



DEPARTMENT OF  
**ECOLOGY**  
State of Washington

# **FY2012 NEP Toxics and Nutrients Grant Program**

## **Preventing Polycyclic Aromatic Hydrocarbon (PAH) Pollution**

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### *Funding Guidelines*

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## Publication and Contact Information

This report is available on the Department of Ecology's website at [www.ecy.wa.gov/biblio/1110083.html](http://www.ecy.wa.gov/biblio/1110083.html)

For more information contact:

Water Quality Program  
P.O. Box 47600  
Olympia, WA 98504-7600

Phone: 360-407-6600

Washington State Department of Ecology - [www.ecy.wa.gov](http://www.ecy.wa.gov)

- Headquarters, Olympia 360-407-6000
- Northwest Regional Office, Bellevue 425-649-7000
- Southwest Regional Office, Olympia 360-407-6300
- Central Regional Office, Yakima 509-575-2490
- Eastern Regional Office, Spokane 509-329-3400

*To ask about the availability of this document in a format for the visually impaired, call the Water Quality Program at 360-407-6502. Persons with hearing loss can call 711 for Washington Relay Service. Persons with a speech disability can call 877-833-6341.*

# **FY2012 NEP Toxics and Nutrients Grant Program**

## **Preventing Polycyclic Aromatic Hydrocarbon (PAH) Pollution**

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### **Funding Guidelines**

Water Quality Program  
Washington State Department of Ecology  
Olympia, Washington 98504-7710

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# Summary

The Department of Ecology (Ecology) is offering funding through a competitive grant program to government entities interested in improving both human and environmental health in the Puget Sound ecosystem by preventing polycyclic aromatic hydrocarbons (PAHs) from entering Puget Sound fresh and marine waters.

In January of 2011, Ecology entered into a cooperative agreement with the Environmental Protection Agency (EPA) to reduce toxics and nutrients in Puget Sound. This grant is part of the federal National Estuary Program (NEP). The funding for preventing PAH pollution is part of this larger effort to protect and restore Puget Sound.

## How to use these guidelines

These guidelines describe the process to apply for and receive the fiscal year 2012 (FY2012) NEP Toxics and Nutrients Preventing Polycyclic Aromatic Hydrocarbon Pollution grant. The guidelines also explain what will be required once a grant is awarded. Ecology does not intend that the guidelines are a comprehensive listing and explanation of all rules and policies that may apply to funding. The guidelines will provide initial information on the grant application and rating process, and the steps of administering a funded project.

## Funding Program Purpose

The FY2012 NEP Toxics and Nutrients Grant Program will fund projects or project components to prevent PAHs from one or more sources from entering the environment. PAHs are a group of more than 100 different chemicals and generally occur as complex mixtures. Studies have linked PAHs to cancer, reproductive problems and weakened immune systems.

## Eligibility

### Eligible applicants

State and federal agencies, institutions of higher learning, tribal governments and technical consortia, local governments, special purpose districts, conservation districts, watershed planning units, local management boards, salmon recovery lead entities, regional fisheries enhancement groups, and non-profit entities are eligible to apply.

Eligible applicants may partner on projects with non-eligible entities. Ecology will consider the eligible applicant the lead agency on the agreement; the lead agency must collaborate and coordinate with the partners.

## Available funding and ceiling amounts

Ecology will distribute a total of \$834,387 as grant awards under this program. The maximum grant amount for individual projects is \$834,387 of total eligible costs. Multiple departments from one jurisdiction may apply for funding.

## Eligible projects

Project must have the following required outputs to be eligible:

- On-the-ground implementation of activities that will prevent or reduce PAH pollution from one or more sources from entering the environment (while funds can be spent until June 30, 2016, significant on-the-ground implementation should begin in 2012).
- A report summarizing the actions taken and the expected reductions in PAH inputs.

Effectiveness monitoring to confirm expected reduction in PAH inputs is highly encouraged.

The desired ultimate outcomes are

- Reduced inputs of PAHs to freshwater creeks or streams or the marine water of Puget Sound.
- Improved ecosystem and human health due to lower pollution pressures.

Prioritization of geographic areas to those areas with high PAH levels (or demonstrated problems due to PAHs) is highly encouraged.

Ecology requires applicants to address one or more of the following sources of PAHs identified by Ecology as a large source of PAHs:

- Creosote-treated wood in and near aquatic areas (marine pilings, bulkheads, railroad ties, and utility poles).
- Woodstoves and/or fireplaces.
- Other significant source of PAHs. If the applicant is addressing another source of PAHs, the applicant must explain how the inputs from those sources compare in magnitude or importance to woodstoves/fireplaces and creosote-treated wood.

All new federal NEP grants come with extensive reporting and accountability requirements (see Attachment). Potential applicants should read and understand these requirements before applying for the grant.

## Ineligible projects

Planning activities and re-creating programs that are already up-and-running at other state and local agencies are ineligible.



# Application Process

Potential applicants may request an application packet, including the application form and these guidelines. Application materials are also available electronically on Ecology’s Web site at: [www.ecy.wa.gov/puget\\_sound/grants\\_fed\\_toxics.html](http://www.ecy.wa.gov/puget_sound/grants_fed_toxics.html).

**Application Submittal:**

1. Mail one hardcopy with original signature and an electronic copy. Include a MS-WORD version of the complete application.
2. All application materials must be received at Ecology headquarters prior to 5:00 p.m., February 3, 2012. **Application packets received after the deadline date and time will not be considered for funding. Post marks not accepted.**
3. Faxed submittals will not be accepted.

Submit original signed paper version and copies to:

**U.S. Postal Mailing Address:**

Department of Ecology  
 Water Quality Program  
 Financial Management Section  
 P.O. Box 47600  
 Olympia, WA 98504-7600

**Overnight Mail or Hand Delivery Address:**

Department of Ecology  
 Water Quality Program  
 Financial Management Section  
 300 Desmond Drive  
 Lacey, WA 98503

<b>Grant Schedule</b>	
Grant guidelines announced	November 21, 2011
Application submittal deadline	February 3, 2012
Evaluate proposals	February 3, 2012 – February 24, 2012
Award notification	February 27, 2012
Funding agreements signed	March 27, 2012
Projects must be completed	June 30, 2016

# Application Requirements

## *At Time of Application*

Applicants must submit a completed application, available at [http://www.ecy.wa.gov/puget\\_sound/grants\\_fed\\_toxics.html](http://www.ecy.wa.gov/puget_sound/grants_fed_toxics.html).

