Proposed Changes to the Nonhighway and Off-Road Vehicle Activities Grant Program (NOVA)

The Recreation and Conservation Funding Board requests the public to submit comments on the following proposed changes to NOVA:

1) Grant (Request) Limits
    a. Raise the maximum grant limits from $100,000 to $200,000 for all project types in the Nonhighway Road and Nonmotorized categories, and
    b. Remove the annual $50,000 spending maximum for maintenance and operations projects.
2) NOVA Project Technical Review
    a. Consider changes to the NOVA Advisory Committee application technical review process.
3) Applicant and Project Eligibility
    a. Create eligibility criteria for a "non-profit off-road vehicle organization."
    b. Define "publicly-owned lands," as it appears in RCW 46.09.530.
    c. Establish control and tenure requirements for project proposals submitted by eligible non-profits.

The public is asked to provide comments on whether the Recreation and Conservation Funding Board should approve, or amend and approve, the changes as proposed.

See Attachments A, B, and C for Background, Analysis and Staff Recommendations.

Current NOVA program policies and can be found in Manual 14 Nonhighway and Off-Road Vehicle Activities.

1) Proposed Changes to Grant Limits

See Appendix A for Background, Analysis and Staff Recommendations

Staff make the following recommendations with regard to setting new grant request/award limits in the NOVA Nonhighway Road and Nonmotorized grant categories:

1) Grant (request) Limits
    a. Raise the maximum grant limits from $100,000 to $200,000 for all project types in the Nonhighway Road and Nonmotorized categories, and
    b. Remove the annual $50,000 spending maximum for maintenance and operations projects.

At this time, RCO staff recommend no grant limit changes for the NOVA Off-road Vehicle grant catagory.

2) Proposed Changes to the NOVA Technical Review Process

See Appendix B. for Background and Analysis.

At the April 28th RCFB meeting RCO staff recommend Option #5. However, the RCFB requests the public comment on all of the below options. Staff will review the outcome of any policy changes in the context of its review of the 2016-17 grant cycle, and potentially recommend further changes.

Options	Effect	Pros	Cons
1. No Change. The Advisory Committee members will continue to provide technical review of each grant application prior to evaluation.	No change.	Applicants receive feedback that can help strengthen and clarify their proposal. Committee members become familiar with the projects prior to evaluation.	Applicants unlikely to get all committee members to review and comment on their application and comments they do receive may be contradictory.
2. Committee members review applications only from new, inexperienced, previously unsuccessful applicants, or upon request.	Reduces burden on committee members, can focus their time on fewer applications and benefit the applicants most in need of review.	Most efficient use of committee member time, able to provide in-depth, quality reviews for those in need.	Treats applicants unequal, may be perceived as a disadvantage to some.
3. Committee members do not provide technical review of Maintenance and Operations projects and only provide technical review of Development, Planning, E&E or Combination projects.	Committee members focus their time on the project types that may contain the most unique and complex proposals.	Fewer reviews by each committee member results in higher quality reviews.	Since all project types (not E&E) compete head to head, maintenance projects could be perceived as disadvantaged.
4. Staff review applications and assign them for technical review by a small team of committee members based on project category (ORV, NHR, NM) or other criteria such as expertise or "user group" of the committee members.	Committee members review a smaller number of applications.	Most efficient use of committee member time, able to provide in depth and quality review. Reduces opportunity for conflicting comments.	Treats applicants unequally. Applicants do not benefit from all committee members' expertise during technical review. Some committee members' unfamiliarity with projects may lead to misunderstandings

Options	Effect	Pros	Cons
			and questions during evaluation.
5. RCO Grant Manager assigned to each applicant performs application review, which is less than a full technical review.	Applications do not get a technical review; applications are only reviewed for eligibility, completeness, and clarity by RCO grant managers.	Applicant receives straight forward comments. Requires the applicant to put their best foot forward without benefit of technical review by the committee.	Committee members unfamiliar with projects may lead to misunderstandings and additional questions during evaluation.

3) Proposed Changes for Nonprofit Off-Road Vehicle Organizations' Eligibility to Receive NOVA grants.

