

Item 6

Meeting Date: March 2010
Title: Factors for Approving Major Scope Changes for Acquisition Projects
Prepared By: Dominga Soliz, Policy Specialist

Approved by the Director:

Proposed Action: Decision

Summary

Recreation and Conservation Funding Board (board) policy requires that only the board can approve major scope changes for acquisition projects.

Recreation and Conservation Office (RCO) staff is asking the board to approve factors that it may want to consider when deciding whether to approve any major scope change for acquisition projects. In May 2010, staff will propose that the Salmon Recovery Funding Board approve the same factors.

Strategic Plan Link

Consideration of these policy changes supports the board's objectives to (1) evaluate and develop strategic investment policies and plans so that projects selected for funding meet the state's recreation and conservation needs, and (2) fund the best projects as determined by the evaluation process.

Staff Recommendation

RCO staff recommends that the board adopt the revised policies via resolution #2010-04. Specifically, these policies establish factors that the board may consider when approving major scope changes for acquisition projects.

Background

Sometimes sponsors need to purchase property other than the property that was originally proposed in the application and incorporated into the agreement with the RCO. When this request for a change in geographic boundaries happens after a contract is signed, but before the RCO reimburses for the acquisition, it constitutes a scope change.

Current policies require board approval for major changes in any acquisition project's scope. The board adopted a policy in November 2009 stating that a newly targeted property is not a major scope change if it:

- Is eligible in the same grant program category as the originally targeted property; and
- Has similar and at least equivalent conservation, farmland preservation, habitat protection, recreation, and/or salmon recovery values as the originally targeted property; and
- Is contiguous to the originally targeted property or is within the recreation service area, geographic envelope or stream reach, estuary, or nearshore area identified in the grant agreement.

The RCO director can approve a scope change that meets these criteria. Otherwise, the scope change is presented to the board for consideration.

Analysis

There are currently no decision-making factors contained in policy for the board to consider when approving major scope changes.

The Salmon Recovery Funding Board also has no decision-making factors contained in policy, so staff and stakeholders are proposing that the two boards adopt the same approval factors. Doing so will help provide consistent decisions related to acquisition scope changes, promote fairness to sponsors, and ensure that legislatively approved project rankings are not changed. Adopting the same factors also will be less confusing for sponsors since acquisition scope change policies will be contained in one manual that applies to all grant programs, rather than in separate program manuals.

RCO staff convened a group of stakeholders to help develop the policy. Stakeholders included the following:

| Name | Organization |
|-------------------|--|
| Dan Budd | Department of Fish and Wildlife |
| Elizabeth Rodrick | Department of Fish and Wildlife |
| Curt Pavola | Department of Natural Resources |
| David Bortz | Department of Natural Resources |
| Bill Koss | State Parks and Recreation Commission |
| Pete Mayer | Vancouver-Clark Parks and Recreation |
| Gordon Scott | Whatcom County Land Trust |
| Marcia Fromhold | Washington Wildlife and Recreation Coalition |
| Bob Bugert | Chelan Douglas Land Trust |
| Chris Hilton | Whidbey Camano Land Trust |
| Josh Kahan | King County, Watershed Stewardship Unit |

Stakeholders and staff propose the following factors for the board's review of major scope changes.

- Is the amended project eligible in the same grant program category? Is it eligible in another program category?
- What is the reaction and/or position, if any, of the local government (for RCFB funded projects) or lead entity (for SRFB funded projects) with regard to the requested amendment?
- How does the amended project fit with priorities identified in state approved strategies including, but not limited to, the Natural Heritage Plan, State Comprehensive Outdoor Recreation Plan, Lands 20/20, Biodiversity Strategy, Regional Recovery Plan, or a three-year work plan for salmon recovery?
- Will federal or other matching resources be lost if a scope change is not approved? If so, how, why, or how much?
- What opportunity will be lost if the request is not granted? (Consider, for example, consequences to the public, the resources, and the grant program.)
- What other project or projects could receive the money if this request is denied?
- How does the amended project compare with the original project and with the alternate project on the funding priority list?

Stakeholders agreed that since the facts and circumstances of projects requesting major scope changes could vary widely, both boards should have discretion about whether to consider some or all of the proposed factors as well as the extent to which each factor is considered. Stakeholders also agreed that the proposed factors should be used as general guidelines for board discussion rather than as strict approval criteria.