## *At Time of Contract Negotiations*

If applicable, projects must meet the following requirements prior to receiving grant funding:

- State Environmental Policy Act (SEPA).
- Cultural Resource Review, coordinated through Ecology, with the Department of Archeology & Historic Preservation (DAHP) and affected tribes to comply with the Governor's Executive Order 05-05.

## Growth Management Act compliance

Ecology does not require applicants to comply with the Growth Management Act (GMA) prior to applying for or receiving funding from this program. However, Ecology strongly encourages GMA compliance, because other funding sources may require it to be eligible for funding.

## Evaluation criteria

The following points will be assigned to the proposal for evaluation purposes:

Review Scoring Guidelines		
Evaluation Criteria	Description Statement	Maximum Points
Project Design	<ul style="list-style-type: none"> <li>• Is the project well-structured and clearly described?</li> <li>• Is the purpose clear and compelling?</li> <li>• Are the project schedule and budget reasonable and achievable?</li> <li>• Does the entity have the capacity and expertise to successfully carry out the project?</li> <li>• How has the applicant demonstrated its ability to successfully complete a project of this type?</li> </ul>	35
Project Outputs & Outcomes	<ul style="list-style-type: none"> <li>• Is the project addressing an important source of PAHs?</li> <li>• What is the overall size of the problem and what percentage of the problem will this project address?</li> <li>• Is the focus of the project on-the-ground implementation?</li> <li>• What reductions are expected in PAH loads?</li> <li>• Does the project lay out clear and realistic activities, objectives, outputs, and outcomes? Do they align and fit together to facilitate successful implementation?</li> <li>• How will you measure the results/changes and how do they align with local and regional performance measures and targets?</li> </ul>	40

Review Scoring Guidelines		
Evaluation Criteria	Description Statement	Maximum Points
Geographic Areas	<ul style="list-style-type: none"> <li>• What is the geographic scope of the project?</li> <li>• Does the project focus on areas with high levels of PAHs?</li> </ul>	5
Program Sustainability	<ul style="list-style-type: none"> <li>• Does the project help make ongoing activities more effective, efficient, affordable, or sustainable?</li> <li>• Does the project enhance existing funding for your program?</li> <li>• What is your long-range vision and what steps are you taking to improve and sustain your program?</li> <li>• Is an effectiveness monitoring plan included?</li> </ul>	10
Coordinated Approaches, Partnerships & Public Engagement	<ul style="list-style-type: none"> <li>• Does the project involve collaboration with other jurisdictions?</li> <li>• Does the project serve as a regional model?</li> </ul>	10

Ecology reserves the right to award funding to the Applicant whose proposal is deemed to be in the best interest of Ecology and the state of Washington.

## Ecology’s Project Management Team

The funding agreement is the formal written contractual arrangement signed by authorized representatives of the recipient and Ecology. The agreement includes at a minimum: an approved scope of work, total project costs, a budget, and performance schedule. Ecology assigns a Project Management Team to each funded project. The team consists of:

- A **project manager** from the Lacey headquarters office or the regional office nearest the recipient.
- A **financial manager** from the Lacey headquarters office.

The **financial manager** reviews and approves payment requests and helps the project manager negotiate agreements and track performance. The **project manager** is the point of contact for day-to-day project and technical related questions and works with the financial manager to resolve payment or eligibility issues if they arise. The following will be the project management team for grant agreements funded through this guidance and application process:

Ecology Project Manager	Ecology Financial Manager
<b>Department of Ecology</b> <b>Water Quality Program</b> <b>Attn: Andrew Kolosseus</b> <b>P.O. Box 47600</b> <b>Olympia, WA 98504-7600</b> <b>360-407-7543</b> <a href="mailto:andrew.kolosseus@ecv.wa.gov">andrew.kolosseus@ecv.wa.gov</a>	<b>Department of Ecology</b> <b>Water Quality Program</b> <b>Attn: Sarah Ralph</b> <b>P.O. Box 47600</b> <b>Olympia, WA 98504-7600</b> <b>360-407-6703</b> <a href="mailto:sarah.ralph@ecv.wa.gov">sarah.ralph@ecv.wa.gov</a>

# Agreement Development

The Ecology Project Management Team will use information contained in the funding proposal as the basis for developing the funding agreement. It will take less time to develop a funding agreement with a clearly defined project proposal that includes measurable objectives and an accurate budget. To speed processing, Ecology standardizes much of the funding agreement content with boilerplate language that includes general and special terms and conditions and other requirements that are necessary because of state and federal law. These requirements are incorporated as attachments.

After the agreement is developed, Ecology's Project Management Team will request a quick funding program review. The financial manager will then send the funding agreement to the applicant for signature. The applicant will send the funding agreement back to Ecology for the final signature by the Water Quality Program Manager or the authorized designee.

The agreement becomes effective once signed by Ecology's program manager. A fully signed original will be returned to the recipient. (Note that the applicant becomes the recipient once the agreement is signed).

## Project budget

The funding agreement must include a project budget that establishes eligible costs for task elements or budget objects. Ecology's financial manager will help answer questions about budget development during project negotiations.

There are no additional funds available to cover project overruns. Ecology has allocated all of the money available through the NEP program. The applicant must be certain that all deliverables can be accomplished by the budget in the application.

## Disbursement of funds

Ecology will disburse funds on a cost-incurred reimbursable basis.

## Amendment process

Modifications and changes to the funding agreement may become necessary. The recipient and Ecology's project team must negotiate changes and execute a formal amendment to the funding agreement to reflect those changes.

## Extensions

- Time extensions are discouraged by Ecology.
- Recipients should request a time extension at least three months prior to the expiration date of the funding agreement.

## Progress reports

Ecology requires recipients to submit progress reports on a regular basis. Progress reports that include a disbursement request must describe the Scope of Work item for which disbursement is requested. Unless specified in the funding agreement, progress reports are submitted quarterly for the following periods:

- January 1 through March 31
- April 1 through June 30
- July 1 through September 30
- October 1 through December 31

Quarterly progress reports are due 15 days following the end of the quarter being reported.

## Administrative and general terms and conditions

General Terms and Conditions are general requirements contained in all Ecology grant agreements and are not negotiable. The General Terms and Conditions are found in the *Administrative Requirements for Grants and Loans*, Publication No. 91-18, available at [www.ecy.wa.gov/biblio/9118.html](http://www.ecy.wa.gov/biblio/9118.html). **The policies and procedures outlined in the Administrative Requirements document apply to all grant and loan agreements funded through Ecology.**

## Special terms and conditions

Special terms and conditions are written into an agreement to modify or clarify project elements that are specific to the project or the program guidelines. Special Terms and Conditions are consistent with the General Terms and Conditions but may be more specific or restrictive.

