

# Manual 4

# Development Projects

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# Section 1: Introduction

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## In this section, you will learn about:

- ✓ This manual
- ✓ The Recreation and Conservation Office
- ✓ The Recreation and Conservation Funding Board

## About this Manual

This manual provides basic information and policies for development projects funded by the Recreation and Conservation Funding Board. Development projects are those that result in the construction of or work resulting in new elements, including but not limited to structures, facilities, and/or materials to enhance outdoor recreation resources.

The board adopted the policies in this manual in a public meeting.

Use this manual, along with the individual policy manuals, for construction projects in the following programs:

- *Manual 9, Boating Facilities Program,*  
[www.rco.wa.gov/documents/manuals&forms/Manual\\_9-BFP.pdf](http://www.rco.wa.gov/documents/manuals&forms/Manual_9-BFP.pdf)
- *Manuals 10a and 10b, Washington Wildlife and Recreation Program,*  
[www.rco.wa.gov/doc\\_pages/manuals\\_by\\_number.shtml](http://www.rco.wa.gov/doc_pages/manuals_by_number.shtml)
- *Manual 11, Firearms and Archery Range Recreation,*  
[www.rco.wa.gov/documents/manuals&forms/Manual\\_11-FARR.pdf](http://www.rco.wa.gov/documents/manuals&forms/Manual_11-FARR.pdf)
- *Manual 12, Boating Infrastructure Grant,*  
[www.rco.wa.gov/documents/manuals&forms/Manual\\_12-BIG.pdf](http://www.rco.wa.gov/documents/manuals&forms/Manual_12-BIG.pdf)
- *Manual 14, Nonhighway and Off-Road Vehicle Activities,*  
[www.rco.wa.gov/documents/manuals&forms/Manual\\_14-NOVA.pdf](http://www.rco.wa.gov/documents/manuals&forms/Manual_14-NOVA.pdf)
- *Manual 15, Land and Water Conservation Fund,*  
[www.rco.wa.gov/documents/manuals&forms/Manual\\_15-LWCF.pdf](http://www.rco.wa.gov/documents/manuals&forms/Manual_15-LWCF.pdf)

- *Manual 16, Recreational Trails Program,*  
[www.rco.wa.gov/documents/manuals&forms/Manual\\_16-RTP.pdf](http://www.rco.wa.gov/documents/manuals&forms/Manual_16-RTP.pdf)
- *Manual 17, Youth Athletic Facilities,*  
[www.rco.wa.gov/documents/manuals&forms/Manual\\_17.pdf](http://www.rco.wa.gov/documents/manuals&forms/Manual_17.pdf)
- *Manual 21, Aquatic Lands Enhancement Account,*  
[www.rco.wa.gov/documents/manuals&forms/Manual\\_21.pdf](http://www.rco.wa.gov/documents/manuals&forms/Manual_21.pdf)

## Manual Authority

Authority for the information in this manual is found in several statutes and rules: Revised Codes of Washington 46.09.530, 77.85.120, 79A.15.060(1), 79A.15.070(5), 79A.15.120(4), 79A.25.080(1)(b), 79A.25.210, and 79A.25.820, and Title 286 and 420 Washington Administrative Code. The *Land and Water Conservation Fund Federal Financial Assistance Manual* (U.S. Dept. of Interior, National Park Service), the *Recreational Trails Program Guidance* (U.S. Department of Transportation, Federal Highway Administration), and *50 Code of Federal Regulations Part 86, Boating Infrastructure Grant Program; Final Rule* (U.S. Fish and Wildlife Service) provide additional guidance for federal grants.

## Definitions

For definitions of terms used in this manual, see the project agreement. A sample agreement is on the RCO Web site at [www.rco.wa.gov/documents/manuals&forms/SampleProjAgreement.pdf](http://www.rco.wa.gov/documents/manuals&forms/SampleProjAgreement.pdf).

## About the Recreation and Conservation Office

The Recreation and Conservation Office (RCO) supports the Recreation and Conservation Funding Board. RCO is a state agency that manages multiple grant programs to create outdoor recreation opportunities, protect the best of the state's wildlife habitat and farmland, and help return salmon from near extinction.

## Where to Get Information

Recreation and Conservation Office  
Natural Resources Building  
1111 Washington Street  
Olympia, WA 98501  
E-mail: [info@rco.wa.gov](mailto:info@rco.wa.gov)

Telephone: (360) 902-3000  
FAX: (360) 902-3026  
TTY: (360) 902-1996  
Web site: [www.rco.wa.gov](http://www.rco.wa.gov)

*Mailing Address*  
PO Box 40917  
Olympia, WA 98504-0917

RCO outdoor grants managers are available to assist by answering questions concerning the information contained in this manual. Please feel free to call.

## **Successful Applicant Workshops**

Of particular importance to those awarded funding are RCO's Successful Applicant Workshops, conducted soon after grants are announced. At these workshops, participants receive important information on the following:

- Project sponsor responsibilities including compliance with the project agreement.
- Amendments to the agreement — including project changes, time extensions, and cost increases.
- Land acquisition procedures — including appraisals, appraisal reviews, deed of right, offer to purchase, land donations, title insurance, etc.
- Development and restoration projects — including construction plans, accessibility requirements, bid procedures, donations, specifications, etc.
- Planning, education and enforcement, and maintenance and operation projects — including reporting requirements, eligible costs, etc.
- Project implementation — including billings, milestones, progress reports, inspections, long term compliance, etc.

## **Other Information You May Need**

RCO's Web site at [www.rco.wa.gov](http://www.rco.wa.gov) provides more information about RCO and its grant programs, including:

- Summary brochures and fact sheets that describes each program's goals and funding.
- Grant schedules.
- Grant policy manuals.
- Technical assistance guides.
- State plans that give broad policy background.

Contact RCO for more information about these and other free publications or online resource tools. Each can be made available in an alternate format for people with disabilities.

Project sponsors are encouraged to review the Washington State Office of Financial Management capital budget instructions. If your grant or sponsor match includes federal funds, you are asked to review the Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards found in Title 2 of the Code of Federal Regulations.

### **About the Recreation and Conservation Funding Board**

The Recreation and Conservation Funding Board was created in 1964 by a vote of the citizens of the state of Washington. The board is a governor-appointed board composed of five citizens and the directors (or designees) of three state agencies – Department of Fish and Wildlife, Department of Natural Resources, and Washington State Parks and Recreation Commission.

The Recreation and Conservation Office (RCO) supports the board. RCO is a state agency that manages multiple grant programs to create outdoor recreation opportunities, protect the best of the state's wildlife habitat and farmland, and help return salmon from near extinction.

### **Not a Hearings Board**

The Recreation and Conservation Funding Board's role is to award grants and not to act as a hearings board that rules on land use issues. The board's intent is that all proposals, to the extent possible:

- Are the outcomes of a public process in which all interests have had an opportunity to be heard.
- Have resulted from a community supported decision to submit the application.
- Are ready for implementation.
- Will ensure that maximum benefit is gained from the grant.

The board's grant allocation meeting must not be the first public meeting in which interested parties have a chance to express views on a project.

### **Who Makes Decisions**

The board makes the final decisions although some decisions it has delegated to the agency director.

## Board Decisions

The following list summarizes many project decisions that are made by the Recreation and Conservation Funding Board in a public meeting or by a subcommittee of the board. Each is in accord with statutes, rules, and board policies.

- Initial grant approval.
- A project cost increase of more than 10 percent of the project total in the project agreement for board-funded projects. Cost increases are allowed only in certain grant programs. Review the cost increase information in this manual for more details.
- A "conversion" that changes the project site or how the site is used from that described in the project agreement and Deed of Right or Assignment of Rights. See *Manual 7, Long-Term Obligations* for more information about conversions.
- A significant reduction in the project's scope after receiving a grant. Typically, the board will make decisions about scope reductions if the RCO director thinks the project's evaluation score would have been different with the reduced scope. Not included are changes that do not modify significantly the way the public uses a facility, the intended opportunity, or restoration objective funded.
- Changes in policy; for example, establishing new grant limits or eligible expenditures.
- Time extensions beyond 4 years of the initial grant award.

## Director Decisions

The RCO director, or designee, makes many project decisions based on rules and board policies. The range of decisions includes authorizing payments to approving cost increases to terminating projects.

A project sponsor may request that the Recreation and Conservation Funding Board reconsider a decision made by the director. To request reconsideration, the project sponsor must send a letter to the board chair at least 60 calendar days before a board meeting. The request is added to the board's meeting agenda and the project sponsor then may address the board at the meeting. The board's decision is final.

