims

During development of a budget for a site and as part of an application for a grant, the local government must identify all actual and pending potential sources of public and private cleanup financing. These sources include:

- Other grants;
- Local matching funds;
- Agreements with other public and private Potentially Liable Persons (PLPs) and Potentially Responsible Parties (PRPs) to help pay for remedial action costs;
- Insurance policies and claims made against those policies; and
- Lawsuits that have been filed to pursue a contribution claim or cost recovery claim under MTCA or the federal cleanup law.

Applicants should conduct a thorough search for other potentially liable persons and relevant insurance policies, and initiate contact with these entities to try and reduce the public's share of the cleanup costs. Ecology may condition a grant on a requirement to have exhausted all means, including litigation if appropriate to recover funds from these other sources.

### Notifying Ecology of Insurance Claims and Legal Actions

A Recipient may use proceeds from a) an insurance claim, b) a contribution claim, or c) cost recovery claim under MTCA or the federal cleanup law, to meet the grant match requirements, provided the following conditions are met:

- The project is currently funded under a grant agreement on July 1, 2014, or will be funded under a grant agreement after this date;<sup>12</sup>
- Upon application for a grant, or within thirty days of filing a lawsuit or insurance claim to recover remedial action costs at the site, Ecology must be notified of the filing;

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<sup>12</sup> Projects closed before this date are subject to the rules that were in effect at the time the grant was awarded.

- Upon application for a grant, Ecology must be notified of the total amount of monies received to date on any lawsuit or insurance claim for remedial action costs at the site. Recipients must also notify Ecology of any additional payments as part of their quarterly report; and
- Upon application for a grant, or within thirty days of any resolution of a lawsuit or claim, for remedial action costs at the site, whichever is later, the Recipient must:
  - ✓ Notify Ecology of the resolution;
  - ✓ Specify the amount of proceeds (or anticipated proceeds) received under the resolution or payment and the portion of the proceeds attributable to eligible costs; and
  - ✓ Provide Ecology with a copy of the settlement, judgment, or other document resolving the lawsuit or claim (or portion of the lawsuit or claim).

### **Allowed Use of Proceeds**

The Recipient may use the proceeds it receives from the settlement of an insurance claim, contribution claim, or cost recovery claim for the following cleanup-related costs:

- The Recipient's grant match;
- The legal costs incurred by the Recipient to pursue the claim or action;
- Remedial action costs incurred by the Recipient at the site that were not eligible to be funded under the grant such as long term operation and maintenance costs and retroactive costs; and
- With Ecology's approval, remedial action costs incurred by the Recipient at another site that was not the basis of the insurance claim, contribution claim, or cost recovery claim for remedial action costs at the site.

### **Repayment of Excess Proceeds**

When the proceeds from the settlement of all insurance claims, contribution claims, and cost recovery claims at a site exceed the allowed uses of the proceeds as described above:

- If the grant has not yet been issued, Ecology will typically reduce the amount of the grant by the excess proceeds; or
- If the grant has been issued, Ecology will typically require repayment of the grant up to the amount of the excess proceeds.

### **Reimbursement of Payments to Other Grant Recipients**

Contribution and cost recovery claim payments are not grant-eligible costs if the payments are made for remedial actions previously funded by a grant to another jurisdiction and cannot be used to reduce match requirements.

## Chapter 2: Grant Roles and Responsibilities

### 2.1 The Grant Applicant/Recipient

Grant Applicants and Recipients are responsible for managing work funded by the grant. The Applicant/Recipient is also responsible for:

- Providing a ten year cost forecast for remedial action costs and grant needs during the solicitation/application process. (This requirement does not apply to IRAG or IPG applications submitted during the ongoing solicitation).
- Completing application processes and managing the agreement, including payments through the Ecology Administration of Grants and Loans (EAGL).
- Complying with the terms and conditions of the grant agreement.
- Conducting the remedial action activity consistent with:
  - The MTCA rule;
  - The terms of the order or decree <sup>13</sup> or, in the case of an independent cleanup, consistent with the VCP Guidance and contract; and
  - The approved work plan.
- Making a conscientious effort to control costs while meeting project objectives.
- Managing the contractor procurement according to applicable federal, state, or local laws for any of the grant eligible work.
- Insuring staff and contractors comply with the state requirements for the documentation of expenditures and eligibility of costs if the Applicant/Recipient wants those costs reimbursed under the grant.
- Updating the forecasted need and quarterly spending plan as more accurate cost estimates are developed. (This requirement does not apply to IRAG or IPG applications submitted during the ongoing solicitation).
- Ensuring all sampling data is entered into Ecology’s Environmental Information Management (EIM) system.
- Notifying Ecology’s Financial & Cleanup Project Managers when:

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<sup>13</sup> The term “order” means an enforcement order or agreed order under MTCA, or an agreed order on consent under the federal cleanup law. The term “decree” means a consent decree filed in state or federal court under MTCA or the federal cleanup law.

- ✓ Project scope of work needs to be amended;
- ✓ Work schedule changes;
- ✓ Budget is exceeded or needs to be redistributed among grant tasks; or
- ✓ Circumstances at the site affect the cleanup schedule and grant expenditures.

## **2.2 The Ecology Grant Financial Manager**

Ecology's Grant Financial Manager serves as the contact person for all grant implementation issues from application to grant closeout, including but not limited to:

- Helping the Applicant/Recipient get a Secure Access Washington (SAW) account and approval to access EAGL.
- Assisting the Applicant/Recipient with the EAGL grant application process.
- Managing grants and loans through EAGL.
- Reviewing the grant application, including proposed scope of work and budget.
- Working with the Ecology Cleanup Project Manager to prepare the final grant scope of work.
- Preparing the formal grant offer.
- Reviewing changes in the grant scope of work or budget and preparing amendments.
- Providing technical assistance to the Recipient on grant management and billing issues.
- Working with the Ecology Cleanup Project Manager to make cost eligibility determinations.
- Processing and approving payment requests.
- Completing the recipient performance review during the payment request process.
- Arranging for audits and grant closeout.

## **2.3 The Ecology Cleanup Project Manager**

Ecology's Cleanup Project Manager is the primary point of contact for Recipient's site work and is primarily responsible for day-to-day project management. Key responsibilities of the Cleanup Project Manager relevant to grant management include:

- Providing assistance to an Applicant when applying for a grant.
- Providing assistance to an Applicant/Recipient for the ten-year cost forecast.

- Providing assistance to an Applicant/Recipient when preparing a draft scope of work.
- Reviewing grant applications in EAGL.
- Working with Ecology's Grant Financial Manager through EAGL to develop the grant scope of work, including the task goal statements, descriptions and expected outcomes, and deliverables.
- Providing technical assistance, guidance and direction to the Recipient on site cleanup issues.
- Conducting site inspections and documentation of work completed.
- Coordinating Ecology's review of the Recipient's submittals for compliance with the order or decree, or if an independent cleanup, for consistency with the VCP Guidance and MTCA rule.
- Reviewing payment requests and advising Ecology's Grant Financial Manager on technical adherence to the scope of work (and any deliverables) and whether the payment request should be paid. This includes verification that the Recipient has entered site data in EIM.
- Entering data into Ecology's Integrated Site Information System (ISIS) to track progress at site.
- Using EAGL to document site visits verifying grant compliance.

## **2.4 The Ecology Toxics Cleanup Program Section Manager**

An Ecology Toxics Cleanup Program Section Manager supervises Ecology's Cleanup Project Managers and is responsible for managing the staff and budget allocated to their geographic area of responsibility. With regard to remedial action grants, their role includes:

- Providing information to potential Applicants on the availability of grants.
- Coordinating ten-year plan submissions for projects within their area of responsibility.
- Working with other members of Ecology's Toxics Cleanup Program Management Team to develop the program budget, rank projects, and provide for equitable distribution of grant funds throughout the state.
- Monitoring overall progress and expenditures on grant projects, meeting quarterly with the Program Management Team to review actual and projected expenditures, and making adjustments as appropriate.

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## Chapter 3: Site Cleanup Process Overview

A key goal of the Model Toxics Control Act (MTCA) is to encourage interested parties to cooperate in identifying and cleaning up contaminated sites. There are multiple steps to cleaning up a contaminated site. The following discusses these steps as though they occurred sequentially, but steps are often combined to expedite the cleanup process, especially for independent remedial actions.

### 3.1 Phases of the Cleanup Process

#### Site Discovery

Persons who discover a contaminated site must report the site to Ecology's Toxics Cleanup Program within 90 days of discovery.<sup>14</sup>

#### Initial Investigation

Within 90 days of receiving the site discovery report, Ecology conducts an "Initial Investigation" of the site. An Initial Investigation consists of a review of readily available information on a site, as well as an inspection of the site. This is sometimes supplemented with limited sampling. Based on information gathered during this investigation, Ecology determines if the site requires additional investigation, emergency cleanup, or no further action. If further action is needed, the site is placed on Ecology's "Confirmed and Suspected Contaminated Sites List."<sup>15</sup>

#### Site Hazard Assessment

If a site needs additional evaluation after the Initial Investigation, Ecology conducts a Site Hazard Assessment. A Site Hazard Assessment is an evaluation of potential hazard from the site based on available information about the type and level of contaminants present and site characteristics. The Site Hazard Assessment evaluates the potential threats to human health and the environment, and provides a hazard ranking that is used to communicate potential harm to the public and as one factor in site prioritization.

#### Hazard Ranking

MTCA requires that Ecology rank sites according to the relative health and environmental risk of the site. Ecology worked with the former MTCA Science Advisory Board to create the Washington Ranking Method, which uses data from the Site Hazard Assessment to rank sites. Sites are ranked on a scale of one to five. A score of one represents the highest level of risk

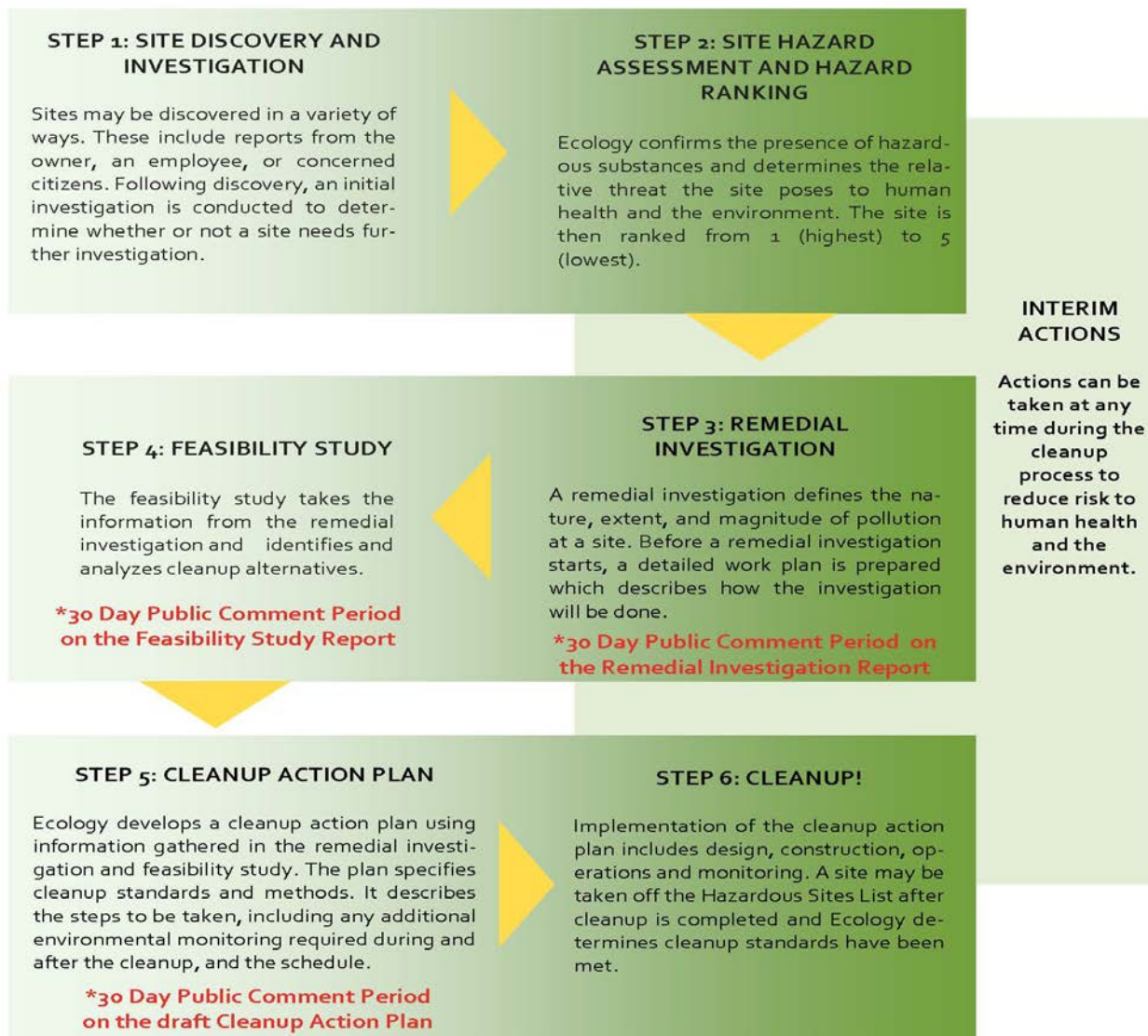
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<sup>14</sup> See RCW 70.105D.030(2)(c) and WAC 173-340-300. This is the reporting requirement under MTCA. Shorter reporting timeframes may apply if the facility is a regulated underground storage tank system or an otherwise permitted facility. Persons operating such facilities should consult the rules and permit specific to their facility. Spills must be reported immediately. If there is any doubt about reporting contamination, call Ecology. See the following website for spill reporting information: <http://www.ecy.wa.gov/programs/spills/other/reportaspill.htm>

<sup>15</sup> See <https://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Site-Register-lists-and-data>.

relative to the other sites on the list; a score of five represents the lowest relative risk. Ranked sites are placed on Ecology’s “Hazardous Sites List.”<sup>16</sup>

**Figure 3-1. Steps in the MTCA cleanup process.**



\*Comment periods can be combined when possible.

Once a site is placed on Ecology’s Hazardous Sites List, Ecology uses the site’s rank and other factors to prioritize the site for further remedial action. These subsequent actions are typically paid for by the persons responsible for the cleanup. For local governments, Ecology can provide grants to help pay for the costs of this work.

<sup>16</sup> See <https://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Site-Register-lists-and-data>.

## Remedial Investigation

A remedial investigation defines the extent and magnitude of contamination at a site and potential impacts on human health and the environment. If this work is being conducted under Ecology's oversight under an order or decree, the reports are subject to public review and comment.<sup>17</sup>

## Feasibility Study

A feasibility study identifies and evaluates the cost and benefits of cleanup alternatives. This includes an evaluation of different cleanup technologies, the amount of cleanup, and timeframe for cleanup. If this work is being conducted under Ecology's oversight under an order or decree, the reports are subject to public review and comment.<sup>20</sup> Ecology has developed 19 model remedies for addressing sites with petroleum contamination. Sites that use a model remedy do not need to conduct a feasibility study or a disproportionate cost analysis. Ecology also has the authority to waive fees for cleanups that qualify for and appropriately use a model remedy. The available options are summarized in the following documents:

- [Model Remedies for Sites with Petroleum Contaminated Soils](#) (Ecology Publication #15-09-043, 2015), and
- [Model Remedies for Sites with Petroleum Impacts to Groundwater](#) (Ecology Publication #16-09-057, 2016).

Ecology is currently evaluating if developing model remedies for other types of contamination would be beneficial.

For questions on model remedies, please contact Mark Gordon at [marg461@ecy.wa.gov](mailto:marg461@ecy.wa.gov) or 360-407-6357.

## Selection of Cleanup Action

Using information gathered during the remedial investigation and feasibility study, Ecology (if the site is under an order or decree), or the responsible party (if an independent cleanup) selects a preferred cleanup plan ("cleanup action plan" or CAP) from the alternatives developed. The plan identifies the selected cleanup alternative, and specifies cleanup standards and other requirements the site must meet. If this work is being conducted under Ecology's oversight under an order or decree, the reports are subject to public review and comment.<sup>20</sup>

## Site Cleanup

Once the cleanup action plan is developed, the engineering design and specifications are prepared, the cleanup construction commences, and monitoring is conducted to verify cleanup standards have been met at the completion of cleanup. If Ecology determines cleanup standards have been met, Ecology removes the site from the Hazardous Sites List. Some sites require

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<sup>17</sup> Public notice is not required for most independent remedial actions. See WAC 173-340-545 for public notice requirements for private rights of action.

long-term monitoring to determine the effectiveness of the cleanup. It could take from several months to several years to establish that a site is “clean.”

## **3.2 Administrative Mechanisms for Cleanups**

There are a variety of administrative mechanisms that Ecology uses for overseeing cleanups under MTCA and that can qualify a local government for a remedial action grant. The most relevant for this Guidance are below.

### **Voluntary Cleanup Program (VCP)**

Under Ecology’s Voluntary Cleanup Program, the local government submits a cleanup report and agrees to pay for Ecology’s review costs. Based on the review, Ecology either issues a letter stating that the site or property needs “No Further Action” (NFA) or identifies what additional work is needed. If an NFA letter is issued through the Voluntary Cleanup Program, the project may become eligible for an Independent Remedial Action Grant (post cleanup). There is no equivalent document under the federal cleanup law that is acceptable for independent remedial action grant purposes.

### **Consent Decree**

A consent decree is a formal legal agreement filed in state court. The cleanup work to be conducted and the terms under which it must be done are negotiated and agreed to by the local government, Ecology and the state Attorney General’s office. Consent decrees protect a local government from being sued for “contribution” by other persons who incurred cleanup expenses at the site. Consent decrees can also be used to support an insurance claim, and a private right of action against other potentially liable persons, requesting that they help pay for the cleanup. Sites cleaned up by a local government under a consent decree are eligible for Oversight Remedial Action Grants.

Consent decrees can also be used to settle the liability of prospective purchasers of contaminated property. These are persons who are not currently a potentially liable person at the site, but would like to purchase, redevelop, or reuse the property. To be eligible, the settlement must contribute substantial new resources to the cleanup of the property consistent with MTCA.

### **Agreed Order**

An agreed order is a legally binding administrative order issued by Ecology and agreed to by the local government. Agreed orders are available for remedial investigations, feasibility studies, interim actions, and final cleanups. An agreed order describes the site activities that must occur for Ecology to agree not to take enforcement action for that phase of work. As with consent decrees, they can be used to support an insurance claim, and a private right of action against other potentially liable persons. Sites cleaned up by a local government under an agreed order are eligible for Oversight Remedial Action Grants.

SB 5296 also authorized the use of agreed orders for prospective purchasers to accelerate the study of sites within redevelopment opportunity zones. While agreed orders may be used for all

remedial actions, they are more commonly used for the study phases of cleanup and other circumstances where the remedial actions do not meet the requirements of RCW 70.105D.040(4) for settlement of liability and contribution protection.

### **Enforcement Order**

Ecology is authorized under MTCA to issue an enforcement order requiring remedial actions to be taken at a site. Generally, the requirements, terms and conditions in an enforcement order are not negotiated. These orders can be used to support an insurance claim, and a private right of action against other potentially liable persons. Sites cleaned up by a local government under an enforcement order are eligible for Oversight Remedial Action Grants.

### **Cleanups Conducted under Federal Law**

In general, cleanups conducted under the federal cleanup law are eligible to apply for Oversight Remedial Action Grants. For a cleanup to be eligible for these grants, Ecology must either co-sign the federal order or decree, or acknowledge in writing that the federal order or decree is a sufficient basis to compete for funding. Ecology makes this decision after considering whether the federal cleanup fully complies with MTCA.

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## **Chapter 4: Site Assessment Grants**

The Site Assessment Grant Program has been discontinued. Ecology completed a permanent and full transition of the Site Hazard Assessment program from the local health districts back to Ecology. The funding variability and uncertainty of the Site Hazard Assessments grants during the 2015–17 and 2017–19 biennia left many local health districts with smaller budgets than planned. They cut or reassigned staff previously funded by these grants. Ecology has now assumed responsibility for performing initial investigations and site hazard assessments statewide.

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## Chapter 5: Standard Integrated Planning Grants

Ecology currently provides two different types of Integrated Planning Grants (IPGs):

- Standard IPGs for local government developers under RCW 70.105D.200(5)(d) and WAC 173-322A-310; and
- Affordable Housing IPGs for public and private affordable housing developers under RCW 70.105D.200(4)(a)(iv) and Section 3068, Chapter 413, Laws of 2019.

This document only provides guidelines on Standard IPGs. Ecology is soliciting applications for Standard IPGs throughout the 2019-21 biennium regardless of funding availability. If you are interested in Affordable Housing IPGs, please contact one of our Brownfield staff members identified in Section 5.11.

Local governments that own or are considering acquisition, cleanup and adaptive reuse of a brownfield property, or multiple properties within a defined area, may be eligible for a Standard IPG to facilitate remedial action and adaptive reuse of the property(s) following remediation. Brownfields are previously developed properties that are currently abandoned or underused because of actual or perceived historic contamination.

Adaptive reuse of a brownfield site can be a complicated undertaking that requires coordinated analysis of environmental conditions, site planning, and financial issues. Standard IPGs can support local government's efforts in conducting the key first steps in the cleanup and redevelopment process by helping pay for an integrated project plan that addresses not only cleanup, but also administrative processes and investments needed for post cleanup redevelopment of a site.

An integrated project plan coordinates site characterization and analysis of cleanup alternatives with preliminary site planning and a redevelopment strategy. This plan should outline a strategy to solve multiple problems where reuse is hindered, or perceived to be hindered, by contamination.

### 5.1 Who can receive an Integrated Planning Grant?

For Standard IPGs, a project consists of integrated planning for a single contaminated site or for multiple sites within a defined area. A project may extend over multiple biennia. To be eligible for a grant, the project must meet the following requirements:

- The Applicant must be a local government;
- The project encompasses a contaminated site regulated under MTCA, and the site is located within the jurisdiction of the Applicant;
- The Applicant must have the necessary access to complete the project or obtain such access in accordance with a schedule in the grant agreement;

- The scope of work must not be required under an order or decree; and
- Projects designed to address the restoration of Puget Sound must not be in conflict with the action agenda developed by the Puget Sound Partnership under RCW 90.71.310.

The application (proposal) and scope of work must be reviewed and approved by the Toxics Cleanup Program Regional Manager or their designee and Ecology's Grant Financial Manager before the work begins. The Recipient is responsible for any costs incurred prior to the signing of the grant agreement and the approval of any required work plans.

## 5.2 Property Ownership and Access

The local government must either have an ownership interest in the property or have a demonstrated interest<sup>18</sup> in acquiring the property or a portion of it. Ecology may enter into a grant agreement with a local government prior to the government acquiring a property or obtaining necessary access to conduct remedial actions – provided the agreement is conditioned upon the local government acquiring the property or obtaining the access in accordance with a schedule specified in the agreement. If multiple sites are covered by the agreement, this requirement applies to all sites within the scope of the agreement.

## 5.3 When may I apply for an Integrated Planning Grant?

You may apply for a Standard Integrated Planning Grant at any time. Ecology has established a separate ongoing solicitation process for IPGs because redevelopment opportunities for contaminated sites are often unanticipated and transitory.

However, before applying for a Standard IPG, you need to consult with Ecology's Brownfield staff to determine whether the project is ready and if an IPG is the best funding source. If Ecology determines that a project is not ready for funding, Ecology can provide you with guidance on how to develop an IPG-ready project. After Ecology determines your project is ready for funding, you will be provided a grant application in EAGL to complete. Please see IPG contacts in Section 5.11 to determine the appropriate Brownfield staff to contact for your region.

## 5.4 When will Ecology evaluate applications for Integrated Planning Grants?

Ecology will evaluate applications for Standard Integrated Planning Grants periodically during the biennium based on funding availability and eligible projects. Each evaluation is a separate funding cycle. Funding may become available when:

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<sup>18</sup> For example: has an option to purchase; signed a prospective purchaser agreement; has a capital facilities plan, parks plan or other planning document indicating the site is a planned location for a public facility; or, has otherwise declared its intent to locate a public facility on the site or a portion of the site. Examples of public facilities are a marine terminal and related facilities, government office, museum, community center, park, or public works maintenance facility.

- The Legislature appropriates funds for Standard IPGs in the biennial or supplemental budget.
- Funds previously allocated for a project are no longer needed. This may occur if a project is completed without spending all allocated funds or the expenditure rate for a project is slower than anticipated when the funds were allocated.

## 5.5 How will Ecology prioritize projects for Integrated Planning Grants during each funding cycle?

For projects submitted through the ongoing IPG solicitation in the 2019-21 biennium, Ecology will use a new scoring methodology to prioritize (rank) projects. Rankings will determine which projects are funded during each funding cycle. The availability of, and demand for, funding will determine if all projects can be funded during that cycle. IPG rankings only apply to the current evaluation cycle.

Ecology evaluates projects based on several criteria, which score from 0 to 3 points. Those criteria are grouped into six weighted categories. Each category is scored as a percentage of the total possible points multiplied by the prescribed weight. A project's score is determined by adding the weighted category scores. Ecology uses the project score to prioritize projects.

The category weights were assigned considering the purpose of Integrated Planning Grants, to help local governments assess brownfield properties and plan for their reuse. IPGs are usually requested at the beginning of the cleanup process, when little is known about the threat posed by the Site. As a result, Ecology assigned more weight to categories that include planning and reuse potential criteria while assigning less weight to the threat posed by the Site. All categories, their scoring weights, and rationale are shown below in Table 5-1.

**Table 5-1:** Standard Integrated Planning Grant Scoring Categories and Weights.

Scoring Category	Scoring Weight	Rationale
<b>Category #1:</b> Faster Cleanup	10%	Process emphasizes readiness to proceed.
<b>Category #2:</b> Improve Human Health	10%	Lack of information on threat to human health during early phases of cleanup.
<b>Category #3:</b> Improve the Environment and Natural Resources	10%	Lack of information on threat to the environment and natural resources during early phases of cleanup.
<b>Category #4:</b> Equitable Distribution	23%	Regional and Environmental Justice considerations.
<b>Category #5:</b> Redevelopment and Reuse in Cleanups	23%	Focus of grant type.
<b>Category #6:</b> Meaningful Investment in Communities	23%	Focus of grant type.

The complete IPG scorecard is shown in Table 5-2. The scorecard identifies each criteria, the maximum possible criteria score, and who provides the original score. Some criteria are initially answered by the Applicant when completing the application in EAGL. Ecology may update Applicant answers when evaluating the application. The remaining criteria are answered by Ecology. For criteria answered by Ecology, the Applicant may provide relevant information related to the criteria when completing the application in EAGL.

## **5.6 If my project is eligible, but not funded, may I update and resubmit my application before the next funding cycle?**

Yes. If your project is eligible, but not funded, you may update and resubmit your application in EAGL before the next funding cycle. You need to resubmit your application to confirm the continued viability and readiness of the project to proceed.