## Federal administrative programmatic terms and conditions

Grants awarded through this process are federal NEP funds and the federal administrative and programmatic conditions provided under the attachment in this document apply.

## Equipment purchase/equipment fees

Equipment purchase will be considered on a project-by-project basis and must be approved by the Ecology Project Management Team. If equipment is owned by the recipient, an appropriate use fee may be charged.

A use fee for equipment owned by the recipient or used through a valid interlocal agreement:

- Must be justifiable, fair, and reasonably attributed to the project.
- Must directly satisfy the project scope of work.
- Must be shown to be cost effective.
- Cannot exceed the acquisition cost of the equipment or facilities.

- Cannot exceed the rental rate or purchase price for comparable equipment or facilities in the recipient's market.

## Incurring eligible costs

The recipient can begin incurring costs on the date that the funding agreement is signed by Ecology. In some instances, eligible costs can be incurred before the effective date of an agreement.

### *Incurring costs prior to an agreement*

Prior Authorization is written authorization that allows the recipient to incur eligible project costs before the funding agreement is effective. Prior Authorization is determined on a case-by-case basis. It does not guarantee funding, and Ecology cannot release funds before the effective date of the agreement.

### **To request Prior Authorization:**

- The applicant signatory must write a letter to Ecology's Water Quality Program Manager requesting and justifying Prior Authorization with estimated costs to be incurred and the time frame.
- Costs incurred before the Prior Authorization date are the sole responsibility of the public body.
- The applicant assumes responsibility for costs incurred before a loan or grant agreement has been signed, as Ecology cannot guarantee that a loan or grant will be awarded.

### **Reasons for Prior Authorization include, but are not limited to:**

- Work must be done in a specific environmental window.
- To meet required schedules in compliance order, consent decrees, or permits.
- The applicant is ready to proceed immediately.
- The project would otherwise be substantively delayed as the grant agreement was prepared.

## Payment processing

### Payment holds or termination

If a recipient does not satisfy conditions in the funding agreement, Ecology may terminate the agreement and request that the recipient repay all of the funds disbursed, withhold a payment, or decrease the payment by the amount proportionate to the costs associated to the incomplete work.

### Submitting a payment request

The recipient must submit a payment request at least quarterly, but no more frequently than monthly. The recipient must submit a completed A19 Invoice Voucher and all required forms to Ecology's financial manager. The recipient's authorized signatory must sign the A19 Invoice Voucher, preferably in blue ink. If the costs are eligible and project progress is acceptable, Ecology's financial manager will approve the request. If not, the financial manager and project manager will work with the recipient to resolve the issue.

## **Payment requests forms**

Payment requests must include the following forms:

- A State of Washington Invoice Voucher Form A19-1A
- Running Budget Summary Form B1 (ECY 060-3) or B2 (ECY 060-7)
- Voucher Support Form C1 (ECY 060-8) or C2 (ECY 060-9)
- Contractor Participation Report Form D (ECY 060-11)

Where applicable, payment requests should also include the following:

- Monthly Time Sheet Form E (ECY 060-12)
- Record of Meeting Attendance Form F (ECY 060-13)
- Conversion to a Composite Hourly Billing Rate for an Employee Form H (F-21)
- Valuation of Donated Property Form I (ECY 060-15)

Ecology's financial manager may request additional documentation to support the costs reflected in a payment request at any time. Recipients must keep supportive documentation available in project files for the duration of the project and for five years following project completion.

## **Performance measures**

### **Post project assessment of performance measures**

The Legislature directed Ecology to implement an outcome-focused approach. As a result, Ecology is including a special condition in each loan and grant agreement that requires recipients to develop a post project assessment plan and to participate in a brief survey or possible interview to assess project results. The month and year of the project assessment will typically occur three years after project completion. This date will be negotiated between the applicant and Ecology's Project Management Team.

## **Environmental Review Requirements**

### **SEPA and state environmental review process**

All recipients must comply with State Environmental Policy Act (SEPA). The recipient must complete SEPA requirements prior to receiving state funds. Additionally, recipients must comply with all other applicable state and federal environmental statutes, regulations, and executive orders.

### **Historic and cultural resources review**

Many projects have the potential to significantly impact culturally or historically important locations or artifacts. Ecology is working with the Department of Archaeology and Historic Preservation (DAHP) to meet all state or federal requirements regarding cultural and historic preservation. All projects that disturb soils from their natural state must comply with the corresponding state or federal law. Staff from Ecology's Water Quality Program will help grant recipients follow the appropriate steps to work with DAHP and corresponding tribes to determine if a site has the potential of disturbing or significantly impacting cultural or historic

resources. Recipients should contact their Ecology Project and Financial Managers for detailed information, guidance, procedures, and other related resources. Information is also available on the DAHP website: [www.dahp.wa.gov/](http://www.dahp.wa.gov/)



# Attachment – Federal Administrative and Programmatic Conditions

*(Note: For purposes of full disclosure, these conditions are the exact conditions contained in Ecology's federal grant award from the Environmental Protection Agency (EPA). The RECIPIENT/CONTRACTOR must read and comply with all the federal conditions if applicable, but any reports or other required deliverables must be sent to Ecology).*

## ADMINISTRATIVE TERMS AND CONDITIONS

### 1. PAYMENT INFORMATION

All recipients must be enrolled to receive funds electronically via the EPA-EFT Payment Process. This electronic funds transfer process was initiated by EPA in response to the Debt Collection Improvement Act of 1996, P.L. 104-134 that requires all federal payments be made via Direct Deposit/Electronic Funds Transfer DD/EFT). By signing the assistance agreement you are agreeing to receive payment electronically.

In order to receive payments electronically, the ACH Vendor/ Miscellaneous Payment Enrollment Form (SF3881) must be completed and faxed to Marge Pumphrey at (702) 798-2423.

After reviewing and processing the SF3881, the Las Vegas Finance Center (LVFC) will send you a letter assigning you an EFT Control Number, an EPA-EFT Recipient's Manual, and the necessary forms for requesting funds and reporting purposes.

If you need further assistance regarding enrollment, please contact Marge Pumphrey at (702) 798-2492 or by e-mail to: [pumphrey.margaret@epa.gov](mailto:pumphrey.margaret@epa.gov). The forms and instructions can also be found at LVFC Website: <http://www.epa.gov/ocfo/finservices/payinfo.htm>.

Any recipient currently using the Automated Standard Application for Payments (ASAP) system with another government agency should contact Marge Pumphrey at (702) 798-2492 or e-mail to: [pumphrey.margaret@epa.gov](mailto:pumphrey.margaret@epa.gov).