# Section 2: Eligible Development Projects

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## In this section, you'll learn about

- ✓ Eligible projects
- ✓ Eligible costs
- ✓ Ineligible projects
- ✓ Ineligible costs
- ✓ Other types of projects

## Eligible Development Projects

This section describes the types of development projects that are eligible for Recreation and Conservation Funding Board grants. Because the listing is not all inclusive, applicants must consult the specific grant program manual for more detailed information.

Although rules vary by grant program, typical eligible facilities and areas include:

- **Aquatic and swimming facilities.** Outdoor swimming areas such as improved beaches, pools, wave-making pools, wading pools, spray parks, lazy-rivers, lifeguard towers, and support buildings such as bathhouses and filtration and treatment structures. Pools should be designed for maximum multipurpose use.
- **Boating facilities.** Facilities related to recreational boating. These facilities may include, but are not limited to docks, berths, floating berths secured by buoys, launching ramps, breakwaters, mechanical launching devices, boat lifts, sewage pump-out facilities, water and sewer hookups, and support facilities such as restrooms, showers, and parking.
- **Community gardens.** Land preparation, planting beds, perimeter fencing, irrigation systems, walkways, parking, and restrooms related to a community garden. The garden must be managed as an outdoor recreation activity and be accessible to the general public in an equitable manner. Gardens planned as commercial enterprises are not eligible.

- **Fishing and hunting facilities.** Fishing piers, fish cleaning stations, hunting blinds, paths and walkways, access points, and other facilities for public fishing or hunting.
- **Interpretive, observation, and sightseeing areas.** Certain interpretive facilities, including signs and viewpoints. Interpretation is limited to the project site and its immediate area, and may only contain basic devices, not elaborate, museum-type collections, displays, or paraphernalia.
- **Overnight facilities.** Tent and recreational vehicle camping areas and stand-alone, overnight, recreational facility structures (such as cabins, yurts, and bunkhouses) of simple, basic design are eligible for reimbursement in some grant programs if they are used to support outdoor recreation and are available to the general public in an equitable manner. A simple, basic design can include a toilet, sinks, and general utilities described below in "Eligible Support Elements." Overnight, recreational facility structures that exceed a simple, basic design (for example, more than 500 square feet) will not be reimbursed. Appliances, furniture, furnishings, and other non-fixtures are not eligible for reimbursement.<sup>1</sup>
- **Picnic facilities.** Tables, fireplaces, shelters, and other facilities related to family or group picnic sites.
- **Play areas.** Playgrounds, play areas, tot lots, and open areas for physical activity.
- **Shooting facilities.** Archery and firearm ranges, clubhouses, trap and skeet fields, safety baffles, and bullet traps, etc. for public, recreational shooting and training.
- **Sports or athletic facilities.** Fields, courts, and other outdoor spaces used for competitive and individual sports such as baseball, softball, soccer, football, and tennis; golf courses; rodeo arenas; hockey rinks; skate parks; running tracks; and other similar facilities.
- **Trails.** Designated routes for walking, hiking, bicycling, cross-country skiing, horseback riding, exercising, mountain biking, riding off-road motorized vehicles, and participating in other trail activities.
- **Winter sports facilities.** Ski trails, outdoor ice skating and hockey rinks, and warming huts.

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<sup>1</sup>Recreation and Conservation Funding Board Resolution 2011-17

## Eligible Renovation Projects

In some programs, development projects may include extensive renovation or redevelopment. Such projects must involve facilities that are outmoded or that have deteriorated to the point where usefulness is impaired. The deterioration must not be due to the lack of proper maintenance during the facility's reasonable life.

## Eligible Support Elements

Although rules vary by program, typical support elements eligible for reimbursement may include:

- **Employee housing.** Construction of residences for employees directly involved in operation and maintenance of a Recreation and Conservation Funding Board-assisted project may be eligible when this occurs:
  - The residence must help assure increased public service and protection of park facilities.
  - Employees that will use the residence normally must be available onsite on a 24-hour basis during the season the area is open.
  - The residence must be one component of a comprehensive park development.
  - The residence must be permanent and not portable.

Only the cost of the dwelling and some amenities, such as landscaping of the immediate area and directly related paving, are eligible. Furniture, furnishings, or appliances are not eligible.

- **Fences, signs** (permanent and temporary), **and erosion control devices** are eligible in all programs.
- **Parking.** Parking lots that serve the conservation or recreation project area.
- **Restrooms and sewer systems.** Restrooms, vault toilets, onsite sewer systems, and related utilities that meet applicable local and state health requirements.
- **Roads.** Interior project area roadways including traffic control devices, curbs, gutters, and sidewalks. Improvements to external project area roads (acceleration and deceleration lanes, traffic control signals) may be allowed if the improvements are to serve the project area.

- **Structures for administration and maintenance.** Site-specific administrative buildings, maintenance sheds, equipment storage, and pay or entry stations. First aid stations sometimes may be included when used to administer, protect, and maintain a recreation area for the health, safety, and welfare of users.
- **Utilities.** Water, natural gas, propane, electrical, communication, storm and surface water, and other underground utility services. The amount eligible for reimbursement will not exceed the cost of the physical hook-up needed to make the facility operational. Only costs directly associated with the assisted project will be allowed.
- **Walkways.** Continuous, unobstructed paths designated for pedestrian use that connects pedestrian elements within a public access site, such as a picnic area, camping area, or trailhead.

## Eligible Costs

This section describes the types of costs that are eligible. Because the listing is not all-inclusive, consult RCO manuals for more detailed information. Only costs reasonable and directly necessary to complete the scope identified in the project agreement are eligible for reimbursement or as match.

### Eligible Administrative Costs<sup>2</sup>

Administrative costs are necessary to prepare a project for construction, but do not involve direct construction activities. These activities may occur before and during actual project construction. Note: In RCO's online PRISM system, these activities are categorized as "architectural and engineering (A&E)" costs.

Administrative charges are limited to no more than 20 percent of the total construction amount. The director may approve requests for increases up to 35 percent and the board may approve increases above 35 percent. See "Cost Increases" in Section 3 for information on how to request an increase.

Costs may include:

- **Architectural and engineering**
  - Architectural and engineering services and consultants to prepare documents for obtaining bids and awarding and preparing contracts for construction, including:

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<sup>2</sup>Recreation and Conservation Funding Board Resolution 1997-16

- Preparation of site plans, from schematic to final drawings, including master plans.
  - Design. Services that include normal architectural, structural, civil, mechanical, and electrical design work.
  - Consultant services, including studies and data collection surveys.
  - Specialty consultant services used in addition to basic architectural and engineering, such as expertise required to meet a special permitting requirement.
- **Bidding.** Services consisting of participation in pre-bid conferences, response to questions from bidders, clarification of bidding documents, attendance at bid openings, documentation and distribution of bidding results, and bid award.
  - **Construction supervision,** which is the supervision and inspection services associated with a project under construction. Direct costs for the execution and construction of the project through construction contract, force-account, or volunteer services are allowed, including allowable mileage and per diem for related travel.
  - **Environmental site planning,** including environmental impact statement costs.
  - **Project administration.** Services consisting of consultation, meetings, correspondence, progress reports, design review conferences, administrative functions, and reimbursements.
  - **Project closeout.** Services to close out a project once the contractor gives notice that facilities are ready for its intended use. Service may include an inspection to ensure the work complied with the contract, issuance of a list of remaining work required (punch list), final inspections, and issuance of final certificate for payment.
  - **Record documents** (as-builts). Receive and review the contractors' marked-up field records. Supply the record documents to user agency.
  - **Surveys** needed for architectural design, including boundary surveys, wetland delineation, geo-tech surveys, etc.

## Eligible Development Costs

Development costs are for actual construction activities. These activities include costs for labor, materials, and equipment use. They start with site preparation and end with completion of the final punch list. Development costs are eligible for reimbursement only after execution of a project agreement. See "Pre-Agreement Costs" below for exceptions.

- **Construction.** The direct costs associated with developing or renovating a site or facility.
- **Cultural resources.** Direct costs and activities necessary to investigate and evaluate a project's possible effect on archeological and cultural resources pursuant to Governor's Executive Order 05-05 and Section 106 of the National Historic Preservation Act. Includes survey, consultation, and reporting.
- **Demolition and site preparation,** including costs to remove structures and prepare for construction.
- **Fixed equipment,** including such typical costs as fixed, physically attached, and permanent improvements that without the site or building will not function. Fixed equipment normally is capitalized. Equipment may include items such as playgrounds, backstops, basketball standards, soccer and football goals, gangways, moveable access ramps, etc.
- **Materials testing,** if required to ensure that the components included in the project can withstand the stress and will give the structure the needed strength, toughness, flexibility, and suitability the structure likely will experience when used for its intended purpose. General testing is not allowed.
- **Mobilization and demobilization.** The costs associated with transportation of contractors' equipment and operating supplies to and from the site.
- **Permanent and temporary project signs,** including the purchase and installation of project signs.
- **Permits,** as a construction cost, including staff time to obtain permits to meet such requirements as the National Environmental Policy and State Environmental Policy Acts.
- **Project mitigation,** limited to mitigation required as a result of the approved RCO project (see eligible mitigation cost information below).