During the next funding cycle, Ecology will score and rank all submitted and resubmitted applications. No preference will be given to resubmitted applications. However, applications can be updated prior to resubmission to be more competitive. For example, if the project is more ready to proceed than before, the project's score may be higher.

## **5.7 Eligible Costs under Integrated Planning Grants**

Ecology's Grant Financial Manager has final approval authority for all grant-related costs. The grant agreement must be signed by both the Recipient and Ecology for any costs incurred under a new agreement to be eligible for reimbursement. Applicants can only be reimbursed for costs of implementing a work plan that has been approved by Ecology. As described in Chapter 11 of this Guidance, all costs must be properly documented and conditionally eligible costs pre-approved by the Grant Financial Manager.

Eligible costs for Standard Integrated Planning Grants include reasonable and necessary costs for preparing an integrated project plan. Examples of eligible activities and related costs include:

- Environmental site assessment (ASTM 1527 Phase I environmental assessment, title report, preliminary testing for contamination);
- Remedial investigation (boundary survey; detailed testing to define the extent and degree of contamination; habitat survey and assessment);
- Human health assessment (evaluation of potential human exposures and health related issues at the site);
- Feasibility study (engineering evaluation and cost estimate of cleanup alternatives);
- Site planning (opportunities for habitat restoration, recreational uses, and conceptual post-cleanup redevelopment plan);
- Community involvement (informational mailings, public workshops);

- Land use and regulatory analysis (comprehensive plan and zoning analysis and update; permits needed for site redevelopment; cultural review under Executive Order Number 05-05);
- Building and infrastructure assessment (evaluation of the condition of onsite buildings; availability and condition of utilities; transportation limitations to redevelopment);
- Economic and fiscal analysis (cost of cleanup and redevelopment pro forma; return on investment analysis; property appraisal);
- Environmental analysis under Chapter 43.21C RCW (State Environmental Policy Act);
- Technical support related to the above activities;
- Grant administration consistent with the applicable version of Ecology’s “Yellow Book”, the *Administrative Requirements for Recipients of Ecology Grants and Loans Managed in EAGL*. (The applicable version is either at <https://fortress.wa.gov/ecy/publications/SummaryPages/1701004.html> or the one identified in the general terms and conditions of your grant or loan agreement.); and
- Staff salaries and benefits; development of a scope of work; budget; consultant fees; report preparation and production; materials and equipment related to the above activities.

For many of these elements, the costs could easily exceed the grant dollar limit. Applicants should carefully assess their needs and focus funds where they will do the most to move redevelopment forward.

Some costs related to these activities may not be reimbursable under the grant, or may only be eligible under certain conditions. Conditionally allowable costs must be approved in advance by Ecology’s Grant Financial Manager. Costs not allowed are the responsibility of the Recipient.

## 5.8 Ineligible Costs under Integrated Planning Grants

Ineligible costs for a Standard Integrated Planning Grant include:

- The cost of developing the grant application or negotiating the grant agreement;
- The cost of purchasing the property;<sup>19</sup>
- The cost of dispute resolution under the grant agreement;
- Legal costs including, but not limited to: the costs of seeking client advice; pursuing cost recovery, contribution, or insurance claims; participating in administrative hearings; pursuing penalties or civil or criminal actions against persons; penalties incurred by the Recipient; the

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<sup>19</sup> NOTE: While grant funds cannot be used to purchase property, they can be used for a title search, appraisal, Phase I site assessment and other non-legal costs associated with purchasing property.

cost of defending actions taken against the Recipient; and any attorney fees incurred by the Recipient; and

- In-kind contributions.

## 5.9 Retroactive Cost Eligibility under Integrated Planning Grants

Retroactive costs are eligible for reimbursement if the costs were incurred under a prior grant agreement and were not reimbursed under that prior agreement,<sup>20</sup> and the costs are eligible costs under this Guidance.

## 5.10 Match Requirements for Integrated Planning Grants

Standard Integrated Planning Grants may be awarded for up to one hundred percent (100%) funding of eligible costs. Funding may be up to \$200,000 for a single site or up to \$300,000 for a study area involving multiple sites. Multiple site study areas are projects with multiple sites within a defined redevelopment area such as a Redevelopment Opportunity Zone or as part of Sub Area Planning under the Growth Management Act. A site can only be included once in an Integrated Planning Grant.

Funding is dependent upon the availability of funds. Ecology may make grant offers below the maximum eligible state share and choose to fund all or part of grant-eligible activities depending on availability of funding and other factors in Section 5.5 of this Guidance.

When a grant is awarded for less than 100% of eligible costs, the Recipient must fund that portion of the eligible costs not funded by Ecology (i.e., provide grant match). In-kind contributions cannot be used for grant match.

## 5.11 Standard Integrated Planning Grant Contacts

For questions about applying for a Standard Integrated Planning Grant, developing a scope of work, and receiving technical assistance on issues that come up during preparation of an Integrated Project Plan or grant application, contact one of Ecology's Brownfields staff:

- **Eastern and Central Regions** (Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Yakima, Walla Walla, and Whitman counties):

Ali Furmall at 509-329-3436, or [Ali.Furmall@ecy.wa.gov](mailto:Ali.Furmall@ecy.wa.gov)

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<sup>20</sup> Such as due to lack of funding.

- **Northwest and Southwest Regions** (Clallam, Clark, Cowlitz, Grays Harbor, Island, Jefferson, King, Kitsap, Mason, Lewis, Pacific, Pierce, San Juan, Skagit, Skamania, Snohomish, Thurston, Wahkiakum, and Whatcom counties):

Margo Thompson at 360-407-7336, or [Margo.Thompson@ecy.wa.gov](mailto:Margo.Thompson@ecy.wa.gov)

**Grant Financial Managers:** For questions related to the grant application and grant agreement, eligible costs and general grant administration, contact one of Ecology's Grant Financial Managers:

- Lydia Lindwall: 360-407-6210 or [Lydia.Lindwall@ecy.wa.gov](mailto:Lydia.Lindwall@ecy.wa.gov)
- Dan Koroma: 360-407-7187 or [Dan.Koroma@ecy.wa.gov](mailto:Dan.Koroma@ecy.wa.gov)

**Table 5-2:** Standard Integrated Planning Grant Scorecard.

<b>Category #1: Faster Cleanup</b>				
<b>#</b>	<b>Evaluation Criteria</b>	<b>Scoring</b>	<b>Score Provider</b>	<b>Maximum Score</b>
1.1	Applicant's prior grant and project performance	Earns 3 criteria points for good prior performance or not applicable; 0 criteria points earned for poor past grant performance.	Ecology	3
1.2	<p>Applicant's readiness to proceed sub-criteria:</p> <ul style="list-style-type: none"> <li>• Obtained written proof of legal access to the site.</li> <li>• Engaged with Ecology staff (such as pre-application or consultations).</li> <li>• Completed a draft scope of work.</li> <li>• Demonstrated action by elected officials (such as approvals from city council or port commission).</li> <li>• Identified a local government/staff project manager.</li> </ul>	<p>Final criteria score determined by the number of affirmed sub-criteria as described below:</p> <ul style="list-style-type: none"> <li>• 0 sub-criteria earns 0 criteria points.</li> <li>• 1 sub-criteria earns 1 criteria point.</li> <li>• 2-3 sub-criteria earns 2 criteria points.</li> <li>• 4-5 sub-criteria earns 3 criteria points.</li> </ul>	Applicant	3
1.3	<p>Leveraging other funds:</p> <ul style="list-style-type: none"> <li>• Project can leverage private funds (such as contributions, insurance, public-private partnerships).</li> <li>• Applicant submitted grant applications for other funding related to the site (including for economic development or other activities beyond cleanup).</li> <li>• Other grants Applicant would receive are contingent upon this funding (including for economic development or other activities beyond cleanup).</li> <li>• Local investment will expand scope of work beyond that funded by the grant.</li> </ul>	<p>Final criteria score determined by the number of affirmed sub-criteria as described below:</p> <ul style="list-style-type: none"> <li>• 0 sub-criteria earns 0 criteria points.</li> <li>• 1 sub-criteria earns 1 criteria point.</li> <li>• 2 sub-criteria earns 2 criteria points.</li> <li>• 3-4 sub-criteria earns 3 criteria points.</li> </ul>	Applicant	3



Category #2: Improve Human Health				
#	Evaluation Criteria	Scoring	Score Provider	Maximum Score
2.1	Contamination of any medium, to any extent is confirmed or suspected on the Site based on Site specific knowledge.	Earns 3 criteria points if yes, 0 criteria points if no.	Ecology	3
2.2	<p>Potential presence of extremely or very hazardous chemicals as determined by Ecology. This includes any of the common contaminants listed below:</p> <ul style="list-style-type: none"> <li>• 1,1,2-Trichloroethane</li> <li>• 2-Methylnaphthalene</li> <li>• Aldrin</li> <li>• Antimony</li> <li>• Arsenic</li> <li>• Benzene</li> <li>• Benzo(a)pyrene (or cPAH toxic equivalency quotient)</li> <li>• Cadmium</li> <li>• Chromium VI</li> <li>• cis-1,2-Dichloroethene (cis-DCE)</li> <li>• Dieldrin</li> <li>• Dioxins</li> <li>• Lead</li> <li>• Mercury</li> <li>• Methylmercury</li> <li>• Naphthalene</li> <li>• Polychlorinated biphenyls (PCBs)</li> <li>• Trichloroethene (TCE)</li> <li>• Vinyl chloride</li> </ul> <p>Ecology staff may also provide criteria points to sites with other extremely or very hazardous chemicals.<sup>21</sup></p>	Earns 3 points for yes or unknown, or 0 criteria points for no.	Ecology	3

<sup>21</sup> List based on EPA website: <https://www.epa.gov/superfund/superfund-chemical-data-matrix-scdm-query>

2.3	Potential exposure routes of concern: <ul style="list-style-type: none"> <li>• Soil</li> <li>• Groundwater</li> <li>• Surface water</li> <li>• Vapor intrusion</li> <li>• Sediment</li> </ul>	Final criteria score determined by the number of exposure routes of concern as described below <ul style="list-style-type: none"> <li>• 0 exposure routes earns 0 criteria points.</li> <li>• 1 exposure route earns 1 criteria point.</li> <li>• 2-3 exposure routes earns 2 criteria points</li> <li>• 4-5 exposure routes earns 3 criteria points</li> </ul>	Ecology	3
2.4	Current or adjacent use of property creates potential exposure risk to a sensitive population (such as daycare, nursing home, hospital).	Earns 3 criteria points if yes, 0 criteria points if no.	Ecology	3
<b>Category #3: Improve the Environment and Natural Resources</b>				
#	Evaluation Criteria	Scoring	Score Provider	Maximum Score
3.1	Potential for contamination to spread.	Earns 3 criteria points for yes or unknown, or 0 points for no.	Ecology	3
3.2	A designated sensitive environment or fishery resource exists within one mile of the Site's boundaries.	Earns 3 criteria points for yes, or 0 points for no.	Ecology	3
3.3	The project has potential exposure to sensitive wildlife or plant species (such as redband trout, migratory birds, orcas, salmon, monarch butterflies, and/or endangered species that might access the site or be impacted by the contamination spreading) or potential exposure to priority habitat.	Earns 3 criteria points for yes, or 0 criteria points for no.	Ecology	3
3.4	The project has opportunity for significant fish/wildlife habitat restoration and/or other conservation benefits.	Earns 3 criteria points for yes, or 0 criteria points for no.	Applicant	3
3.5	The project incorporates other sustainability measures (such as Leadership in Energy and Environmental Design (LEED) certification, stormwater/flood management, low-water landscaping).	Earns 3 criteria points for yes, or 0 criteria points for no.	Applicant	3

<b>Category #4: Equitable Distribution</b>				
<b>#</b>	<b>Evaluation Criteria</b>	<b>Scoring</b>	<b>Score Provider</b>	<b>Maximum Score</b>
4.1	Grant would help ensure diverse funding distribution.	Earns 3 points if the Site is east of the Cascades or if the community is Economically Disadvantaged (see Appendix B), otherwise earns 0 points.	Ecology	3
4.2	Community immediately surrounding the site is a highly impacted community, as defined in Section 1.7 of this Guidance.	Earns 3 points for yes, or 0 points for no.	Ecology	3
<b>Category #5: Redevelopment and Reuse in Cleanups</b>				
<b>#</b>	<b>Evaluation Criteria</b>	<b>Scoring</b>	<b>Score Provider</b>	<b>Maximum Score</b>
5.1	Site contains a vacant, abandoned, or underutilized former industrial or commercial facility.	Earns 3 criteria points for yes, or 0 criteria points for no.	Applicant	3
5.2	Project already identified a purchaser, developer, operator, or lessee when redeveloped.	Earns 3 criteria points for yes, or 0 criteria points for no.	Applicant	3
5.3	Potential reuse considers climate change projections (such as sea-level rise, extreme weather events, and wildfires).	Earns 3 criteria points for yes, or 0 criteria points for no.	Applicant	3
5.4	Ecology’s funding has the ability to expedited cleanup.	Earns 3 points if the project cannot start, be expeditiously completed, or continue without Ecology funding. Otherwise, earns 0 points.	Applicant	3
5.5	Has the applicant provided documents or information demonstrating that a lack of local funding or ability to obtain financing is significantly delaying the cleanup and subsequent use, sale, or redevelopment of the site?	Earns 3 criteria points for yes, or 0 criteria points for no.	Ecology	3

<b>Category #6: Meaningful Investment in Communities</b>				
<b>#</b>	<b>Evaluation Criteria</b>	<b>Scoring</b>	<b>Score Provider</b>	<b>Maximum Score</b>
6.1	Located within an incorporated city, town, or urban growth area designated under RCW 36.70A.110.	Earns 3 criteria points for yes, or 0 criteria points for no.	Applicant	3
6.2	Availability of urban infrastructure (water, sewer, other utilities, public transit).	Earns 3 criteria points for yes, or 0 criteria points for no.	Applicant	3
6.3	Meets the goals of the local government's planning documents at the time of redevelopment.	Earns 3 criteria points for yes, or 0 criteria points for no.	Applicant	3
6.4	Local infrastructure project(s) are planned to serve the redeveloped area (public transit, roads, etc.).	Earns 3 criteria points for yes, or 0 criteria points for no.	Applicant	3
6.5	Local government is a prospective purchaser of a brownfield property within a Redevelopment Opportunity Zone (ROZ).	Earns 3 criteria points for yes, or 0 criteria points for no.	Applicant	3
6.6	Project provides or preserves affordable housing stock in the community.	Earns 3 points if project provides some additional affordable housing stock. Earns 2 points if project preserves affordable housing stock. Otherwise, earns 0 points.	Applicant	3
6.7	Project provides public access or other public benefit (such as park, museum, or library)	Earns 3 points if project solely provides public access or other public benefit. Earns 2 points if project provides some public access or other public benefit. Otherwise, earns 0 points.	Applicant	3
6.8	Does this project demonstrate a clear vision for future use of the property?	Earns 3 criteria points for yes, or 0 criteria points for no.	Ecology	3

## Chapter 6: Oversight Remedial Action Grants

The solicitation process for Oversight Remedial Action Grants is closed for the 2019-21 biennium. The next solicitation for this grant type will be in February 2020 for funding in the 2021-23 biennium. See Section 1.5 for a description of the biennial budgeting process.

The purpose of Oversight Remedial Action Grants is to provide funding to local governments that investigate and clean up contaminated sites under an enforcement order, agreed order or consent decree (“order or decree”). These grants are intended to expedite remedial action at sites that are a high priority for Ecology. They are also intended to lessen the impact of the cost of compliance with these orders and decrees on ratepayers and taxpayers.

For the purposes of Oversight Remedial Action Grants, a project consists of remedial actions conducted under an order or decree at a single contaminated site. Ecology may provide more than one grant for a project. Depending on availability of funding, the number of grant requests, and the pace of remedial actions, a project may have to be funded over multiple biennia. Very large projects seeking assurance of future funding may be eligible for an Extended Grant Agreement, providing priority for funding over multiple biennia.

### 6.1 Who can receive an Oversight Remedial Action Grant?

To be eligible for a grant, a project must meet the following requirements:

- The Applicant must be a local government.
- The Applicant must be a potentially liable person under MTCA, a potentially responsible party under the federal cleanup law, or prospective purchaser of a contaminated site.
- The project must be included in Ecology’s ten-year financing plan required under RCW 70.105D.030(4).
- Projects designed to address the restoration of Puget Sound must not be in conflict with the action agenda developed by the Puget Sound Partnership under RCW 90.71.310.

The Applicant must also meet one of the following criteria:

- Ecology requires the Applicant to conduct remedial action under an order or decree issued under MTCA.
- The United States Environmental Protection Agency requires the Applicant to conduct remedial action under an order or decree issued under the federal cleanup law. In such a case, Ecology must also sign the order or decree, or acknowledge in writing that it is a sufficient basis for remedial action grant funding.
- The Applicant has co-signed an order or decree issued under Chapter 70.105D RCW requiring a potentially liable person or prospective purchaser other than the Applicant to

conduct remedial action at a contaminated site. The Applicant must also have entered into an agreement with the other potentially liable person allocating remedial action costs incurred under the order or decree. In this case, the grant can only reimburse the cleanup costs for which the local government is financially responsible.<sup>22</sup>

## 6.2 What Criteria Will Ecology Use to Prioritize Applications for Oversight Remedial Action Grants?

Under the statute, sites with Extended Grant Agreements (EGAs) are the highest priority of Oversight Remedial Action Grants. Applications for EGAs will be prioritized against requests for other EGAs using the criteria used to evaluate all Oversight Remedial Action Grants. Ecology will seek to develop a balance between offering EGAs and maintaining funding capacity for other grant agreements. For all oversight sites, Ecology will use the following criteria to prioritize Oversight Remedial Action Grants and determine the level of funding:

- Whether the Applicant has received a prior grant for the project and the performance of the Applicant under that grant and other remedial action grants. Projects that are already underway under a previous grant will receive priority for additional grant funding if this funding is needed to expedite completion the project.
- The threat posed by the site to human health and the environment. Sites that pose a higher threat typically receive a higher priority for funding.
- The land reuse potential of the site. Sites with a strong reuse potential will receive a higher priority. The following factors will be considered when evaluating the reuse potential of sites:
  - ✓ Whether the site is located within an incorporated city, town, or an urban growth area designated under RCW 36.70A.110;
  - ✓ The site is a vacant, abandoned, or significantly underutilized former industrial or commercial facility;
  - ✓ The site has an identified purchaser, developer, operator, or lessee when redeveloped.
  - ✓ Availability of urban infrastructure and services such as sewer, water and other utilities and transit service to serve the redeveloped site;
  - ✓ At the time of redevelopment the site will meet the goals of local planning documents;

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<sup>22</sup> An example of this is a closed landfill that is on land owned by a local government but was operated by a private company that agrees to take the lead on completing remedial actions. A grant could be awarded to the local government to help pay for their portion of remedial costs.

- ✓ The site location presents the opportunity for significant fish/wildlife habitat restoration and/or other conservation benefits;
  - ✓ The design considers climate change projections (i.e. sea level rise, extreme weather events, wildfires, etc.);
  - ✓ The project incorporates other sustainability measures (i.e. LEED certification, stormwater/flood management, low-water landscaping, etc.);
  - ✓ The project provides a public access/public benefit (i.e. park, museum);
  - ✓ The project provides mixed use benefits (i.e. both public access and private);
  - ✓ The project preserves affordable housing stock when the property is redeveloped;
  - ✓ The project will provide some additional affordable housing stock when the property is redeveloped; and
  - ✓ The project will solely provide affordable housing stock when the property is redeveloped.
  - ✓ Whether the application provides for a clear progression from remedial action to redevelopment or restoration. Projects with a clear vision for future use tend to be cleaned up faster with a more successful reuse.
- The site is within a Redevelopment Opportunity zone.
  - The readiness of the Applicant to start and complete the work to be funded by the grant.
  - The ability of the grant to expedite the cleanup. Sites where the local government can demonstrate that a lack of local funding or ability to obtain financing is significantly delaying cleanup and subsequent use, sale or redevelopment of the site will receive a higher priority.
  - The ability of the grant to leverage other public or private funds. Grants that are accompanied by a larger local investment that either reduces the match or expands the scope of work beyond that funded by the grant will receive a higher priority.<sup>23</sup>
  - The overall distribution of grants throughout the state, with the intent to award grants to a variety of types and sizes of local government.

### **6.3 Eligible Costs under Oversight Remedial Action Grants**

Ecology's Grant Financial Manager has final approval authority for all grant-related costs. The grant agreement must be signed by both the Recipient and Ecology for any costs incurred under a new agreement to be eligible for reimbursement. Applicants can only be reimbursed for costs of

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<sup>23</sup> This can be local monies, other state or federal grants, private funds, insurance settlements, or funds from cost recovery and contribution claims.

implementing a work plan that has been approved by the Cleanup Project Manager. As described in Chapter 11 of this Guidance, all costs must be properly documented and conditionally eligible costs must be pre-approved by the Grant Financial Manager.

Eligible costs under Oversight Remedial Action Grants must be reasonable and necessary to conduct the investigation and cleanup of a contaminated site. Examples of eligible activities and related costs include:

- Emergency or interim actions;
- Remedial investigations;
- Feasibility studies and selection of the remedy;<sup>24</sup>
- Engineering design and construction of the selected remedy;
- Operation and maintenance or monitoring of a cleanup action component for one year after construction completion of the component; and
- Grant administration consistent with the applicable version of Ecology's "Yellow Book", the *Administrative Requirements for Recipients of Ecology Grants and Loans Managed in EAGL*. (The applicable version is either at <https://fortress.wa.gov/ecy/publications/SummaryPages/1701004.html> or the one identified in the general terms and conditions of your grant or loan agreement.).

Some costs related to these activities may not be reimbursable under the grant, or may only be eligible under certain conditions. These conditionally eligible costs must be approved in advance by Ecology's Grant Financial Manager. Costs not allowed are the responsibility of the Recipient.

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<sup>24</sup> While preparation of a draft cleanup action plan is a grant-eligible cost, Ecology retains final authority to determine the appropriate cleanup action at a site.



## **6.4 Ineligible Costs under Oversight Remedial Action Grants**

Ineligible costs include, but are not limited to:

- The cost of developing the grant application or negotiating the grant agreement;
- The cost of dispute resolution under the order or decree or the grant agreement;
- The costs incurred under an order or decree by a potentially liable person or a potentially responsible party other than the Recipient except as provided under WAC 173-322A-320 (2)(c)(iii);
- Retroactive costs except as provided for in the next subsection;
- The remedial action oversight costs of Ecology or the U.S. Environmental Protection Agency, such as the administration of an order or decree for remedial action at the site;
- Natural resource damage assessment and restoration costs and liability for natural resource damages under Chapter 70.105D RCW or the federal cleanup law;
- Site development and mitigation costs not required as part of a remedial action;
- Legal costs including, but not limited to, the cost of seeking client advice; pursuing cost recovery; contribution or insurance claims; participating in administrative hearings; pursuing penalties or civil or criminal actions against persons; penalties incurred by the Recipient; defending actions taken against the Recipient; and any attorney fees incurred by the Recipient; and
- In-kind contributions.

## **6.5 Retroactive Cost Eligibility under Oversight Remedial Action Grants**

The following retroactive costs are eligible for reimbursement if they are also eligible costs under the grant:

- Costs incurred under the order or decree between the effective date of the order or decree and the signature date of the grant agreement;
- Costs incurred under an order or decree during the period of a prior grant agreement that were not reimbursed;

- Non-legal costs incurred negotiating an agreed order or consent decree, provided that the costs were incurred within:<sup>25</sup>
  - ✓ Sixty days after starting negotiations for an agreed order (or agreed order on consent under the federal cleanup law); or
  - ✓ One hundred-twenty days after starting negotiations for a consent decree;
- Up to \$600,000 of eligible costs incurred conducting independent remedial actions before negotiations on the order or decree began, provided that the action are:<sup>26</sup>
  - ✓ Conducted within five years of the date the negotiations begin on the order or decree;
  - ✓ Consistent with the remedial actions required under the order or decree; and
  - ✓ Compliant with the substantive requirements of Chapter 173-340 WAC and have been incorporated into the order or decree.



**Figure 6-1:** Thea Foss Waterway Tacoma – pre cleanup.

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<sup>25</sup> Negotiation costs incurred on an enforcement order are not eligible for reimbursement.

<sup>26</sup> Ecology will generally reimburse these costs at the same percentage as awarded for future work. That is, if \$600,000 was spent on independent remedial actions and the grant is for 50%, then Ecology will retroactively reimburse the Applicant for up to \$300,000; for economically distressed communities, this would be 75% or up to \$450,000. Innovative technology grants are not awarded retroactively.



**Figure 6-2:** Thea Foss Waterway Tacoma – Post cleanup with development underway.

## 6.6 Match Requirements for Oversight Remedial Action Grants

Except as noted below, there is no dollar limit on Oversight Remedial Action Grants. Ecology may make grant offers below the maximum eligible state share and choose to fund all or part of grant-eligible activities depending on availability of funding and the factors in Section 6.2 of this Guidance.

Match requirements are varied and depend upon the economic status of the community and the use of innovative cleanup technology. The Recipient must fund that portion of the eligible costs not funded by Ecology (i.e., provide grant match). In-kind contributions cannot be used for grant match.

**Regular Oversight Grant:** Ecology may award a grant for up to fifty percent (50%) of eligible costs for a project. Most projects are expected to fall within this category.

**Oversight grant to an Economically Disadvantaged Community:** Ecology may award a grant for up to seventy-five percent (75%) of eligible costs for a project in an economically disadvantaged community. To be eligible for these grants, one of the following conditions must be met:

- **Economically Disadvantaged County:** Applicant is a County and the per capita income of the County is equal to or below the median per capita income of Counties in Washington State.
- **Economically Disadvantaged City or Town:** The Applicant is a City or Town and the per capita income of the City or Town is equal to or below the median per capita income of Cities and Towns in Washington State.
- **Special Purpose District:** The Applicant is a Special Purpose District and the site is located within an economically disadvantaged County, City or Town.

For a list of Economically Disadvantaged Cities and Counties, see Appendix B.

**Innovative Technology Bonus:** Ecology may award a grant for up to an additional fifteen percent (15%) of eligible costs for projects that use innovative technology. This is in addition to the 50% and 75% awards noted above. This bonus applies only to future work; it does not apply to retroactive costs. To receive an Innovative Technology Bonus, the Applicant must provide justification for the innovative technology claim in the grant application. Previously proven cleanup methods are not eligible for innovative technology match reductions. “Innovative technology” is defined in the remedial action grant rule, WAC 173-322-020 as:

*. . . new technologies that have been demonstrated to be technically feasible under certain site conditions, but have not been widely used under the conditions that exist at the hazardous waste site. Innovative technology has limited performance and cost data available.*

As an example, an Innovative Technology Bonus might be awarded to dig up a landfill, sort out clean soil and recyclable materials, and dispose of residuals in a lined landfill. Although landfill reclamation has been done elsewhere in the United States, such an application would be a unique cleanup method for a landfill in Washington State.