Under any of the above payment mechanisms, recipients may request/draw down advances for their immediate cash needs, provided the recipient meets the requirements of 40 CFR 30.22(b) or 40 CFR 31.21(c), as applicable. Additionally, recipients must liquidate all obligations incurred within 90 calendar days of the project period end date. Therefore, recipients must submit the final request for payment, and refund to EPA any balance of unobligated cash advanced within 90 calendar days after the end of the project period.

### 2. COST PRINCIPLES/INDIRECT COSTS FOR STATE AGENCIES

The cost principles of OMB Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments," relocated to 2 CFR Part 225, is applicable, as appropriate, to this award.

If the recipient does not have a previously established indirect cost rate, it agrees that it will prepare its indirect cost rate proposal and/or cost allocation plan and in accordance with OMB Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments." For proposal

preparation, the recipient may use the appropriate completeness checklist located at:  
<http://www.aqd.nbc.gov/indirect/indirect.asp>.

The recipient must send its proposal to its cognizant federal agency within six (6) months after the close of the governmental unit's fiscal year. If EPA is the cognizant federal agency, the state recipient must send its indirect cost rate proposal within six (6) months after the close of the governmental unit's fiscal year to:

REGULAR MAIL

Financial Analysis and Rate Negotiation Service Center  
Office of Acquisition Management  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW, MC 3802R  
Washington, DC 20460

MAIL COURIER (E.G. FEDEX, UPS, ETC.)

Financial Analysis and Rate Negotiation Service Center  
Office of Acquisition Management  
US Environmental Protection Agency  
1300 Pennsylvania Avenue, NW, 6th floor  
Bid and Proposal Room Number 61107  
Washington, DC 20004

Recipients are entitled to reimbursement of indirect costs, subject to any statutory or regulatory administrative cost limitations, if they have a current rate agreement or have submitted an indirect cost rate proposal to their cognizant federal agency for review and approval. Recipients are responsible for maintaining an approved indirect cost rate throughout the life of the award. Recipients are responsible for submitting any subsequent rate proposals to the appropriate cognizant agency no later than 180 days after the end of the recipient's fiscal year. Recipients may draw down grant funds once a provisional or final rate has been approved, and only for indirect costs incurred during the period specified in the rate agreement. Recipients are not entitled to indirect costs for any period in which the rate has expired.

Recipients may not draw down grant funds for any indirect costs which were not incurred during the period of the approved rate agreement.

Recipients with differences between their provisional rates and final rates are not entitled to more than the award amount, without EPA approval. Recipients may request supplemental amendments (to grants which have not expired or been closed out) for additional funding to cover increased indirect costs. EPA approval of a supplemental amendment is subject to the availability of funds.

Pursuant to 40 CFR 31.26, a recipient agrees to comply with the audit requirements prescribed in the Single Audit Act Amendments, and revised OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," including Subpart C Section 305(b) which addresses the restriction on auditors preparing indirect cost proposals.

### 3. FEDERAL FINANCIAL REPORT (FFR)

Recipients shall submit final Federal Financial Reports (FFR), Standard Form 425 (SF-425), to EPA no later than 90 calendar days after the end of the project period. The form is available on the internet at <http://www.epa.gov/ocfo/finservices/forms.htm>. All FFRs must be submitted to the Las Vegas Finance Center: US EPA, LVFC, PO Box 98515, Las Vegas, NV 89193, or by FAX to: 702-798-2423.

The LVFC will make adjustments, as necessary, to obligated funds after reviewing and accepting a final Federal Financial Report. Recipients will be notified and instructed by EPA if they must complete any additional forms for the closeout of the assistance agreement. EPA may take enforcement actions in accordance with 40 CFR 30.62 and 40 CFR 31.43 if the recipient does not comply with this term and condition.

### 4. AUDIT REQUIREMENTS

In accordance with OMB Circular A-133, which implements the Single Audit Act, the recipient hereby agrees to obtain a single audit from an independent auditor, if it expends \$500,000 or more in total Federal funds in any fiscal year. Within nine months after the end of a recipient's fiscal year or 30 days after receiving the report from the auditor, the recipient shall submit the SF-SAC and a Single Audit Report Package. The recipient MUST submit the SF-SAC and a Single Audit Report Package, using the Federal Audit Clearinghouse's Internet Data Entry System. Complete information on how to accomplish the single audit submissions, you will need to visit the Federal Audit Clearinghouse Web site:

<http://harvester.census.gov/fac/>

### 5. HOTEL-MOTEL FIRE SAFETY ACT

Pursuant to 40 CFR 30.18, if applicable, and 15 USC 2225a, the recipient agrees to ensure that all space for conferences, meetings, conventions, or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (PL 101-391, as amended). Recipients may search the Hotel-Motel National Master List at <http://www.usfa.dhs.gov/applications/hotel> to see if a property is in compliance (FEMA ID is currently not required), or to find other information about the Act.

### 6. RECYCLED PAPER

#### *INSTITUTIONS OF HIGHER EDUCATION HOSPITALS AND NON-PROFIT ORGANIZATIONS:*

In accordance with 40 CFR 30.16, the recipient agrees to use recycled paper and double sided printing for all reports which are prepared as a part of this agreement and delivered to EPA. This requirement does not apply to reports prepared on forms supplied by EPA, or to Standard Forms, which are printed on recycled paper and are available through the General Services Administration.

#### *STATE AGENCIES AND POLITICAL SUBDIVISIONS:*

In accordance with Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962) any State agency or agency of a political subdivision of a State which is using appropriated Federal funds shall comply with the requirements set forth. Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds \$10,000 or where the quantity of such items acquired in the course of the preceding

fiscal year was \$10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.

**STATE AND LOCAL INSTITUTIONS OF HIGHER EDUCATION AND NON-PROFIT ORGANIZATIONS:**

In accordance with 40 CFR 30.16, State and local institutions of higher education, hospitals, and non-profit organizations that receive direct Federal funds shall give preference in their procurement programs funded with Federal funds to the purchase of recycled products pursuant to EPA's guidelines.

**STATE TRIBAL AND LOCAL GOVERNMENT RECIPIENTS:**

In accordance with the policies set forth in EPA Order 1000.25 and Executive Order 13423, Strengthening Federal Environmental, Energy and Transportation Management (January 24, 2007), the recipient agrees to use recycled paper and double sided printing for all reports which are prepared as a part of this agreement and delivered to EPA. This requirement does not apply to reports prepared on forms supplied by EPA, or to Standard Forms, which are printed on recycled paper and are available through the General Services Administration.