## Eligible Pre-Agreement Costs

Pre-agreement costs are project costs incurred up to three years before the start date of the project agreement.

The following activities are considered eligible, pre-agreement costs and can be performed in advance of an executed project agreement without forfeiting project or reimbursement eligibility. Upon execution of a project agreement, these costs become eligible:

- Administrative costs
- Permits

Any construction costs, except permits and surveys, incurred before execution of a project agreement are not eligible for reimbursement or use as match. Also, for projects receiving federal funding, pre-agreement costs incurred before the federal agreement's effective date are not eligible unless otherwise stated. See grant program manuals for additional information.

## Eligible Mitigation Costs

Mitigation costs may be eligible if the mitigation is required as a result of the grant-funded project's development impacts. Whenever possible, project sponsors are urged to mitigate in a manner that results in, or enhances, public outdoor recreation opportunities.

The maximum amount eligible for mitigation is 25 percent of the cost of the project for which mitigation is required.

Such mitigation may:

- Occur on a site separate from the assisted project.
- Involve habitat enhancement with no public recreation or access component.
- Involve the creation, enhancement, renovation, or replacement of wetlands, either on or off site.
- Involve transportation or right-of-way improvements.
- Involve landscape buffers.

- Involve the creation or inclusion of a work of art, if required by adopted policy, local ordinance, or law. The amount is limited to no more than 1 percent of the total construction cost.

Mitigation also may include acquisition of property for mitigation.<sup>3</sup> When mitigation is required for development of an RCO funded project, a portion of the RCO grant may be used to buy and develop the mitigation land. The maximum amount of the grant allowed for the mitigation (including purchase of the land and construction costs) is 25 percent of the total construction costs of the RCO funded project and associated administrative and engineering costs in the project agreement.

RCO encourages the purchase and development of mitigation land that serves multiple functions such as providing habitat and recreation. Any mitigation property acquired must be included in the project agreement and included within the legal description of the recorded Deed of Right or Assignment of Rights, whichever is appropriate.

Acquisitions specifically for mitigation purposes related to impacts from other projects are not eligible for funding.

### **Ineligible Projects**

With few exceptions, developments that do not contribute directly to outdoor recreation or habitat conservation are ineligible for Recreation and Conservation Funding Board grants.

Ineligible projects include:

- Permanent structures designed primarily for the pursuit of indoor recreation activities. This does not include indoor shooting ranges. Examples of ineligible structures include community, environmental learning, and performing arts centers.
- Temporary or portable buildings and facilities (such as portable restrooms, warming huts, etc.)
- Areas and facilities primarily for semi-professional and professional activities, such as arts and athletics.
- Athletic facilities primarily used for varsity sports between schools.
- Any facility that is being constructed or renovated to meet a school district facility requirement.

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<sup>3</sup>Manual 3, Acquisition Projects

- Amusement park facilities (such as merry-go-rounds, Ferris wheels, children's railroads, pioneer towns, and exhibits that are not primarily for outdoor recreation and nature study, etc.), petting zoos and farms, convention facilities, and commemorative exhibits.
- Areas and facilities solely for hatchery style, fish production purposes.
- Areas and facilities that will lease *exclusive* use privileges, such as hunting rights, permanent boat moorage and storage, or membership golf courses.
- Development on property to be acquired with a conditional sales contract, *unless* the sponsor holds the deed to the property *or* can demonstrate adequate control and tenure.
- Development on property with conflicting deed reversionary clauses, or with clauses that significantly diminish habitat conservation or public recreation.
- Development to mitigate a non-RCO assisted project, element, or action of the project sponsor. Development above and beyond required mitigation may be eligible.
- Flood mitigation work, and public works projects such as sewer treatment facilities, surface and storm water management systems, and water supply systems.
- Space or buildings for subsidiary activities such as refreshment concessions or restaurants.
- Projects that occur at more than one worksite<sup>4</sup>.
- Project submitted to more than one grant program, except Recreation and Conservation Funding Board grants used as match (Recreation and Conservation Funding Board policy only).

### Ineligible Costs

The following costs are ineligible:

- Appliances, office equipment, furniture, utensils, public address systems (see RCO's Manual 13 and Manual 14 for Nonhighway and Off-road Vehicle Activities exceptions).

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<sup>4</sup>Except as allowed by board policy in the Boating Facilities Program and the Washington Wildlife and Recreation Program State Lands Development and Renovation category.

- Bonus payments.
- Ceremonial or entertainment expenses.
- Charges in excess of the lowest acceptable bid when competitive bidding is required, unless the RCO director authorizes the higher costs, in writing, before the award of a contract.
- Charges incurred contrary to the policies and practices of the organization involved or the Recreation and Conservation Funding Board.
- Contributed materials if their value cannot be substantiated.
- Costs associated with fundraising activities.
- Costs of preparing any grant application.
- Cost of procuring documentation to establish or demonstrate control and tenure.
- Costs not directly related to implementing the project such as indirect and overhead charges.
- Damage judgments arising out of acquisition, construction, or equipping of a facility, whether determined by judicial decision, arbitration, or otherwise.
- Deficit and overdraft charges, fines, penalties, interest expenses.
- Donations or contributions made by the sponsor, such as to a charitable organization or for organizational memberships and professional affiliations.
- Equipment such as mowers, tractors, excavators, vehicles, etc. See RCO Manual 13 and Manual 14 for Nonhighway and Off-road Vehicle Activities and *Manual 16, Recreational Trails Program*, for exceptions. Equipment for construction may be leased or rented. See "Equipment Use" Section in RCO's *Manual 8, Reimbursements* for information about valuation.
- Feasibility costs or studies.
- Liability insurance premiums (except in the Firearms and Archery Range Recreation program and Recreational Trails Program).
- Lobbying or legislative activities.
- Losses arising from uncollectible accounts, other claims, and related costs.

- Maintenance and operation activities (see RCO's Manual 13 and Manual 14 for Nonhighway and Off-road Vehicle Activities and *Manual 16, Recreational Trails Program*, for exceptions).
- Monitoring costs related to long-term compliance (i.e., conservation easements).
- Operation and maintenance apparatus, including supplies and equipment (basketballs, tennis rackets, horseshoe sets, tether balls, automotive and construction tools, expendable shooting supplies, etc.)
- Projects identified as mitigation as part of a habitat conservation plan approved by the federal government for incidental take of endangered or threatened species.
- Publicity expenses (except legal requirements for public notices related to bids, etc.)
- Retroactive costs incurred before execution of the project agreement. See pre-agreement cost information for exceptions.
- Spare or replacement parts for apparatus and equipment.
- Taxes for which the organization involved would not have been liable to pay.
- Value of discounts not taken.
- Value of personal properties, unless specifically approved in advance by Recreation and Conservation Funding Board.

Applicants must review the applicable program policy manuals for additional information about eligible and ineligible project activities and costs. Also review, *Manual 3, Acquisition Projects* and *Manual 4, Development Projects* for other ineligible costs.

### Other Types of Projects

#### Combination Projects

Combination projects involve acquisition and facility development or renovation. To help ensure timely completion of these projects, at least one month before the Recreation and Conservation Funding Board considers approving funding; applicants must secure the property by one of the following methods:

- Acquisition under the Waiver of Retroactivity policies and procedures (*Manual 3, Acquisition Projects*).

- Have property in escrow pending grant approval. Closing must occur within 90 days after the funding meeting.
- Obtain an option on the property that extends past the Recreation and Conservation Funding Board funding meeting. Execution of the option must occur within 90 days after this meeting.

If the acquisition is for less than fee interest, and if not acquired already via a Waiver of Retroactivity, applicants also must provide draft copies of all leases or easements to RCO for review. Execution of the leases or easements must occur within 90 days after the funding meeting.

For the acquisitions to remain eligible, sponsors must follow all of the requirements and procedures outlined in *Manual 3, Acquisition Projects*.

### **Phased Projects**

The Recreation and Conservation Funding Board recommends that applicants discuss phasing very expensive or complex projects with RCO staff. Phased projects are subject to the following parameters:

- Approval of any single phase is limited to that phase. No approval or endorsement is given or implied toward future phases.
- Each phase must stand on its merits as a viable or complete recreation experience and is not dependent on the completion of future phases or work.
- Each phase must be submitted as a separate application.