## 6.7 Reduction in Match Requirements

Under certain conditions, the Director of the Department of Ecology may fund a grant up to ninety percent (90%). If approved, this can reduce the local match requirements for an Oversight Remedial Action Grant to as little as ten percent (10%) to create an incentive for a local government to expedite a cleanup. Only projects with a total eligible cost of less than \$5 million are eligible for this match reduction. Eligibility and match reductions are considered on a case-by-case basis. If you are interested in pursuing a reduction in the required match, contact the Toxics Cleanup Program Section Manager in the region where your site is located.

Typically, these match reductions will be granted only to Applicants who have not previously received a remedial action grant. Applicants must demonstrate financial need and that one or more of the following conditions exist:

1. The additional funding would prevent or mitigate unfair economic hardship imposed by cleanup liability. For example, the cost of the normal match exceeds local funding typically dedicated for non-cleanup projects in the capital facilities plan, or the cost of the normal match would jeopardize other grants already awarded to the local government by eliminating the local government’s ability to match those grants.
2. The additional funding would create new substantial economic development that would not otherwise occur. For example, the property pro-forma clearly shows that the normal match requirement makes redevelopment of a brownfield property economically infeasible. But the reduced match for the cleanup tips the scale so that not only is redevelopment economically feasible, it is also projected to result in significant, post-cleanup public or private investment at or near the site, which would create family wage jobs and significantly increase post-cleanup tax revenues.

3. The additional funding would create public recreational opportunities that would not otherwise occur. For example, the reduced match would free up local funds to create public access to a currently inaccessible shoreline area (provided that the new access was not normally required as part of the cleanup).
4. The additional funding would provide habitat restoration opportunities that would not otherwise occur. For example, the reduced match would free up local funds that would be used to restore shoreline habitat (provided that the restoration was not normally required as part of a cleanup or natural resource damage mitigation). Any restoration under this provision must be consistent with the Puget Sound Action Agenda, as well as any watershed plan, habitat conservation plan, salmon recovery plan, or similar regional or local habitat restoration plan.
5. The additional funding would create an opportunity for acquisition and redevelopment of brownfield property that would not otherwise occur. For example, the property pro-forma clearly shows that the normal match requirement makes acquisition and redevelopment of a brownfield property economically infeasible. But the reduced match tips the scale so that it is economically viable for the local government to enter into a prospective purchaser agreement under MTCA to acquire, cleanup, and redevelop the property.

## 6.8 Extended Grant Agreements

Extended Grant Agreements are a new category of Oversight Remedial Actions Grants established with the passage of SB 5296 in the 2013 legislative session.

Ecology has not implemented Extended Grant Agreements. Given revenue shortfalls in the MTCA accounts at the time the 2019-21 biennial budget was planned, there will be limited capacity to implement EGAs during the 2018-21 budget period.

Projects that meet the following statutory criteria are eligible for Extended Grant Agreements:

- Total eligible project costs at a facility exceed \$20 million
- The project will extend over multiple biennia.

For such projects, these grants anticipate the development of long-range schedules and multiple biennia spending profiles. An overarching agreement will be negotiated between Ecology and the Recipient that establishes the general scope, schedule and overall cost for the project. A separate grant agreement will be prepared for each biennium that describes the scope of work, schedule and expenses anticipated to occur during that biennium. This avoids tying up a large amount of grant funds for several years to cover future costs. This grant is intended to help achieve the legislature's goal of putting the MTCA grant funds to work on more sites.

The advantage of Extended Grant Agreements is that, by statute, these grants receive the highest priority for funding during the State's budget process, which provides the highest level of assurance that funds will be available in future years as work continues at a site. Funds must be substantially expended or contracts awarded each biennium to keep this priority.

Extended Grant Agreements are subject to the same eligibility limitations as other Oversight Remedial Action Grants. However, due to the size of projects that are funded under Extended Grant Agreements, grants are limited to a maximum of fifty percent (50%) of total project costs regardless of the community's economic status or use of innovative technology. Ecology intends to apply this 50% limit to each biennium. Extended Grant Agreements are also limited in initial duration to 10 years; however, this duration can be extended by Ecology if substantial progress has been made on remedial actions under the initial agreement but additional work is left to be completed.

When determining total eligible project costs, costs will be calculated as if the entire project is being conducted at the time of application, with no discounting of future costs or adjustment of costs for inflation. Investigative costs, capital costs, and the first year of operating and monitoring costs after completion of the cleanup, are included in this calculation. Extended Grant Agreements are limited to single sites. Where there are multiple source properties with overlapping groundwater plumes or sediment contamination such that they consist of one site, the aggregate cost of remedial actions at all of these properties will be considered when Ecology is determining if the \$20 million threshold is exceeded.

For sites where there are multiple jurisdictions with cleanup responsibility working at the same site, Ecology will consider the aggregate cost of remedial actions by all the jurisdictions when determining if the \$20 million threshold is exceeded. If there is a mix of public and private potentially liable persons paying for the cleanup of a site, Ecology will consider only the public's share of the costs of remedial actions when determining if the \$20 million threshold is exceeded.

To ensure sufficient MTCA grant funds are available for other sites, Ecology anticipates that we will seek a balanced portfolio of sites with Extended Grant Agreements and other grant agreements. The amount of grant funds tied up in Extended Grant Agreements will be re-examined in future biennia as experience is gained with managing these agreements.

## 6.9 Oversight Remedial Action Grant Contacts

**Regional Office Contacts:** Questions about Oversight Remedial Action Grants availability and ten-year plan submissions should be directed to the following Ecology Toxics Cleanup Program Regional Managers:

- For counties in the **Central Region** (Benton, Chelan, Douglas, Kittitas, Klickitat, Okanogan and Yakima) the Regional Manager is Valerie Bound at 509-454-7886 or [Valerie.Bound@ecy.wa.gov](mailto:Valerie.Bound@ecy.wa.gov).
- For counties in the **Eastern Region** (Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, and Whitman) the Regional Manager is Kathy Falconer at 509-329-3568 or [Kathy.Falconer@ecy.wa.gov](mailto:Kathy.Falconer@ecy.wa.gov).
- For counties in the **Northwest Region** (Island, King, Kitsap, San Juan, Skagit, Snohomish, and Whatcom) the Regional Manager is Bob Warren at 425-649-7054 or [Bob.Warren@ecy.wa.gov](mailto:Bob.Warren@ecy.wa.gov).

- For counties in the **Southwest Region** (Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Lewis, Mason, Pacific, Pierce, Skamania, Thurston, and Wahkiakum) the Regional Manager is Rebecca Lawson at 360-407-6241 or [Rebecca.Lawson@ecy.wa.gov](mailto:Rebecca.Lawson@ecy.wa.gov).

**Cleanup Project Managers:** Projects receiving an Oversight Remedial Action Grant will be assigned an Ecology Cleanup Project Manager from the appropriate Regional Office. This person will be specified in the grant agreement or associated correspondence. See Chapter 2 for Ecology Cleanup Project Manager Responsibilities.

**Grant Financial Managers:** For questions related to the grant application and grant agreement, eligible costs, and general grant administration, contact one of Ecology's Grant Financial Managers:

- Lydia Lindwall: 360-407-6210 or [Lydia.Lindwall@ecy.wa.gov](mailto:Lydia.Lindwall@ecy.wa.gov).
- Dan Koroma: 360-407-7187 or [Dan.Koroma@ecy.wa.gov](mailto:Dan.Koroma@ecy.wa.gov).

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## **Chapter 7: Independent Remedial Action Grants**

An independent remedial action is a cleanup action completed voluntarily – that is, a cleanup not under an enforcement order, agreed order, or consent decree. Independent Remedial Action Grants (IRAGs) are available to help local governments defray costs of cleaning up sites independently. Grants can be awarded for an entire site (any place contamination has come to be located – including off-property areas) or just for a particular parcel of land within a larger site.

### **7.1 Who can receive an Independent Remedial Action Grant?**

To be eligible to receive an Independent Remedial Action Grant, the Applicant must:

- Be a local government.
- Own the contaminated property or be potentially liable for contamination on the property. The Applicant can also be a prospective purchaser of contaminated property.
- Have received a “No Further Action” (NFA) opinion letter for the site or property under Ecology’s Voluntary Cleanup Program. For the 2019-21 biennium, Ecology is not offering periodic reimbursement grants.
- Complete a cultural resources consultation during the independent cleanup if the local government applied to enter Ecology’s Voluntary Cleanup Program on or after January 1, 2020.

In addition, projects designed to address the restoration of Puget Sound must not be in conflict with the action agenda developed by the Puget Sound Partnership under RCW 90.71.310.

### **7.2 For what type of Independent Remedial Action Grant may I apply?**

Only post-cleanup reimbursement IRAG applications are being accepted during the ongoing IRAG solicitation process for the 2019-21 biennium. Ecology is not currently offering periodic reimbursement IRAGs. This means that, to be eligible for an IRAG, you must have completed independent remedial actions at the hazardous waste site or property and received a No Further Action determination for the Site or property from Ecology under the Voluntary Cleanup Program.

### **7.3 When may I apply for an Independent Remedial Action Grant?**

You may apply for an Independent Remedial Action Grant at any time. The application will be open and visible continuously in EAGL regardless of available funding. You do not need to consult with Ecology before submitting your application.

The ongoing solicitation process will allow Applicants to have greater control over their application date, which determines retroactive cost eligibility. Retroactive costs are only eligible when incurred within five years prior to the application date (WAC 173-322A-330(7)). The EAGL application submitted date is considered the application date to determine eligible costs.

### **7.4 Should I submit all eligible invoices when applying for an Independent Remedial Action Grant?**

Yes. To increase the competitiveness of an application and increase efficiency in grant administration, you should submit all eligible invoices when applying for an Independent Remedial Action Grant. Applicants can now submit all project invoices on the EAGL form entitled “Invoice Uploads”. While invoices are not required when applying, they are required before entering into a grant agreement. Since the grants are for entirely retroactive costs, the grants are typically written for the total eligible project costs (up to the maximum of \$600,000), and closed out after the first payment request.

### **7.5 When will Ecology evaluate applications for Independent Remedial Action Grants?**

Ecology may evaluate applications for Independent Remedial Action Grants periodically during a biennium when funding becomes available. Funding may become available when:

- The Legislature appropriates funds for IRAGs in the biennial or supplemental budget.
- Funds previously allocated for a project are no longer needed. This may occur, for example, if a project’s total eligible costs are below the \$600,000 maximum.

Projects will be ranked and scored at the close of the biennium, prior to the opening of the next ongoing solicitation.

### **7.6 How will Ecology prioritize projects for Independent Remedial Action Grants during each funding cycle?**

For projects submitted through the ongoing IRAG solicitation in the 2019-21 biennium, Ecology has adopted a new scoring methodology to prioritize (rank) projects. Rankings will determine the order in which projects are funded. The available funding will determine if all eligible projects are funded during a particular funding cycle.

Under the new scoring methodology, Ecology evaluates projects based on several criteria. Each criteria is scored from 0 to 3 points. The criteria are grouped into six weighted categories. Each category is scored as a percentage of the total possible points multiplied by the prescribed weight. A project's score is determined by adding the weighted scores of the categories. Ecology uses the project score and rank to determine funding priority.

IRAGs require the cleanup process to be complete and the Site to have a No Further Action (NFA) letter, which details the threat posed by the site prior to cleanup. Categories that reflect the impact of the completed cleanup on improving and protecting human health and the environment were assigned relatively more weight. Categories that reflect land reuse and planning were assigned relatively less weight. All categories and their scoring weights are shown below in Table 7-1.

**Table 7-1:** Independent Remedial Action Grant Scoring Categories and Weights.

Scoring Category	Scoring Weight	Rationale
<b>Category #1:</b> Faster Cleanup	10%	Cleanup is already complete.
<b>Category #2:</b> Improve Human Health	23%	The threat of the Site is known.
<b>Category #3:</b> Improve the Environment and Natural Resources	23%	The threat of the Site is known.
<b>Category #4:</b> Equitable Distribution	23%	Regional and Environmental Justice considerations.
<b>Category #5:</b> Redevelopment and Reuse in Cleanups	10%	Not the primary focus of the grant type.
<b>Category #6:</b> Meaningful Investment in Communities	10%	Not the primary focus of the grant type.

The complete IRAG scorecard is shown in Table 7-2. The scorecard identifies each criteria, maximum possible score, and who provides the original score. Most criteria are initially answered by the Applicant when completing the application in EAGL. Ecology may update Applicant answers when evaluating the application. The remaining criteria are answered by Ecology. For criteria answered by Ecology, the Applicant may provide relevant information related to the criteria when completing the application in EAGL.

## 7.7 If my project is not funded, do I need to update and resubmit my application before the next funding cycle?

No. If your project is eligible for funding, but is not funded, you do not need to update or resubmit your application. Eligible projects will remain in their ranked order for the next funding cycle. For example, if ten projects were ranked and five were funded in one funding cycle, then the sixth ranked project would be the next project funded when additional money becomes available. All previously ranked and eligible projects will be considered for funding

prior to the scoring of any new applications. As provided in WAC 173-322A-110(2), Ecology retains the discretion to not provide a grant for an eligible project or provide less funding for an eligible project than the maximum allowed.

## **7.8 What other changes has Ecology made to the performance requirements for an Independent Remedial Action Grant?**

Ecology has made the following additional changes to the application and performance requirements for Independent Remedial Actions Grants:

- Recipients will be required to submit their Close Out Report with the first and final payment request. This increases efficiency since IRAGs only have one payment.
- Recipients will no longer be required to submit a Spending Plan in EAGL.
- Recipients will no longer be evaluated on grant performance due to the short life-cycle of the grant type.

## **7.9 Eligible Costs under Independent Remedial Action Grants**

Ecology's Grant Financial Manager has final approval authority for all grant-related costs. As described in Chapter 11 of this Guidance, all costs must be properly documented and conditionally eligible costs must be pre-approved by the Grant Financial Manager (due to the retroactive nature of this grant type few conditionally eligible costs apply).

Eligible costs under Independent Remedial Action Grants must be reasonable and necessary to conduct the investigation and cleanup of a contaminated site. Examples of eligible activities and related costs include:

- Emergency or interim actions;
- Remedial investigations;
- Feasibility studies and selection of the remedy;
- Engineering design and construction of selected remedy;
- Operation and maintenance or monitoring of constructed remedy for up to one year after construction completion of each cleanup action component;
- Development of independent remedial action plans or reports submitted to Ecology for review under the voluntary cleanup program; and

- Grant administration consistent with the applicable version of Ecology’s “Yellow Book”, the *Administrative Requirements for Recipients of Ecology Grants and Loans Managed in EAGL*. (The applicable version is either at <https://fortress.wa.gov/ecy/publications/SummaryPages/1701004.html> or the one identified in the general terms and conditions of your grant or loan agreement.)

Some costs related to these activities may not be reimbursable under the grant, or may only be eligible under certain conditions. These are considered conditionally eligible costs and must be approved in advance by Ecology’s Grant Financial Manager. Costs not allowed are the responsibility of the Recipient.



**Figure 7-1:** Removal of leaking underground storage tanks at Public Works facilities is a common use of Independent Remedial Action Grants.

## 7.10 Ineligible Costs under Independent Remedial Action Grants

Ineligible costs for Independent Remedial Action Grants include:

- The cost of developing the grant application;
- The cost of dispute resolution under the voluntary cleanup program or the grant agreement;
- Retroactive costs, except as provided for in the next subsection;
- The cost of technical consultations Ecology provides under the Voluntary Cleanup Program, including reviews of reimbursements requests;
- Natural resource damage assessment costs and restoration costs, and liability for natural resource damages under MTCA or the federal cleanup law;
- Site development and mitigation costs not required as part of a remedial action;

- Legal costs including, but not limited to, the cost of seeking client advice; pursuing cost recovery; contribution or insurance claims administrative hearings; pursuing penalties or civil or criminal actions against persons; penalties incurred by the Recipient; defending actions taken against the Recipient; and any attorney fees incurred by the Recipient; and
- In-kind contributions.

## 7.11 Retroactive Costs under Independent Remedial Action Grants

Retroactive costs are eligible for reimbursement only if the costs are eligible under this grant and one of the following conditions is met:

- The costs were incurred within five years of the date of the grant application in EAGL (unless a previous paper application was submitted).
- The costs were incurred during the period of a prior grant agreement and were not reimbursed under the prior grant agreement.

## 7.12 Match Requirements for Independent Remedial Action Grants

Funding for Independent Remedial Action Grants is provided for total project costs up to \$600,000 (Ecology's share plus grant match). Ecology may make grant offers below the maximum eligible state share and choose to fund all or part of grant-eligible activities depending on availability of funding and other factors in Section 7.6 of this Guidance.

There are three levels of grant funding provided. The Recipient must fund that portion of the eligible costs not funded by Ecology (i.e., provide grant match). In-kind contributions cannot be used for grant match.

**Regular Grant:** Ecology may award up to a 50 percent grant, up to a maximum of \$300,000 state share for a project.

**Economically Disadvantaged Community Grant:** Ecology may award up to a 75 percent grant, up to a maximum of \$450,000 state share for a project. To be eligible for these grants, one of the following conditions must be met:

- **Economically Disadvantaged County:** Applicant is a County and the per capita income of the County is equal to or below the median per capita income of Counties in Washington State. See Appendix B for a list of economically disadvantaged Counties.
- **Economically Disadvantaged City or Town:** The Applicant is a City or Town and the per capita income of the City or Town is equal to or below the median per capita income of Cities and Towns in Washington State. See Appendix B for a list of economically disadvantaged Cities and Towns.

- **Special Purpose District:** The Applicant is a Special Purpose District and the site is located within an economically disadvantaged County, City or Town.

**Reduction in Match Requirements:** Under certain conditions the Director of the Department of Ecology may reduce the above match requirements for an Independent Remedial Action Grant to as little as ten percent (10%) to create an incentive for a local government to expedite a cleanup. Eligibility and match reductions are considered on a case-by-case basis. See Section 6.7 of this Guidance for additional discussion and the requirements for qualifying for a reduced match.

## 7.13 Independent Remedial Action Grant Contacts

**Voluntary Cleanup Program Coordinators:** Questions about Ecology's Voluntary Cleanup Program (VCP), the availability of grants, ten-year plan submissions, and site work plans should be directed to the VCP Coordinators in Ecology's Regional Offices:

- For counties in the **Central Region** (Benton, Chelan, Douglas, Kittitas, Klickitat, Okanogan and Yakima) the coordinator is Valerie Bound at 509-454-7886 or [Valerie.Bound@ecy.wa.gov](mailto:Valerie.Bound@ecy.wa.gov).
- For counties in the **Eastern Region** (Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, and Whitman) the coordinator is Kathy Falconer at 509-329-3568 or [Kathy.Falconer@ecy.wa.gov](mailto:Kathy.Falconer@ecy.wa.gov).
- For counties in the **Northwest Region** (Island, King, Kitsap, San Juan, Skagit, Snohomish, and Whatcom) the coordinator is Louise Bardy at 425-649-7209 or [Louise.Bardy@ecy.wa.gov](mailto:Louise.Bardy@ecy.wa.gov).
- For counties in the **Southwest Region** (Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Lewis, Mason, Pacific, Pierce, Skamania, Thurston, and Wahkiakum) the coordinator is Nick Acklam at 360-407-6347 or [Nick.Acklam@ecy.wa.gov](mailto:Nick.Acklam@ecy.wa.gov).

**Grant Financial Managers:** For questions related to the grant application and grant agreement, eligible costs, and general grant administration, contact Ecology's Grant Financial Managers:

- Dan Koroma: 360-407-7187 or [Dan.Koroma@ecy.wa.gov](mailto:Dan.Koroma@ecy.wa.gov).
- Lydia Lindwall: 360-407-6210 or [Lydia.Lindwall@ecy.wa.gov](mailto:Lydia.Lindwall@ecy.wa.gov).

**Table 7-2:** Independent Remedial Action Grant Scorecard.

<b>Category #1: Faster Cleanup</b>				
<b>#</b>	<b>Evaluation Criteria</b>	<b>Scoring</b>	<b>Score Provider</b>	<b>Maximum Score</b>
1.1	Applicant's prior grant and project performance	Earns 3 criteria points for good prior performance or not applicable, earns 0 criteria points for poor past grant performance.	Ecology	3
1.2	Applicant's readiness to proceed: <ul style="list-style-type: none"> <li>• Site received a No Further Action (NFA) opinion letter.</li> <li>• Applicant used an Ecology checklist.<sup>27</sup></li> <li>• Final invoices for the project have been received.</li> <li>• All eligible cost invoices uploaded into EAGL.</li> </ul>	Final criteria score determined by the number of affirmed sub-criteria as described below: <ul style="list-style-type: none"> <li>• 0 sub-criteria earns 0 criteria points.</li> <li>• 1 sub-criteria earns 1 criteria point.</li> <li>• 2 sub-criteria earns 2 criteria points.</li> <li>• 3-4 sub-criteria points earns 3 criteria points.</li> </ul>	Applicant	3
1.3	Leveraged other funds: <ul style="list-style-type: none"> <li>• Project leveraged private funds (such as contributions, insurance, public-private partnerships).</li> <li>• Applicant submitted grant applications for other funding related to the site (including for economic development or other activities beyond cleanup).</li> <li>• Other grants they would receive are contingent upon this funding (including for economic development or other activities beyond cleanup).</li> <li>• Local investment expanded the scope of work beyond that funded by the grant.</li> </ul>	Final criteria score determined by the number of affirmed sub-criteria as described below: <ul style="list-style-type: none"> <li>• 0 sub-criteria earns 0 criteria points.</li> <li>• 1 sub-criteria earns 1 criteria point.</li> <li>• 2 sub-criteria earns 2 criteria points.</li> <li>• 3-4 sub-criteria points earns 3 criteria points.</li> </ul>	Applicant	3

<sup>27</sup> Remedial Investigation Checklist: <https://fortress.wa.gov/ecy/publications/documents/1609006.pdf>, Feasibility Study Checklist: <https://fortress.wa.gov/ecy/publications/documents/1609007.pdf>, Cleanup Action Plan Checklist: <https://fortress.wa.gov/ecy/publications/documents/1609008.pdf>



Category #2: Improve Human Health				
#	Evaluation Criteria	Scoring	Score Provider	Maximum Score
2.1	<p>Presence of extremely or very hazardous chemicals prior to cleanup as determined by Ecology. This includes any of the common contaminants listed below:</p> <ul style="list-style-type: none"> <li>• 1,1,2-Trichloroethane</li> <li>• 2-Methylnaphthalene</li> <li>• Aldrin</li> <li>• Antimony</li> <li>• Arsenic</li> <li>• Benzene</li> <li>• Benzo(a)pyrene (or cPAH toxic equivalency quotient)</li> <li>• Cadmium</li> <li>• Chromium VI</li> <li>• cis-1,2-Dichloroethene (cis-DCE)</li> <li>• Dieldrin</li> <li>• Dioxins</li> <li>• Lead</li> <li>• Mercury</li> <li>• Methylmercury</li> <li>• Naphthalene</li> <li>• Polychlorinated biphenyls (PCBs)</li> <li>• Trichloroethene (TCE)</li> <li>• Vinyl chloride</li> </ul> <p>Ecology staff may also provide criteria points to sites with other extremely or very hazardous chemicals.<sup>28</sup></p>	Earns 3 criteria points for yes, 0 for no.	Ecology	3

<sup>28</sup> List based on EPA website: <https://www.epa.gov/superfund/superfund-chemical-data-matrix-scdm-query>

2.2	Exposure routes of concern prior to cleanup: <ul style="list-style-type: none"> <li>• Soil</li> <li>• Groundwater</li> <li>• Surface water</li> <li>• Vapor intrusion</li> <li>• Sediment</li> </ul>	Final criteria score determined by the number of exposure routes of concern: <ul style="list-style-type: none"> <li>• 0 exposure routes earns 0 criteria points.</li> <li>• 1 exposure route earns 1 criteria point.</li> <li>• 2-3 exposure routes earns 2 criteria points.</li> <li>• 4-5 exposure routes earns 3 criteria points.</li> </ul>	Ecology	3
2.3	Use of property or adjacent use of property created potential exposure risk to a sensitive population before cleanup (such as daycare, nursing home, hospital).	Earns 3 criteria points if yes, 0 criteria points if no.	Ecology	3
<b>Category #3: Improve the Environment and Natural Resources</b>				
#	Evaluation Criteria	Scoring	Score Provider	Maximum Score
3.1	Cleanup prevented contamination from spreading.	Earns 3 criteria points if yes, 0 criteria points if no.	Ecology	3
3.2	A designated sensitive environment or fishery resource exists within one mile of the Site boundary.	Earns 3 criteria points if yes, 0 criteria points if no.	Ecology	3
3.3	Had potential exposure to sensitive wildlife or plant species (such as redband trout, migratory birds, orcas, salmon, monarch butterflies, and/or endangered species that might access the site or be impacted by the contamination spreading) or potential exposure to priority habitat.	Earns 3 criteria points if yes, 0 criteria points if no.	Ecology	3
3.4	Provided significant fish/wildlife habitat restoration and/or other conservation benefits.	Earns 3 criteria points if yes, 0 criteria points if no.	Applicant	3
3.5	Incorporated other sustainability measures (such as Leadership in Energy and Environmental Design (LEED) certification, stormwater/ flood management, low-water landscaping).	Earns 3 criteria points if yes, 0 criteria points if no.	Applicant	3

<b>Category #4: Equitable Distribution</b>				
<b>#</b>	<b>Evaluation Criteria</b>	<b>Scoring</b>	<b>Score Provider</b>	<b>Maximum Score</b>
4.1	Grant helps ensure diverse distribution.	Earns 3 points if the Site is east of the Cascades or if the community is Economically Disadvantaged (see Appendix B), otherwise earns 0 points.	Ecology	3
4.2	Community immediately surrounding the site is a highly impacted community, as defined in Section 1.7 of this Guidance.	Earns 3 criteria points for yes, or 0 criteria points for no.	Ecology	3
<b>Category #5: Redevelopment and Reuse in Cleanups</b>				
<b>#</b>	<b>Evaluation Criteria</b>	<b>Scoring</b>	<b>Score Provider</b>	<b>Maximum Score</b>
5.1	Site contained a vacant, abandoned, or underutilized former industrial or commercial facility.	Earns 3 criteria points for yes, or 0 criteria points for no.	Applicant	3
5.2	Already identified a purchaser, developer, operator, or lessee for redevelopment.	Earns 3 criteria points for yes, or 0 criteria points for no.	Applicant	3
5.3	Potential reuse considered climate change projections (such as sea-level rise, extreme weather events, and wildfires).	Earns 3 criteria points for yes, or 0 criteria points for no.	Applicant	3
<b>Category #6: Meaningful Investment in Communities</b>				
<b>#</b>	<b>Evaluation Criteria</b>	<b>Scoring</b>	<b>Score Provider</b>	<b>Maximum Score</b>
6.1	Site is located within an incorporated city, town, or urban growth area designated under RCW 36.70A.110.	Earns 3 criteria points for yes, or 0 criteria points for no.	Applicant	3

6.2	Urban infrastructure (water, sewer, other utilities, public transit) is available to the Site.	Earns 3 criteria points for yes, or 0 criteria points for no.	Applicant	3
6.3	Meets the goals of the local government's planning documents at the time of redevelopment.	Earns 3 criteria points for yes, or 0 criteria points for no.	Applicant	3
6.4	Local infrastructure project(s) are planned to serve the redeveloped area (public transit, roads, etc.).	Earns 3 criteria points for yes, or 0 criteria points for no.	Applicant	3
6.5	Local government is a prospective purchaser of a brownfield property within a Redevelopment Opportunity Zone (ROZ).	Earns 3 criteria points for yes, or 0 criteria points for no.	Applicant	3
6.6	Project provides or preserves affordable housing stock in the community.	Earns 3 points if project provides some additional affordable housing stock. Earns 2 points if project preserves affordable housing stock. Otherwise, earns 0 points.	Applicant	3
6.7	Project provides public access or other public benefit (such as park, museum, or library).	Earns 3 points if project solely provides public access or other public benefit. Earns 2 points if project provides some public access or other public benefit. Otherwise, earns 0 points.	Applicant	3
6.8	Does this project demonstrate a clear vision for future use of the property?	Earns 3 criteria points for yes, or 0 criteria points for no.	Ecology	3

## Chapter 8: Area-wide Groundwater Investigation Grants

The solicitation process for Area-wide Groundwater Investigation Grants is closed for the 2019-2021 biennium. The next solicitation for this grant type will be in February of 2020 for funding in the 2021-2023 biennium. See Section 1.5 for a description of the biennial budgeting process.