**7. LOBBYING**

**ALL RECIPIENTS:**

The recipient agrees to comply with Title 40 CFR Part 34, *New Restrictions on Lobbying*. The recipient shall include the language of this provision in award documents for all subawards exceeding \$100,000, and require that subrecipients submit certification and disclosure forms accordingly.

In accordance with the Byrd Anti-Lobbying Amendment, any recipient who makes a prohibited expenditure under Title 40 CFR Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.

**PART 30 RECIPIENTS:**

All contracts awarded by a recipient shall contain, when applicable, the anti-lobbying provision as stipulated in the Appendix at Title 40 CFR Part 30.

Pursuant to Section 18 of the Lobbying Disclosure Act, the recipient affirms that it is not a nonprofit organization described in Section 501(c)(4) of the Internal Revenue Code of 1986; or that it is a nonprofit organization described in Section 501(c)(4) of the Code but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.

**8. LOBBYING AND LITIGATION**

**ALL RECIPIENTS:**

The chief executive officer of this recipient agency shall ensure that no grant funds awarded under this assistance agreement are used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law. The recipient shall abide by its respective OMB Circular (A-21, A-87, or A-122), which prohibits the use of Federal grant funds for litigation against the United States or for lobbying or other political activities.

## 9. SUSPENSION AND DEBARMENT

Recipient shall fully comply with Subpart C of 2 CFR Part 180 and 2 CFR Part 1532, entitled “Responsibilities of Participants Regarding Transactions (Doing Business with Other Persons).”

Recipient is responsible for ensuring that any lower tier covered transaction as described in Subpart B of 2 CFR Part 180 and 2 CFR Part 1532, entitled “Covered Transactions,” includes a term or condition requiring compliance with Subpart C. Recipient is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. Recipient acknowledges that failing to disclose the information as required at 2 CFR 180.335 may result in the delay or negation of this assistance agreement, or pursuance of legal remedies, including suspension and debarment.

Recipient may access the Excluded Parties List System at [www.epls.gov](http://www.epls.gov). This term and condition supersedes EPA Form 5700-49, “Certification Regarding Debarment, Suspension, and Other Responsibility Matters.”

## 10. DRUG-FREE WORKPLACE CERTIFICATION FOR ALL EPA RECIPIENTS

The recipient organization of this EPA assistance agreement must make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in Title 40 CFR 36.200 - 36.230. Additionally, in accordance with these regulations, the recipient organization must identify all known workplaces under its federal awards, and keep this information on file during the performance of the award.

Those recipients who are individuals must comply with the drug-free provisions set forth in Title 40 CFR 36.300.

The consequences for violating this condition are detailed under Title 40 CFR 36.510. Recipients can access the Code of Federal Regulations (CFR) Title 40 Part 36 at [http://www.access.gpo.gov/nara/cfr/waisidx\\_06/40cfr36\\_06.html](http://www.access.gpo.gov/nara/cfr/waisidx_06/40cfr36_06.html).

## 11. MANAGEMENT FEES

Management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. The term “management fees or similar charges” refers to expenses added to the direct costs in order to accumulate and reserve funds for ongoing business expenses, unforeseen liabilities, or for other similar costs which are not allowable under this assistance agreement. Management fees or similar charges may not be used to improve or expand the project funded under this agreement, except to the extent authorized as a direct cost of carrying out the scope of work.

## 12. REIMBURSEMENT LIMITATION

If the recipient expends more than the amount of federal funding in its EPA approved budget in anticipation of receiving additional funds from EPA, it does so at its own risk. EPA is not legally obligated to reimburse the recipient for costs incurred in excess of the EPA approved budget.

### 13. TRAFFICKING IN PERSONS

- a. *Provisions applicable to a recipient that is a private entity.*
  1. You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not—
    - i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect.
    - ii. Procure a commercial sex act during the period of time that the award is in effect.
    - iii. Use forced labor in the performance of the award or subawards under the award.
  2. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity —
    - i. Is determined to have violated a prohibition in paragraph a.1 of this award term.
    - ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either—
      - A. Associated with performance under this award.
      - B. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our Agency at 2 CFR 1532.
- b. *Provision applicable to a recipient other than a private entity. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—*
  1. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term.
  2. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either—
    - i. Associated with performance under this award.
    - ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 CFR 1532.
- c. *Provisions applicable to any recipient.*
  1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.
  2. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:
    - i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)).
    - ii. Is in addition to all other remedies for noncompliance that are available to us under this award.
  3. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.
- d. *Definitions.* For purposes of this award term:
  1. “Employee” means either:

- i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award.
- ii. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.

#### 14. TRAFFICKING VICTIM PROTECTION ACT OF 2000 (TVPA) AS AMENDED.

To implement requirements of Section 106 of the Trafficking Victims Protection Act of 2000, as amended, the following provisions apply to this award:

- a. We, as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity: (1) is determined to have violated an applicable prohibition in the Prohibition Statement below; or (2) has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in the Prohibition Statement below through conduct that is either: (a) associated with performance under this award; or (b) imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 2 CFR part 1532. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in the Prohibition Statement below.
- b. Our right to terminate unilaterally that is described in paragraph a of this award term: (1) implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and (2) is in addition to all other remedies for noncompliance that are available to us under this award.
- c. You must include the requirements of the Prohibition Statement below in any subaward you make to a private entity.

Prohibition Statement - You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not engage in severe forms of trafficking in persons during the period of time that the award is in effect; procure a commercial sex act during the period of time that the award is in effect; or use forced labor in the performance of the award or subawards under the award.

#### 15. DUNS AND CCR REQUIREMENTS (Effective 10/01/2010)

##### Central Contractor Registration and Universal Identifier Requirements.

- a. Requirement for Central Contractor Registration (CCR). Unless you are exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain the currency of your information in the CCR until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.
- b. Requirement for Data Universal Numbering System (DUNS) numbers. If you are authorized to make subawards under this award, you:
  - 1. Must notify potential subrecipients that no entity (see definition in paragraph C of this award term) may receive a subaward from you unless the entity has provided its DUNS number to you.
  - 2. May not make a subaward to an entity unless the entity has provided its DUNS number to you.



- c. Definitions. For purposes of this award term:
1. Central Contractor Registration (CCR) means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the CCR Internet site (currently at <http://www.ccr.gov>).
  2. Data Universal Numbering System (DUNS) number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866-705-5711) or the Internet (currently at <http://fedgov.dnb.com/webform>).
  3. Entity, as it is used in this award term, means all of the following, as defined at 2 CFR part 25, subpart C:
    - i. A Governmental organization, which is a State, local government, or Indian tribe.
    - ii. A foreign public entity.
    - iii. A domestic or foreign nonprofit organization.
    - iv. A domestic or foreign for-profit organization.
    - v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
  4. Subaward:
    - i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
    - ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. --.210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").
    - iii. A subaward may be provided through any legal agreement, including an agreement that you consider a contract.
  5. Subrecipient means an entity that:
    - i. Receives a subaward from you under this award; and
    - ii. Is accountable to you for the use of the Federal funds provided by the subaward.