Progress and sponsor performance on other grants may be considered by the Recreation and Conservation Funding Board when making decisions on current project proposals.

If two or more projects are ranked as equal through the evaluation process, the Recreation and Conservation Funding Board will give preference to a project that has had a previous phase funded by the board.<sup>5</sup>

### **Joint and Cooperative (Partnership) Projects**

Some projects may have two or more sponsors. For example, a joint project could be where one agency owns the property to be developed by another, or where two or more agencies team up to provide financial support for a project. The Recreation and Conservation Funding Board encourages such cooperation. In such cases, depending on

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<sup>5</sup>Recreation and Conservation Funding Board Resolution 2007-27, Washington Wildlife and Recreation Program only.

control and tenure, public use, or other issues, RCO may ask the applicant's co-sponsor to do the following:

- Sign the RCO application and project agreement. All parties must meet eligibility requirements to be co-sponsors on the application and project agreement.

And

- Comply with the Interlocal Cooperative Act<sup>6</sup> or execute an agreement, policy statement, or resolution. All must certify the following:
  - Which of the parties is the primary sponsor. The primary sponsor must be the fiscal agent for the project.
  - If the grant program requires planning eligibility, all parties must have RCO planning eligibility.
  - The roles and responsibilities of each party.
  - Local community officials were involved in planning the joint use of all facilities.
  - The project will provide for community-wide, public, outdoor recreation or habitat conservation on at least an equal basis with other needs.
  - The project will be available at times when normally it would be most in demand by the public for recreation.
  - Signs will clearly identify the site's availability for general public recreational use.
  - Facility scheduling is through either the community's established recreation entity or a joint committee composed of representatives of the recreation entity and other appropriate parties to the agreement. This is intended to assure adequate availability to the public during appropriate times of the year.
  - Maintenance and operation or monitoring responsibilities of each agency or organization.

A draft of any agreement, policy statement, or resolution prepared must be submitted to RCO by the technical completion deadline. A signed agreement is required before RCO will execute a project agreement.

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<sup>6</sup>Revised Code of Washington 39.34

## **Projects at Public Schools**

Public outdoor recreation areas and facilities for coordinated use by the public and by public schools are eligible provided such facilities are not part of the normal and usual program responsibilities of the school administration. This does not preclude exclusive school use of certain facilities such as athletic fields, tennis courts, and playgrounds during school hours or at certain times for instruction or competition provided the public outdoor recreation use remains primary, and there is adequate public access at other times.

Include in the grant application a schedule of the time the facility will be available to the public. Additionally, adequate signs must be installed at the site, before final payment on the project, indicating when the outdoor recreation facilities are available to the public.

# Section 3: Project Preparation and Design Policies

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## In this section, you'll learn about:

- ✓ Policies to consider when planning your project
- ✓ Project approval and authorization to proceed
- ✓ Control of the land
- ✓ Cultural resources
- ✓ Grant time limits and extensions
- ✓ Other policies to know
- ✓ Design considerations

## Policies to Consider When Planning Your Project

Planning development projects can be complicated. Below are some of the Recreation and Conservation Funding Board policies you should know.

### Project Approval and Authorization to Proceed

A project sponsor<sup>7</sup> may not proceed with a Recreation and Conservation Funding Board-approved project before executing a project agreement with the board. To do so may render the project or project elements ineligible for reimbursement. Review this manual's information on eligible pre-agreement and retroactive costs.

The project agreement will be prepared in accord with the components contained in the sponsor's application as approved by RCO and forwarded for execution. See an example of the project agreement on RCO's Web site at

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<sup>7</sup>An applicant becomes a sponsor on execution of an RCO project agreement, after funding has been approved.

[www.rco.wa.gov/documents/manuals&forms/SampleProjAgreement.pdf](http://www.rco.wa.gov/documents/manuals&forms/SampleProjAgreement.pdf). Applicants should review carefully the terms and conditions.

## Control of the Land<sup>8</sup>

### Control and Tenure

To protect investments made by the Recreation and Conservation Funding Board and to assure public access to those investments, sponsors must have adequate control of project sites to construct, operate, and maintain the project areas for the term required by the grant program and project agreements. Control and tenure may be documented in several ways, including by showing fee title land ownership, a lease, use agreement,<sup>9</sup> or easement.

Before executing a project agreement, the applicant must provide RCO with documentation as described below:

- **Applicant owns property.** Current title information for property owned by the applicant. This information must include:
  - Legal description
  - Documentation of deed restrictions and encumbrances
  - Documentation of current owner
  - Documentation of easements
  - Explanation of the immediate or potential impacts of any restriction, encumbrance, or easement

If the property was acquired with RCO assistance, simply provide the project name and timeframe to RCO and a list of any deed restrictions, encumbrances, or easements that may have been added after acquisition.

- **Applicant does not own property.** Copies of applicable leases, easements, or use agreements on the property to be developed including state aquatic lands managed by the Washington Department of Natural Resources. Under this option the lease or easement or use agreement:

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<sup>8</sup>RCO Project Agreement's Standard Terms and Conditions, Section 22B, Provisions Applying to Development, Maintenance, Renovation, and Restoration Projects: Control and Tenure

<sup>9</sup>In general, RCO allows use agreements between public agencies on public properties. RCO requires a lease or easement for development on other lands. Contact your RCO grants manager for more information.

- Must extend for the “minimum interest length” shown in the table below from the date RCO releases the final reimbursement and accepts the project as complete.
- Must not be revocable at will.
- Must ensure the right of continuous public access.
- Allow RCO or designee the right of entry to inspect without notice.
- Incorporate RCO’s sign requirements.

Evidence must be provided by the sponsor that the proposed development and its intended uses are consistent with and legally permissible under the conditions of the lease, easement, or agreement.

Completed project elements may not be transferred to the landowner upon completion of the RCO project.

<b>Minimum Control and Tenure Length for Property Not Owned by the Applicant</b>	
<b>Grant Program</b>	<b>Interest Length</b>
Aquatic Lands Enhancement Account	25 years
Boating Facilities Program	25 years
Boating Infrastructure Grant	Useful Life <sup>10</sup>
Firearms and Archery Range Recreation	10 years
Land and Water Conservation Fund (Easements only, leases are not eligible.)	Perpetuity
Nonhighway and Off-road Vehicle Activities	25 years
Recreational Trails Program	25 years
Washington Wildlife and Recreation Program	25 years
Youth Athletic Facilities	20 years

### Projects on State-Owned Aquatic Lands

Aquatic restoration projects should follow the Washington State Aquatic Habitat Guidelines Program (<http://wdfw.wa.gov/hab/ahg/>) for road culverts, stream restoration, and stream bank protection.

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<sup>10</sup>Recreation and Conservation Funding Board Resolution 2016-11

If your project is on state-owned aquatic lands, you must obtain an aquatic lease from the Washington Department of Natural Resources as control and tenure for your project. Control and tenure is required to be in place before RCO may issue a project agreement.

The following online resources may be helpful to review:

- *Grant Projects on State-owned Aquatic Lands*,  
[www.dnr.wa.gov/Publications/em\\_fs11\\_018.pdf](http://www.dnr.wa.gov/Publications/em_fs11_018.pdf)
- *Leasing State-owned Aquatic Lands*,  
[www.dnr.wa.gov/Publications/em\\_fs11\\_019\\_leasing\\_soal.pdf](http://www.dnr.wa.gov/Publications/em_fs11_019_leasing_soal.pdf)
- *Boundaries of State-owned Aquatic Lands*,  
[www.dnr.wa.gov/Publications/aqr\\_aquatic\\_land\\_boundaries.pdf](http://www.dnr.wa.gov/Publications/aqr_aquatic_land_boundaries.pdf)
- *Caring for Washington's Nearshore Environments*,  
[www.dnr.wa.gov/Publications/em\\_fs10\\_001.pdf](http://www.dnr.wa.gov/Publications/em_fs10_001.pdf)

## Map Requirements

RCO will require you to set a boundary and map it for long-term compliance. The sponsor and RCO will establish and concur on a map depicting the extent of the site covered by the grant agreement. The map is used by RCO to ensure sponsor compliance with provisions in the project agreement. Factors to consider when establishing boundary maps include the following:

- Project scope.
- Project agreement amount.
- Complete recreation or public access experience.
- Site management unit or area.
- Past board grant assistance at the site.

### Minimum Boundary Map Requirements

The boundary map must include the following:

- RCO project number and name.
- Project sponsor name and signature.
- Date of the map preparation.
- Adjoining streets and roads.