See Appendix C. for Background, Analysis, and Staff Recommendations

a) Create eligibility criteria for a non-profit off-road vehicle organization. The following policy is proposed for the NOVA program:

"An eligible and qualified nonprofit off-road vehicle organization must be able to contract with the State of Washington, and meet all of the following criteria:

- Registered with the State of Washington as a non-profit.
- Demonstrate at least 3 years of actively managing projects relevant to the types of projects eligible for funding in the applicable Nonhighway and Off-Road Vehicles Activities (NOVA) category. "Actively managing projects" means performing the tasks necessary to manage a NOVA funded site; such as negotiating for acquisition of property rights, closing on an acquisition, developing and implementing management plans, designing and implementing development projects, performing maintenance and operations, education and enforcement, securing and managing the necessary funds regardless of fund source, and other tasks.
- Does not discriminate on the basis of age, disability, gender, sexual orientation, income, race, religion.
- Consistent with Revised Codes of Washington 24.03.220, 24.03.225, and 24.03.230, identify a successor organization fully qualified to ensure management continuity of any Nonhighway and Off-Road Vehicles Activities (NOVA) grants received by the corporation or association."

b) Define the term "Publicly Owned Lands" in RCW 46.09.530.

The following policy (definition) is proposed for the NOVA program:

"For the purposes of making grant applications and project agreements available to nonprofit off-road organizations per RCW 46.09.530,

publicly owned lands are defined as those lands which are owned, leased, or otherwise controlled and managed by a federal, state, or local government through fee simple ownership, easement, lease, or interagency or other type of use agreement. For publicly owned lands not owned in fee simple by a federal, state, or local government; the federal, state, or local government must provide explicit evidence that they may lease or sub-lease, or otherwise allow the sponsor to access the property and perform the scope of work proposed in the grant. For the purposes of this definition, public nonhighway road rights-of-way are publicly owned property even if the public agency that manages the right-of-way does not own the underlying real property."

c) Establish Control and Tenure Requirements for Nonprofit Off-Road Vehicle Organizations.

The following policy statements (requirements to demonstrate control and tenure of project properties) are proposed for the NOVA program:

Project and Ownership Type	Recommended Policy Statement for Board Adoption
1. Planning and Development Projects on Publicly Owned Property.	"Nonprofit off-road vehicle organizations that propose a planning or development project on publicly owned property must either: 1. Secure long-term control and tenure of the project site as described in Manual #4, or 2. Co-sponsor the grant along with a NOVA eligible land owner."
2. Planning and Development Projects on Privately Owned Property.	"Nonprofit off-road vehicle organizations that propose a planning or development project on privately owned property must secure long-term control and tenure of the project site as outlined in Manual #4; and demonstrate through easement, lease, or other legally binding agreement that the public will have access to the project area during and after the project, for the required term."
3. Maintenance and Operations, and Education and Enforcement Projects on Publicly Owned Property	"Nonprofit off-road vehicle organizations that propose to maintain and/or operate, or propose education and enforcement projects, must execute a Landowner Agreement Form as provided by RCO."
4. Maintenance and Operations, and Education and Enforcement Projects on	"Nonprofit off-road vehicle organizations that propose to maintain and/or operate a NOVA eligible facility, or propose education and enforcement activities, must: • Satisfy the control and tenure requirements in Manual #4; or

Project and Ownership Type	Recommended Policy Statement for Board Adoption
Privately Owned Property	• Provide a lease, easement, or other legally binding agreement for the project property that allows the proposed project and public access; or • Execute a Landowner Agreement form as provided by RCO."

Appendix A.

Proposed Changes to Grant Limits

Background

The board set the current $100,000 grant limit for the Nonhighway Road and Nonmotorized categories prior to 1999. According to the land manager representatives on the NOVA Advisory Committee, the demand and associated cost of maintenance and capital projects continues to increase. For this reason, sponsors often submit multiple grant requests for similar activities for a single service area (e.g., log-out, trail rehabilitation, etc.). In the field, a single sponsor staff member or construction contract may operate under more than one NOVA grant.

These issues increase the burden on sponsors and RCO staff with respect to grant management and requests for reimbursement. The relatively low $100,000 grant limit may lead to potential applicants declining to pursue a grant because they do not view the opportunity as worth the time and effort.