The purpose of the Area-wide Groundwater Investigation Grants is to provide funding to investigate area-wide groundwater issues within an area of known or suspected area-wide groundwater contamination.<sup>29</sup> These investigations are intended to facilitate the cleanup and redevelopment of multiple properties that are impacted by the area-wide groundwater contamination by addressing issues that would be difficult to resolve on a site by site basis.

An example of where this grant could be applied might be an intersection or street block that contains several current and former gas station sites with suspected off-property contamination:

An owner of one of the gas stations within this area wants to redevelop their property, but is reluctant to start a remedial investigation. They are concerned it would lead to an expensive investigation of their property to determine which part of the areal groundwater contamination was a result of their facility, and which part was caused by their neighbors.

The city's comprehensive plan supports this redevelopment as it envisions the area redeveloping from its current automobile-oriented land uses to a mixed-use development. However, the envisioned redevelopment has not moved forward, in part because of uncertainty caused by the areal groundwater contamination.

To facilitate this redevelopment, the city applies for an Area-wide Groundwater Investigation Grant. The grant is used to install and test groundwater monitoring wells within public right-of-ways throughout the area to better define the extent of the plumes coming from individual facilities. This information is made available to individual property owners.

In this case, the gas station owner can use this information, along with their own site-specific investigation, to define their cleanup liability, clean up their property, and move ahead with redevelopment.

### 8.1 Who can receive an Area-wide Groundwater Investigation Grant?

To be eligible to receive an Area-wide Groundwater Investigation Grant:

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<sup>29</sup> WAC 173-322-020 defines area-wide groundwater contamination as “multiple adjacent properties with different ownerships consisting of hazardous substances from multiple sources that have resulted in commingled plumes of contaminated ground water that are not practicable to address separately.”

- The Applicant must be a local government.
- The project must involve the investigation of known or suspected area-wide groundwater contamination.
- The Applicant must not be required to conduct the investigation under an order or decree. This does not preclude a local government that is a potentially liable person at a site from receiving a grant, as long as an order to do the work has not been issued by Ecology or EPA.
- The Applicant must have the necessary access to conduct the investigation or obtain such access in accordance with a schedule in the grant agreement. This access may or may not involve access agreements with individual property owners. Often adequate access can be achieved by using public right-of-ways or publically-owned property within the study area.
- The project must be included in the ten-year financing plan required under RCW 70.105D.030(4).
- Projects designed to address the restoration of Puget Sound must not be in conflict with the action agenda developed by the Puget Sound Partnership under RCW 90.71.310.

## **8.2 What Criteria will Ecology use to Prioritize Applications for Area-wide Groundwater Investigation Grants?**

If there are insufficient funds to award grants to all Applicants, Ecology will use the following criteria to prioritize Area-wide Groundwater Investigation Grants and determine the level of funding:

- Whether the Applicant has received a prior grant for the project and the performance of the Applicant under that grant and other remedial action grants. Projects that are already underway under a previous grant will receive priority for additional grant funding if this funding is needed to complete the project. Additional funding may be awarded only if the total amount of all Area-wide Groundwater Investigation Grants for a project does not exceed the maximum allowable grant amount (\$500,000 total eligible costs, including required match).
- The threat posed by the site to human health and the environment. Sites that pose a higher threat typically receive a higher priority for funding.
- Sites within a redevelopment opportunity zone <sup>30</sup> will receive a higher funding priority.
- The land reuse potential of the sites within the study area. Sites within an area of strong reuse potential will receive a higher priority. The following factors will be considered when evaluating the reuse potential of the study area:

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<sup>30</sup> Established “community renewal areas” under Chapter 35.81 RCW will be considered equivalent areas when considering grant priorities.

- ✓ Whether the study area is located within an incorporated city, town, or an urban growth area designated under RCW 36.70A.110;
  - ✓ The study area contains vacant, abandoned, or significantly underutilized former industrial or commercial facilities;
  - ✓ Availability of urban infrastructure and services such as sewer, water and other utilities and transit service to serve the redeveloped site;
  - ✓ At the time of redevelopment the site will meet the goals of local planning documents;
  - ✓ The site location presents the opportunity for significant fish/wildlife habitat restoration and/or other conservation benefits;
  - ✓ The design considers climate change projections (i.e. sea level rise, extreme weather events, wildfires, etc.);
  - ✓ The project incorporates other sustainability measures (i.e. LEED certification, stormwater/flood management, low-water landscaping, etc.);
  - ✓ The project provides a public access/public benefit (i.e. park, museum);
  - ✓ The project provides mixed use benefits (i.e. both public access and private);
  - ✓ The project preserves affordable housing stock when the property is redeveloped;
  - ✓ The project will provide some additional affordable housing stock when the property is redeveloped; and
  - ✓ The project will solely provide affordable housing stock when the property is redeveloped.
  - ✓ Whether the application provides for a clear progression from remedial action to redevelopment or restoration. Projects with a clear vision for future use tend to be cleaned up faster with a more successful reuse.
- The readiness of the Applicant to start and complete the work to be funded by the grant.
  - The ability of the grant to expedite the cleanup. Sites with cleanups being delayed because of unresolved area-wide groundwater issues will receive a higher priority for funding.
  - The ability of the grant to leverage other public or private funds. Grants that are accompanied by a larger local investment that either reduces the match or expands the scope of work beyond that funded by the grant will receive a higher priority.<sup>31</sup>

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<sup>31</sup> This can be local monies, other state or federal grants, private funds, insurance settlements or funds from contribution actions.

- The overall distribution of grants throughout the state, with the intent to award grants to a variety of types and sizes of local government.

### **8.3 Eligible Costs under Area-wide Groundwater Investigation Grants**

Ecology's Grant Financial Manager has final approval authority for all grant-related costs. The grant agreement must be signed by both the Recipient and Ecology for any costs incurred under a new agreement to be eligible for reimbursement. Applicants can only be reimbursed for costs of implementing a work plan approved by the Cleanup Project Manager. As described in Chapter 11 of this Guidance, all costs must be properly documented and conditionally eligible costs must be pre-approved by the Grant Financial Manager.

Eligible costs under Area-wide Groundwater Investigation Grants must be reasonable and necessary to conduct the area-wide groundwater investigation. Examples of eligible activities and related costs include:

- Identifying the sources of the area-wide groundwater contamination;
- Determining the nature and extent of the area-wide groundwater contamination;
- Identifying the preferential groundwater contaminant migration pathways;
- Identifying area-wide geologic and hydrogeologic conditions;
- Establishing area-wide natural groundwater quality, including aquifer classification under WAC 173-340-720; and
- Grant administration consistent with the applicable version of Ecology's "Yellow Book", the *Administrative Requirements for Recipients of Ecology Grants and Loans Managed in EAGL*. (The applicable version is either at <https://fortress.wa.gov/ecy/publications/SummaryPages/1701004.html> or the one identified in the general terms and conditions of your grant or loan agreement.).

Some costs related to these activities may not be reimbursable under the grant, or may only be eligible under certain conditions. These are considered conditionally eligible costs and must be approved in advance by Ecology's Grant Financial Manager. Costs not allowed are the responsibility of the Recipient.

### **8.4 Ineligible Costs under Area-wide Groundwater Investigation Grants:**

Ineligible costs for Area-wide Groundwater Investigation Grants include:

- The cost of developing the grant application or negotiating the grant agreement;
- The cost of dispute resolution under the grant agreement;



- Retroactive costs, except as provided for in the next subsection;
- Natural resource damage assessment and restoration costs and liability for natural resource damages under Chapter 70.105D RCW or the federal cleanup law;
- Site development and mitigation costs not required as part of the remedial action;
- Legal costs including, but not limited to, the costs of seeking client advice; pursuing cost recovery; contribution or insurance claims administrative hearings; pursuing penalties or civil or criminal actions against persons; penalties incurred by the Recipient; defending actions taken against the Recipient; and any attorney fees incurred by the Recipient; and
- In-kind contributions.

## **8.5 Retroactive Costs under Area-wide Groundwater Investigation Grants**

Retroactive costs are eligible for reimbursement if the costs were incurred under a prior Area-wide Groundwater Investigation Grant agreement and were not reimbursed under that prior agreement,<sup>32</sup> and the costs are eligible costs under this Guidance.

## **8.6 Match Requirements for Area-wide Groundwater Investigation Grants**

Area-wide Groundwater Investigation Grants may be awarded for up to one hundred percent (100%) of eligible costs up to a maximum of \$500,000. Ecology may make grant offers below the maximum eligible state share and choose to fund all or part of grant-eligible activities depending on availability of funding and other factors in Section 8.2 of this Guidance.

When a grant is awarded for less than 100% of eligible costs, the Recipient must fund that portion of the eligible costs not funded by Ecology (i.e., provide grant match). In-kind contributions cannot be used for grant match.

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<sup>32</sup> Such as due to lack of funding.

## 8.7 Area-wide Groundwater Investigation Grant Contacts

**Regional Office Contacts:** Questions about grant availability, potential areas where Area-wide Groundwater Investigation Grants could be awarded, and ten-year plan submissions should be directed to the following Ecology Toxics Cleanup Program Regional Office Managers:

- For counties in the **Central Region** (Benton, Chelan, Douglas, Kittitas, Klickitat, Okanogan and Yakima) the Regional Manager is Valerie Bound at 509-454-7886 or [Valerie.Bound@ecy.wa.gov](mailto:Valerie.Bound@ecy.wa.gov).
- For counties in the **Eastern Region** (Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, and Whitman) the Regional Manager is Kathy Falconer at 509-329-3568 or [Kathy.Falconer@ecy.wa.gov](mailto:Kathy.Falconer@ecy.wa.gov).
- For counties in the **Northwest Region** (Island, King, Kitsap, San Juan, Skagit, Snohomish, and Whatcom) the Regional Manager is Bob Warren at 425-649-7054 or [Bob.Warren@ecy.wa.gov](mailto:Bob.Warren@ecy.wa.gov).
- For counties in the **Southwest Region** (Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Lewis, Mason, Pacific, Pierce, Skamania, Thurston, and Wahkiakum) the Regional Manager is Rebecca Lawson at 360-407-6241 or [Rebecca.Lawson@ecy.wa.gov](mailto:Rebecca.Lawson@ecy.wa.gov).

**Cleanup Project Managers:** Projects receiving an Area-wide Groundwater Investigation Grant will be assigned an Ecology Cleanup Project Manager from the appropriate Regional Office. This person will be specified in the grant agreement or associated correspondence. See Chapter 2 for Ecology Cleanup Project Manager Responsibilities.

**Grant Financial Managers:** For questions related to the grant application and grant agreement, eligible costs, and general grant administration, contact Ecology's Grant Financial Managers:

- Dan Koroma: 360-407-7187 or [Dan.Koroma@ecy.wa.gov](mailto:Dan.Koroma@ecy.wa.gov).
- Lydia Lindwall: 360-407-6210 or [Lydia.Lindwall@ecy.wa.gov](mailto:Lydia.Lindwall@ecy.wa.gov).

## Chapter 9: Safe Drinking Water Action Grants

The solicitation process for Safe Drinking Water Action Grants is closed for the 2019-2021 biennium. The next solicitation for this grant type will be in February of 2020 for funding in the 2021-2023 biennium. See Section 1.5 for a description of the biennial budgeting process.

The purpose of Safe Drinking Water Action Grants is to assist local governments in providing safe drinking water to persons served by private wells or public water systems that have been impacted by contamination from a contaminated site. An example would be paying for a stripping tower to treat water from a municipal well that has been impacted by solvent contamination. Another example would be extending public water to an area where private wells have been contaminated by a site.

The Washington State Departments of Ecology and Health (Health) both have roles regarding Safe Drinking Water Action Grants. Ecology and Health may identify impacted water supplies either through routine water supply monitoring or contaminated site studies. Once the impacted water supply is identified, Ecology can provide grant funding for safe drinking water and administers the grant. Where grants are awarded, the Department of Health provides technical oversight of work on public water systems to ensure state drinking water regulations are met.

### 9.1 Who can receive a Safe Drinking Water Action Grant?

To receive a Safe Drinking Water Action Grant, the Applicant must meet the following conditions:

- The Applicant must be a local government.
- The Applicant must be the owner or operator of a public water system or the Applicant must be applying on behalf of the owner or operator of a public water system (purveyor).<sup>33</sup>
- Ecology has determined the drinking water source is affected or threatened by one or more contaminants originating from a contaminated site because:<sup>34</sup>
  - ✓ The contaminant levels in the drinking water source exceed the maximum contaminant levels (MCL's) established by the State Board of Health in WAC 246-290-310;
  - ✓ The contaminant levels in the drinking water source exceed the cleanup levels established by Ecology under the Model Toxics Control Act cleanup regulation (WAC 173-340); or

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<sup>33</sup> A public water system is any Group A water system, as described in Chapter 246-290 WAC.

<sup>34</sup> Naturally occurring contaminants and contaminants originating from sources other than a MTCA site or from within the water system do not qualify for these grants. Examples are naturally occurring metals, bacterial contamination caused by septic systems, nitrates caused by manure application, and copper and lead introduced by the plumbing system.

- ✓ The contaminant levels in the drinking water source don't currently exceed the MCLs or MTCA cleanup levels but these levels are threatened to be exceeded in the future;<sup>35</sup>
- Health has determined the Applicant's or purveyor's water system that would be used to provide alternative water is in substantial compliance with applicable rules of the Washington State Board of Health or the Washington State Department of Health including:
  - ✓ Group A Public Water Supplies (Chapter 246-290 WAC)<sup>36</sup>
  - ✓ Water Works Operator Certification (Chapter 246-292 WAC)
  - ✓ Water System Coordination Act (Chapter 246-293 WAC)
  - ✓ Drinking Water Operating Permits (Chapter 246-294 WAC)
- If the provision of safe drinking water includes water line extensions, then the extensions must be consistent with the coordinated water system plan prepared under Chapter 70.116 RCW, and the plans for new development prepared under Chapter 36.70 RCW or Chapter 36.70A RCW for the geographic area containing the affected water supplies. These statutes generally mean that water lines cannot be extended to areas outside of the water supplier's service area, and may also limit extensions beyond designated city limits and urban growth areas. Applicants proposing to do such extensions should coordinate closely with the Washington State Department of Health and Department of Commerce-Growth Management Program.
- The Applicant must not be required to conduct the safe drinking water action under order or decree.
- Projects designed to address the restoration of Puget Sound must not be in conflict with the action agenda developed by the Puget Sound Partnership under RCW 90.71.310.

## 9.2 What Criteria will Ecology use to Prioritize Applications for Safe Drinking Water Action Grants?

Ecology will use the following criteria to prioritize Safe Drinking Water Action Grants and determine the level of funding:

- Whether the Applicant has received a prior grant for the project and the performance of the Applicant under that grant and other remedial action grants. Projects that are already underway under a previous grant will receive priority for additional grant funding if this funding is needed to complete the project;

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<sup>35</sup> For example, the water supply is within or down gradient of a contaminant plume; or the water supply, if pumped at its full permitted potential, would draw in contamination.

<sup>36</sup> NOTE: Group B water systems (generally small private water systems) are not authorized to receive Safe Drinking Water Grants.

- The threat posed by the site to human health and the environment. Sites that pose a higher threat typically receive a higher priority for funding;
- Whether the drinking water serves a highly impacted community;
- The ability of the grant to expedite the provision of safe drinking water. Sites where the local government can demonstrate that a lack of local funding or ability to obtain financing is significantly delaying the provision of safe drinking water will receive a higher priority;
- The per capita cost of providing safe drinking water;
- The readiness of the Applicant to start and complete the work to be funded by the grant;
- The ability of the grant to leverage other public or private funds. Grants that are accompanied by a larger local investment that either reduces the match or expands the scope of work beyond that funded by the grant will receive a higher priority;<sup>37</sup>
- Consistent with MTCA's preference for permanent cleanups, applications that provide for treatment of contaminated groundwater will generally be favored for a higher match over applications that only provide alternative water; and
- In rural areas where extension of a public water system is not practical, point of entry water treatment systems will be preferred over point of use treatment.<sup>38</sup>



**Figure 9-1.** Water treatment systems for contaminated public wells and connecting affected homeowners to a public water supply are examples of uses of Safe Drinking Water Grants.

<sup>37</sup> This can be local monies, other state or federal grants, private funds, insurance settlements or funds from contribution actions.

<sup>38</sup> Point of entry treatment means the treatment is for water supplying the entire house; point of use means the treatment is provided at the location the water is used, such as a filter at the kitchen sink.

### 9.3 Eligible Costs under Safe Drinking Water Action Grants

Ecology's Grant Financial Manager has final approval authority for all grant-related costs. The grant agreement must be signed by both the Recipient and Ecology for any costs incurred under a new agreement to be eligible for reimbursement. Applicants can only be reimbursed for costs of implementing a work plan approved by the Cleanup Project Manager. As described in Chapter 11 of this Guidance, all costs must be properly documented and conditionally eligible costs must be pre-approved by the Ecology Grant Financial Manager.

Eligible costs under Safe Drinking Water Action Grants must be reasonable and necessary to provide safe drinking water to persons whose water supply has been impacted by a contaminated site. Examples of eligible activities and related costs include:

- Water supply source development and replacement, including well replacement, pumping and storage facilities, source meters and reasonable appurtenances;
- Transmission lines between major systems components, including interties with other water systems;
- Treatment equipment and facilities, including air stripping towers, package treatment plants, point-of-use treatment systems, and similar approaches;
- Distribution lines from major system components to system customers or service connections;
- Bottled water as an interim action;
- Fire hydrants;
- Service meters;
- Project inspection, engineering and administration;
- Individual service connections including any connection fees and charges;
- Drinking water well decommissioning under WAC 173-160-381;
- Other costs identified by the Department of Health as necessary to provide a system that operates in compliance with federal and state standards; and
- Grant administration consistent with the applicable version of Ecology's "Yellow Book", the *Administrative Requirements for Recipients of Ecology Grants and Loans Managed in EAGL*. (The applicable version is either at <https://fortress.wa.gov/ecy/publications/SummaryPages/1701004.html> or the one identified in the general terms and conditions of your grant or loan agreement.)

Some costs related to these activities may not be reimbursable under the grant, or may only be eligible under certain conditions. These are considered conditionally eligible costs must be approved in advance by Ecology's Grant Financial Manager. Costs not allowed are the responsibility of the Recipient.

## **9.4 Ineligible Costs under Safe Drinking Water Action Grants**

Ineligible costs for Safe Drinking Water Action Grants include:

- The cost of developing the grant application or negotiating the grant agreement;
- The cost of dispute resolution under the grant agreement;
- The cost of over sizing or extending a water system for future development;
- The cost of individual service connections for undeveloped lots;
- Local improvement district assessments;
- Operation and maintenance costs;
- Natural resource damage assessment and restoration costs and natural resource damages and liability for natural resource damages under Chapter 70.105D RCW or the federal cleanup law;
- Legal costs including, but not limited to, the costs of seeking client advice; pursuing cost recovery, contribution, or insurance claims; participating in administrative hearings; pursuing penalties or civil or criminal actions against persons; penalties incurred by the Recipient; defending actions taken against the Recipient; and any attorney fees incurred by the Recipient; and
- In-kind contributions.

## **9.5 Retroactive Cost Eligibility under Safe Drinking Water Action Grants**

Retroactive costs are eligible for reimbursement if the costs were incurred under a prior Safe Drinking Water Action Grant agreement and were not reimbursed under that prior agreement,<sup>39</sup> and the costs are eligible costs under this Guidance.

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<sup>39</sup> Such as due to lack of funding.

## 9.6 Financial Match Requirements for Safe Drinking Water Action Grants

Safe Drinking Water Action Grants may be awarded for up to ninety percent (90%) of eligible costs with no limitation on the amount of the grant. Ecology may make grant offers below the maximum eligible state share and choose to fund all or part of grant-eligible activities depending on availability of funding and other factors in Section 9.2 of this Guidance.

When a grant is awarded for less than 100% of eligible costs, the Recipient must fund that portion of the eligible costs not funded by Ecology (i.e., provide grant match). In-kind contributions cannot be used for grant match.

## 9.7 Safe Drinking Water Action Grant Contacts

**Regional Office Contacts:** Questions about grant availability, potential areas where Safe Drinking Water Action Grants could be awarded, and ten-year plan submissions should be directed to the following Ecology Toxics Cleanup Program Regional Office Managers:

- For counties in the **Central Region** (Benton, Chelan, Douglas, Kittitas, Klickitat, Okanogan and Yakima) the Regional Manager is Valerie Bound at 509-454-7886 or [Valerie.Bound@ecy.wa.gov](mailto:Valerie.Bound@ecy.wa.gov).
- For counties in the **Eastern Region** (Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, and Whitman) the Regional Manager is Kathy Falconer at 509-329-3568 or [Kathy.Falconer@ecy.wa.gov](mailto:Kathy.Falconer@ecy.wa.gov).
- For counties in the **Northwest Region** (Island, King, Kitsap, San Juan, Skagit, Snohomish, and Whatcom) the Regional Manager is Bob Warren at 425-649-7054 or [Bob.Warren@ecy.wa.gov](mailto:Bob.Warren@ecy.wa.gov).
- For counties in the **Southwest Region** (Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Lewis, Mason, Pacific, Pierce, Skamania, Thurston, and Wahkiakum) the Regional Manager is Rebecca Lawson at 360-407-6241 or [Rebecca.Lawson@ecy.wa.gov](mailto:Rebecca.Lawson@ecy.wa.gov).

**Cleanup Project Managers:** Projects receiving a Safe Drinking Water Action Grant will be assigned an Ecology Cleanup Project Manager from the appropriate Regional Office. This person will be specified in the grant agreement or associated correspondence. See Chapter 2 for Ecology Cleanup Project Manager Responsibilities.

**Grant Financial Managers:** For questions related to the grant application and grant agreement, eligible costs, and general grant administration, contact Ecology's Grant Financial Managers:

- Dan Koroma: 360-407-7187 or [Dan.Koroma@ecy.wa.gov](mailto:Dan.Koroma@ecy.wa.gov).
- Lydia Lindwall: 360-407-6210 or [Lydia.Lindwall@ecy.wa.gov](mailto:Lydia.Lindwall@ecy.wa.gov).



## Chapter 10: Oversight Remedial Action Loans

The solicitation process for Oversight Remedial Action Loans is closed for the 2019-2021 biennium. The next solicitation for this grant type will be in February of 2020 for funding in the 2021-2023 biennium. See Section 1.5 for a description of the biennial budgeting process.

The purpose of Oversight Remedial Action Loans is to supplement local government funding and funding from other sources to meet the match requirements for Oversight Remedial Action Grants. The loans are intended to encourage and expedite cleanup of contaminated sites. They are also intended to lessen the impact of the cleanup cost on ratepayers and taxpayers by providing low interest loans for grant match when the local government has insufficient resources to cover the match.

### 10.1 Types of Oversight Remedial Action Loans

There are two different types of Oversight Remedial Action Loans:

- **Standard Loans.** A Standard Loan is a below-market rate loan for up to a 20-year repayment period.
- **Extraordinary Financial Hardship Loans.** An Extraordinary Financial Hardship Loan is a below market rate loan with deferred terms and conditions for repayment. The deferred terms and conditions may not be indefinite and the loan must be approved by the Director of the Department of Ecology or his/her designee.

In both cases, Ecology may award an Oversight Remedial Action Loan for up to the full amount of the required grant match. If less than the full amount of the match is awarded, the Applicant is responsible for the remaining match. The Applicant is also responsible for any ineligible costs.

### 10.2 Who can receive an Oversight Remedial Action Loan?

For the purposes of an Oversight Remedial Action Loan, a project consists of remedial actions conducted under an order or decree at a single site. A project may extend over multiple biennia. Ecology may provide more than one loan for a project. To be eligible for a loan, a project must meet all of the following requirements:

- The Applicant must be a local government;
- The Applicant must have been awarded (or be in the process of being awarded) an Oversight Remedial Action Grant and have met the qualifications to have received that grant;
- The Applicant must demonstrate the following to Ecology's satisfaction. Ecology may require an independent third party financial review to support the demonstration:
  - ✓ For a Standard Loan, its financial need for the loan and ability to repay the loan.

- ✓ For an Extraordinary Financial Hardship Loan, its financial need for the loan, inability to repay the loan under present circumstances, and ability to repay the loan in the future.

### **10.3 What Criteria will Ecology use to Prioritize Applications for Oversight Remedial Action Loans?**

Ecology will use the same criteria that are used for Oversight Remedial Action Grants in Chapter 6 to determine priorities for Oversight Remedial Action Loans.

### **10.4 Eligible and Ineligible Costs**

Eligible and ineligible costs are the same as those for Oversight Remedial Action Grants in Chapter 6.

### **10.5 Retroactive Costs for Oversight Remedial Action Loans**

Eligible retroactive costs are the same as those for Oversight Remedial Action Grants in Chapter 6.

### **10.6 Repayment of Oversight Remedial Action Loans**

#### **Standard Loans**

For a Standard Loan, the following terms and conditions will apply:

- If the repayment period is less than or equal to five years, then the interest rate will be thirty percent of the average market rate,<sup>40</sup> as published in the bond buyers index for tax-exempt municipal bonds as of July 1<sup>st</sup> of each odd-numbered year.
- If the repayment period is more than five years and less than or equal to twenty years, then the interest rate will be sixty percent (60%) of the average market rate.
- Interest will begin to accrue on each disbursement as it is paid to the Recipient.
- Other terms and conditions as specified in the loan agreement.