## 16. SUBAWARD REPORTING AND EXECUTIVE COMPENSATION

- a. Reporting of first-tier subawards.
1. Applicability. Unless you are exempt as provided in paragraph d. of this award term, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity (see definitions in paragraph e of this award term).
  2. Where and when to report.
    - i. You must report each obligating action described in paragraph a.1. of this award term to [www.fsrc.gov](http://www.fsrc.gov).
    - ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)
  3. What to report. You must report the information about each obligating action that the submission instructions posted at [www.fsrc.gov](http://www.fsrc.gov) specify.



- b. Reporting Total Compensation of Recipient Executives.
1. Applicability and what to report. You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if –
    - i. The total Federal funding authorized to date under this award is \$25,000 or more;
    - ii. In the preceding fiscal year, you received—
      - A. 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards).
      - B. \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards).
    - iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)
  2. Where and when to report. You must report executive total compensation described in paragraph b.1. of this award term:
    - i. As part of your registration profile at [www.ccr.gov](http://www.ccr.gov).
    - ii. By the end of the month following the month in which this award is made, and annually thereafter.
- c. Reporting of Total Compensation of Subrecipient Executives.
1. Applicability and what to report. Unless you are exempt as provided in paragraph d. of this award term, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if
    - i. in the subrecipient's preceding fiscal year, the subrecipient received—
      - A. 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards).
      - B. \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards).
    - ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)
  2. Where and when to report. You must report subrecipient executive total compensation described in paragraph c.1. of this award term:
    - i. To the recipient.
    - ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), you must

report any required compensation information of the subrecipient by November 30 of that year.

d. Exemptions

If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:

1. Subawards.
2. The total compensation of the five most highly compensated executives of any subrecipient.

e. Definitions. For purposes of this award term:

1. Entity means all of the following, as defined in 2 CFR part 25:
  - i. A Governmental organization, which is a State, local government, or Indian tribe.
  - ii. A foreign public entity.
  - iii. A domestic or foreign nonprofit organization.
  - iv. A domestic or foreign for-profit organization.
  - v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
2. Executive means officers, managing partners, or any other employees in management positions.
3. Subaward:
  - i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
  - ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. --.210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").
  - iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.
4. Subrecipient means an entity that:
  - i. Receives a subaward from you (the recipient) under this award; and
  - ii. Is accountable to you for the use of the Federal funds provided by the subaward.
5. Total compensation means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):
  - i. Salary and bonus.
  - ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
  - iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
  - iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
  - v. Above-market earnings on deferred compensation which is not tax-qualified.
  - vi. Other compensation, if the aggregate value of all such other compensation (e.g., severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

## 17. DISADVANTAGED BUSINESS ENTERPRISE REQUIREMENTS (Effective May 27, 2008)

### GENERAL COMPLIANCE, 40 CFR, Part 33

The recipient agrees to comply with the requirements of EPA's Program for Utilization of Small, Minority and Women's Business Enterprises in procurement under assistance agreements, contained in 40 CFR, Part 33.

### FAIR SHARE OBJECTIVES, 40 CFR, Part 33, Subpart D

A recipient must negotiate with the appropriate EPA award official, or his/her designee, fair share objectives for MBE and WBE (MBE/WBE) participation in procurement under the financial assistance agreements.

#### Accepting the Fair Share Objectives/Goals of Another Recipient

The dollar amount of this assistance agreement is over \$250,000; or the total dollar amount of all of the recipient's non-TAG assistance agreements from EPA in the current fiscal year is over \$250,000. The recipient accepts the applicable MBE/WBE fair share objectives/goals negotiated with EPA by the Washington Office of Minority and Women's Business Enterprises as follows:

MBE: PURCHASED GOODS 8%; PURCHASED SERVICES 10%; PROFESSIONAL SERVICES 10%

WBE: PURCHASED GOODS 4%; PURCHASED SERVICES 4%; PROFESSIONAL SERVICES 4%

By signing this financial assistance agreement, the recipient is accepting the fair share objectives/goals stated above and attests to the fact that it is purchasing the same or similar construction, supplies, services and equipment, in the same or similar relevant geographic buying market as Washington Office of Minority and Women's Business Enterprises.

#### Negotiating Fair Share Objectives/Goals, 40 CFR, Section 33.404

The recipient has the option to negotiate its own MBE/WBE fair share objectives/goals. If the recipient wishes to negotiate its own MBE/WBE fair share objectives/goals, the recipient agrees to submit proposed MBE/WBE objectives/goals based on an availability analysis, or disparity study, of qualified MBEs and WBEs in their relevant geographic buying market for construction, services, supplies and equipment.

The submission of proposed fair share goals with the supporting analysis or disparity study means that the recipient is not accepting the fair share objectives/goals of another recipient. The recipient agrees to submit proposed fair share objectives/goals, together with the supporting availability analysis or disparity study, to the Regional MBE/WBE Coordinator within 120 days of its acceptance of the financial assistance award. EPA will respond to the proposed fair share objective/goals within 30 days of receiving the submission. If proposed fair share objective/goals are not received within the 120 day time frame, the recipient may not expend its EPA funds for procurements until the proposed fair share objective/goals are submitted.

### SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C

Pursuant to 40 CFR, Section 33.301, the recipient agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA

financial assistance agreement, and to ensure that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

- (a) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
- (b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
- (c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
- (d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
- (e) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.
- (f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

#### MBE/WBE REPORTING, 40 CFR, Part 33, Sections 33.502 and 33.503

The recipient agrees to complete and submit EPA Form 5700-52A, "MBE/WBE Utilization Under Federal Grants, Cooperative Agreements and Interagency Agreements" beginning with the Federal fiscal year reporting period the recipient receives the award, and continuing until the project is completed. Only procurements with certified MBE/WBEs are counted toward a recipient's MBE/WBE accomplishments. The reports must be submitted semiannually for the periods ending March 31st and September 30th for:

Recipients of financial assistance agreements that capitalize revolving loan programs (CWSRF, DWSRF, Brownfields).

All other recipients not identified as annual reporters (40 CFR Part 30 and 40 CFR Part 35, Subpart A and Subpart B recipients are annual reporters).