Public Comment

RCO staff released the proposed changes for public comment on January 11, 2010 via email and the agency web site. We received five written comments (Attachment B):

- Two respondents favored the policy;
- One was concerned that the local lead entity would be left out of the scope change process for SRFB projects (staff clarified that sponsors must work with the local lead entity to request a scope change);
- One suggested that the criteria may be too specific, and was concerned about the requirement for lead entity or local approval (staff clarified that notification, not approval, was required); and
- One respondent suggested that the factors are too vague, and asked for clarification about the following:
 - Why an amended project could be considered for funding if it is not eligible in the original grant category;

- What criteria and process will be used for the review by local governments, lead entities, or other parties (e.g., federal funding sources);
- Which alternate projects will be compared against the amended project and how they will be compared; and
- How project rankings will be affected.

Staff responded to each of the comments as shown in Attachment B. In general, staff noted that stakeholders designed the factors to give the board flexibility in making decisions. For example, an amended project could be considered in an undersubscribed category rather than the original grant category. Staff also noted that the project rankings cannot change.

Next Steps

Once approved by both boards, staff will include the proposed factors in RCO policy Manual 7 (Funded Projects).

Attachments

Resolution #2010-04

- A. Proposed Policy
- B. Summarized Public Comments

Recreation and Conservation Funding Board
Resolution #2010-04
Factors to Consider in Approving Major Scope Changes for Acquisition
Projects

WHEREAS, Recreation and Conservation Funding Board (board) program policies require board approval of major scope changes for acquisition projects; and

WHEREAS, having consistent decision-making factors for approving major scope changes for acquisition projects would promote the board's objective to ensure funded projects are managed with integrity, in a fair and open manner, and in conformance with existing legal authorities; and

WHEREAS, Recreation and Conservation Office (RCO) staff worked with stakeholders to develop and circulate a policy proposal for review and comment among people that have asked to be kept informed about board acquisition policies; and

WHEREAS, the public responses were generally supportive or requested clarification; and

WHEREAS, adopting this revision would further the boards' objectives to provide funding to protect habitat and recreation facilities and lands and to develop policies to reduce the number of projects not starting or finishing on time;

NOW, THEREFORE BE IT RESOLVED, that the board does hereby adopt the new policy shown in Attachment A to the March 2010 board memo titled "Factors for Approving Major Scope Changes for Acquisition Projects"; and

BE IT FURTHER RESOLVED, that the board directs RCO staff to implement this policy beginning with the 2010 grant cycle.

Resolution moved by: _____

Resolution seconded by: _____

Adopted/Defeated/Deferred (underline one)

Date: _____

Policy Language

Proposed Language

The following is proposed for inclusion in Manual 7, General Policies Section.

The RCFB and the SRFB subcommittee may consider the following factors in deciding whether to approve a major scope change for acquisition projects:

- Is the amended project eligible in the same grant program category? Is it eligible in another program category?
- What is the reaction and/or position, if any, of the local government (for RCFB funded projects) or lead entity (for SRFB funded projects) with regard to the requested amendment?
- How does the amended project fit with priorities identified in state approved strategies including, but not limited to, the Natural Heritage Plan, State Comprehensive Outdoor Recreation Plan, Lands 20/20, Biodiversity Strategy, A Regional Recovery Plan, or a three-year work plan for salmon recovery?
- Will federal or other matching resources be lost if a scope change is not approved? If so, how, why, or how much?
- What opportunity will be lost if the request is not granted? (Consider, for example, consequences to the public, the resources, and the grant program.)
- What other project or projects could the money go to if this request is denied?
- How does the amended project compare with the original project and with the alternate project on the funding priority list?

Sponsors can work with their outdoor grants manager to provide information related to these factors to the board or board subcommittee.