#### **Extraordinary Financial Hardship Loans**

For an Extraordinary Financial Hardship Loan, Ecology can adjust the loan terms and conditions for Standard Loans or defer repayment of the loan. This will be based on the Applicant's demonstration of inability to repay the loan under their present financial circumstances and how this situation may change in the future. The loan deferral terms and conditions may change depending on a periodic review of the Recipient's ability to pay. Loan repayment may not be deferred indefinitely.

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<sup>40</sup> "Average market interest rate" means the daily market rate published in the bond buyer's index for tax-exempt municipal bonds as of July 1st of each odd-numbered year.

## 10.7 Oversight Remedial Action Loan Contacts

**Regional Office Contacts:** Questions about Oversight Remedial Action Loan availability and ten-year plan submissions should be directed to the following Ecology Toxics Cleanup Program Regional Office Managers:

- For counties in the **Central Region** (Benton, Chelan, Douglas, Kittitas, Klickitat, Okanogan and Yakima) the Regional Manager is Valerie Bound at 509-454-7886 or [Valerie.Bound@ecy.wa.gov](mailto:Valerie.Bound@ecy.wa.gov).
- For counties in the **Eastern Region** (Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, and Whitman) the Regional Manager is Kathy Falconer at 509-329-3568 or [Kathy.Falconer@ecy.wa.gov](mailto:Kathy.Falconer@ecy.wa.gov).
- For counties in the **Northwest Region** (Island, King, Kitsap, San Juan, Skagit, Snohomish, and Whatcom) the Regional Manager is Bob Warren at 425-649-7054 or [Bob.Warren@ecy.wa.gov](mailto:Bob.Warren@ecy.wa.gov).
- For counties in the **Southwest Region** (Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Lewis, Mason, Pacific, Pierce, Skamania, Thurston, and Wahkiakum) the Regional Manager is Rebecca Lawson at 360-407-6241 or [Rebecca.Lawson@ecy.wa.gov](mailto:Rebecca.Lawson@ecy.wa.gov).

**Cleanup Project Managers:** Projects receiving an Oversight Remedial Action Loan will be assigned an Ecology Cleanup Project Manager from the appropriate Regional Office. This person will be specified in the loan agreement or associated correspondence. See Chapter 2 for Ecology Cleanup Project Manager Responsibilities.

**Grant Financial Managers:** For questions related to the loan application and loan agreement, eligible costs, and general loan administration, contact Ecology's Grant Financial Managers:

- Dan Koroma: 360-407-7187 or [Dan.Koroma@ecy.wa.gov](mailto:Dan.Koroma@ecy.wa.gov).
- Lydia Lindwall: 360-407-6210 or [Lydia.Lindwall@ecy.wa.gov](mailto:Lydia.Lindwall@ecy.wa.gov).

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## Chapter 11: Financial and Grant Management

This chapter describes the financial aspects of managing a remedial action grant. It is intended to provide more in-depth information about financial and grant management issues, and address some common questions that arise during implementation of these agreements.

The following topics are addressed in this chapter:

- Issues related to eligible costs specific to remedial action grants.
- Billing and documentation requirements.

The Section supplements:

- Information contained in the applicable version of Ecology’s “Yellow Book”, the *Administrative Requirements for Recipients of Ecology Grants and Loans Managed in EAGL*. (The applicable version is either at <https://fortress.wa.gov/ecy/publications/SummaryPages/1701004.html> or the one identified in the general terms and conditions of your grant or loan agreement.)
- Project-specific terms and conditions outlined in the grant agreement.

Scope of work or other requirements specified in an order or decree or VCP agreement.

### 11.1 Ecology Administration of Grants and Loans (EAGL)

All Ecology grants and loans are administered through the online grant management system called the Ecology Administration of Grants and Loans or “EAGL.” EAGL is a comprehensive web-based grant and loan management system that allows Ecology’s grant and loan clients to complete grant applications, submit payment requests with progress reports, submit closeout and equipment reports, and request amendments online.

To gain access to the EAGL system, Applicants must first register through Secure Access Washington (SAW). Once a SAW account has been set up, you can login and request access to EAGL. This EAGL account approval process can take a few days and you might be contacted by an Ecology representative to complete your account. Once the account has been authorized, Applicants and Recipients can login and use EAGL to apply for and manage their grants.

Create a SAW account at <https://secureaccess.wa.gov/ecy/eagl>. For video tutorials on creating SAW and EAGL accounts, see [Ecology’s EAGL YouTube playlist](#)

For more information on the EAGL system, see <http://www.ecy.wa.gov/funding/EAGL.html>. For assistance with EAGL, contact one of the following Ecology Grant Financial Managers:

- Dan Koroma: 360-407-7187 or [Dan.Koroma@ecy.wa.gov](mailto:Dan.Koroma@ecy.wa.gov).
- Lydia Lindwall: 360-407-6210 or [Lydia.Lindwall@ecy.wa.gov](mailto:Lydia.Lindwall@ecy.wa.gov).

## 11.2 Cash Management

Ecology generally funds remedial action grants by each major phase of remedial action (remedial investigation, feasibility study, and cleanup). To better manage cash flow and provide the most grant funds possible to Applicants who are ready to proceed with cleanups, WAC 173-322A-220(5) requires that grants be awarded only for work expected to be accomplished within the biennium, and that no additional funds are provided until the recipient substantially spends what they have been given.

Grant recipient's complete and update spending plans with each payment request and Ecology's Toxics Cleanup Program Management Team meets quarterly to review the actual expenditures to date and projected future expenditures. If a project becomes significantly delayed, unspent funds may be allotted to another project.

For projects where work will continue for more than one biennium, if significant progress<sup>41</sup> has been made, a new grant agreement may be prepared providing funding for next biennium's activities, depending on the legislative budget process.

This phased approach to funding cleanups makes more money available for awards each biennium by not committing funds to projects that are not making progress or are more than two years away from needing the funding.

Spending plans are no longer required for IPGs or IRAGs. The spending plan requirement was removed due to the short term nature of both grant types.

## 11.3 Amendments

After Ecology's Grant Financial Manager establishes the grant budget, amendments to change the length of the agreement, or increase or decrease the budget, may be considered. However, Ecology does not promise or guarantee such amendments.

The Ecology Grant Financial Manager may only redistribute funds among the grant tasks or perform other amendments through a formal amendment process. If a change is needed, the Recipient requests Ecology's Grant Financial Manager amend the agreement through EAGL or by email. Once approved, the amendment process can begin.

Recipients may deviate from their budget up to 10% of the total grant budget within each grant task with the Ecology Grant Financial Manager approval. At their discretion, the Ecology Grant Financial Manager may require an amendment when the budget is surpassed even if by less than 10%.

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<sup>41</sup> A grant does not need to be fully expended to qualify for funding the next biennium. "Significant progress" is a qualitative assessment based on a comparison of work actually completed and funds expended to that described in the grant agreement. It will consider factors such as unanticipated delays due to permits or public involvement, Ecology's contribution to review deadline delays, and actual conditions encountered at the site being more complex than expected.

## 11.4 Eligible Costs - General

The scope of work must be approved by Ecology's Grant Financial Manager and Ecology's Cleanup Project Manager. For sites under an order or decree, the scope of work in the grant agreement must be consistent with that required by the order or decree. All requests for reimbursement must be reasonable and necessary to perform the scope of work established in the agreed order or consent decree, and the grant agreement.

Only eligible cash expenditures are reimbursable. In general, an eligible cost is:

- Necessary to complete the scope of work specified in the grant agreement.
- Reasonable for the task.
- Incurred after the effective date of the agreement and before the expiration date of the agreement. Costs incurred prior to the effective date of the agreement are at the sole expense of the Recipient. For some grants, some retroactive costs are allowed. See the discussion under specific grants for allowable retroactive costs.
- An allowable cost as described in the agreement, WAC 173-322A, this Guidance, and the applicable version of Ecology's "Yellow Book", the *Administrative Requirements for Recipients of Ecology Grants and Loans Managed in EAGL*. (The applicable version is either at <https://fortress.wa.gov/ecy/publications/SummaryPages/1701004.html> or the one identified in the general terms and conditions of your grant or loan agreement.)
- Consistent with the standard business practices of the Recipient. A cost is not eligible if it is computed differently than costs incurred in any other Recipient activity.
- Properly documented.

### Ecology's Grant Financial Manager Determines Cost Eligibility

While Ecology's Cleanup Project Manager knows the technical and regulatory requirements under MTCA, they do not necessarily know all the requirements related to grant expenditures. Therefore, only Ecology's Grant Financial Manager can determine if a cost is eligible under the grant. If you have any questions about whether you can bill a specific cost to the grant, you must ask the Ecology Grant Financial Manager responsible for your grant/loan agreement.

Recipients are responsible for understanding the terms of their agreement, the grant rules, and Guidance related to the eligibility of a cost, prior to making purchases and billing them to the grant. Each Ecology grant program can have different requirements about the kinds of expenditures allowed. Be sure to ask your Remedial Action Grant Financial Manager about cost eligibility related to all grants covered by these guidelines.

Recipients are also fully responsible for paying any cost Ecology's Grant Financial Manager does not allow, even if the Recipient did not understand the cost was not eligible, or a contractor or other representative approved or purchased the item without the Recipient's knowledge or approval.

**Example:** The Recipient buys a computer and bills it to the grant without asking Ecology’s Grant Financial Manager. Ecology’s Grant Financial Manager determines the computer was not needed to complete the scope of work and therefore was not an eligible cost. The Recipient bears the entire cost of the item and cannot count it as match for the grant.

## Reasonable Costs

Ecology reserves the right to reject costs as excessive, even when work is fully approved from a technical standpoint. As a result, some expenses may be reimbursed at less than the allowable percentages or not allowed at all.

**Example 1:** A \$3,000 GPS unit is purchased when another is available for \$500 that would perform the duties required at the site but the recipient wanted the more expensive model to perform other work for the jurisdiction. Ecology’s Grant Financial Manager may choose to pay only a portion of the GPS unit and software or to completely deny the expense.

**Example 2:** Multiple cameras are purchased (one for each person) when one to share would do the job as well. The grant manager may choose to allow a lesser number cameras.

In each case, the grant manager may request a cost comparison between purchasing and renting to justify the decision to rent or buy. So it is important to communicate project needs with Ecology’s Grant Financial Manager prior to making these types of decisions to ensure you will be reimbursed for your expenditures.

## 11.5 Eligible Costs – Specific Issues

For the purposes of this Guidance, “grant-eligible costs” are also called “eligible costs.” While the scope of work will be identified in the grant agreement, there are often specific issues related to eligible costs that may arise during grant implementation. When there is a question about what is an eligible cost, the Recipient should first review the applicable version of Ecology’s “Yellow Book”, the *Administrative Requirements for Recipients of Ecology Grants and Loans Managed in EAGL*. (The applicable version is either at <https://fortress.wa.gov/ecy/publications/SummaryPages/1701004.html> or the one identified in the general terms and conditions of your grant or loan agreement.).

The following section also discusses issues that often arise specific to remedial action grants. For additional questions about cost eligibility or for help finding the version of the “Yellow Book” applicable to your project, contact a Remedial Action Grant Financial Manager.

- Dan Koroma: 360-407-7187 or [Dan.Koroma@ecy.wa.gov](mailto:Dan.Koroma@ecy.wa.gov).
- Lydia Lindwall: 360-407-6210 or [Lydia.Lindwall@ecy.wa.gov](mailto:Lydia.Lindwall@ecy.wa.gov).

## Administrative Costs

Administrative costs that are incurred as part of normal administrative approval processes for approval of contracts or payment of bills are eligible costs. For example, time spent reviewing invoices, preparing payment requests or progress reports, and other project-related



documents, or participating in briefing meetings with elected officials who need to approve a contract related to the grant, are eligible costs.

## Direct Expenses

Direct costs are eligible costs. These are costs that can be identified specifically with a particular task for the project, such as:

- Compensation for employee time devoted to the project
- Cost of materials used specifically for the project
- Cost of services furnished for the project by other entities such as consultants or other agencies or programs.

## Monitoring Costs

The installation of monitoring systems and up to one year of post-construction monitoring are eligible costs.

## Operating and Maintenance Costs

Operating and maintenance costs incurred up to the first year after completion of construction are eligible costs. When a determination of whether construction has been completed is not apparent, Ecology will use EPA's guidance entitled "Closeout Procedures for National Priority List Sites" to determine if construction has been completed. This guidance can be found at <https://www.epa.gov/superfund/close-out-procedures-national-priorities-list-superfund-sites>.

## Overhead

Overhead costs are those incurred for a common purpose and not readily identifiable with a particular task. These include costs incurred by the Recipient, as well as costs incurred by others who supply goods, services or facilities to the Recipient. These costs should be proportioned between the grant and other non-grant related usage. Examples of overhead items are:

- Cost of utilities for a facility shared by a project and other Recipient activities.
- Cost of maintaining a department that provides services to a project as well as other Recipient activities (e.g., equipment replacement and reserve charges; fiscal office; human resources office; a warehouse to store equipment or samples). Reminder: legal expenses are not grant eligible.
- Cost of supervisory personnel who oversee project activities as well as other Recipient activities.

The Recipient may charge for overhead to cover costs that are not typically direct billed. Allowable overhead is up to twenty-five percent (25%) of salaries and benefits for employees directly billing to the project for Remedial Action Grants. Note that the 30% is a maximum

amount. If the normal overhead rate for employees is 20%, then the grant should not be billed for more than 20% overhead.

## Computing Overhead Charges

There is no universal rule for classifying certain costs as either “direct” or “overhead.” A cost may be direct with respect to some of the Recipient’s functions, but overhead with respect to the project.

It is essential only to treat each item consistently throughout the project either as a direct or an overhead cost as follows:

- The Recipient may direct bill all allowable costs that can be specifically identified with the project.
- The Recipient must compute the direct charges in the same way as those charges would be computed if the costs were related to any other Recipient activity.
- Overhead charges must be reported on the same billing as the salaries and benefits on which they are based. They must be reported as a separate line item.
- Some projects are subject to state or federal laws that limit the amount of eligible overhead costs. In such cases, the ineligible amount may not be charged to another Ecology project.

*Example 1:* If the Recipient's motor pool normally bills vehicle mileage back to individual jobs, mileage applied to the project may be direct billed. Otherwise, it should be included in the overhead charge.

*Example 2:* "Communication" is typically included in the overhead rate, and is intended to cover the telephone/cellphone charges associated with maintaining service for project administration. Long distance calls directly associated with the project may be direct billed.

*Example 3:* Insurance, such as the project portion of the Recipient's regular fire and liability insurance, is included in the overhead, while the cost of an insurance policy taken out specifically for the project may be direct billed.

## Costs Typically Included in the Overhead Rate

- Communication (basic telephone, cell phone, pagers, internet connections, facsimile (fax) and postage charges)
- Capital outlays (costs of shared real property, equipment, easements)
- Office furnishings and operating supplies
- Insurance (fire, casualty, theft, bonds, liability, etc.)
- Intergovernmental services (costs charged by other governmental entities for services rendered jointly to the project as well as to other Recipient activities, such as equipment

replacement and reserve fund charges; fiscal support services; janitorial services; human resources; police or fire protection during construction)

- Miscellaneous (dues; subscriptions; memberships; laundry; information and credit services; printing and binding)
- Office stationery supplies
- Operating rentals and leases
- Repairs and maintenance (labor and supplies to repair or maintain real or personal property)
- Small tools and minor equipment for administrative use (calculators, fax machines, telephones, etc.)
- Utilities.

## Per Diem

When on travel status, grant recipients and their consultant's travel costs are a grant eligible cost under certain circumstances. Per diem costs will only be paid at the state rate.

For Washington state per diem maps, see <http://www.ofm.wa.gov/resources/travel.asp>

- All costs over the state rate, or any costs not allowed by Ecology's Grant Financial Manager, are the responsibility of the recipient and may not be used as grant match.
- Itemized receipts are always required for hotels. The room rate cannot be reimbursed in excess of the state rate. This does not include additional room fees and taxes. For example: if the state rate is \$91 the room must cost \$91 or less. However, the reimbursable hotel bill could be higher than \$91 after the addition of taxes and room fees. This does not include room service.
- Exceptions to state-approved hotel rates may be authorized by Ecology's Grant Financial Manager under limited circumstances. However, the approval must be provided in writing prior to the cost being incurred.

## Permit Fees

Fees for permits necessary to complete remedial actions are an eligible cost. This includes local, state (including Ecology issued permits) and federal permits. However, Ecology and EPA oversight costs for state or federal orders and decrees, and VCP charges are not eligible costs (see Section 11.7).

If remedial actions being conducted under an order or decree are exempt from a local, state, or federal permit, any equivalent fee charged by the permitting agency to identify applicable, relevant and appropriate requirements (ARARs) are eligible costs.

For some sites, to complete the work within the biennium, it may be necessary to pay an extra fee for expedited permit review. These expedited fees are also eligible costs. Fees for permits related to redevelopment of a site are not eligible costs.

## Supplies

Supplies are tangible personal property other than tools or equipment. Supplies are either direct billed or are considered an overhead expense. Supplies or materials needed to perform the scope of work in the agreement are a grant-eligible cost. Under most grant agreements, these costs are part of overhead expenses but they can be directly billed if they are used only for grant related activities.

**Example:** If toner, paper, or ink are purchased for an office printer used by multiple programs or projects, this is an overhead expense. If recipient's have a project office with a project printer dedicated to use only on the grant funded activities, the printer supplies may be direct billed.

## 11.6 Conditionally Eligible Costs

Conditionally eligible costs are costs that may be grant-eligible if they meet certain conditions. All conditionally eligible costs require prior approval of Ecology's Grant Financial Manager. Failure to obtain prior approval may result in the Recipient having to pay for these costs out of pocket and unable to count them as grant match. The following section discusses specific issues related to conditionally eligible costs that often arise during the administration of remedial action grants.

### Amenity Replacement Costs

Costs of replacing amenities on the site such as trash and recycle bins, sidewalks, benches, lighting, turf, picnic tables, and drinking fountains, may be allowed if these amenities were destroyed as a result of cleanup construction. Recipients must provide up-front documentation about why these amenities need to be replaced and receive prior approval from Ecology's Grant Financial Manager.

### Computer Purchases

Computer purchases (and associated software) are a conditionally allowable cost. In some cases, typically long-term cleanups, computers are an allowed direct expense. Recipients must obtain written approval from Ecology's Grant Financial Manager to purchase computers that will be directly billed to the grant. Any costs incurred for computers or software purchased without Ecology's Grant Financial Manager's written approval are the Recipient's responsibility.

To request written approval from Ecology's Grant Financial Manager, the Recipient must submit a justification for the purchase in writing (email is fine) that includes:

- The work tasks to be performed on the computer.

- A detailed price quote for the system that itemizes the components being requested for the purchase and any requested software or peripherals.
- The amount of time the user or users are assigned to grant tasks.
- The share of the total purchase price requested for grant funding.

## **Equipment**

Equipment means tangible, nonexpendable, personal property that has a useful life of more than one year and an acquisition cost of at least \$5,000 per functional unit or system. Some tools can fall into the equipment category because of their cost. Once an item exceeds the \$5,000 threshold, additional requirements govern its acquisition, use, and disposition. Additional information on this topic is available in the “Yellow Book”.

## **Groundbreaking and Cleanup Completion Ceremonies**

The costs of hosting a groundbreaking ceremony or one commemorating the completion of a cleanup are generally not grant eligible costs. It is possible that some light refreshments may be purchased with grant funds for these events with prior written approval by Ecology’s Grant Financial Manager. If allowed by Ecology’s Grant Financial Manager, the requirements for light refreshments apply.

## **Light Refreshments**

Light refreshments for public meetings required in the scope of work of the agreement are conditionally allowable costs. The Recipient must request approval to provide light refreshments prior to incurring any expense. The following documentation requirements must be followed to receive reimbursement for light refreshments:

### **Before your Meeting submit the following to your grant manager**

- Written request that contains an explanation for the purpose of the meeting
- Meeting agenda or description of purpose
- Draft budget (expense itemization) approved by Ecology’s Grant Financial Manager in advance of the event.

### **After your Meeting submit the following to your grant manager**

- Sign-in sheet / attendance list
- Final vendor receipts or invoices

## Negotiation Costs

Technical and administrative costs incurred by the Recipient during negotiations on an agreed order or consent decree may be eligible for grant reimbursement (legal costs are not grant-eligible). Costs related to discussion of an enforcement order are not eligible costs.

These costs must be incurred within 60 days of start of negotiations on an agreed order or within 120 days of start of negotiations on a consent decree. Recipients should receive a notice from Ecology that this time period has begun. If not, the Recipient should request such a notice.

The Ecology Project Manager must agree the costs incurred were appropriate, reasonable, and necessary to develop the technical aspects of the order/decreed (such as the scope of work).

**Examples of grant-eligible costs:** Staff time or consultant costs to develop a scope of work, public participation plan, or sampling and analysis plan to be attached to the order or decree.

## Overtime and Overtime Differential

*Overtime* is a conditionally allowable expense. The Recipient must send Ecology's Grant Financial Manager a written request for approval before working the overtime. Ecology's Grant Financial Manager must approve this request in writing. If overtime is not requested in advance, the Recipient may not request payment for overtime hours.

*Overtime Differential* is any increase in pay over the standard pay rate that is provided to compensate an employee for hours worked in excess of the standard work day or week. Overtime differential is also a conditionally allowable expense. However, it is seldom allowed.

Overtime differential may be allowable only when one hundred percent (100%) of an employee's time is spent on grant activities. Because it is conditionally allowable, the Recipient must send Ecology's Grant Financial Manager a written request for approval before incurring the obligation, and Ecology's Grant Financial Manager must approve this request in writing.

## Tools

Tools are tangible personal property having a useful life of more than one year and an acquisition cost of less than \$5,000 per functional unit. Tools are a conditionally allowable cost. They require written approval from Ecology's Grant Financial Manager. Considerations typically include the following:

- Is the tool required to perform the scope of work in the agreement?
- Is the cost reasonable?
- Is the price of the tool the most economical means of accomplishing the task or work?
- Will the Recipient maintain ownership/possession of the tool?

If tools are purchased without approval by Ecology's Grant Financial Manager prior to the purchase, the Recipient may be responsible for all costs.

Ecology may purchase tools for Recipients but not for private individuals such as contractors. Ecology expects that contractors arrive trained and equipped to do the job for which they were hired.

## **Training**

Recipient staff training is a conditionally allowable cost. Recipient training must be directly related to the project and necessary to carry out the scope of work, such as Hazardous Waste Safety training.

Travel associated with approved training for the Recipient is allowable if authorized by Ecology's Grant Financial Manager in advance. Communicate with Ecology's Grant Financial Manager to discuss your training and any associated travel needs prior to incurring any expense. Failure to do so could result in the expenses being denied. Training costs may be prorated when a Recipient only works part time on grant activities.

Remedial action grants will not typically reimburse consultant training. Consultants should be prepared to perform the duties for which they are being hired. If the Recipient agrees to fund consultant training, the Recipient is responsible for these costs and should not expect to receive reimbursement under the grant. Recipients should consult with their Ecology Grant Financial Manager if there are consultant training costs they wish to be considered for reimbursement under the grant prior to incurring the costs.

## **Working Lunches**

Recipient working lunches are a conditionally eligible cost and typically requires that the recipient is on travel status. The Recipient must submit a written request for working lunches prior to incurring expenses. Consultant working lunches are not grant-eligible unless the Recipient obtains written approval from the Ecology Grant Financial Manager prior to the event.

Ecology's Grant Financial Manager may approve expenses for Recipients consistent with how Ecology approves working lunches for Ecology staff. Please refer to the "Yellow Book" for more information.

## **11.7 Ineligible Costs**

Ineligible costs are costs that are not eligible for reimbursement under the grant and cannot be used for grant match. The following section discusses specific issues related to ineligible costs that often come up in administration of remedial action grants.

### **Contingencies, Rising Costs and Change Orders**

Grant agreements are written for a set amount. Contingencies are not allowed.

In general, agreements will not be adjusted for increased labor or material costs due to delays in completing the work or an underestimate of costs to complete the scope of work

or change orders. Ecology *may* adjust a grant when new site information results in the need for additional investigation or cleanup to comply with MTCA. Such reimbursements will be subject to Ecology written approval and the availability of funding.

### **Dispute Resolution Costs**

Technical, legal and administrative expenses incurred by the Recipient to challenge an Ecology decision, such as the costs of dispute resolution under an order or decree, are not grant-eligible costs.

### **Ecology and EPA Oversight Costs**

Costs that Ecology or EPA charges Recipients for site management oversight (cost recovery) under the terms of orders or consent decrees are not grant-eligible costs.

### **Ecology Voluntary Cleanup Program (VCP) Charges**

Ecology's charges for VCP reviews or technical consultations are not grant-eligible costs.

### **Grant Application Development**

Costs of preparing a grant application are not grant-eligible costs.

### **Legal Expenses/Attorney Fees**

Legal expenses or attorney fees of any kind are not grant-eligible costs.

### **Lobbying Costs**

Lobbying is not a grant-eligible cost. Costs for entertaining or attempting to influence dignitaries or elected officials are not grant-eligible costs. Costs for discussing the project with elected officials that do not have contract approval authority are not grant-eligible costs. This includes contacts with legislators to urge project funding.

### **Monitoring Costs**

Monitoring costs incurred after the first year of completion of the cleanup action are not grant-eligible costs.

### **Natural Resource Damage Assessment Costs and Natural Resource Damages**

Costs related to development of Natural Resource Damage Assessments (NRDA) and fees for damages to the environment or work required in lieu of fees under Natural Resource Damage (NRD) settlements are not grant-eligible costs. Cleanup and habitat restoration work required under a state or federal NRD settlement are not grant-eligible costs.

### **Operating and Maintenance Costs**

Operating and maintenance costs incurred after the first year of completion of the cleanup construction are not grant-eligible costs.



## Penalties and Late Fees

Penalties or late fees assigned to the Recipient are not grant-eligible costs. For example, the Recipient pays an invoice late and a contractor charges a late fee. This cost is not eligible for reimbursement under a remedial action grant. A penalty issued by Ecology for failure to comply with an order or decree is not a grant-eligible cost.

## Retroactive Costs

As a general rule, costs incurred before the effective date of the grant agreement are not grant-eligible costs. There are exceptions for Oversight Remedial Action Grants and Independent Remedial Action Grants. See the applicable sections of this Guidance for discussion of eligible retroactive costs under these grants.

## Withholding

Withholding of proportional payment until all work is satisfactorily completed is not a grant-eligible cost until it has been paid to the consultant/contractor. Costs must have been incurred to be reimbursable.

Even though funds may be paid into an escrow or other recipient account for payment once the contract terms are satisfied, it is possible the Recipient may not pass those funds on to the consultant. Because of this, withholding costs are only billable to the grant once the funds have been paid to the consultant/contractor or to an escrow account that isn't under the management of the recipient (e.g. a recipient held bank account).

## 11.8 Performance Monitoring

As a government agency, Ecology is accountable for proper use of all grant funds. Performance monitoring is Ecology's ongoing review process of your performance to ensure accountability.