Similarly, the current requirement to spend grant monies in both years of the agreement term may not match the needs of sponsors. For example, due to fire or other planned and unplanned situations, sponsors may desire to complete a maintenance project as soon as possible, or later in the project agreement term.

Therefore, increasing the grant limits for Nonhighway Road and Nonmotorized grants to $200,000 and removing the requirement to spend monies in each year of the project agreement provides a better match to what sponsors say they need.

Table 1. Summary of Current NOVA Recreation Grants

	Maintenance and Operation	Land Acquisition, Development, Planning, and Combination
Nonhighway Road	$100,000 per project*	$100,000 per project
Nonmotorized	$100,000 per project*	$100,000 per project
Off-road Vehicle	$200,000 per project	No limit

* Limited to a maximum of $50,000 per year.

Analysis

The intent of the proposed changes is to:

1. Increase grant limits to keep pace with the rising cost of implementing projects.
2. Reduce RCO's and sponsors' administrative burden of managing multiple grants within the same service area.
3. Allow maintenance and operation spending to match sponsors' business needs and schedule.

Table 2: Pros and Cons of Proposed Change to Grant Limits

Pros	Cons
• Fewer applications and project agreements to manage reduces administrative burden for sponsors and RCO. • Maintenance and Operations grant spending timeline can match business needs of sponsor. • Increased grant limits makes seeking NOVA grants more attractive to potential applicants. • Opens the opportunity for more costly capital projects that cannot be done for under $100,000.	• Grants may go to a fewer number of organizations within a biennium. • Sponsors with Maintenance and Operations grants may defer spending late in the project agreement term which may result in returned funds if they cannot complete the project on time.

Staff Recommendations

Staff make the following recommendations with regard to setting new grant award limits in the Nonhighway Road and Nonmotorized categories:

1. Increase current grant limits, all project types, from $100,000 to $200,000.

2. Remove annual spending limits in Maintenance and Operations grants.

At this time, RCO staff recommend no grant limit changes for the Off-road Vehicle category in NOVA.

Appendix B.

Proposed Changes to the NOVA Technical Review Process

Background

There is currently a two-step process in the evaluation of NOVA applications. First, there is a technical review process in which each NOVA Advisory Committee member (there are fifteen) reviews and provides feedback to applicants on between 90 and 120 applications each grant round. This gives each applicant information useful to modify or improve their grant application and/or presentation. Later in the process, the Advisory Committee evaluates, scores, and ranks each application. Staff have reviewed the utility of the technical review step with applicants and advisory committee members, and have identified the following added-value items and concerns:

1. Value Added by Advisory Committee Technical Review:
    a. Evaluators become familiar with projects prior to evaluation.
    b. Applicants can revise applications based on committee member questions and comments.
    c. Projects are better scoped and articulated and thus are easier and more effectively evaluated by the committee.
    d. First time sponsors are not disadvantaged due to lack of experience with application and evaluation process.
2. Technical Review Concerns:
    a. The number of applications overwhelms committee members and depth of review varies by committee member.
    b. Incomplete review generates concern in applicants.
    c. Contradicting committee member feedback confuses applicants.

Analysis

The following table details several options for changes to the current technical review process.

Table 1: Options and Recommendations for Technical Review Process

Options	Effect	Pros	Cons
1. No Change. The Advisory Committee members will continue to provide technical review of each grant application prior to evaluation.	No change.	Applicants receive feedback that can help strengthen and clarify their proposal. Committee members become familiar with the projects prior to evaluation.	Applicants unlikely to get all committee members to review and comment on their application and comments they do receive may be contradictory.
2. Committee members	Reduces burden on	Most efficient use of	Treats applicants