Summarized Public Comments

| Commenter | Summarized Comments (Edited for Brevity) | Staff Response (if applicable) |
|---|---|---|
| Heather Ramsay, National Park Service | Thanks for the opportunity to comment. Looks to me like all the bases are covered. | |
| Bob Bugert, Chelan-Douglas Land Trust | We believe that this approach provides a good balance in providing flexibility in implementation, cost effectiveness, certainty of success, and benefits to the resource for both the project sponsor and the funding boards. The proposed policy has clearly-described criteria and decision-making procedures. | |
| Terry Wright, Northwest Indian Fisheries Commission | One piece that seems to be missing is reference to the local/lead entity processes that identified and ranked the original project. It would be good to know if the new proposed project had been evaluated by the same group and where it ranked on the local list. | These comments related to the SRFB process. Staff responded by clarifying the process, which requires that sponsors work with the local lead entity to request a scope change. |
| Gordon Scott, Whatcom Land Trust | <p>I want to caution the group to avoid setting too specific a list of criteria for scope changes. Each property is unique and each transaction has unique opportunities and challenges, and by setting specific criteria in advance of actual projects we may be inadvertently denying a good and important project simply to conform to a predefined set of rules.</p> <p>I am not enamored of the general reliance on requiring local government or lead entity approval. This is one area where RCO needs to provide clear decision-making and democratic process guidance to local groups if they choose to rely on them for an informed decision regarding the larger social goals of species recovery.</p> | <p>Stakeholders agreed that since the facts and circumstances of projects requesting major scope changes could vary widely, the board should have discretion about whether to consider some or all of the proposed factors. Stakeholders agreed that the proposed factors should be general guidelines rather than strict approval criteria.</p> <p>The proposed factors do not require local government or lead entity approval. The factors guide the board to consider, at its discretion, the response, if any, from the local government or lead entity. Recently approved policy requires the sponsor to submit documentation explaining whether the local government or lead entity was notified about the scope change request.</p> |

| Commenter | Summarized Comments (Edited for Brevity) | Staff Response (if applicable) |
|---|--|---|
| Jeroen Kok, Vancouver-Clark Parks and Recreation | The proposed factors for approving a major scope change are a bit vague. The primary criteria should focus on how the change would affect the original ranking, and whether it warrants a change in the order of funding. | The language is intentionally broad in order to allow greater room for board discretion. Change in ranking and order of funding are captured in the last two proposed factors on the list. |
| Peter Mayer, Vancouver-Clark Parks and Recreation | <p>First factor: The intent is unclear. Whether the project is eligible for a different program category appears irrelevant at this stage in the process. What are the possible outcomes and other considerations if the project is eligible in another category?</p> <p>Second factor: How influential is the response from the local government or lead entity? What process and criteria will be used to receive input from them?</p> <p>Third factor: Is the response to this question also being reviewed by the technical committees? Are new evaluation criteria used? Does the change in scope change the compliance with these strategies?</p> | <p>First factor: Stakeholders removed language that explained that in rare circumstances the board may want to approve a scope change request for a project that is ineligible in the original category. For example, if the project is eligible in another category that is undersubscribed, then the alternate project in the original category could be funded and the unused funds in the new category could fund the amended project.</p> <p>Second factor: The board may determine the extent to which this factor is considered. There are no specific criteria or processes for local government or lead entity response.</p> <p>Third factor: This factor ensures that the project continues to “fit” with the priorities listed in the strategies. The amended project may be evaluated against original criteria by technical committees before being submitted to the board. The factors are for use by the board.</p> |

| Commenter | Summarized Comments (Edited for Brevity) | Staff Response (if applicable) |
|-----------|--|--|
| | <p>Fourth factor: Is a concurrent review by federal program decision makers also necessary to assess whether the change will be approved by those entities as well? This question should also ask whether the proposed scope change significantly changes the required timeline of the project agreement such that it presents a risk of loss of matching resources.</p> <p>Fifth factor: The question should be modified to establish some sort of threshold so that it is clear that the replacement property is critical in achieving program goals.</p> <p>Sixth factor: Does this mean that only alternates from the particular round be considered, or can projects from other grant rounds be considered?</p> <p>Seventh factor: If the project is compared to the other competing projects, would the proposed scope change modify the project rankings for funding?</p> | <p>Fourth factor: Staff has not examined federal program scope change policies. Current RCO policy requires the sponsor to submit documentation explaining how the amendment will affect the sponsor's ability to perform obligations of the existing contract.</p> <p>Fifth factor: The question is designed to guide the board toward consideration of the broader consequences of the scope change decision in order to avoid unintended impacts. Rather than setting threshold limits, stakeholders decided the board should have discretion to determine the extent to which this factor is considered.</p> <p>Sixth factor: The question guides the board to consider what would be funded in place of the amended project. Typically, the money would go to the next alternate project. If there are no alternates in the program account, the money could fund projects in the subsequent biennium.</p> <p>Seventh factor: Ranked lists of projects funded by the Washington Wildlife and Recreation Program (WWRP) and the Aquatic Lands Enhancement Account (ALEA) are submitted to the legislature for approval. Thus, the ranking order cannot change.</p> |