The objectives of performance monitoring are to determine if the Recipient is:

- Carrying out the scope of work described in the executed agreement.
- Administering the program in an effective, timely manner in accordance with the schedule and budget in the executed agreement.
- Complying with the scope of work and the Special and General Terms & Conditions of the grant agreement, as well as the Yellow Book, the remedial action grants regulation, Chapter 173-322A WAC, and this Guidance.

Ecology's Grant Financial Manager monitors performance through your progress reports and final performance evaluation documents. Ecology's Grant Financial Manager may conduct on-site inspections or request deliverables during the course of your agreement.

To provide transparency and a fair and objective means of evaluating grant performance, your grant manager will complete a questionnaire in EAGL with each quarterly payment request/progress report. Recipients will be able to see the responses the grant manager provides

and will be able to comment. At the close of the agreement, a score will be established based on the questionnaire. This score may be used as a criteria in evaluating subsequent grant applications. Please see Appendix C for a copy of the questionnaire that will be used to monitor a recipient's grant performance.

## 11.9 Payment Requests and Documentation Requirements

Remedial action grants are provided on a cost reimbursement basis. This means a cost or obligation must be incurred before it is eligible for reimbursement under a remedial action grant.

The "Yellow Book", establishes the administrative requirements for all grants administered through Ecology. The document describes requirements for financial management, reporting expenditures and income, contracting, procurement, and records retention. It can be found online at <https://fortress.wa.gov/ecy/publications/SummaryPages/1701004.html>.

The General Terms and Conditions for Ecology grants and loans is an addendum to each grant issued by Ecology. Contact your Ecology Financial Grant Manager for the latest version of the General Terms and Conditions in EAGL. If this document is amended during the biennium, the version in effect on the date your agreement is signed will apply. The General Terms and Conditions are not negotiable.

### Time Limit for Billing

Requests for reimbursement and adequate documentation of eligible costs incurred after the agreement signature date must be submitted to Ecology within 120 days of incurring the costs.

### Billing Forms

All payment requests for legacy grants (those agreements still active that were developed outside EAGL) must be submitted on agency approved forms.

For grants issued outside EAGL, Ecology forms A-19, B2 and C2 will continue to be used until these grants are brought into EAGL. These forms can be found online under "Grant & loan guidance and forms" at <https://ecology.wa.gov/About-us/How-we-operate/Grants-loans/Grant-loan-guidance>. If you need assistance with finding or filling out the forms, please contact your Ecology Grant Financial Manager.

All other grants will be managed through EAGL. Invoicing and progress reporting forms must be submitted through EAGL. If your grant was issued through EAGL, please consult with your Ecology Grant Financial Manager for assistance submitting payment requests/progress reports.

Each payment request must include a project progress report. A final project report must be submitted with the last payment request. The required Progress Report template can be found in EAGL once you start a PRPR or from your grant manager for legacy grants.

The "Yellow Book", provides additional information about financial requirements for payment requests.

## Documentation of Remedial Action Costs

All remedial action costs must be properly documented to be considered eligible for reimbursement. The Recipient must upload all supporting documentation to EAGL for each payment request/progress report. For legacy grants the backup documentation must be submitted to Ecology's Grant Financial Manager. This includes documentation for all expenses, including Recipient's salary and benefits, contractor and subcontractor invoices and receipts, accounting records or any other form of record that establishes the appropriateness of an expense. Receipts for supplies or meals must be itemized. A charge card receipt with only a total payment amount is not acceptable documentation.

- At a minimum, supporting documentation must include:
  - ✓ Description of the item or services purchased
  - ✓ Name of vendor
  - ✓ Date of cost incurred
  - ✓ Invoice number
  - ✓ Invoice date
  - ✓ Serial, vehicle identification number (VIN), or other identifying number (for equipment or vehicles costing \$5,000 or more)
  - ✓ Cost and quantity for each line item or service
  - ✓ Tax
  - ✓ Total cost
  - ✓ Note associating the cost to the grant site (can be handwritten on invoice by Recipient), and
  - ✓ Task number that cost is being billed to.
- For salary and benefit costs, recipients should document the date work was performed and the hours per day. You may use an excel spreadsheet, or a printout from your accounting system that shows equivalent information found on Form E. If you are managing your grant in EAGL, this documentation must be uploaded into EAGL, along with other backup documentation. Documentation must be presented for each day worked, not in a summary rolled up into pay periods, and include:
  - ✓ The name of employee charging to the grant and salary and benefits rate
  - ✓ For each employee: the hours worked each day (by date) by grant task
  - ✓ For each employee: total salary and benefit cost.

- ✓ The role each employee fulfills for the project.
- All costs must be supported with appropriate backup documentation and submitted with each payment request. Documentation includes receipts, invoices, mileage logs, printing and mailing logs, phone bills, timesheets, etc.

**Example:** If you are billing for mileage, you need to provide the destination, number of miles driven, the cost per mile, and the total cost.

- Backup documentation should organizationally follow the receipt or invoice to which it relates. The documentation must be organized and labeled in such a manner that Ecology's Grant Financial Manager can determine which expenses are being claimed. If the backup documentation is disorganized to the extent that Ecology's Grant Financial Manager cannot locate the appropriate information in a timely manner, the payment request will be returned to the Recipient for reorganization.
- Fixed Price or Lump Sum contracts often used in public works contracting also require backup documentation to support charges. This includes trip tickets for contaminated soil disposal, subcontractor invoices, sampling and analysis bills, and receipts for supplies and expenses.
- Withholding of proportional payment until all work is satisfactorily completed cannot be billed to a grant until it has been paid to the consultant/contractor. Costs must have been incurred to be reimbursable. Backup documentation of contractor payments often includes copies of emails or memos from the Recipient to the bank approving the release of the funds, and copies of financial transactions or a letter from the bank showing release of funds to the contractor. An invoice from the consultant billing for the withholding, and a warrant from the Recipient showing payment of the withholding, are also acceptable documentation.
- Backup documentation includes backup on subcontractor billings.

**Example:** Your prime contractor subcontracts a portion of the work, and the subcontractor rents a piece of equipment to excavate a pit. If you wish to receive reimbursement for the rental, you must submit the rental invoice. If the subcontractor purchases supplies, you must have an itemized receipt for the supplies. You must maintain appropriate supporting documentation. This includes invoices, purchase receipts, payrolls, time and attendance records, contract award documents, and vouchers sent to Ecology.

## Removing Ineligible Costs

If your Ecology Grant Financial Manager tells you a cost is not grant eligible, you should not include the item on any future payment requests. Recipients are responsible for submitting accurate payment requests for eligible expenses.

## Payroll and Personnel Information

Personnel working on grant activities must be identified by the time you submit your first payment request. You must provide your Ecology Grant Financial Manager a list of personnel

who will charge time to the grant. Please provide staff names; their job classifications and a brief explanation of their duties and responsibilities performed on grant activities; the percentage of time they will work on grant activities; and the salary and benefits rate for each employee.

## **Automobile**

### **Fleet Costs and Mileage**

The billing method for automobile/fleet costs needs to be clearly established for the Ecology Grant Financial Manager and remain consistent throughout the grant. This method also needs to be consistent with how the Recipient typically manages their automobile/fleet expenses. It cannot be created specifically for purposes of the grant.

**Example:** If the Recipient's motor pool normally bills vehicle mileage back to individual jobs, mileage associated with the grant project may be direct billed at the state mileage rate. Included in the mileage reimbursement are the costs of vehicle maintenance and repairs, gasoline, and insurance. Mileage logs must be provided as backup documentation. If documentation is not provided, the costs will be considered part of the overhead rate and may not be direct billed.

The state mileage rate is also applicable to any mileage billed by consultants. Markup may not be applied to mileage unless the final rate is equal to or less than the state mileage rate in effect at the time the travel occurred.

**Example:** If a consultant bills the Recipient \$0.65 per mile and the state rate is less, the Recipient will be reimbursed at the state rate. Any cost above the amount allowed is the Recipient's responsibility. The consultant must also provide mileage logs to document costs.

It is the recipient's responsibility to correct mileage billed in excess of the state rate.

**Parking:** Parking is a grant eligible expense. Receipts must be provided.

### **Rental Cars**

If the Recipient or a Recipient's consultant leases a rental car, the invoice should include the miles driven and the time period of the rental. Ecology may ask the Recipient to provide the project hours worked by the individual who used the car. If the employee/consultant did not work fulltime on grant activities during the period the car was leased, Ecology's Grant Financial Manager will only approve a prorated share of the rental/lease cost. Original gasoline receipts must be provided unless otherwise approved by Ecology's Grant Financial Manager.

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## Chapter 12: Reporting

### 12.1 Technical Reports

Any technical reports required under the grant should be submitted to the cleanup project manager for review as specified in the order, decree, or grant agreement. A copy may be provided to Ecology's Grant Financial Manager or uploaded to EAGL. At a minimum, a copy should be maintained in the Cleanup Project manager's site file.

All sampling data generated during remedial actions must be entered into Ecology's Environmental Information Management system (EIM). Payments may be withheld if the data has not been properly entered into EIM.

### 12.2 Ten-Year Cost Forecast

As discussed in Chapter 1, Ecology is required to submit to the Legislature every two years a ten-year projection of remedial action grant needs. The purpose of the ten-year cost forecast is to inform decision makers about the full extent of cleanup funds needed statewide. Every two years, Ecology will solicit cost estimates from local governments. These estimates will be used to build Ecology's budget, so it is essential that both Applicants and Recipients provide timely information for this report. The ten-year cost information for the 2019-2021 biennium will be solicited for the first time through EAGL in winter 2018. During each biennium, grant recipients are also asked to quarterly update their forecasted spending with each payment request/progress report as more accurate cost estimates are developed.

### 12.3 Progress Reports

The Recipient must complete progress reports and submit one with each payment request (or at least quarterly, if no payment requests are submitted). Progress reports describe actions and accomplishments in meeting project milestones, and include a certification that sampling results have been submitted to Ecology as required. Ecology's Grant Financial Manager and Cleanup Project Manager review progress reports to learn how the activities are proceeding, the reasons for any delays or cost overruns, and if any changes took place in the project, project staff, or contractors. Quarterly progress reports must include information on the status of pending cost recovery actions and insurance claims.

Ecology's Grant Financial Manager cannot process a payment request without a progress report or updated spending plan for that billing period. Spending plans are not required for Independent Remedial Action or Integrated Planning Grants submitted after September 3, 2019. Payment requests in EAGL may be submitted without expenditures but at a minimum, a progress report must be submitted.

Progress reports must be submitted through EAGL or outside EAGL for legacy agreements, on an approved report form:

- If your grant is being managed through EAGL, the progress report form is part of the payment request process and is found in EAGL.
- If your grant is being managed outside EAGL (legacy agreements), contact your Ecology Grant Financial Manager for assistance with your Progress Report format.

## 12.4 Final Project Reports

A final project report must accompany the final payment request. All final payment requests must be submitted within 45 days of the end of the agreement to ensure payment. The Recipient also completes the final project report for legacy grants or the Recipient Closeout report in EAGL.

These final project reports summarize the entire project and its outcomes, and includes the following:

- A description of the problem addressed by the grant;
- The purpose of the project; and
- The project results and/or outcomes achieved.

If your grant is being managed outside EAGL, contact your Ecology Grant Financial Manager for assistance with your final project report.

If your grant is being managed through EAGL, you will find the close out report on the menu where you start payment requests. If you need assistance, contact your Ecology Grant Financial Manager.

## 12.5 Annual Financial Statement

Ecology's Grant Financial Manager may ask for documentation of the Recipient's annual financial statement. Ecology's Grant Financial Manager may review this statement to provide Ecology with information regarding potentially liable party contributions and insurance settlements that could affect grant funding.

## 12.6 Audits

All grants are subject to audit. Ecology has the right to audit the grant project for three years after the project is officially finished. Ecology may also audit the grant project, invoices and backup documentation at any time during the project. If problems are identified, they must be corrected. If Ecology identifies any problems on invoices, all previous invoices must be reviewed and corrected. This could include repayment of grant funds or adjustments to subsequent billings to reimburse Ecology for overpayments.



## Appendix A: Chapter 173-322A WAC, Remedial Action Grants and Loans

[Chapter Listing](#) [From Code Reviser's website, last updated 8/29/2014]

### WAC Sections

<a href="#">173-322A-010</a>	Purpose and authority.
<a href="#">173-322A-020</a>	Relation to other laws and rules.
<a href="#">173-322A-100</a>	Definitions.
<a href="#">173-322A-200</a>	Funding cycle.
<a href="#">173-322A-210</a>	Funding priorities.
<a href="#">173-322A-220</a>	Fiscal controls.
<a href="#">173-322A-300</a>	Site assessment grants.
<a href="#">173-322A-310</a>	Integrated planning grants.
<a href="#">173-322A-320</a>	Oversight remedial action grants.
<a href="#">173-322A-325</a>	Oversight remedial action loans.
<a href="#">173-322A-330</a>	Independent remedial action grants.
<a href="#">173-322A-340</a>	Area-wide groundwater investigation grants.
<a href="#">173-322A-350</a>	Safe drinking water action grants.

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### 173-322A-010 Purpose and authority.

(1) This chapter recognizes that:

(a) The state contains thousands of hazardous waste sites that present serious threats to human health and the environment, including the state's water resources;

(b) Many of these hazardous waste sites, such as landfills and port facilities, are owned or operated by local governments;

(c) Many of the properties affected by these hazardous waste sites are brownfield properties, where economic development and other community reuse objectives are hindered by the presence of contamination; and

(d) The cost of cleaning up these hazardous waste sites in many cases is beyond the financial means of local governments and ratepayers.

(2) This chapter establishes requirements for a program of grants and loans to local governments for remedial action pursuant to RCW

[70.105D.070](#) (4) and (8).

(3) The purpose of the remedial action grants and loans program established by this chapter is to expedite the cleanup and redevelopment of hazardous waste sites and to lessen the impact of the cleanup on ratepayers and taxpayers. The remedial action grants and loans shall be used to supplement local government funding and funding from other sources to carry out remedial actions.

[Statutory Authority: Chapter [70.105D](#) RCW. WSR 14-18-060 (Order 13-09), § 173-322A-010, filed 8/29/14, effective 9/29/14.]

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## 173-322A-020 Relation to other laws and rules.

(1) Nothing in this chapter shall influence, affect, or modify department programs, regulations, or enforcement of applicable laws relating to hazardous waste site investigation and cleanup.

(2) Nothing in this chapter shall modify the order or decree the department has secured with potentially liable persons or prospective purchasers for remedial action. The execution of remedial actions pursuant to the order or decree shall in no way be contingent upon the availability of grant funding.

(3) All grants and loans shall be subject to existing accounting and auditing requirements of state laws and regulations applicable to the issuance of grants and loans.

[Statutory Authority: Chapter

[70.105D](#) RCW. WSR 14-18-060 (Order 13-09), § 173-322A-020, filed 8/29/14, effective 9/29/14.]

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## 173-322A-100 Definitions.

Unless otherwise defined in this chapter, words and phrases used in this chapter shall be defined according to WAC

[173-340-200](#) and [173-204-505](#).

(1) "**Agreement signature date**" means, for the purposes of grant and loan agreements, the date the agreement document is signed by the department.

(2) "**Applicant**" means a local government that applies for a grant or loan.

(3) "**Area-wide groundwater contamination**" means groundwater contamination on multiple adjacent properties with different ownerships consisting of hazardous substances from multiple sources that have resulted in commingled plumes of contaminated groundwater that are not practicable to address separately.

(4) "**Average market rate**" means the average market rate for tax-exempt general obligation municipal bonds for the month of June preceding the agreement signature date, as determined using rates published by *Bond Buyer*.

(5) "**Biennium**" means the twenty-four-month fiscal period extending from July 1st of odd-numbered years to June 30th of odd-numbered years.

(6) "**Brownfield property**" means previously developed and currently abandoned or underutilized real property and adjacent surface waters and sediment where environmental, economic, or community reuse objectives are hindered by the release or threatened release of hazardous substances that the department has determined requires remedial action under this chapter or that the United States Environmental Protection Agency has determined requires remedial action under the federal cleanup law.

(7) "**Budget**" means, for the purpose of grant and loan agreements, a breakdown of eligible costs by task.

(8) "**Cleanup action**" means the term as defined in WAC [173-340-200](#) or [173-204-505](#).

(9) "**Construction completion**" means physical construction of a cleanup action component is complete.

(10) "**Coordinated water system plan**" means a plan for public water systems within a critical water supply service area which identifies the present and future water system concerns and sets forth a means for meeting those concerns in the most efficient manner possible pursuant to chapter [246-293](#) WAC.

(11) "**Decree**" or "**consent decree**" means a consent decree issued under chapter [70.105D](#) RCW or the federal cleanup law.

(12) "**Department**" means the department of ecology.

(13) "**Department share**" means the department's share of eligible costs.

(14) "**Director**" means the director of the department of ecology.

(15) "**Economically disadvantaged county**" means a county whose per capita income is equal to or below the median per capita income of counties in Washington state, as determined on July 1st of each odd-numbered year using the latest official American Community Survey five-year estimates of the U.S. Department of Commerce.

(16) "**Economically disadvantaged city or town**" means a city or town whose per capita income is equal to or below the median per capita income of cities and towns in Washington state, as determined on July 1st of each odd-numbered year using the latest official American Community Survey five-year estimates of the U.S. Department of Commerce.

(17) "**Eligible cost**" means a project cost that is eligible for funding under this chapter and the terms of the grant or loan agreement.

(18) "**Extended grant agreement**" means a grant agreement entered into under RCW [70.105D.070](#) (4)(e)(i).

(19) "**Feasibility study**" means the term as defined in chapter [173-340](#) or [173-204](#) WAC.

(20) "**Federal cleanup law**" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. 9601 et seq.

(21) "**Grant agreement**" means a binding agreement between the local government and the department that authorizes the disbursement of funds to the local government to reimburse it for a portion of expenditures in support of a specified scope of services.

(22) "**Hazardous substances**" means any hazardous substance as defined in WAC [173-340-200](#).

(23) "**Hazardous waste site**" means any facility where there has been confirmation of a release or threatened release of a hazardous substance that requires remedial action.

(24) "**Highly impacted community**" means a community that the department has determined is likely to bear a disproportionate burden of public health risks from environmental pollution.

(25) "**Independent remedial actions**" means remedial actions conducted without department oversight or approval and not under an order or consent decree.

(26) "**Initial investigation**" means a remedial action that consists of an investigation under WAC [173-340-310](#).

(27) **"In-kind contributions"** means property or services that benefit a project and are contributed to the recipient by a third party without direct monetary compensation. In-kind contributions include interlocal costs, donated or loaned real or personal property, volunteer services, and employee services donated by a third party.

(28) **"Innovative technology"** means new technologies that have been demonstrated to be technically feasible under certain site conditions, but have not been widely used under the conditions that exist at the hazardous waste site. Innovative technology has limited performance and cost data available.

(29) **"Interim action"** means a remedial action conducted under WAC [173-340-430](#).

(30) **"Loan agreement"** means a binding agreement between the local government and the department that authorizes the disbursement of funds to the local government that must be repaid. The loan agreement includes terms such as interest rates and repayment schedule, scope of work, performance schedule, and project budget.

(31) **"Local government"** means any political subdivision of the state, including a town, city, county, special purpose district, or other municipal corporation, including brownfield renewal authority created under RCW [70.105D.160](#).

(32) **"No further action determination"** or **"NFA determination"** means a written opinion issued by the department under WAC [173-340-515\(5\)](#) that the independent remedial actions performed at a hazardous waste site or property meet the substantive requirements of chapter [173-340](#) WAC and that no further remedial action is required at the hazardous waste site or property. The opinion is advisory only and not binding on the department.

(33) **"Order"** means an order issued under chapter [70.105D](#) RCW, including enforcement orders issued under WAC [173-340-540](#) and agreed orders issued under WAC [173-340-530](#), or an order issued under the federal cleanup law, including unilateral administrative orders (UAO) and administrative orders on consent (AOC).

(34) **"Oversight remedial actions"** means remedial actions conducted under an order or decree.

(35) **"Partial funding"** means funding less than the maximum department share allowed under this chapter.

(36) **"Potentially liable person"** or **"PLP"** means any person whom the department finds, based on credible evidence, to be liable under RCW [70.105D.040](#).

(37) **"Potentially responsible party"** or **"PRP"** means "covered persons" as defined under section 9607 (a)(1) through (4) of the federal cleanup law (42 U.S.C. Sec. 9607(a)).

(38) **"Property"** means, for the purposes of independent remedial action grants, the parcel or parcels of real property affected by a hazardous waste site and addressed as part of the independent remedial action.

(39) **"Prospective purchaser"** means a person who is not currently liable for remedial action at a facility and who proposes to purchase, redevelop, or reuse the facility.

(40) **"Public water system"** means a Group A water system as defined in WAC [246-290-020](#).

(41) **"Purveyor"** means an agency or subdivision of the state or a municipal corporation, firm, company, mutual or cooperative association, institution, partnership,

or person or any other entity that owns or operates a public water system, or the authorized agent of such entities.

(42) "**Recipient**" means a local government that has been approved to receive a grant or loan.

(43) "**Recipient share**" or "**match**" means the recipient's share of eligible costs.

(44) "**Redevelopment opportunity zone**" means a geographic area designated under RCW [70.105D.150](#).

(45) "**Remedial action**" means any action or expenditure consistent with the purposes of chapter [70.105D](#) RCW to identify, eliminate, or minimize any threat posed by hazardous substances to human health or the environment including any investigative and monitoring activities with respect to any release or threatened release of a hazardous substance and any health assessments or health effects studies conducted in order to determine the risk or potential risk to human health.

(46) "**Remedial investigation**" means the term as defined in chapter [173-340](#) or [173-204](#) WAC.

(47) "**Retroactive costs**" means costs incurred before the agreement signature date.

(48) "**Safe drinking water**" means water meeting drinking water quality standards set by chapter [246-290](#) WAC.

(49) "**Scope of work**" means the tasks and deliverables of the grant or loan agreement.

(50) "**Site**" means any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, vessel, or aircraft; or any site or area where a hazardous substance, other than a legal consumer product in consumer use, has been deposited, stored, disposed of, or placed, or otherwise come to be located.

(51) "**Site hazard assessment**" means a remedial action that consists of an investigation performed under WAC 173-340-320.

(52) "**Voluntary cleanup program**" means the program authorized under RCW [70.105D.030](#) (1)(i) and WAC 173-340-515.

[Statutory Authority: Chapter [70.105D](#) RCW. WSR 14-18-060 (Order 13-09), § 173-322A-100, filed 8/29/14, effective 9/29/14.]

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## 173-322A-200 Funding cycle.

(1) **Project solicitation.** Biennially, the department will solicit project proposals from local governments to develop its budget and update its ten-year financing plan for remedial action grants and loans. The department may update its ten-year financing plan as needed during the biennium. Project proposals for each type of grant or loan must be submitted on forms provided by the department and include sufficient information to make the determinations in subsection (3) of this section. For multibiennial oversight remedial action grant projects, proposals must be updated biennially. To be considered for inclusion in the department's budget for remedial action

grants and loans, project proposals and updates should be submitted by the dates published by the department.

(2) **Application submittal.** Applications for each type of grant or loan must be submitted on forms provided by the department and include sufficient information to make the determinations in subsections (3) and (4) of this section. For multiennial oversight remedial action grant projects, an application must be submitted before each biennium for which additional funds are requested. Completed applications should be submitted by the dates published by the department.

(3) **Project evaluation and ranking.** Project proposals and applications for each type of grant or loan will be reviewed by the department for completeness and evaluated to determine:

- (a) Project eligibility; and
- (b) Funding priority under WAC

[173-322A-210](#).

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

- (a) Funding priority under WAC [173-322A-210](#);
- (b) Cost eligibility;
- (c) Allowable funding of eligible costs; and
- (d) Availability of state funds and other funding sources.

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

[Statutory Authority: Chapter [70.105D](#) RCW. WSR 14-18-060 (Order 13-09), § 173-322A-200, filed 8/29/14, effective 9/29/14.]

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## 173-322A-210 Funding priorities.

(1) **Among types of grants and loans.** The department will fund remedial action grants and loans in the following order of priority:

- (a) Oversight remedial action grants and loans under an existing extended grant agreement;
- (b) Site assessment grants and other remedial action grants and loans for previously funded projects, provided that substantial progress has been made; and
- (c) Remedial action grants and loans for new projects.

(2) **For each type of grant or loan.** For each type of remedial action grant or loan, the department will further prioritize projects for funding or limit funding for projects based on the factors specified in WAC

[173-322A-300](#) through [173-322A-350](#), as applicable.

(3) **Oversight remedial action loans.** The department will fund an oversight remedial action loan from the same fund allocation used to fund the associated oversight remedial action grant. When the demand for funds exceeds the amount

allocated, the department will give the oversight remedial action grant and loan the same priority.

[Statutory Authority: Chapter [70.105D](#) RCW. WSR 14-18-060 (Order 13-09), § 173-322A-210, filed 8/29/14, effective 9/29/14.]

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## **173-322A-220 Fiscal controls.**

(1) **General.** The department will establish reasonable costs for all grants and loans, require local governments to manage projects in a cost-effective manner, and ensure that all potentially liable persons assume responsibility for remedial action.

(2) **Funding discretion.** The department retains the discretion to not provide a grant or loan for an eligible project or to provide less funding for an eligible project than the maximum allowed under this chapter.

(3) **Funding limits.** The department may not provide more funding for an eligible project than the maximum allowed under this chapter for each type of grant or loan.

(4) **Retroactive funding.** Retroactive costs are not eligible for funding, except as provided under this chapter for each type of grant or loan.

(5) **Cash management of grants.** For oversight remedial action grants, the department may not:

(a) Allocate more funds for a project each biennium than are estimated to be necessary to complete the scope of work for that biennium. The biennial scope of work must be approved by the department; or

(b) Allocate more funds for a project unless the local government has demonstrated to the department that funds awarded during the previous biennium have been substantially expended or contracts have been entered into to substantially expend the funds.

(6) **Consideration of insurance, contribution, and cost recovery claims.** A recipient may use proceeds from an insurance claim or a contribution or cost recovery claim under RCW

[70.105D.080](#) or the federal cleanup law seeking recovery of remedial action costs at a hazardous waste site to meet recipient share requirements, subject to the conditions in (a) through (f) of this subsection.

(a) **Applicability.** The project at the hazardous waste site is currently funded on or will be funded after July 1, 2014, under a grant agreement.

(b) **Notice of claims.** Upon application for the grant or within thirty days of filing a lawsuit or insurance claim to recover remedial action costs at the hazardous waste site, whichever is later, the recipient must notify the department of the filing.

(c) **Notice of proceeds.** Upon application for the grant, the recipient must notify the department of the total amount of proceeds received to date on any claims for remedial action costs at the hazardous waste site. The department may require the recipient to periodically update the total amount of proceeds received on the claims. The department may also require the recipient to provide documentation of the proceeds received on the claims.