- Boundary line of land protected by the grant agreement.
- North arrow and scale.
- Sponsor signature and date.

Project sponsors also may submit, for the project file, more detailed maps to document other features of the property. Other information that helps identify the property includes adjoining ownerships, adjoining water bodies, natural landmarks, geographic coordinates at the site entrance or corners of the property, survey information, and other measurements. A professional survey is not required; however, if a survey has been completed with RCO funding, the survey must be recorded with the county auditor and a copy provided to RCO.

### **Electronic Submissions**

RCO encourages project sponsors to submit electronic maps of the property boundaries. RCO accepts polygons files formatted in an ArcGIS Geodatabase (.GDB), ArcGIS Layer Package (.LPK), Shapefile (.SHP), AutoCAD Drawing (.DWG), or GPS Exchange Format (.GPX) in Washington State Plane Coordinate System in NAD83 or HARN datum, or geographic coordinates WGS84.

### **Cultural Resources**

Governor's Executive Order 05-05

([www.governor.wa.gov/sites/default/files/exe\\_order/eo\\_05-05.pdf](http://www.governor.wa.gov/sites/default/files/exe_order/eo_05-05.pdf)), Archaeological and Cultural Resources, directs state agencies to review certain acquisition and construction projects for potential impacts to cultural resources<sup>11</sup> to ensure that reasonable action is taken to avoid adverse impacts to these resources. The federal government, through Section 106 of the National Historic Preservation Act, requires the same compliance for federally-funded projects and projects with other federal involvement, for example, projects on federal lands or those that require a federal Army Corps of Engineers permit.

RCO facilitates review under the Governor's executive order. The appropriate lead federal agency facilitates review under Section 106 of the National Historic Preservation Act. If the federal review covers the entire RCO project area, there is no additional review required to meet state requirements. Both processes require review, analysis, and consultation with the Washington Department of Archaeology and Historic Preservation and affected Native American tribes for archaeological and cultural resources.

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<sup>11</sup>Cultural resources means archeological and historical sites and artifacts, and traditional areas or items of religious, ceremonial, and social uses to affected tribes.

## 05-05 Review Process

Using materials from the grant application, RCO consults with the Department of Archaeology and Historic Preservation and affected Native American tribes. The materials provided include the Area of Potential Effect Map, which shows the geographic areas where a project may change directly or indirectly the character or use of historic properties or archaeological resources.



**Important Note:** Grant recipients may not disturb the ground within the project area until after receiving a notice to proceed from RCO, which sometimes might be in the project agreement with RCO.

All consultation through Executive Order 05-05 will be initiated by RCO and will involve the applicant, Department of Archaeology and Historic Preservation, and affected tribes. The outcome of the consultation may require an applicant to complete a cultural resources survey and a continuation of the consultation to determine next steps. The consultation must be completed before any ground-disturbing activities may occur.

The costs for cultural resources review and survey are eligible for reimbursement and may be included in the grant agreement.

## If Cultural Resources are Discovered during Construction

If archaeological or historic materials are discovered after ground disturbing activities have started, work in the location of discovery and immediate vicinity must stop instantly, the area must be secured, and notification must be provided to the following groups:

- Concerned Native American tribes' cultural resources staff and cultural committees
- RCO
- Department of Archaeology and Historic Preservation

If human remains are discovered during ground-disturbing activities, work in the location of discovery and immediate vicinity must stop instantly, the area must be secured, and notification must be provided to the groups listed below in the most expeditious manner possible, in compliance with state law.<sup>12</sup>

- Concerned Native American tribes' cultural resources staff and cultural committees

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<sup>12</sup>Inadvertent Discovery of Human Skeletal Remains on Non-Federal and Non-Tribal Land in the State of Washington (Revised Codes of Washington 68.50.645, 27.44.055, and 68.60.055)

- RCO
- Department of Archaeology and Historic Preservation
- County coroner
- Local law enforcement

## State Agencies

State agency sponsors have the authority to act as lead for ensuring compliance with archaeological, historic, and cultural resource requirements. RCO will not initiate review or consultation for projects sponsored by another state agency. Before initiating any ground-disturbing activities, the state agency sponsor must submit to RCO evidence of completion of the appropriate cultural resource review process and receive from RCO a notice to proceed. RCO will withhold reimbursement of grant funds for any development or restoration (including demolition, fencing, and noxious weed control) expenditures until this requirement is met.

## Grant Time Limits and Extensions

Sponsors must complete funded projects promptly. For this reason RCO staff, with applicant assistance, establishes a timetable for project completion, including enforceable milestones and a project completion date. To avoid the risk of the funding board or director withdrawing the grant, and to help ensure reasonable but timely project completion, accountability, and the proper use of public funds, the following must be accomplished:

## Application Phase

- Applicants submit only projects likely to be completed within 4 years.
- Applicants must provide reasonable assurance that the project can be completed within a reasonable timeframe that meets milestones and does not exceed the board-approved implementation period. Reasonable assurance may include such evidence as:
  - Appraisals and review are completed.
  - Bid documents are prepared.
  - Environmental assessment is completed.
  - Hazardous substances review is completed.
  - Option agreements are signed.

- Permits are in-hand.
- Property is in escrow.
- Waiver of Retroactivity is in-hand and signed.
- At least 30 days before the funding meeting, when requested by RCO staff, applicants must provide written certification of matching fund availability.

### Pre-Agreement Phase

- Applicants must submit the pre-agreement materials requested by RCO within 2 calendar months of funding approval.
- With RCO staff assistance, applicants must develop milestones, to be included in the project agreement, and a timeline that does not exceed 2-3 years.

### Implementation Phase

- RCO staff monitors critical project milestones (for example, ordering appraisals and reviews, starting construction, etc.). Unsatisfactory progress may be cause for project termination or other remedies (See the project agreement section on termination and other remedies). Any RCO director decision may be appealed to the Recreation and Conservation Funding Board.
- The project agreement end date will be written into the project agreement. It is the date that is the end of the period of performance and all project work must be complete and may be extended only when authorized by the board or director. The director may approve projects up to 4 four years. Requests for extensions that would exceed 4 years may be referred to Recreation and Conservation Funding Board for action.

Extension requests must be in writing and provided to RCO not less than 60 days before expiration of the project's completion date. The request must (a) justify the need and (b) commit to a new set of specified milestones.

- When one Recreation and Conservation Funding Board grant is used to match another, RCO staff will use the earliest grant to determine the 4-year window.

## **Other Policies to Know**

### **Project Agreement Amendments**

The project agreement may be amended by execution of a project agreement amendment. Amendments for minor changes in scope and extensions to the project

period may be authorized by RCO. Major changes in scope for acquisition, development, restoration, and non-capital projects may be authorized only by the Recreation and Conservation Funding Board. All amendment requests shall be made in writing and must include detailed justification.

## **Cost Increases**

On occasion, the cost of completing a project exceeds the amount written into the agreement. Such overruns are the responsibility of the project sponsor. If funds are available, however, and on written request, the Recreation and Conservation Funding Board may consider a cost increase in some grant programs. The director may approve cost increase requests that do not exceed 10 percent of the total project cost. The funding board will consider approval of other amounts.

The project's total approved cost is the basis for such cost increases which must meet the following criteria:

- The sponsor must have fully explored all practical alternatives to completing the intent of the agreement.
- The sponsor must have had little control over the conditions causing the overrun.
- Any increase must only be used for elements in the project agreement.

A sponsor must obtain Recreation and Conservation Funding Board or director approval for any significant change in project scope and/or design that results a cost increase request. This approval must be granted before or simultaneously to the cost increase.

## **Administrative Cost Increases**

Administrative charges are limited to no more than 20 percent of the total construction amount. The director may approve requests for increases up to 35 percent and the board may approve increases above 35 percent. To request an increase, the project sponsor must submit a written request to RCO addressing the following:

- What amount of administrative cost is requested?
- Why is the additional cost needed?
- What has been accomplished to date? Provide specific information about the scope of work completed.
- How will the additional administrative expenses impact the project scope? Will the original scope of work still be completed?
- What is the updated project completion timeline?

Also, include information on the project's complexity and any efficiency measures taken.

## Reporting

In addition to annual billings, sponsors must submit electronic status reports summarizing the progress to date on all active projects. Due dates for progress and final reports are outlined in the project agreement milestones. In addition, sponsors of completed projects are required to report on specific matters whenever requested to do so by RCO.