The reports are due within 30 days of the end of the semiannual reporting periods (April 30th and October 30th). Reports should be sent to the EPA Region 10, Grants Administration Unit, 1200 Sixth Avenue, Suite 900, Mailcode: OMP-145, Seattle, WA 98101. For further information, please contact Greg Luchey at (206) 553-2967, email: [Luchey.Greg@epa.gov](mailto:Luchey.Greg@epa.gov). Final MBE/WBE reports must be submitted within 90 days after the project period of the grant ends. Your grant cannot be officially closed without all MBE/WBE reports.

EPA Form 5700-52A may be obtained from the EPA Office of Small Business Program's Home Page on the Internet at [www.epa.gov/osbp](http://www.epa.gov/osbp).

#### CONTRACT ADMINISTRATION PROVISIONS, 40 CFR, Section 33.302

The recipient agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

#### BIDDERS LIST, 40 CFR, Section 33.501(b) and (c)

Recipients of a Continuing Environmental Program Grant or other annual reporting grant, agree to create and maintain a bidders list. Recipients of an EPA financial assistance agreement to capitalize a revolving loan fund also agree to require entities receiving identified loans to create and maintain a bidders list if the recipient of the loan is subject to, or chooses to follow, competitive bidding requirements. Please see 40 CFR, Section 33.501 (b) and (c) for specific requirements and exemptions.

#### 18. PARTIAL FUNDING

This agreement is being partially funded by EPA in the amount shown on page 2 under "EPA Funding Information." The recipient understands that additional EPA funds may be awarded on this assistance agreement, subject to availability of additional appropriated funds. EPA's approval of the work plan, budget, and project/budget periods does not constitute an EPA commitment to provide funds in excess of the amount currently funded in this agreement.

*If this agreement includes cost share/match based on obtaining full EPA funding, and EPA is not able to fully fund its portion of the total project costs, the recipient has the option of reducing its cost share/match, as long as the reduction is not below the minimum statutory or programmatic required cost share/match. The recipient must submit its request for reduction to the EPA Project Officer, since work plan and budget revisions may be necessary.*

Note: The share percentages currently shown in the Table A budgets and page one of this agreement are electronically calculated based on the current EPA funding amount and total project cost. The percentage will change if and when additional EPA funding is provided by assistance amendment.

#### 19. SUBAWARDS

- a. The recipient agrees to:
  1. Establish all subaward agreements in writing.
  2. Maintain primary responsibility for ensuring successful completion of the EPA-approved project (this responsibility cannot be delegated or transferred to a subrecipient).
  3. Ensure that any subawards comply with the standards in Section 210(a)-(d) of OMB Circular A-133 and are not used to acquire commercial goods or services for the recipient.
  4. Ensure that any subawards are awarded to eligible subrecipients and that proposed subaward costs are necessary, reasonable, and allocable.
  5. Ensure that any subawards to 501(c)(4) organizations do not involve lobbying activities.

6. Monitor the performance of their recipients and ensure that they comply with all applicable regulations, statutes, and terms and conditions which flow down in the subaward.
  7. Obtain EPA's consent before making a subaward to a foreign or international organization, or a subaward to be performed in a foreign country.
  8. Obtain approval from EPA for any new subaward work that is not outlined in the approved work plan in accordance with 40 CFR Parts 30.25 and 31.30, as applicable.
- b. Any questions about subrecipient eligibility or other issues pertaining to subawards should be addressed to the recipient's EPA Project Officer. Additional information regarding subawards may be found at <http://www.epa.gov/ogd/guide/subaward-policy-part-2.pdf>. Guidance for distinguishing between vendor and subrecipient relationships and ensuring compliance with Section 210(a)-(d) of OMB Circular A-133 can be found at <http://www.epa.gov/ogd/guide/subawards-appendix-b.pdf> and <http://www.whitehouse.gov/omb/circulars/a133/a133.html>.

The recipient is responsible for selecting its subrecipients and, if applicable, for conducting subaward competitions.

## PROGRAMMATIC TERMS AND CONDITIONS

### 1. SEMI-ANNUAL PERFORMANCE REPORTS

Consistent with 40 CFR §35.115 and EPA Order 5700.7 the Lead Organization will submit performance reports through EPA's Puget Sound Financial and Ecosystem Accounting Tracking System (FEATS) every six (6) months during the life of the project. Subawardees will also use the FEATS reporting system. Reports are due 30 calendar days after the end of each reporting period. The reporting periods shall end March 31st and September 30th of each calendar year. Reports shall be submitted to the EPA Project Officer on the FEATS form provided by the Project Officer (until web-based entry is made available) and shall be submitted by electronic mail. In accordance with 40 CFR Part 30.51(d) and 40 CFR Part 31.40, as appropriate, the recipient agrees to submit performance reports that include brief information on each of the following areas:

- (a) A comparison of actual accomplishments to the outputs/outcomes established in the assistance agreement work plan and subawards for the period.
- (b) The reasons for slippages if established outputs/outcomes were not met.
- (c) Additional pertinent information, including when appropriate, analysis and information of cost overruns or high unit costs.

In addition to the semi-annual performance reports, the recipient shall immediately notify the EPA Project Officer of developments that have a significant impact on the award-supported activities. In accordance with 40 CFR Part 30.51(f) and 40 CFR Part 31.40(d), as appropriate, the recipient agrees to inform the EPA Project Officer as soon as problems, delays or adverse conditions become known which will materially impair the ability to meet the outputs/outcomes specified in the assistance agreement work plan. This notification shall include a statement of the action taken or contemplated, and any assistance needed to resolve the situation.

### 2. SUFFICIENT PROGRESS

EPA may terminate the assistance agreement for failure of the recipient to make sufficient progress so as to reasonably ensure completion of the project within the project period, including any extensions. EPA will measure sufficient progress by examining the performance required under the work plan in conjunction with the milestone schedule, the time remaining for

performance within the project period, and/or the availability of funds necessary to complete the project.

### 3. FINAL PERFORMANCE REPORT

In addition to the periodic performance reports, the recipient shall submit a final performance report through FEATS, which is due 90 calendar days after the expiration or termination of the award. The report shall be submitted to the EPA Project Officer and must be provided electronically. The report shall generally contain the same information as in the periodic reports, but should cover the entire project period. After completion of the project, the EPA Project Officer may waive the requirement for a final performance report if the EPA Project Officer deems such a report is inappropriate or unnecessary.

### 4. INFORMATION COLLECTION REQUIREMENTS

EPA and the recipient agree to comply with the requirements of the Paperwork Reduction Act in completing the project. If the scope of work includes a survey, a questionnaire, polls, or similar information-gathering activity, the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.* ), requires EPA to obtain Office of Management and Budget (OMB) clearance prior to the recipient's collection of information by means of identical questions posed to 10 or more persons.