(d) **Notice of resolution.** Upon application for the grant or within thirty days of any resolution of a claim for remedial action costs at the hazardous waste site, whichever is later, the recipient must:

- (i) Notify the department of the resolution;
- (ii) Specify the amount of proceeds received under the resolution and the portion of the proceeds attributable to eligible costs; and
- (iii) Provide the department a copy of the settlement, judgment, or other document resolving the claim or portion of the claim.

(e) **Repayment of grant funds.** If the total proceeds from all the claims for remedial action costs at a hazardous waste site exceed the following costs, then the department may reduce the department share or require repayment of costs reimbursed by the department under a grant agreement by up to the amount of the exceedance:

- (i) The cost incurred by the recipient to pursue the claims;
- (ii) The cost of remedial actions incurred by the recipient that are not funded by the department at the hazardous waste site, including costs incurred before resolution of the claims; and
- (iii) If approved by the department, the cost of remedial actions incurred by the recipient that are not funded by the department for an eligible project at a hazardous waste site that is not the basis for the claims.

(f) **Eligibility of payments to other recipients.** Contribution and cost recovery claim payments are not eligible costs if the payments are made for remedial actions previously funded by a grant to another jurisdiction.

**(7) Reimbursement request deadlines.**

(a) Requests for reimbursement and adequate documentation of eligible retroactive costs incurred before the application date must be submitted to the department in the application.

(b) Requests for reimbursement and adequate documentation of eligible retroactive costs incurred between the application date and the agreement signature date must be submitted to the department within ninety days of the agreement signature date.

(c) Requests for reimbursement and adequate documentation of eligible costs incurred after the agreement signature date must be submitted to the department within one hundred twenty days of incurring the costs.

(d) If requests for reimbursement are not submitted by the deadlines in (a) through (c) of this subsection, as applicable, the department may deny reimbursement of the costs.

(8) **Spending plans for grant or loan agreements.** The department may require grant or loan recipients to provide and periodically update a spending plan for the grant or loan.

(9) **Financial responsibility.** As established by the Model Toxics Control Act, chapter [70.105D](#) RCW, and implementing regulations, potentially liable persons bear financial responsibility for remedial action costs. The remedial action grant and loan programs may not be used to circumvent the responsibility of a potentially liable person. Remedial action grants and loans shall be used to supplement local government funding and funding from other sources to carry out required remedial action.



(10) **Puget Sound action agenda.** The department may not fund projects designed to address the restoration of Puget Sound that are in conflict with the action agenda developed by the Puget Sound partnership under RCW [90.71.310](#). [Statutory Authority: Chapter [70.105D](#) RCW. WSR 14-18-060 (Order 13-09), § 173-322A-220, filed 8/29/14, effective 9/29/14.]

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## 173-322A-300 Site assessment grants.

(1) **Purpose.** The purpose of site assessment grants is to provide funding to local governments that conduct initial investigations and site hazard assessments on behalf of the department. The department retains the authority to review and verify results and make determinations based on the initial investigations and site hazard assessments conducted by local governments.

(2) **Project eligibility.** To be eligible for a site assessment grant, a project must meet all of the following requirements:

- (a) The applicant must be a local health district or department;
- (b) The department has agreed the applicant may conduct initial investigations or site hazard assessments on its behalf; and
- (c) The scope of work for initial investigations and site hazard assessments must conform to WAC [173-340-310](#) and [173-340-320](#) and applicable department guidelines.

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

- (a) The need for initial investigations or site hazard assessments within the jurisdiction of the applicant, as determined by the department;
- (b) The population within the jurisdiction of the applicant; and
- (c) The performance of the applicant under prior site assessment grant agreements.

(4) **Application process.**

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

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

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

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

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

- (i) Funding priority under subsection (3) of this section;
- (ii) Cost eligibility under subsections (5) and (6) of this section;
- (iii) Allowable funding under subsection (7) of this section; and
- (iv) Availability of state funds and other funding sources.

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

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

(a) **Eligible costs.** Eligible costs for a site assessment grant include reasonable costs for the following:

- (i) Initial investigations under WAC [173-340-310](#);
- (ii) Site hazard assessments under WAC [173-340-320](#); and
- (iii) Administrative or technical support for initial investigations or site hazard assessments performed by the department.

(b) **Ineligible costs.** Ineligible costs for a site assessment grant include, but are not limited to, the following:

- (i) The cost of developing the grant application or negotiating the grant agreement;
- (ii) The cost of dispute resolution under the grant agreement;
- (iii) Retroactive costs, except as provided under subsection (6) of this section;
- (iv) Legal costs including, but not limited to, the cost of seeking legal advice, pursuing cost recovery, contribution, or insurance claims, participating in administrative hearings, pursuing penalties or civil or criminal actions against persons, defending actions taken against the recipient, penalties incurred by the recipient, and any attorney fees incurred by the recipient;
- (v) The cost of testing buildings and other structures for drug use residuals;
- (vi) The cost of testing buildings and other structures for radon, lead paint, or asbestos that is not required as a remedial action under chapter [70.105D](#) RCW or the federal cleanup law; and
- (vii) In-kind contributions.

(6) **Retroactive cost eligibility.** Retroactive costs are eligible for funding if the costs are incurred between the start of the biennium and the agreement signature date and are eligible under subsection (5) of this section.

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

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

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

[Statutory Authority: Chapter [70.105D](#) RCW. WSR 14-18-060 (Order 13-09), § 173-322A-300, filed 8/29/14, effective 9/29/14.]

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## 173-322A-310 Integrated planning grants.

(1) **Purpose.** The purpose of integrated planning grants is to provide funding to local governments to conduct assessments of brownfield properties and develop integrated projects plans for their cleanup and adaptive reuse. The grants are intended to encourage and expedite the cleanup of brownfield properties and to lessen the impact of the cleanup cost on ratepayers and taxpayers.

(2) **Project eligibility.** For the purposes of this grant, a project consists of integrated planning for a single hazardous waste site or for an area affected by multiple hazardous waste sites. A project may extend over more than one biennium. To be eligible for a grant, the project must meet the following requirements:

- (a) The applicant must be a local government;
- (b) The applicant must have an ownership interest in property or have a demonstrated interest in purchasing property affected by the hazardous waste site;
- (c) The applicant must have the necessary access to complete the project or obtain such access in accordance with the schedule in the grant agreement; and
- (d) The applicant must not be required to conduct the actions under an order or decree.

(3) **Funding priority.** The department will prioritize eligible projects for funding or limit funding for eligible projects based on the priorities in WAC

[173-322A-210](#) and the following factors:

- (a) The threat posed by the hazardous waste site to human health and the environment;
- (b) Whether the hazardous waste site is within a redevelopment opportunity zone;
- (c) The land reuse potential of the hazardous waste site;
- (d) Whether the hazardous waste site is located within a highly impacted community;
- (e) The readiness of the applicant to start and complete the work to be funded by the grant and the performance of the applicant under prior grant agreements;
- (f) The ability of the grant to expedite the cleanup of the hazardous waste site;
- (g) The ability of the grant to leverage other public or private funding for the cleanup and reuse of the hazardous waste site;
- (h) The distribution of grants throughout the state and to various types and sizes of local governments; and
- (i) Other factors as determined and published by the department.

(4) **Application process.**

(a) **Project solicitation.** Biennially, the department will solicit project proposals from local governments to develop its budget and update its ten-year financing plan for remedial action grants and loans. The department may update its ten-year financing

plan as needed during the biennium. Project proposals must be submitted on forms provided by the department and include sufficient information to make the determinations in (c) of this subsection. To be considered for inclusion in the department's budget for remedial action grants and loans, project proposals should be submitted by the dates published by the department.

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

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

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

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

- (i) Funding priority under subsection (3) of this section;
- (ii) Cost eligibility under subsections (5) and (6) of this section;
- (iii) Allowable funding under subsections (7) and (8) of this section; and
- (iv) Availability of state funds and other funding sources.

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

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

(a) **Eligible costs.** Eligible costs for an integrated planning grant include, but are not limited to, reasonable costs for the following:

- (i) Environmental site assessments;
- (ii) Remedial investigations;
- (iii) Health assessments;
- (iv) Feasibility studies;
- (v) Site planning;
- (vi) Community involvement;
- (vii) Land use and regulatory analyses;
- (viii) Building and infrastructure assessments;
- (ix) Economic and fiscal analyses; and
- (x) Any environmental analyses under chapter [43.21C](#) RCW.

(b) **Ineligible costs.** Ineligible costs for an integrated planning grant include, but are not limited to, the following:

- (i) The cost of developing the grant application or negotiating the grant agreement;
- (ii) The cost of dispute resolution under the grant agreement;
- (iii) Retroactive costs, except as provided under subsection (6) of this section;
- (iv) Legal costs including, but not limited to, the cost of seeking client advice, pursuing cost recovery, contribution, or insurance claims, participating in administrative hearings, pursuing penalties or civil or criminal actions against persons, penalties

incurred by the recipient, defending actions taken against the recipient, and any attorney fees incurred by the recipient; and

(v) In-kind contributions.

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

(7) **Limit on eligible costs for a project.**

(a) For a project consisting of a study of a single hazardous waste site, the eligible costs for the project may not exceed two hundred thousand dollars.

(b) For a project consisting of a study area involving more than one hazardous waste site, the eligible costs for the project may not exceed three hundred thousand dollars.

(c) A hazardous waste site may not be included in more than one project.

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

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

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

(9) **Administration of multiple grants.** The department may provide integrated planning grants to a local government for more than one project under a single grant agreement.

[Statutory Authority: Chapter [70.105D](#) RCW. WSR 14-18-060 (Order 13-09), § 173-322A-310, filed 8/29/14, effective 9/29/14.]

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## 173-322A-320 Oversight remedial action grants.

(1) **Purpose.** The purpose of oversight remedial action grants is to provide funding to local governments that investigate and clean up hazardous waste sites under an order or decree. The grants are intended to encourage and expedite remedial action and to lessen the impact of the cost of such action on ratepayers and taxpayers.

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

(a) The applicant must be a local government;

(b) The applicant must be a potentially liable person, potentially responsible party, or prospective purchaser at the hazardous waste site;

(c) The project must meet one of the following criteria:

(i) The applicant is required to conduct remedial actions at the hazardous waste site under an order or decree; or

(ii) A person other than the applicant is required to conduct remedial actions at the hazardous waste site under an order or decree and the applicant has:

(A) Signed the order or decree; and

(B) Entered into a written agreement with the other person to reimburse the person for a portion of the remedial action costs incurred under the order or decree;

(d) If the order or decree is issued under the federal cleanup law, it must be signed or acknowledged in writing by the department as a sufficient basis for funding under this chapter; and

(e) The project must be included in the department's ten-year financing plan required under RCW

[70.105D.030\(5\)](#).

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

(a) The threat posed by the hazardous waste site to human health and the environment;

(b) Whether the applicant is a prospective purchaser of a brownfield property within a redevelopment opportunity zone;

(c) The land reuse potential of the hazardous waste site;

(d) Whether the hazardous waste site is located within a highly impacted community;

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

(f) The ability of the grant to expedite the cleanup of the hazardous waste site;

(g) The ability of the grant to leverage other public or private funding for the cleanup and reuse of the hazardous waste site;

(h) The distribution of grants throughout the state and to various types and sizes of local governments; and

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

(4) **Application process.**

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

(b) **Application submittal.** Applications must be submitted on forms provided by the department and include sufficient information to make the determinations in (c) and (d) of this subsection. For multibiennial projects, an application must be submitted before each biennium for which additional funds are requested. Completed applications should be submitted by the dates published by the department.

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

(i) Project eligibility under subsection (2) of this section; and

(ii) Funding priority under subsection (3) of this section.

(d) **Agreement development.** The department will make funding decisions only after funds have been appropriated. After deciding to fund an eligible project, the

department will negotiate with the applicant the scope of work and budget for the grant and develop the agreement. The department will consider:

- (i) Funding priority under subsection (3) of this section;
- (ii) Cost eligibility under subsections (5) and (6) of this section;
- (iii) Allowable funding under subsections (7) and (8) of this section; and
- (iv) Availability of state funds and other funding sources.

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

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

(a) **Eligible costs.** Eligible costs for an oversight remedial action grant include, but are not limited to, reasonable costs for the following:

- (i) Emergency or interim actions;
- (ii) Remedial investigations;
- (iii) Feasibility studies and selection of the remedy;
- (iv) Engineering design and construction of the selected remedy; and
- (v) Operation and maintenance or monitoring of a cleanup action component for up to one year after construction completion of the component.

(b) **Ineligible costs.** Ineligible costs for an oversight remedial action grant include, but are not limited to, the following:

- (i) The cost of developing the grant application or negotiating the grant agreement;
- (ii) The cost of dispute resolution under the order or decree or the grant agreement;
- (iii) The costs incurred under an order or decree by a potentially liable person, potentially responsible party, or prospective purchaser other than the recipient, except as provided under subsection (2)(c)(iii) of this section;
- (iv) Retroactive costs, except as provided under subsection (6) of this section;
- (v) The remedial action costs of the department or the U.S. Environmental Protection Agency reasonably attributable to the administration of an order or decree for remedial action at the hazardous waste site, including reviews of reimbursement requests;
- (vi) Natural resource damage assessment and restoration costs and liability for natural resource damages under chapter [70.105D](#) RCW or the federal cleanup law;
- (vii) Site development and mitigation costs not required as part of a remedial action;
- (viii) Legal costs including, but not limited to, the cost of seeking client advice, pursuing cost recovery, contribution, or insurance claims, participating in administrative hearings, pursuing penalties or civil or criminal actions against persons, penalties incurred by the recipient, defending actions taken against the recipient, and any attorney fees incurred by the recipient; and
- (ix) In-kind contributions.

(6) **Retroactive cost eligibility.** The following retroactive costs are eligible for reimbursement if they are also eligible under subsection (5) of this section:

- (a) Costs incurred under the order or decree between the effective date of the order or decree and the agreement signature date;
- (b) Costs incurred under the order or decree during the period of a prior grant agreement that have not been reimbursed by the department;

(c) Costs incurred negotiating the order or decree, provided that the costs are not legal costs and were incurred within:

- (i) Sixty days after starting negotiations for an order; or
  - (ii) One hundred twenty days after starting negotiations for a decree; and
- (d) Costs incurred before the effective date of the order or decree conducting independent remedial actions, provided that:

(i) The actions are:

(A) Conducted within five years before the start of negotiations for the order or decree;

(B) Consistent with the remedial actions required under the order or decree;

(C) Compliant with the substantive requirements of chapter [173-340 WAC](#); and

(D) Incorporated as part of the order or decree; and

(ii) Costs incurred before the start of negotiations for the order or decree do not exceed six hundred thousand dollars.

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

(a) **Department share.** The department may fund up to fifty percent of the eligible costs. Except for extended grant agreements, the department may fund a higher percentage of the eligible costs as follows.

(i) The department may fund up to an additional twenty-five percent of the eligible costs if the applicant is:

(A) An economically disadvantaged county, city, or town; or

(B) A special purpose district with a hazardous waste site located within an economically disadvantaged county, city, or town.

(ii) The department may fund up to an additional fifteen percent of the eligible costs if the applicant uses innovative technology.

(iii) The department may fund up to a total of ninety percent of the eligible costs if the eligible costs for the project are less than five million dollars and the director or designee determines the additional funding would:

(A) Prevent or mitigate unfair economic hardship imposed by cleanup liability;

(B) Create new substantial economic development, public recreational opportunities, or habitat restoration opportunities that would not otherwise occur; or

(C) Create an opportunity for acquisition and redevelopment of brownfield property under RCW [70.105D.040\(5\)](#) that would not otherwise occur.

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

**(8) Cash management of grants.**

(a) The department may not allocate more funds for a project each biennium than are estimated to be necessary to complete the scope of work for that biennium. The biennial scope of work must be approved by the department.

(b) The department may not allocate more funds for a project unless the local government has demonstrated to the department that funds awarded during the previous biennium have been substantially expended or contracts have been entered into to substantially expend the funds.



(9) **Administration of multiple grants.** Except for extended grant agreements, the department may provide oversight remedial action grants to a local government for more than one project under a single grant agreement.

(10) **Extended grant agreements.**

(a) **Project eligibility.** The department may provide an oversight remedial action grant to a local government for a hazardous waste site under an extended grant agreement if, in addition to meeting the eligibility requirements in subsection (2) of this section, the project extends over multiple biennia and the eligible costs for the project exceed twenty million dollars.

(b) **Agreement duration.** The initial duration of an extended grant agreement may not exceed ten years. The department may extend the duration of the agreement upon finding substantial progress has been made on remedial actions at the site.

(c) **Department share.** Under an extended grant agreement, the department may not fund more than fifty percent of the eligible costs.

[Statutory Authority: Chapter [70.105D](#) RCW. WSR 14-18-060 (Order 13-09), § 173-322A-320, filed 8/29/14, effective 9/29/14.]

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## 173-322A-325 Oversight remedial action loans.

(1) **Purpose.** The purpose of oversight remedial action loans is to supplement local government funding and funding from other sources to meet the recipient share requirements for oversight remedial action grants under WAC

[173-322A-320](#). The loans are intended to encourage and expedite the cleanup of hazardous waste sites and to lessen the impact of the cleanup cost on ratepayers and taxpayers.

(2) **Types of loans.** There are two different types of oversight remedial action loans, a standard loan and an extraordinary financial hardship loan. The two types of loans have different project eligibility requirements and different terms and conditions for repayment based upon the applicant's ability to repay the loan.

(a) **Standard loan.** A standard loan is a loan that includes the terms and conditions for repayment.

(b) **Extraordinary financial hardship loan.** An extraordinary financial hardship loan is a loan that includes deferred terms and conditions for repayment. Deferred terms and conditions may not be indefinite. Any such loan must be approved by the director or designee.

(3) **Project eligibility.** For the purposes of this loan, a project consists of remedial actions conducted under an order or decree at a single hazardous waste site. A project may extend over more than one biennium. To be eligible for a loan, a project must meet all of the following requirements:

(a) The applicant must have an oversight remedial action grant for the project under WAC [173-322A-320](#); and

(b) The applicant must demonstrate the following to the department's satisfaction. The department may require an independent third-party financial review to support the demonstration:

(i) For a standard loan, the applicant's financial need for the loan and ability to repay the loan; or

(ii) For an extraordinary financial hardship loan, the applicant's financial need for the loan, inability to repay the loan under present circumstances, and ability to repay the loan in the future.

(4) **Funding priority.** The department will assign an oversight remedial action loan the same priority as the associated oversight remedial action grant.

(5) **Application process.**

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

(b) **Application submittal.** Applications must be submitted on forms provided by the department and include sufficient information to make the determinations in (c) and (d) of this subsection. For multibiennial projects, an application must be submitted before each biennium for which additional funds are requested. Completed applications should be submitted by the dates published by the department.

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

(i) Project eligibility under subsection (3) of this section. If the department determines the applicant meets the eligibility requirements for an extraordinary financial hardship loan, then the department may, upon the approval by the director, provide such a loan to the applicant instead of a standard loan; and

(ii) Funding priority under subsection (4) of this section.

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

(i) Funding priority under subsection (4) of this section;

(ii) Cost eligibility under subsections (6) and (7) of this section;

(iii) Allowable funding under subsection (8) of this section; and

(iv) Availability of state funds and other funding sources.

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

(6) **Cost eligibility.** The eligible costs for oversight remedial action loans shall be the same as the eligible costs for oversight remedial action grants under WAC [173-322A-320\(5\)](#).

(7) **Retroactive cost eligibility.** The eligibility of retroactive costs for oversight remedial action loans shall be the same as the eligibility of retroactive costs for the oversight remedial action grants under WAC [173-322A-320\(6\)](#).

(8) **Funding by department.** The department may provide the recipient of an oversight remedial action loan for up to one hundred percent of the recipient share under WAC [173-322A-320](#) (7)(b). The loan shall be used by the recipient to supplement local government funding and funding from other sources to meet the recipient share requirement.

(9) **Repayment by recipient.** The terms and conditions for repayment of a loan shall be specified in the loan agreement.

(a) **Standard loans.** For a standard loan, the following terms and conditions shall apply. Additional terms and conditions may be specified in the loan agreement.

(i) **Repayment periods and interest rates.**

(A) If the repayment period is less than or equal to five years, the interest rate shall be thirty percent of the average market rate.

(B) If the repayment period is more than five years and less than or equal to twenty years, the interest rate shall be sixty percent of the average market rate.

(ii) **Interest accrual.** Interest shall accrue on each disbursement as it is paid to the recipient.

(b) **Extraordinary financial hardship loans.** For an extraordinary financial hardship loan, the repayment terms and conditions specified in (a) of this subsection may be adjusted or deferred. Deferred terms and conditions are dependent on periodic review of the recipient's ability to pay. Terms and conditions may not be deferred indefinitely. [Statutory Authority: Chapter [70.105D](#) RCW. WSR 14-18-060 (Order 13-09), § 173-322A-325, filed 8/29/14, effective 9/29/14.]

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## 173-322A-330 Independent remedial action grants.

(1) **Purpose.** The purpose of independent remedial action grants is to provide funding to local governments that investigate and clean up hazardous waste sites independently under the voluntary cleanup program. The grants are intended to encourage and expedite independent remedial action and to lessen the impact of the cost of such action on ratepayers and taxpayers.

(2) **Types of grants.** The department may provide the following types of independent remedial action grants:

(a) **Post-cleanup reimbursement grant.** Under this grant, the department may reimburse the recipient after the department has issued a no further action determination for the hazardous waste site or property under the voluntary cleanup program.

(b) **Periodic reimbursement grant.** Under this grant, the department may reimburse the recipient periodically during the investigation and the cleanup of a hazardous waste site or property under the voluntary cleanup program.

(3) **Project eligibility.** For the purposes of these grants, a project consists of independent remedial actions at a single hazardous waste site. A project may extend over more than one biennium. To be eligible for a grant, the project must meet all of the following requirements:

(a) The applicant must be a local government;

(b) The applicant must be a potentially liable person, potentially responsible party, or prospective purchaser at the hazardous waste site or have an ownership interest in the hazardous waste site;

(c) For post-cleanup reimbursement grants, the applicant must have completed independent remedial actions at the hazardous waste site or property and received a no further action determination for the site or property under the voluntary cleanup program;

(d) For periodic reimbursement grants, the applicant must:

(i) Enroll the hazardous waste site in the voluntary cleanup program before entering into a grant agreement for the site;

(ii) Conduct independent remedial actions at the hazardous waste site or property in accordance with work plans authorized by the department under the voluntary cleanup program; and

(iii) Have necessary access to conduct independent remedial actions at the hazardous waste site or obtain such access in accordance with a schedule in the grant agreement.

(4) **Funding priority.** The department will prioritize eligible projects for funding or limit funding for eligible projects based on the priorities in WAC

[173-322A-210](#) and the following factors:

(a) The threat posed by the hazardous waste site to human health and the environment;

(b) Whether the applicant is a prospective purchaser of a brownfield property within a redevelopment opportunity redevelopment zone;

(c) The land reuse potential of the hazardous waste site;

(d) Whether the hazardous waste site is located within a highly impacted community;

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

(f) The ability of the grant to expedite the cleanup of the hazardous waste site;

(g) The ability of the grant to leverage other public or private funding for the cleanup and reuse of the hazardous waste site;

(h) The distribution of grants throughout the state and to various types and sizes of local governments; and

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

(5) **Application process.**

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

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

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

- (i) Project eligibility under subsection (3) of this section; and
- (ii) Funding priority under subsection (4) of this section.

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

- (i) Funding priority under subsection (4) of this section;
- (ii) Cost eligibility under subsections (6) and (7) of this section;
- (iii) Allowable funding under subsections (8) and (9) of this section; and
- (iv) Availability of state funds and other funding sources.

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

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

(a) **Eligible costs.** Eligible costs for an independent remedial action grant include, but are not limited to, reasonable costs for the following:

- (i) Emergency or interim actions;
- (ii) Remedial investigations;
- (iii) Feasibility studies and selection of the remedy;
- (iv) Engineering design and construction of the selected remedy;
- (v) Operation and maintenance or monitoring of a cleanup action component for up to one year after construction completion of the component; and
- (vi) Development of independent remedial action plans or reports submitted to the department for review under the voluntary cleanup program.

(b) **Ineligible costs.** Ineligible costs for an independent remedial action grant include, but are not limited to, the following:

- (i) The cost of developing the grant application or negotiating the grant agreement;
- (ii) The cost of dispute resolution under the voluntary cleanup program or the grant agreement;
- (iii) Retroactive costs, except as provided under subsection (7) of this section;
- (iv) Cost of technical consultations provided by the department under the voluntary cleanup program, including reviews of reimbursement requests;
- (v) Natural resource damage assessment and restoration costs and liability for natural resource damages under chapter [70.105D](#) RCW or the federal cleanup law;
- (vi) Site development and mitigation costs not required as part of a remedial action;
- (vii) Legal costs including, but not limited to, the cost of seeking client advice, pursuing cost recovery, contribution, or insurance claims, participating in administrative hearings, pursuing penalties or civil or criminal actions against persons, penalties incurred by the recipient, defending actions taken against the recipient, and any attorney fees incurred by the recipient; and
- (viii) In-kind contributions.

(7) **Retroactive cost eligibility.** The following retroactive costs are eligible for reimbursement if they are also eligible under subsection (5) of this section:

(a) Costs incurred within five years before the date of the completed grant application; and

(b) Costs incurred during the period of a prior grant agreement that have not been reimbursed by the department.

(8) **Limit on eligible costs for a project.** The eligible costs for a project may not exceed six hundred thousand dollars.

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

(a) **Department share.** Except as otherwise provided in this subsection, the department may only fund up to fifty percent of the eligible costs.

(i) The department may fund up to an additional twenty-five percent of the eligible costs if the applicant is:

(A) An economically disadvantaged county, city, or town; or

(B) A special purpose district with a hazardous waste site located within an economically disadvantaged county, city, or town.

(ii) The department may fund up to a total of ninety percent of the eligible costs if the director or designee determines the additional funding would:

(A) Prevent or mitigate unfair economic hardship imposed by the cleanup liability;

(B) Create new substantial economic development, public recreational opportunities, or habitat restoration opportunities that would not otherwise occur; or

(C) Create an opportunity for acquisition and redevelopment of brownfield property under RCW [70.105D.040](#)(5) that would not otherwise occur.

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

(10) **Reimbursement of eligible costs.**

(a) **Post-cleanup reimbursement grants.** For post-cleanup reimbursement grants, the department may reimburse the recipient for eligible costs only after the department has issued a no further action determination for the hazardous waste site or property under the voluntary cleanup program.

(b) **Periodic reimbursement grants.** For periodic reimbursement grants, the department may reimburse the recipient for eligible costs in accordance with the following terms and conditions.

(i) **Remedial action work plans.** The recipient must submit independent remedial action work plans to the department for review and authorization under the voluntary cleanup program.

(ii) **Periodic reimbursement of remedial actions.** The department may reimburse the recipient no more frequently than quarterly for the following:

(A) The development of independent remedial action work plans and reports;

(B) Independent remedial actions performed in accordance with a work plan authorized by the department in writing; and

(C) Any other independent remedial actions authorized by the department in writing.