## Inspections

RCO staff conducts four types of project site visits:

- **Pre-award.** Made during the application phase, normally with the applicant to assess the project area and scope of work for eligibility concerns and compatibility with the grant program.
- **Interim.** This inspection, normally coordinated with the sponsor, is made sometime during project implementation to help resolve any apparent or anticipated problems and to monitor project progress.
- **Final.** This site review takes place after the sponsor requests a final payment or final inspection. This request must be made only after the project is complete, architects and/or engineers have made their inspection, and defects have been corrected. It should be scheduled near project completion but still within the performance period of the contractor. The project must be constructed and functional as described in the project agreement. When RCO staff's final inspection verifies that the project is complete as described in the agreement, the final payment, including retainage, will be made.
- **Post Completion Compliance.** After verification of project completion (see previous paragraph), RCO staff will periodically (usually every 5 years) check the site to ensure that it is being used and maintained according to the terms of the Project Agreement. After making special arrangements with RCO staff, the sponsor's staff also may perform these inspections.

After project funding, the sponsor shall provide the right of access to the project area to RCO, or any of its officers, or to any other authorized agent or official of the State of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance.

## Grant Program Acknowledgement and Signs<sup>13</sup>

Sponsors must acknowledge Recreation and Conservation Funding Board grants, by program if possible, at all development project facility locations. Funding acknowledgement must be posted before the project agreement end date and final reimbursement. Project sponsors must provide proof of the funding acknowledgement by attaching photographs or other evidence to PRISM.

Acknowledgement includes the following:

- Permanent project signs placed prominently at entrances and other locations unless exempted by board policy or waived by the RCO director. The sponsor may build such signs to harmonize with an existing design standard or request a standard acknowledgement sign from RCO.

For sponsor's developing their own signs, below are suggestions for how to incorporate appropriate acknowledgement:

- Funding provided by [insert grant program name].
- Grant funding from [insert grant program name] made available from the Washington State Recreation and Conservation Funding Board.
- Recognition for the grant program in any news release or publication developed or modified for the funded project.
- Recognition in comments shared at all ground-breaking and dedication ceremonies. Sponsors must notify RCO at least 2 weeks before any project celebration event. Notify RCO 30 days in advance if you wish to have a representative or speaker from RCO at the ceremony.

## Public Disclosure Rules

RCO records and files, including those related to developments, are public records that are subject to the Public Records Act<sup>14</sup>. More information about the RCO's disclosure practices is available on the Web site at [www.rco.wa.gov/about/public\\_records.shtml](http://www.rco.wa.gov/about/public_records.shtml).

## Additional Rules and Instructions

The Recreation and Conservation Funding Board may issue additional or modified rules, instructions, interpretations and guides from time to time as it believes necessary for the

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<sup>13</sup>Washington Administrative Code 286-13-120

<sup>14</sup>Revised Code of Washington 42.56

effective conduct of the grant program. Such changes will apply to all projects. Whenever possible, sufficient lead time will be given between the announcement and the effective date to minimize impacts to projects already in process at the time of announcement.

### **Design Considerations**

Development plans should be based on the needs of the public, expected use, and the type and character of the area. While RCO does not require or recommend specific architectural design, sponsors should keep the following considerations in mind when planning and building projects that will receive RCO grants:

- Facilities should be attractive for public use and generally be consistent with the environment;
- Plans and specifications should be in accord with established and generally accepted engineering and architectural practices; and
- Emphasis should be given to the health and safety of users, accessibility to the public, and the protection of the recreation and natural values of the area.

### **Sustainability<sup>15</sup>**

The Recreation and Conservation Funding Board encourages greater use of sustainable design, practices, and elements in grant-funded projects. To the board, “sustainability” means to help fund a recreation or conservation project that minimizes impact to the natural environment while maximizing the project’s service life.

Sponsors are encouraged to incorporate sustainable design, practices, and elements into the scopes of projects. Examples may include use of recycled materials; native plants in landscaping; pervious surfacing material for pathways, trails, and parking areas; energy efficient fixtures; onsite recycling stations; and composting.

### **Accessibility**

Sponsors must ensure that all facilities paid for with Recreation and Conservation Funding Board grants meet current accessibility standards. Several laws and codes provide construction designs that meet these standards. These include, but are not limited to:

- Outdoor Developed Areas Accessibility Guidelines

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<sup>15</sup>Recreation and Conservation Funding Board Resolutions 2011-22, 2014-06

- Washington State Building Code
- Local building codes
- Americans with Disabilities Act of 1990
- Americans With Disabilities Act Standards for Accessible Design of 2010
- Section 504 of the Rehabilitation Act of 1973
- Architectural Barriers Act of 1968

Facilities not covered by these laws and codes are not exempt from access requirements. Sponsors must, to the highest degree reasonable, make project elements accessible. Plans, project applications, cost estimates, and construction drawings must reflect compliance with facility access and signing requirements. See the RCO Web site for more information.

In the absence of any applicable local, state, or federal laws, sponsors should consult the most current federal Access Board report, proposed rule, or final rule. Industry best practices also may be considered if it provides more accessibility. In the case of conflicts between the codes or guidelines, sponsors must follow the one providing the most access. Sponsors also must consider their agencies' "Program Access" requirement under Title II of the American with Disabilities Act. Please keep in mind the following:

Sponsors may need to modify some of the basic service facilities (parking, bathrooms, drinking water, routes of travel, etc.) to ensure they are convenient and accessible at any site receiving grant funds. Parking lots are required to provide accessible spaces that meet "van accessible" dimensions and are located on a level, hard surface. It must be served by the proper size access aisle and have the proper signs. Each type of parking provided must provide accessible spaces meeting the requirements. Constructed features and elements of development or renovation projects always must be constructed using current accessibility guidelines to ensure the highest, most reasonable level of accessibility possible. For example uneven or soft surfaces, steep running slopes or cross slopes, as well as other human-constructed barriers always must be eliminated. Most constructed features, at a minimum, need an accessible route of travel that is firm, stable and slip-resistant, and need proper reach range and clear space for use.

Nothing in the 2010 standards requires accessible designs to be implemented when it would alter the primary experience such as paving an equestrian trail or paving a baseball field to make it more accessible. The requirement for access stops at the edge of the playing surface or the out of bounds line on open playfields. However, public use facility improvements supporting the use at the trailhead or baseball field such as but not limited to parking, picnic shelters, or restrooms need to be accessible.

Environmental factors also may influence access requirements. Not all environments are required to provide accommodations. For example, access points into sensitive lands set aside for fish and wildlife habitats that might be negatively affected by human intrusion. In these cases, the level of development and structures need to be evaluated for applicable accessibility requirements.

Developed features in backcountry or wilderness locations may be exempt from certain provisions of the Americans with Disabilities Act. Trails for example may have very steep topography issues but that doesn't exempt those other technical provisions that can be addressed such as cross slope, width, surfacing, and rest stops to meet other disabilities. Sponsors should review the *Outdoor Developed Areas Accessibility Guidelines* from the United States Access Board before making a determination about possible exemptions. When certain types of developed facilities (i.e., trailheads, etc.) are constructed for general public access, they also must be made accessible unless there is an exception in the Americans with Disabilities Act.

### Exceptions

There are a few exceptions to the requirements for accessibility in developed or renovated projects.

- In cases where unacceptable environmental damage would occur or the construction would require alteration or construction techniques that are not feasible.
- When use of mechanized equipment or techniques are prohibited by a state or federal statute.
- And finally, if the specific development would cause substantial harm to historic, cultural, or significant natural features.

Generally these are evaluated on a case-by-case basis, so consult with the RCO accessibility specialist and your grants manager about any questions you may have.

### Overhead Utility Lines<sup>16</sup>

Sponsors must take reasonable steps to lessen the impact of overhead lines, including communication, power, or other wires. This policy is not meant to discourage projects; rather, it is intended to lessen any impact that the lines might have on area safety, activities, and aesthetics<sup>17</sup>. Unless otherwise authorized by the Recreation and Conservation Funding Board or director, this means:

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<sup>16</sup>Recreation and Conservation Funding Board, August 26, 1974

<sup>17</sup>Recreation and Conservation Funding Board Resolution 1996-10

- Bury, screen, or relocate existing lines (except existing electrical wires over 15 kilovolts)
- Put all new electric wires underground (except existing electrical wires over 15 kilovolts)
- Put all new communication wires underground.

Recreation sites where people gather in large numbers (for example swimming pools, high density picnic areas, spectator seating, field sports, etc.) may not be located under utility wires. Installation of such wires over an area that has received Recreation and Conservation Funding Board assistance constitutes a conversion. See *Manual 7, Long-Term Obligations*, for information about conversions.