Options	Effect	Pros	Cons
review applications only from new, inexperienced, previously unsuccessful applicants, or by request.	committee members, can focus their time on fewer applications and benefit the applicants most in need of review.	committee member time, able to provide in-depth, quality reviews.	unequal, may be perceived as a disadvantage to some.
3. Committee members do not provide technical review of Maintenance and Operations projects and only provide technical review of Development, Planning, E&E or Combination projects.	Committee members focus their time on the project types that may contain the most unique and complex proposals.	Fewer reviews by each committee member results in higher quality reviews.	Since all project types (not E&E) compete head to head, maintenance projects could be perceived as disadvantaged.
4. Staff review applications and assign them for technical review by a small team of committee members based on project category (ORV, NHR, NM) or other criteria such as expertise or "user group" of the committee members.	Committee members review a smaller number of applications.	Most efficient use of committee member time, able to provide in depth and quality review. Reduces opportunity for conflicting comments.	Treats applicants unequally. Applicants do not benefit from all committee members' expertise during technical review. Some committee members' unfamiliarity with projects may lead to misunderstandings and questions during evaluation.
5. RCO Grant Manager assigned to each applicant performs application review, which is less than a full technical review.	Applications do not get a technical review; applications are only reviewed for eligibility, completeness, and clarity by RCO grant managers.	Applicant receives straight forward comments. Requires the applicant to put their best foot forward without benefit of technical review by the committee.	Committee members unfamiliar with projects may lead to misunderstandings and additional questions during evaluation.

Staff Recommendation

Staff recommends elimination of the current Technical Review process for the NOVA program. Staff recommends relying on RCO Grant Managers to review applications to ensure completeness and clarity. The Advisory Committee members would continue to evaluate and rank each project.

Appendix C.

Proposed Changes to NOVA Applicant and Project Eligibility Background

Background

In 2013, the Legislature changed RCW 46.09.530 to include "publicly owned lands" which greatly broadened the eligibility of nonprofit off-road vehicle organizations to receive grants in NOVA.

> *"(1) After deducting administrative expenses and the expense of any programs conducted under this chapter, the board shall, at least once each year, distribute the funds it receives under RCW 46.68.045 and 46.09.520 to state agencies, counties, municipalities, federal agencies, nonprofit off-road vehicle organizations, and Indian tribes. Funds distributed under this section to nonprofit off-road vehicle organizations may be spent only on projects or activities that benefit off-road vehicle recreation on* ***publicly owned lands*** *or lands once publicly owned that come into private ownership in a federally approved land exchange completed between January 1, 1998, and January 1, 2005."*[1]

Analysis and Staff Recommendations

Currently, NOVA lacks explicit policies to guide the eligibility and management of nonprofit sponsored grant applications. The following analysis details options for adopting three policies that would further define the eligibility of non-profit off-road vehicle organizations and their potential projects so that these groups and RCO staff have an explicit understanding of which organizations and projects are eligible.

Eligibility Criteria for Nonprofit Off-Road Vehicle Organizations

Issue

Eligibility for nonprofit off-road vehicle organizations is not defined in the RCWs, WACs, or NOVA manuals. To ensure that NOVA funds are spent responsibly and avoid risk, RCO staff recommend that nonprofit off-road vehicle organizations must demonstrate experience in the NOVA project type for which they are applying. The recommended requirement is based on experience with nonprofit eligibility in other grant programs. For example, where many nonprofit off-road vehicle organizations may have experience organizing and promoting competitions, they may not have experience constructing an off-road vehicle facility. In this case, awarding a development grant to an organization with no construction experience (e.g., maintenance, operation, etc.) carries risk. Therefore, RCO staff recommend only allowing nonprofit off-road vehicle organizations to compete for NOVA funds if, within the most recent ten years, they have at least three years of experience being active in NOVA related activities such as trail construction and maintenance, field education programs, etc.

Staff Recommendation

Create more detailed eligibility criteria for "nonprofit off-road vehicle organizations" by adopting the following nonprofit criteria in NOVA:

[1] 2013 Session Laws, 2nd Special Session, page 2854.

"An eligible and qualified nonprofit off-road vehicle organization must be able to contract with the State of Washington, and meet all of the following criteria:

- Registered with the State of Washington as a non-profit.
- Demonstrate at least 3 years of actively managing projects relevant to the types of projects eligible for funding in the applicable Nonhighway and Off-Road Vehicles Activities (NOVA) category. "Actively managing projects" means performing the tasks necessary to manage a NOVA funded site; such as negotiating for acquisition of property rights, closing on an acquisition, developing and implementing management plans, designing and implementing development projects, performing maintenance and operations, education and enforcement, securing and managing the necessary funds regardless of fund source, and other tasks.
- Does not discriminate on the basis of age, disability, gender, sexual orientation, income, race, religion.
- Consistent with Revised Codes of Washington 24.03.220, 24.03.225, and 24.03.230, identify a successor organization fully qualified to ensure management continuity of any Nonhighway and Off-Road Vehicles Activities (NOVA) grants received by the corporation or association."