(iii) **Performance guarantee for periodic reimbursement.** The department may withhold twenty percent of each periodic reimbursement payment as security for the recipient's completion of remedial actions at the hazardous waste site or property. Any funds withheld by the department may be paid to the recipient when the department issues a no further action determination for the hazardous waste site or property.

(iv) **Post-cleanup reimbursement of retroactive costs.** The department may reimburse the recipient for the retroactive costs specified in subsection (7)(a) of this section, but only after the department has issued a no further action determination for the hazardous waste site or property.

(11) **Administration of multiple grants.** The department may provide independent remedial action grants to a local government for more than one project under a single grant agreement.

[Statutory Authority: Chapter [70.105D](#) RCW. WSR 14-18-060 (Order 13-09), § 173-322A-330, filed 8/29/14, effective 9/29/14.]

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## 173-322A-340 Area-wide groundwater investigation grants.

(1) **Purpose.** The purpose of area-wide groundwater investigation grants is to provide funding to local governments that investigate known or suspected areas of area-wide groundwater contamination. The investigations are intended to facilitate the cleanup and redevelopment of properties affected by area-wide groundwater contamination.

(2) **Project eligibility.** For the purposes of this grant, a project consists of an investigation of area-wide groundwater contamination in a single study area. A project may extend over more than one biennium. To be eligible for a grant, a project must meet all of the following requirements:

- (a) The applicant must be a local government;
- (b) The project must involve the investigation of known or suspected area-wide groundwater contamination;
- (c) The applicant must not be required to conduct the investigation under an order or decree;
- (d) The applicant must have the necessary access to conduct the investigation or obtain such access in accordance with a schedule in the grant agreement; and
- (e) The project must be included in the ten-year financing plan required under RCW [70.105D.030](#)(5).

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

- (a) The threat posed by the hazardous waste sites to human health and the environment;
- (b) Whether the hazardous waste site is within a redevelopment opportunity zone;
- (c) The land reuse potential of the hazardous waste sites;
- (d) Whether the hazardous waste sites are located within a highly impacted community;
- (e) The readiness of the applicant to start and complete the work to be funded by the grant and the performance of the applicant under prior grant agreements;
- (f) The ability of the grant to expedite the cleanup of the hazardous waste sites;
- (g) The ability of the grant to leverage other public or private funding for the cleanup and reuse of the hazardous waste sites;

(h) The distribution of grants throughout the state and to various types and sizes of local governments; and

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

**(4) Application process.**

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

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

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

(i) Project eligibility under subsection (2) of this section; and

(ii) Funding priority under subsection (3) of this section.

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

(i) Funding priority under subsection (3) of this section;

(ii) Cost eligibility under subsections (5) and (6) of this section;

(iii) Allowable funding under subsections (7) and (8) of this section; and

(iv) Availability of state funds and other funding sources.

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

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

(a) **Eligible costs.** Eligible costs for an area-wide groundwater investigation grant include, but are not limited to, the reasonable costs for the following:

(i) Identifying the sources of the area-wide groundwater contamination;

(ii) Determining the nature and extent of the area-wide groundwater contamination;

(iii) Identifying the preferential groundwater contaminant migration pathways;

(iv) Identifying area-wide geologic and hydrogeologic conditions; and

(v) Establishing area-wide natural groundwater quality, including aquifer classification under WAC [173-340-720](#).

(b) **Ineligible costs.** Ineligible costs for an area-wide groundwater investigation grant include, but are not limited to, the following:

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

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

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



- (iv) Natural resource damage assessment and restoration costs and liability for natural resource damages under chapter [70.105D](#) RCW or the federal cleanup law;
- (v) Site development and mitigation costs not required as part of the remedial action;
- (vi) Legal costs including, but not limited to, the costs of seeking client advice, pursuing cost recovery, contribution, or insurance claims, participating in administrative hearings, pursuing penalties or civil or criminal actions against persons, penalties incurred by the recipient, the cost of defending actions taken against the recipient, and any attorney fees incurred by the recipient; and
- (vii) In-kind contributions.

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

(7) **Limit on eligible costs for a project.** The eligible costs for a project may not exceed five hundred thousand dollars.

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

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

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

[Statutory Authority: Chapter [70.105D](#) RCW. WSR 14-18-060 (Order 13-09), § 173-322A-340, filed 8/29/14, effective 9/29/14.]

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## 173-322A-350 Safe drinking water action grants.

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

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

(a) The applicant must be a local government;

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

(c) The applicant or purveyor must be in substantial compliance, as determined by the department of health, with applicable rules of the state board of health or the department of health, including chapter

[246-290](#) WAC (Group A public water supplies), chapter [246-292](#) WAC (Waterworks operator certification), chapter [246-293](#) WAC (Water System Coordination Act), and chapter [246-294](#) WAC (Drinking water operating permits);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) **Application process.**

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

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

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

(i) Project eligibility under subsection (2) of this section; and

(ii) Funding priority under subsection (3) of this section.

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

- (i) Funding priority under subsection (3) of this section;
- (ii) Cost eligibility under subsections (5) and (6) of this section;
- (iii) Allowable funding under subsection (7) of this section; and
- (iv) Availability of state funds and other funding sources.

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

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

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

- (i) Water supply source development and replacement, including pumping and storage facilities, source meters, and reasonable appurtenances;
- (ii) Transmission lines between major system components, including interties with other water systems;
- (iii) Treatment equipment and facilities;
- (iv) Distribution lines from major system components to system customers or service connections;
- (v) Bottled water, as an interim action;
- (vi) Fire hydrants;
- (vii) Service meters;
- (viii) Project inspection, engineering, and administration;
- (ix) Individual service connections, including any connection fees and charges;
- (x) Drinking water well decommissioning under WAC [173-160-381](#); and
- (xi) Other costs identified by the department of health as necessary to provide a system that operates in compliance with federal and state standards.

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

- (i) The cost of developing the grant application or negotiating the grant agreement;
- (ii) The cost of dispute resolution under the grant agreement;
- (iii) Retroactive costs, except as provided under subsection (6) of this section;
- (iv) The cost of oversizing or extending a water system for future development;
- (v) The cost of individual service connections for undeveloped lots;
- (vi) Local improvement district assessments;
- (vii) Operation and maintenance costs;
- (viii) Natural resource damage assessment and restoration costs and liability for natural resource damages under chapter [70.105D](#) RCW or the federal cleanup law;
- (ix) Legal costs including, but not limited to, the costs of seeking client advice, pursuing cost recovery, contribution, or insurance claims, participating in administrative hearings, pursuing penalties or civil or criminal actions against persons, penalties incurred by the recipient, defending actions taken against the recipient, and any attorney fees incurred by the recipient; and

(x) In-kind contributions.

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

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

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

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

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

## Appendix B: Economically Disadvantaged Cities, Towns, and Counties in Washington State

The tables below identify the cities and counties eligible for reduced local match for July 1, 2019 through June 30, 2021. For Oversight and Independent Remedial Action Grants, Ecology may fund up to 75% of the eligible project costs if the applicant is “economically disadvantaged.” A city or county is “economically disadvantaged” if its per capita income is equal to or below the median per capita income for the city or county as determined on July 1st of each odd numbered year based on the latest official American Community Survey five-year estimates of the U.S. Department of Commerce (WAC 173-322A-100(15) and (16)).

### Economically Disadvantaged Counties

As of July 1, 2019, the median income for counties in Washington State is \$26,878. The shaded counties in the table below are at or below that medium income. These counties are considered economically disadvantaged for purposes of Oversight and Independent Remedial Action Grant funding and qualify for reduced local match.

Rank	Geography	Per Capita Income
39	Adams	\$ 18,415
20	Asotin	\$ 26,878
10	Benton	\$ 30,511
17	Chelan	\$ 27,605
14	Clallam	\$ 28,857
8	Clark	\$ 32,162
13	Columbia	\$ 28,950
25	Cowlitz	\$ 25,878
27	Douglas	\$ 25,060
37	Ferry	\$ 21,951
36	Franklin	\$ 22,125
28	Garfield	\$ 24,781
34	Grant	\$ 22,508
30	Grays Harbor	\$ 24,081
5	Island	\$ 33,837
7	Jefferson	\$ 32,317
1	King	\$ 46,316
4	Kitsap	\$ 34,412
21	Kittitas	\$ 26,698
26	Klickitat	\$ 25,069
31	Lewis	\$ 23,853

Rank	Geography	Per Capita Income
19	Lincoln	\$ 26,918
23	Mason	\$ 26,312
33	Okanogan	\$ 22,755
32	Pacific	\$ 23,050
24	Pend Oreille	\$ 26,128
9	Pierce	\$ 31,157
2	San Juan	\$ 40,784
11	Skagit	\$ 30,069
15	Skamania	\$ 28,644
3	Snohomish	\$ 35,737
16	Spokane	\$ 28,325
29	Stevens	\$ 24,707
6	Thurston	\$ 32,410
18	Wahkiakum	\$ 26,964
22	Walla Walla	\$ 26,651
12	Whatcom	\$ 29,186
35	Whitman	\$ 22,154
38	Yakima	\$ 21,510

### Economically Disadvantaged Cities and Towns

As of July 1, 2019, the median income for Washington cities and towns is \$25,835. The shaded cities and towns in the table below are at or below the median income. These cities and towns are considered economically disadvantaged for purposes of Oversight and Independent Remedial Action Grant funding and qualify for reduced local match.

Rank	Geography	County	Per Capita Income
218	Aberdeen	Grays Harbor	\$ 20,985
262	Airway Heights	Spokane	\$ 16,357
144	Albion	Whitman	\$ 25,664
216	Algona	King	\$ 21,198
150	Almira	Lincoln	\$ 25,242
41	Anacortes	Skagit	\$ 37,385
94	Arlington	Snohomish	\$ 29,321
110	Asotin	Asotin	\$ 28,490
93	Auburn	King/Pierce	\$ 29,344
11	Bainbridge Island	King	\$ 58,371
130	Battle Ground	Clark	\$ 26,571
5	Beaux Arts Village	King	\$ 87,811
10	Bellevue	King	\$ 59,007
122	Bellingham	Whatcom	\$ 27,209
163	Benton City	Benton	\$ 24,287
208	Bingen	Klickitat	\$ 21,646
45	Black Diamond	King	\$ 36,623
42	Blaine	Whatcom	\$ 37,362
49	Bonney Lake	Pierce	\$ 35,106
28	Bothell	King/ Snohomish	\$ 42,459
120	Bremerton	Kitsap	\$ 27,506
274	Brewster	Okanogan	\$ 13,499
275	Bridgeport	Douglas	\$ 13,460
24	Brier	Snohomish	\$ 47,528
112	Buckley	Pierce	\$ 27,991
254	Bucoda	Thurston	\$ 17,436
83	Burien	King	\$ 30,150
143	Burlington	Skagit	\$ 25,666
29	Camas	Clark	\$ 42,113

Rank	Geography	County	Per Capita Income
108	Carbonado	Pierce	\$ 28,615
50	Carnation	King	\$ 34,725
199	Cashmere	Chelan	\$ 22,016
222	Castle Rock	Cowlitz	\$ 20,706
228	Cathlamet	Wahkiakum	\$ 20,121
206	Centralia	Lewis	\$ 21,661
225	Chehalis	Lewis	\$ 20,302
73	Chelan	Chelan	\$ 30,770
250	Cheney	Spokane	\$ 18,037
220	Chewelah	Stevens	\$ 20,886
233	Clarkston	Asotin	\$ 19,497
145	Cle Elum	Kittitas	\$ 25,437
4	Clyde Hill	King	\$ 99,594
134	Colfax	Whitman	\$ 26,374
181	College Place	Walla Walla	\$ 23,105
54	Colton	Whitman	\$ 33,873
188	Colville	Stevens	\$ 22,687
146	Conconully	Okanogan	\$ 25,434
240	Concrete	Skagit	\$ 19,036
272	Connell	Franklin	\$ 13,927
126	Cosmopolis	Grays Harbor	\$ 26,955
176	Coulee City	Grant	\$ 23,269
128	Coulee Dam	Okanogan /Dougl	\$ 26,909
40	Coupeville	Island	\$ 37,403
39	Covington	King	\$ 37,900
186	Creston	Lincoln	\$ 22,774
258	Cusick	Pend Oreille	\$ 16,738
198	Darrington	Snohomish	\$ 22,044
105	Davenport	Lincoln	\$ 28,703

**Economically Disadvantaged Cities and Towns continued**

As of July 1, 2019, the median income for Washington cities and towns is \$25,835. The shaded cities and towns in the table below are at or below the median income. These cities and towns are considered economically disadvantaged for purposes of Oversight and Independent Remedial Action Grant funding and qualify for reduced local match.

Rank	Geography	County	Per Capita Income
123	Dayton	Columbia	\$ 27,124
178	Deer Park	Spokane	\$ 23,266
69	Des Moines	King	\$ 31,235
53	DuPont	Pierce	\$ 34,144
16	Duvall	King	\$ 53,493
184	East Wenatchee	Douglas	\$ 22,843
113	Eatonville	Pierce	\$ 27,985
37	Edgewood	Pierce	\$ 38,052
22	Edmonds	Snohomish	\$ 48,477
109	Electric City	Grant	\$ 28,583
229	Ellensburg	Kittitas	\$ 19,770
213	Elma	Grays Harbor	\$ 21,371
190	Elmer City	Okanogan	\$ 22,672
197	Endicott	Whitman	\$ 22,061
179	Entiat	Chelan	\$ 23,160
86	Enumclaw	King/Pierce	\$ 29,793
135	Ephrata	Grant	\$ 26,354
95	Everett	Snohomish	\$ 29,266
195	Everson	Whatcom	\$ 22,171
111	Fairfield	Spokane	\$ 28,147
165	Farmington	Whitman	\$ 24,206
82	Federal Way	King	\$ 30,288
131	Ferndale	Whatcom	\$ 26,522
117	Fife	Pierce	\$ 27,736
65	Fircrest	Pierce	\$ 32,735
210	Forks	Clallam	\$ 21,576
88	Friday Harbor	San Juan	\$ 29,531
118	Garfield	Whitman	\$ 27,645
278	George	Grant	\$ 12,574

Rank	Geography	County	Per Capita Income
27	Gig Harbor	Pierce	\$ 43,349
76	Gold Bar	Snohomish	\$ 30,486
234	Goldendale	Klickitat	\$ 19,452
221	Grand Coulee	Grant	\$ 20,849
263	Grandview	Yakima	\$ 16,285
277	Granger	Yakima	\$ 13,020
85	Granite Falls	Snohomish	\$ 29,853
183	Hamilton	Skagit	\$ 22,974
257	Harrah	Yakima	\$ 16,806
127	Harrington	Lincoln	\$ 26,924
170	Hartline	Grant	\$ 23,833
268	Hatton	Adams	\$ 14,520
153	Hoquiam	Grays Harbor	\$ 25,093
2	Hunts Point	King	\$ 131,134
164	Ilwaco	Pacific	\$ 24,236
104	Index	Snohomish	\$ 28,705
152	Ione	Pend Oreille	\$ 25,173
20	Issaquah	King	\$ 51,630
202	Kahlotus	Franklin	\$ 21,824
77	Kalama	Cowlitz	\$ 30,466
245	Kelso	Cowlitz	\$ 18,355
26	Kenmore	King	\$ 45,666
141	Kennewick	Benton	\$ 25,835
107	Kent	King	\$ 28,636
182	Kettle Falls	Stevens	\$ 23,013
12	Kirkland	King	\$ 56,385
238	Kittitas	Kittitas	\$ 19,288
235	Krupp	Grant	\$ 19,451
60	La Center	Clark	\$ 33,206

**Economically Disadvantaged Cities and Towns continued**

As of July 1, 2019, the median income for Washington cities and towns is \$25,835. The shaded cities and towns in the table below are at or below the median income. These cities and towns are considered economically disadvantaged for purposes of Oversight and Independent Remedial Action Grant funding and qualify for reduced local match.

Rank	Geography	County	Per Capita Income
114	La Conner	Skagit	\$ 27,928
72	Lacey	Thurston	\$ 30,824
84	LaCrosse	Whitman	\$ 29,994
19	Lake Forest Park	King	\$ 51,657
63	Lake Stevens	Snohomish	\$ 32,766
125	Lakewood	Pierce	\$ 26,982
273	Lamont	Whitman	\$ 13,611
36	Langley	Island	\$ 38,244
231	Latah	Spokane	\$ 19,525
57	Leavenworth	Chelan	\$ 33,593
32	Liberty Lake	Spokane	\$ 39,280
207	Lind	Adams	\$ 21,651
194	Long Beach	Pacific	\$ 22,227
189	Longview	Cowlitz	\$ 22,681
79	Lyman	Skagit	\$ 30,386
96	Lynden	Whatcom	\$ 29,205
101	Lynnwood	Snohomish	\$ 28,874
280	Mabton	Yakima	\$ 11,588
252	Malden	Whitman	\$ 17,650
106	Mansfield	Douglas	\$ 28,664
33	Maple Valley	King	\$ 39,053
230	Marcus	Stevens	\$ 19,741
78	Marysville	Snohomish	\$ 30,464
281	Mattawa	Grant	\$ 11,539
212	McCleary	Grays Harbor	\$ 21,372
168	Medical Lake	Spokane	\$ 24,039
3	Medina	King	\$ 105,342
6	Mercer Island	King	\$ 82,637
260	Mesa	Franklin	\$ 16,508

Rank	Geography	County	Per Capita Income
151	Metaline Falls	Pend Oreille	\$ 25,186
100	Metaline	Pend Oreille	\$ 28,892
25	Mill Creek	Snohomish	\$ 45,803
102	Millwood	Spokane	\$ 28,831
51	Milton	Pierce/King	\$ 34,643
129	Monroe	Snohomish	\$ 26,595
58	Montesano	Grays Harbor	\$ 33,492
249	Morton	Lewis	\$ 18,068
174	Moses Lake	Grant	\$ 23,458
232	Mossyrock	Lewis	\$ 19,523
166	Mount Vernon	Skagit	\$ 24,201
59	Mountlake Terrace	Snohomish	\$ 33,338
248	Moxee	Yakima	\$ 18,278
23	Mukilteo	Snohomish	\$ 48,078
148	Naches	Yakima	\$ 25,430
200	Napavine	Lewis	\$ 21,965
192	Nespelem	Okanogan	\$ 22,389
9	Newcastle	King	\$ 60,857
217	Newport	Pend Oreille	\$ 21,080
223	Nooksack	Whatcom	\$ 20,693
14	Normandy Park	King	\$ 55,939
30	North Bend	King	\$ 41,579
74	North Bonneville	Skamania	\$ 30,722
264	Northport	Stevens	\$ 16,117
158	Oak Harbor	Island	\$ 24,566
133	Oakesdale	Whitman	\$ 26,457
219	Oakville	Grays Harbor	\$ 20,888
160	Ocean Shores	Grays Harbor	\$ 24,368
140	Odessa	Lincoln	\$ 25,837



**Economically Disadvantaged Cities and Towns continued**

As of July 1, 2019, the median income for Washington cities and towns is \$25,835. The shaded cities and towns in the table below are at or below the median income. These cities and towns are considered economically disadvantaged for purposes of Oversight and Independent Remedial Action Grant funding and qualify for reduced local match.

Rank	Geography	County	Per Capita Income
204	Okanogan	Okanogan	\$ 21,752
64	Olympia	Thurston	\$ 32,753
193	Omak	Okanogan	\$ 22,281
237	Oroville	Okanogan	\$ 19,355
115	Orting	Pierce	\$ 27,851
259	Othello	Adams	\$ 16,609
167	Pacific	King/Pierce	\$ 24,148
66	Palouse	Whitman	\$ 32,646
196	Pasco	Franklin	\$ 22,103
224	Pateros	Okanogan	\$ 20,523
187	Pe Ell	Lewis	\$ 22,754
203	Pomeroy	Garfield	\$ 21,804
159	Port Angeles	Clallam	\$ 24,533
75	Port Orchard	Kitsap	\$ 30,519
56	Port Townsend	Jefferson	\$ 33,756
70	Poulsbo	Kitsap	\$ 31,224
226	Prescott	Walla Walla	\$ 20,197
147	Prosser	Benton	\$ 25,434
243	Pullman	Whitman	\$ 18,681
55	Puyallup	Pierce	\$ 33,866
253	Quincy	Grant	\$ 17,560
177	Rainier	Thurston	\$ 23,268
256	Raymond	Pacific	\$ 16,872
175	Reardan	Lincoln	\$ 23,336
13	Redmond	King	\$ 56,356
47	Renton	King	\$ 35,517
201	Republic	Ferry	\$ 21,929
44	Richland	Benton	\$ 37,081
31	Ridgefield	Clark	\$ 40,355

Rank	Geography	County	Per Capita Income
142	Ritzville	Adams	\$ 25,818
239	Riverside	Okanogan	\$ 19,088
255	Rock Island	Douglas	\$ 17,183
162	Rockford	Spokane	\$ 24,289
211	Rosalia	Whitman	\$ 21,469
89	Roslyn	Kittitas	\$ 29,524
149	Roy	Pierce	\$ 25,281
279	Royal City	Grant	\$ 12,367
15	Ruston	Pierce	\$ 54,836
8	Sammamish	King	\$ 61,690
171	SeaTac	King	\$ 23,710
18	Seattle	King	\$ 51,872
191	Sedro-Woolley	Skagit	\$ 22,513
99	Selah	Yakima	\$ 28,914
121	Sequim	Clallam	\$ 27,380
242	Shelton	Mason	\$ 18,881
38	Shoreline	King	\$ 37,960
35	Skykomish	King	\$ 38,460
97	Snohomish	Snohomish	\$ 29,111
21	Snoqualmie	King	\$ 51,091
261	Soap Lake	Grant	\$ 16,448
247	South Bend	Pacific	\$ 18,295
116	South Cle Elum	Kittitas	\$ 27,761
103	South Prairie	Pierce	\$ 28,799
155	Spangle	Spokane	\$ 24,735
132	Spokane	Spokane	\$ 26,464
139	Spokane Valley	Spokane	\$ 25,891
241	Sprague	Lincoln	\$ 18,977
270	Springdale	Stevens	\$ 14,111

**Economically Disadvantaged Cities and Towns continued**

As of July 1, 2019, the median income for Washington cities and towns is \$25,835. The shaded cities and towns in the table below are at or below the median income. These cities and towns are considered economically disadvantaged for purposes of Oversight and Independent Remedial Action Grant funding and qualify for reduced local match.

Rank	Geography	County	Per Capita Income
156	St. John	Whitman	\$ 24,699
98	Stanwood	Snohomish	\$ 28,934
43	Starbuck	Columbia	\$ 37,260
34	Steilacoom	Pierce	\$ 38,490
172	Stevenson	Skamania	\$ 23,689
81	Sultan	Snohomish	\$ 30,343
236	Sumas	Whatcom	\$ 19,371
62	Sumner	Pierce	\$ 32,850
267	Sunnyside	Yakima	\$ 15,130
92	Tacoma	Pierce	\$ 29,420
169	Tekoa	Whitman	\$ 24,031
138	Tenino	Thurston	\$ 26,116
276	Tieton	Yakima	\$ 13,299
80	Toledo	Lewis	\$ 30,355
244	Tonasket	Okanogan	\$ 18,382
271	Toppenish	Yakima	\$ 13,937
87	Tukwila	King	\$ 29,545
67	Tumwater	Thurston	\$ 32,396
209	Twisp	Okanogan	\$ 21,587
265	Union Gap	Yakima	\$ 15,785
61	Uniontown	Whitman	\$ 32,964
48	University Place	Pierce	\$ 35,257
246	Vader	Lewis	\$ 18,345
90	Vancouver	Clark	\$ 29,473
68	Waitsburg	Walla Walla	\$ 31,381
185	Walla Walla	Walla Walla	\$ 22,807
269	Wapato	Yakima	\$ 14,286
266	Warden	Grant	\$ 15,574
46	Washougal	Clark	\$ 35,633

Rank	Geography	County	Per Capita Income
215	Washtucna	Adams	\$ 21,226
173	Waterville	Douglas	\$ 23,501
161	Waverly	Spokane	\$ 24,316
137	Wenatchee	Chelan	\$ 26,137
52	West Richland	Benton	\$ 34,150
180	Westport	Grays Harbor	\$ 23,139
91	White Salmon	Klickitat	\$ 29,426
136	Wilbur	Lincoln	\$ 26,298
71	Wilkeson	Pierce	\$ 30,899
157	Wilson Creek	Grant	\$ 24,693
251	Winlock	Lewis	\$ 17,758
119	Winthrop	Okanogan	\$ 27,532
17	Woodinville	King	\$ 52,494
124	Woodland	Cowlitz/Clark	\$ 27,056
7	Woodway	Snohomish	\$ 80,019
227	Yacolt	Clark	\$ 20,166
205	Yakima	Yakima	\$ 21,684
1	Yarrow Point	King	\$ 146,639
214	Yelm	Thurston	\$ 21,321
154	Zillah	Yakima	\$ 25,064

## Appendix C: Grant Recipient Performance Monitoring

The Ecology Grant Financial Manager will complete a checklist for each quarter in conjunction with the payment request/progress report. At the end of the grant period, a past performance score will be calculated from the results.

The Recipient may provide comments and Ecology may adjust the Recipient's past performance by 8 points (1 per quarter) based on these comments. The Final score will be used as a performance measure on subsequent grant applications.

Ecology grant managers will use the below criteria to evaluate a Recipient's performance.

<b>Communication:</b>
Submitted a signed Agreement and any amendments within 30 days of Recipient Signatures Required status.
Confirmed Recipient Contact form is up to date.
Responded to Ecology's requests for information within the time specified.
Alerted Ecology in advance to important project developments, administrative changes or delays.
<b>Payment Request and Progress Reports:</b>
Submitted Quarterly Payment Request and Progress Report by due date.
Submitted eligible expenditures only.
Expenditures were charged to the correct Task(s).
Identified correct dates of cost incurred within the billing period.
Requested prior approval for costs as required (e.g. training, refreshments, overtime, etc.).
Completed an Equipment Purchase Report for equipment purchase of \$5,000 or more.
Completed the Form D if contractor costs were billed.

Uploaded supporting documentation for expenditures organized by line entry on the Payment Request form.
Billed travel costs up to the current state per diem rate.
If bill for overhead, did not direct bill costs covered by the overhead rate.
Entered a complete and accurate item description on the payment request form.
Spending Plan, if required for the grant, was updated prior to submitting the PRPR and it is accurate.
Payment request, progress report, and spending plan (if required) did not have to be returned for modifications.
<b>Deliverables and Outcomes:</b>
Completed or made progress toward projects as described in the Agreement.
Supplied evidence of outputs, outcomes and deliverables as required.
<b>Closeout Requirements:</b>
Submitted complete Recipient Closeout Report with the final payment request and progress report.
Agreement closed with less than 5% of the grant award remaining.
<b>Audit Findings:</b>
Recipient received no audit findings or notes applicable to grant program activities or protocols.