# Section 4: Implementing Construction Projects

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## In this section, you'll learn about:

- ✓ Construction policies
- ✓ Public works
- ✓ Prevailing wage requirements
- ✓ Nondiscrimination
- ✓ RCO review of construction plans
- ✓ Notice to proceed
- ✓ Competitive procurement requirements
- ✓ Change orders

## Construction Policies

Following are some Recreation and Conservation Funding Board policies related to construction.

### Public Works

Projects financed with RCO grants are public works projects. Public works projects are all work, construction, alteration, repair, or improvement that is executed at the cost of the state or any other local public agency. The following provisions will apply to public works contracts:

## Prevailing Wage Requirements<sup>18</sup>

Prevailing wages must be paid on all projects using contracted labor and financed with state monies. Prevailing wages are established, by the Department of Labor and Industries for each trade and occupation employed in the performance of the work. Applicants and sponsors should contact the Department of Labor and Industries for specific information about correct wages.

If federal funding is part of the project match, the Davis/Bacon Act must be followed unless the federal funding source is identified specifically as exempt from the requirement in the federal agreement.

If a project is funded by both state and federal sources, the higher of the two wages must be paid.

Where a private, non-profit organization uses state or municipal funds to execute a project, the prevailing wage provisions of Revised Code of Washington 39.12 and 39.04 apply to that project.

Please see the links below for more information.

- Davis Bacon information, [www.access.gpo.gov/davisbacon/allstates.html](http://www.access.gpo.gov/davisbacon/allstates.html)
- State prevailing wages on the Department of Labor and Industries Web site at <http://lni.wa.gov/TradesLicensing/PrevWage/Basics/default.asp>

## Nondiscrimination<sup>19</sup>

Except where a nondiscrimination clause required by a federal funding agency is used, the sponsor shall insert the following nondiscrimination clause in each contract for construction:

*“During the performance of this contract, the contractor agrees to comply with all federal and state nondiscrimination laws, regulations, and policies.”*

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<sup>18</sup>RCO’s Project Agreement Standard Terms and Conditions, Section 8, Compliance With Applicable Law: Wages and Job Safety

<sup>19</sup>RCO’s Project Agreement Standard Terms and Conditions, Section 8, Compliance With Applicable Law: Nondiscrimination Laws and Section 22, Provisions Applying to Development, Maintenance, Renovation, and Restoration Projects: Nondiscrimination

## **RCO Review of Construction Plans<sup>20</sup>**

Project sponsors must provide RCO with draft construction plans and specifications for review and approval. RCO reviews them to ensure the design is consistent with the list of eligible work types in the project agreement. In addition, there may be special conditions in the project agreement that require RCO review of specific elements of the project based upon the grant application evaluation or other concerns.

RCO recommends submitting development, renovation, restoration, or construction plans and specifications at 60 percent complete. Give at least 2 weeks for review.

In addition, RCO requires submitting construction-ready plans and bid specifications for review at least 2 weeks before advertising for bids.

RCO will review the plans and specifications, determine conformance with the project agreement, and issue a Notice to Proceed.

## **Notice to Proceed**

After RCO reviews the plans and specifications and the cultural resources review requirements are complete, RCO will issue a notice to proceed. This notice authorizes the sponsor to proceed with construction. However, the notice is contingent on compliance with all applicable laws, permitting requirements, and the terms of the project agreement.

## **Competitive Procurement Requirements<sup>21</sup>**

Sponsors shall establish and follow written procurement procedures or follow current state procurement procedures. All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. Be aware of organizational conflicts of interest. Contractors that develop or draft specifications, requirements, statements of work, invitations for bids, or requests for proposals shall be excluded from competition for such procurements.

Procurements under \$25,000 do not require competition.

Sponsors receiving funds from federal sources must also follow applicable federal laws and regulation.

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<sup>20</sup>RCO's Project Agreement Standard Terms and Conditions, Section 22, Provisions Applying to Development, Maintenance, Renovation, and Restoration Projects: Document Review and Approval

<sup>21</sup>RCO's Project Agreement Standard Terms and Conditions, Section 16, Procurement Requirements

## **Change Orders<sup>22</sup>**

Construction change orders that impact the amount of funding or change the scope of the project as approved by the board or RCO need prior written approval from RCO. For Family Forest Fish Passage Program projects, approval is needed by the Washington Department of Natural Resources and Department of Fish and Wildlife. For Land and Water Conservation Fund projects, change orders must be approved by the National Park Service before reimbursement of costs.

When requested, the sponsor must provide justification such as an explanation of the situation necessitating the change, the effects of the change, and the alternatives considered. RCO cannot authorize payments for work performed that is not included in the project agreement scope of work.

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<sup>22</sup>RCO's Project Agreement Standard Terms and Conditions, Section 22, Provisions Applying to Development, Maintenance, Renovation, and Restoration Projects: Document Review and Approval

# Section 5: Completing a Project

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## In this section, you'll learn about:

- ✓ Closing a project
- ✓ Project area stewardship and ongoing obligations
- ✓ Granting of utility permits
- ✓ Tree removal
- ✓ Allowable uses framework
- ✓ Income and income use

## Closing a Project

RCO will close out a project when it determines that all applicable administrative and programmatic requirements of the agreement have been met, or when the project has been terminated. Close out does not affect:

- RCO's right to disallow costs and recover funds on the basis of a later audit or other review or failure to complete the project.
- The sponsor's obligation to return any funds due as a result of later refunds, corrections, or other transactions.
- Records retention and access as required.
- Future audit requirements.

## Retainage

RCO generally holds a portion of the grant funds, usually the final 10 percent, until the project has been completed and inspected and all required documentation is approved. The amount of funds withheld (retainage) and the timing varies, based on sponsor's performance and compliance with the terms of the agreement.

## **Final Inspection**

Before accepting a project as complete, the sponsor shall ask RCO for a final inspection. The inspection should be requested soon enough so that it may be performed after substantial completion and while the contractor is still within the performance period. The final inspection will review:

- Completion of project scope of work as described in the agreement.
- Compliance with requirements in the Americans with Disabilities Act.
- Site appearance and construction quality.
- General health and safety considerations.
- Grant program acknowledgement signs.
- Availability of the project area for public use.

## **Administrative Close-out**

Within 90 days after the project agreement expiration date, the sponsor must provide RCO with all financial, performance, and other reports required by the project agreement. These may include but are not limited to the following:

- Final request for reimbursement.
- Final report.
- As-built, record-drawings or conformed set drawings.
- Any cultural resources reporting requirements.
- Project boundary and final map acceptance.
- All other required documents, including amendments, are complete and submitted to RCO.

After the project has been completed and the sponsor has completed all administrative steps to close the project, the grants manager will determine whether the project was completed to the satisfaction of RCO.

If the project was not completed to the satisfaction of RCO, the sponsor will be notified of the actions necessary to bring it into compliance or the amount of money to be returned to RCO.

## Final Payment

Within 30 days of receiving all deliverables, including administrative close out documents, RCO will make final payment to the sponsor. The final payment will include any retainage and reflect any necessary adjustments to the eligible costs.

## Project Area Stewardship and Ongoing Obligations<sup>23</sup>

An RCO grant comes with long-term obligations to maintain and protect the project area<sup>24</sup> after a project is complete. The long-term obligations are in RCO's project agreement standard terms and conditions, the project agreement, and *Manual 7, Long-Term Obligations*. See a template of the project agreement on RCO's Web site at [www.rco.wa.gov/documents/manuals&forms/SampleProjAgreement.pdf](http://www.rco.wa.gov/documents/manuals&forms/SampleProjAgreement.pdf).

RCO recognizes that changes occur over time and that some facilities may become obsolete or the land needed for something else. The law discourages casual discards of land and facilities by ensuring that grant recipients replace the lost value when changes or conversions of use take place.

In general, the project area funded with an RCO grant must remain dedicated to the use as originally funded, such as outdoor recreation, habitat protection, farmland preservation, or salmon recovery purposes, for as long as defined in the project agreement. For development and restoration projects, the period is determined by the type of control and tenure provided for the project.

A conversion occurs when the project area acquired, developed, or restored with RCO grant funding is used for purposes other than what it was funded for originally. See RCO *Manual 7, Long-Term Obligations* for a discussion of conversions and the process required for replacement of the public investment. Non-compliance with the long-term obligations for an RCO grant may jeopardize an organization's ability to obtain future RCO grants.

After a project is complete (that is, after RCO's final reimbursement and acceptance of the project), RCO documents that were signed by the sponsor continue to govern the project area described in the boundary map for which funds have been granted.

Changes may be made only with the prior approval of the funding board or director. If a compliance issue arises, RCO staff works with sponsors to resolve the issue. Unresolved, identified issues could result in restrictions on applying for or receiving future grants.