Define "Publicly Owned Lands"

Issue

"Publicly owned lands" may have multiple interpretations, and is not currently defined in the RCWs, WACs, or NOVA manuals. Although the term "publicly owned lands" sounds specific, it may leave room for interpretation and disagreement. For example, is property leased by a public agency defined as "publicly owned lands"? Is a public right-of-way, which is not owned in fee simple by a public body, considered "publicly owned lands"? In these two examples a public agency may not own the underlying real property, but the property itself may be considered publicly owned by many. RCO staff recommend a liberal interpretation of the term "publicly owned lands" to allow potential sponsors to consider projects in a broad yet appropriate context given established control and tenure policies. An explicit definition helps RCO staff make eligibility decisions, and helps sponsors plan their grant requests.

Staff Recommendation

Define "publicly owned lands" as it applies to applications from eligible non-profit off-road vehicle organizations by adopting the following definition:

"For the purposes of making grant applications and project agreements available to nonprofit off-road organizations per RCW 46.09.530, publicly owned lands are defined as those lands which are owned, leased, or otherwise controlled and managed by a federal, state, or local government through fee simple ownership, easement, lease, or interagency or other type of use agreement. For publicly owned lands not owned in fee simple by a federal, state, or local government, the federal, state, or local government must provide explicit evidence that they may lease or sub-lease, or otherwise allow the sponsor to access the property and perform the scope of work proposed in the grant. For the purposes of this definition, public nonhighway road rights-of-way are publicly owned property even if the public agency that manages the right-of-way does not own the underlying real property."

Control and Tenure Requirements for Nonprofit Off-Road Vehicle Organizations

Issue

A nonprofit off-road vehicle organization will likely apply for grants to improve or maintain, or educate or enforce, on property it does not own. To ensure nonprofit off-road vehicle organizations have access to the project areas identified in their applications, and so that the public may access these areas into the future, RCO staff recommend the board consider making policy statements for the variety of control and tenure situations that may materialize.

Staff Recommendations

Project and Ownership Type	Recommended Policy Statement for Board Adoption	Reason
1. Planning and Development Projects on Publicly Owned Property.	"Nonprofit off-road vehicle organizations that propose a planning or development project on publicly owned property must either: 1. Secure long-term control and tenure of the project site as described in Manual #4, or 2. Co-sponsor the grant along with a NOVA eligible land owner."	To ensure the sponsor can access and control the project area, the planned facility can be built, and the constructed facility is open to the general public and maintained for the required period of time.*
2. Planning and Development Projects on Privately Owned Property.	"Nonprofit off-road vehicle organizations that propose a planning or development project on privately owned property must secure long-term control and tenure of the project site as outlined in Manual #4; and demonstrate through easement, lease, or other legally binding agreement that the public will have access to the project area during and after the project, for the required term."	To ensure the sponsor can access and control the project area, and ensure the planned facility can be built, and ensure the constructed facility is open to the general public and maintained for the required period of time.*
3. Maintenance and Operations, and Education and Enforcement Projects on Publicly Owned Property	"Nonprofit off-road vehicle organizations that propose to maintain and/or operate, or propose education and enforcement projects, must execute a Landowner Agreement Form as provided by RCO." *	To ensure the sponsor can access the project area and perform the scope of work proposed in the grant.
4. Maintenance and Operations, and Education and Enforcement Projects on Privately Owned Property	"Nonprofit off-road vehicle organizations that propose to maintain and/or operate a NOVA eligible facility, or propose education and enforcement activities, must: • Satisfy the control and tenure requirements in Manual #4*; or • Provide a lease, easement, or other legally binding agreement for the project property that allows the proposed project and public access; or • Execute a Landowner Agreement form as provided by RCO.	To ensure the sponsor can access the project area and perform the scope of work proposed in the grant, and ensure the project area is accessible by the general public for at least the term of the project agreement.

**See "Control of Land", pages 21-23, Manual #4, Development Projects (2016)*