The recipient will provide to the EPA Project Officer the following information: (1) description of the information to be collected; (2) explanation of the need for the information; and (3) to whom the survey is being directed.

### 5. RECOGNITION OF EPA FUNDING

Reports, documents, signage, videos, or other media, developed as part of projects funded by this assistance agreement shall contain the following statement:

“This project has been funded wholly or in part by the United States Environmental Protection Agency under assistance agreement PC-00J27601 to Washington Department of Ecology. The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does mention of trade names or commercial products constitute endorsement or recommendation for use.”

### 6. COPYRIGHTED MATERIAL

In accordance with 40 CFR 31.34 for State, local and Indian Tribal governments or 40 CFR 30.36 for other recipients, EPA has the right to reproduce, publish, use, and authorize others to use copyrighted works or other data developed under this assistance agreement for Federal purposes.

Examples of a Federal purpose include but are not limited to: (1) Use by EPA and other Federal employees for official Government purposes; (2) Use by Federal contractors performing specific tasks for the Government; (3) Publication in EPA documents provided the document does not disclose trade secrets (e.g. software codes) and the work is properly attributed to the recipient through citation or otherwise; (4) Reproduction of documents for inclusion in Federal depositories; (5) Use by State, tribal and local governments that carry out delegated Federal environmental programs as “co-regulators” or act as official partners with EPA to carry out a national environmental program within their jurisdiction and; (6) Limited use by other grantees to



carry out Federal grants provided the use is consistent with the terms of EPA's authorization to the other grantee to use the copyrighted works or other data.

Under Item 6, the grantee acknowledges that EPA may authorize another grantee(s) to use the copyrighted works or other data developed under this grant as a result of:

- a. the selection of another grantee by EPA to perform a project that will involve the use of the copyrighted works or other data.
- b. termination or expiration of this agreement.

In addition, EPA may authorize another grantee to use copyrighted works or other data developed with Agency funds provided under this grant to perform another grant when such use promotes efficient and effective use of Federal grant funds.

## 7. EPA'S SUBSTANTIAL INVOLVEMENT

EPA will be substantially involved in this project by participating in the following activities: (1) EPA reserves the right to negotiate work plan tasks and budgets; (2) monitor the project management and execution throughout the assistance agreement's project and budget period; (3) provide technical assistance and coordination and attend meetings as requested or needed by the recipient; and (4) review and approve technical deliverables.

## 8. LOGIC MODEL REVISIONS

The grantee will submit more detailed logic models as strategic investments are refined under Component 2.1 and 2.3 as described in the Work Plan Summary Chart. The logic models should make clear the expected connection between actions, outputs, outcomes, and targets (identified under Component 3.1 and 3.3) and are required to be more obvious and measurable.

## 9. CONDITIONS ON EXPENDITURES

The grantee has provided sufficient detail and justification to begin work immediately upon award for the following Components: 1.1 - 1.3, 2.1,2.2.1, 3.1 - 3.3, 4.1 - 4.1.2, 5.1, 6.1 and 9.1-9.2. The grantee must provide and receive EPA Project Officer approval on a more detailed work plan before beginning work on all other Components and sub Components. In addition, the grantee will provide EPA a copy of or describe their subaward policy/procedures including their procedures for managing a competitive grant program. The EPA Project Officer will need to review and approve (1) these procedures and (2) the strategic investment decisions made under Component 2.1 and 2.3 as described in the Work Plan Summary Chart *before* the grantee issues Requests for Proposals or expends funds on subawards under this cooperative agreement.

## 10. ENVIRONMENTAL DATA AND INFORMATION TECHNOLOGY

Recipients are required to institute standardized reporting requirements into their work plans and include such costs in their budgets. All environmental data will be required to be entered into the Agency's Storage and Retrieval data system (STORET). STORET is a repository for water quality, biological, and other physical data used by state environmental agencies, EPA and other federal agencies, universities, private citizens, and many other organizations. It is highly recommended that the grant recipient attend EPA sponsored STORET training as soon as practical and as training is available. Information regarding training sessions sponsored by EPA will be provided by the EPA Project Officer. More information about STORET can be found at <http://www.epa.gov/STORET>.



Region 10 STORET Contact  
Kol Peterson, STORET Coordinator  
Phone: 503-326-6831  
Email: [peterson.kol@epa.gov](mailto:peterson.kol@epa.gov).

## 11. ANNUAL CONFERENCES

The grantee must attend one or more appropriate conferences each year, which may be within the Puget Sound region. The specific conferences will be determined in consultation with the EPA Project Officer. The purpose of this requirement is to provide grantees with opportunities to learn about and benefit from other relevant initiatives and programs that relate to the funded work; to exchange information about their funded work with organizations that may benefit from their experience; and generally to raise awareness within the Puget Sound, Salish Sea, and large aquatic ecosystem protection and restoration communities of the funded work. Examples of potentially relevant conferences include, but are not limited to, the biennial Puget Sound-Georgia Basin Ecosystem Conference (<http://depts.washington.edu/uwconf/psgb/>); and local or regional sections of Tribal, professional, scientific, or other relevant associations. Specific conferences will depend on the nature of the work proposed. Grantees will be allowed to use award funds to pay for travel and lodging.

## 12. PEER REVIEW

The results of this project may affect management decisions relating to Puget Sound. Prior to finalizing any significant technical products the Principal Investigator (PI) of this project must solicit advice, review and feedback from a technical review or advisory group consisting of relevant subject matter specialists. A record of comments and a brief description of how respective comments are addressed by the PI will be provided to the Project Monitor prior to releasing any final reports or products resulting from the funded study.

## 13. QUALITY ASSURANCE REQUIREMENTS

Acceptable Quality Assurance documentation must be submitted to the EPA Project Officer within 30 days of the acceptance of this agreement or another date as negotiated with the EPA Project Officer. No work involving direct measurements or data generation, environmental modeling, compilation of data from literature or electronic media, and data supporting the design, construction, and operation of environmental technology shall be initiated under this project until the EPA Project Officer, in concert with the EPA Quality Assurance Manager, has approved the quality assurance document. (See 40 CFR 30.54 or 31.45, as appropriate.) Additional information on these requirements can be found at the EPA Office of Grants and Debarment website: <http://www.epa.gov/ogd/grants/assurance.htm>

Region 10 Quality Assurance Team Contact  
Ginna Grepo-Grove, Quality Assurance Manager  
Phone: 206-553-1632  
Email: [Grepo-Grove.Gina@epa.gov](mailto:Grepo-Grove.Gina@epa.gov)