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<sup>23</sup>Revised Code of Washington 79A.25, Washington Administrative Code 286, RCO's project agreement standard terms and conditions, and *Manual 7, Funded Projects*.

<sup>24</sup>Project area is the defined geographic area where the project occurs and is described in the project's boundary map.

## Construction, Operation, Use, and Maintenance of Projects<sup>25</sup>

Except for habitat conservation<sup>26</sup> areas, sponsors must ensure that properties or facilities assisted with Recreation and Conservation Funding Board funds, including undeveloped sites, are built, operated, used, and maintained in accord with the project agreement:

- According to applicable federal, state, and local laws and regulations, including public health standards and building codes.
- In a reasonably safe condition for the project's intended use.
- Throughout its estimated life so as to prevent undue deterioration.
- In compliance with all federal and state nondiscrimination laws, regulations, and policies.
- In compliance with all state and federal accessibility guidelines.

Facilities open to the general public must:

- Be constructed and maintained to meet or exceed the minimum requirements of the most current local or state building codes and federal guidelines or rules, including but not limited to the Americans with Disabilities Act and the Architectural Barriers Act, as updated.
- Appear attractive and inviting to the public except for brief installation, construction, or maintenance periods.
- Be available for use at reasonable hours and times of the year, according to the type of area or facility.

## Recreation Structures and Facilities<sup>27</sup>

The board recognizes a difference between projects that acquire interest in real property (land) and projects that fund structures or facilities. Compliance with project agreements involving structures or facilities for outdoor recreation will be tied to a reasonable, agreed-upon service life for the structure or facility, with the further provision that the

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<sup>25</sup>RCO's Project Agreement Standard Terms and Conditions, Section 25, Construction, Operation, Use and Maintenance of Assisted Projects

<sup>26</sup>In this context, the words habitat conservation refers to the programs in Recreation and Conservation Funding Board's Washington Wildlife and Recreation Program's Habitat Conservation and Riparian Protection Accounts.

<sup>27</sup>Recreation and Conservation Funding Board Resolution 2007-14, and *Manual 7, Long-Term Obligations*, the "Policy on Recreation Structures and Facilities" information in Section 2.

development of the structure or facility constitutes the sponsor's agreement to provide outdoor recreation opportunity on the development site (worksite<sup>28</sup>) in perpetuity.

## **Concessions and Leases**

A project sponsor may provide for the operation of a Recreation and Conservation Funding Board-assisted facility by granting a concession agreement or lease to a private organization or individual under certain conditions. The project sponsor is responsible for assuring compliance with all applicable state and federal requirements. Delegation or transfer of certain management or operational responsibilities to concessionaires or lessees does not relieve the project sponsor of any board agreement compliance obligations, including those relating to conversion of a Recreation and Conservation Funding Board-assisted property.

All concession or lease documents for the operation of board-assisted projects by private organizations or individuals must address the following:

- In order to protect the public interest, the project sponsor must have clear ability to periodically review the performance of the lessee or concessionaire and terminate the lease or agreement if its terms and the provisions of the grant agreement, including standards of maintenance, public use, and accessibility are not met.
- The document shall clearly indicate that the leased/concession area is to be operated by the lessee/concessionaire for public purposes in compliance with the provisions of the project agreement and/or the Land and Water Conservation Fund Act and implementing guidelines.
- The document shall require that the area be identified as being publicly owned and operated for public outdoor recreation and/or habitat conservation purposes on all signs, literature, and advertising and that the lessee/concessionaire be identified as such so as not to mislead the public into believing that the area is private. Signs also should be posted identifying the facility as being open to the public (See RCO's Terms and Conditions).
- The document shall require that all fees charged by the lessee/concessionaire to the public must be competitive with similar facilities.

Before execution of the lease/agreement between the sponsor and the lessee/concessionaire, the proposed lease/agreement must be reviewed and approved by RCO staff.

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<sup>28</sup>Worksite is the defined geographic area where project activities occur.

## Granting of Utility Permits

After determining that a pipe or power line will have no adverse effect on present and future public recreation or habitat use of a project site, any permit issued must:

- Not be an easement giving property rights to a third party.
- State that the pipe or power line will be underground.
- Require that the third party give prior notice to and receive approval from the sponsor to enter the site for construction or maintenance. Regularly scheduled periodic maintenance checks and the method(s) of performance (which must not involve disruption of any recreation or habitat conservation function), must have prior approval on the basis of a schedule. Emergency maintenance would not normally require prior notification and approval. Adequate assurance of surface restoration is also necessary.
- State a duration for construction and include language that allows setting a duration for reconstruction.

## Tree Removal

Tree removal is allowed on funded project sites provided it does not diminish the essential purposes of the grant and:

- Tree removal is included in the project agreement and project evaluation materials, or
- Trees are removed to prevent potential risk to public safety, or
- Trees are removed in accordance with a state parks tree assessment or an approved site-specific stewardship plan, including a park master plan, to protect or enhance forest health or the health of species targeted by the grant.

Tree removal must be managed consistently with International Society of Arboriculture (ISA) guidelines and in compliance with the Washington Forest Practices Act (Revised Code of Washington 76.09) and Forest Practices Rules (Title 222 Washington Administrative Code). While revenue may be derived from tree removal, revenue generation must not be its primary purpose.

Income generated on the project site must be managed in accordance with RCO policies on income and income use in this manual.

Requests for tree removal that do not meet the criteria in this policy must be reviewed under the allowable uses framework in *Manual 7, Long-Term Obligations*.

## Allowable Uses Framework

RCO grants are intended to support Washington State's habitat, outdoor recreation, and salmon habitat resources. Uses of project sites must have no overall impairment to the habitat conservation, outdoor recreation, or salmon habitat resource funded by RCO.

To be in compliance with the grant, uses of grant-assisted project sites must be either:

- A. Identified in the project agreement; OR
- B. Allowed by RCO policy; OR
- C. Approved by RCO or the funding board.

For the use to be approved by RCO or the funding board (Option C, above) it must meet all of the following criteria:

- The use must be consistent with the essential purposes of the grant (i.e., consistent with the grant agreement and grant program)
- All practical alternatives to the use, including the option of no action, must have been considered and rejected on a sound basis
- The use must achieve its intended purpose with the least possible impact to the habitat, outdoor recreation, or salmon habitat resource
  - If the use impacts the type of resource the grant is designed to protect (habitat, outdoor recreation, or salmon habitat), it also must provide at least equivalent benefits to that type of resource so there is no overall impairment.

An approved use of a project site must continue in the way it was approved to remain in compliance with the grant. This policy does not modify other RCO policies, such as cultural resource policies.

Income generated on the project site must be managed in accordance with RCO policies on income and income use.

## Income and Income Use

### User Fees<sup>29</sup>

User and other fees may be charged in connection with land acquired or facilities developed with Recreation and Conservation Funding Board grants if the fees are consistent with the:

- Value of any services furnished;
- Value of any opportunities furnished; and
- Prevailing range of public fees in the state for the activity involved.

Excepted are Firearms and Archery Range Recreation Program safety classes (firearm and/or hunter education) for which a facility or range fee must not be charged.<sup>30</sup>

### Fees Based on Residence<sup>31</sup>

If different fees are charged for residents and nonresidents, the non-resident fee must not exceed twice that imposed on residents. If no resident fee is charged, then a non-resident fee must not be charged.

### Use of Income<sup>32</sup>

Regardless of whether income or fees from a project work site (including entrance, utility corridor permit, cattle grazing, timber harvesting, farming, etc.), are gained during or after the reimbursement period cited in the project agreement (unless precluded by state or federal law), they may be used only to offset:

- The sponsor's matching funds;
- The project's total cost;
- The expense of operation, maintenance, stewardship, monitoring, and/or repair of the facility or program assisted by the funding board grant or of other similar units in the sponsor's system; and/or
- Capital expenses for similar acquisition and/or development and renovation.

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<sup>29</sup>Washington Administrative Code 286-13-110 (b)

<sup>30</sup>Revised Code of Washington 79A.25.210

<sup>31</sup>Washington Administrative Code 286-13-115

<sup>32</sup>Washington Administrative Code 286-13-110

If the revenue exceeds the system's operation, maintenance, or monitoring costs, it must be deposited in a capital reserve fund.

This fund must:

- Be identified in the sponsor's official annual budget for acquisition and/or development of lands or facilities.
- Only be used to further the capital goals and objectives identified in the sponsor's park and recreation, habitat conservation, or salmon recovery plan.
- Only be applied to other of the sponsor's Recreation and Conservation Funding Board projects in the same category (for example, revenue raised from an RCO Boating Facilities Program grant only may be used to assist other motorized boating projects).
- Reference the grant agreement.