WASHINGTON STATE
Recreation and Conservation Funding Board

Proposed Agenda
Recreation and Conservation Funding Board Regular Meeting

August 20, 2010
Natural Resources Building, Room 172, Olympia, WA
Board members outside Olympia will attend and participate in this meeting by conference call.

Time: Opening sessions will begin as shown; all other times are approximate.

Order of Presentation:
In general, each agenda item will include a presentation, followed by board discussion and then public comment. The board makes decisions following the public comment portion of the agenda item.

Public Comment:
If you wish to comment at a meeting, please fill out a comment card and provide it to staff. Please be sure to note on the card if you are speaking about a particular agenda topic. The chair will call you to the front at the appropriate time.

You also may submit written comments to the Board by mailing them to the RCO, attn: Rebecca Connolly, Board Liaison at the address above or at rebecca.connolly@rco.wa.gov.

Special Accommodations:
If you need special accommodations to participate in this meeting, please notify us by August 13, 2010 at 360/902-3013 or TDD 360/902-1996.

FRIDAY, AUGUST 20

1:00 p.m. **Establish Conference Call**
Board members should call the conference line so staff can confirm the settings on the recording system.

1:05 p.m. **Call to Order** *Board Chair*
- Roll Call and Determination of Quorum
- Review and Approve Agenda – August 20, 2010

1:10 p.m **1. Consent Calendar** ***(Decision)*** *Board Chair*
a. Approve Board Meeting Minutes – June 24-25, 2010

Resolution #2010-12

1:15 p.m. **2. Operating and Capital Budget Requests for 2011-13** ***(Decision)*** *Steve McLellan*
a. Operating budget
b. Washington Wildlife & Recreation Program
c. Boating Activities Program
d. Youth Athletic Facilities Program

Resolution #2010-13

2:15 p.m. **3. Progress Report on Acquisition Policy Updates and Potential Changes** *Leslie Ryan-Connelly*

3:00 p.m. **ADJOURN**
Next meeting: October 28 - 29, 2010 Olympia, WA

Recreation and Conservation Funding Board
Revised Resolution #2010-12
August 2010 Consent Agenda

BE IT RESOLVED, that the following August 2010 Consent Agenda item is approved:

a. Approval of Board Meeting Minutes: June 24-25, 2010

Resolution moved by: _____

Resolution seconded by: _____

Adopted/Defeated/Deferred (underline one)

Date: _____

** DRAFT **

Recreation and Conservation Funding Board Summarized Meeting Agenda and Actions, June 25, 2010

Agenda Items without Formal Action

Item	Board Request for Follow-up *(Due Date in Italics)*
Management Report	The board asked Kaleen to send a copy of the memo to Rep. Kretz and offer to meet with him. *(June – completed)* The board wants to ensure that they have time at a future meeting to discuss the options and identify the approach they want to take for developing a grant program for community gardens. *(2011 schedule)*
Acquisition Policy Updates and Potential Changes	Staff should proceed with the work as planned, and provide a briefing in August. *(August)*
Request for Board Guidance: City of Kent Stormwater Proposal	If the city of Kent wants to proceed, they need to return with more detailed information. Staff needs to provide more information about how the funding sources affect the policy and decision.
Performance Review and Board Work Plan	The board requested edits to the strategic plan and work plan (Summer – completed) • Rewrite Principle #3 to read "The plans and strategies (conservation and/or recreation) of federal, state, tribal, local government, and other partners should help guide the identification and prioritization of projects." • Put the phrase "close to home" back into Strategy 1.B.5. • Add the revision to the conversion policy (in the agency work plan) to the board work plan.
Preparing for the 2011 Legislative Session	The board did not request legislation for 2011. Staff should proceed with 2011-13 budget development, with a board decision in August. *(August)*

Agenda Items with Formal Action

Item	Formal Action	Board Request for Follow-up *(Due Date in Italics)*
Consent Calendar	Approved	
Boating Infrastructure Grants: Request to Delegate Authority to Director	Approved • Delegated authority to the director to submit Tier 1 and Tier 2 projects to the U.S. Fish and Wildlife Service for federal fiscal year 2011	Report the final project ranking and the projects sent for federal consideration *(October)*
Conversion Request: City of Newcastle, May Creek Trail Addition, RCO #91-211	Rejected • Conversion request was denied, pending further board discussion of conversion policy.	Staff to research and report on the board's current authority regarding conversions Newcastle request to be considered at future meeting *(possibly October)*

RECREATION AND CONSERVATION FUNDING BOARD SUMMARY MINUTES

Date: June 25, 2010 Place: Walla Walla Community College, Walla Walla, Washington

Recreation and Conservation Funding Board Members Present:

Bill Chapman, Chair	Mercer Island	**Stephen Saunders**	Designee, Department of Natural Resources
Steven Drew	Olympia	**Rex Derr**	Director, State Parks and Recreation
Jeff Parsons	Leavenworth	**Dave Brittell**	Designee, Department of Fish and Wildlife
Harriet Spanel	Bellingham		
Karen Daubert	Seattle		

It is intended that this summary be used with the notebook provided in advance of the meeting. A recording is retained by RCO as the formal record of meeting.

Thursday, June 24, 2010

Joint Meeting with the State Parks Commission

Fred Olson and Bill Chapman made opening remarks, welcoming the board members for the first joint meeting between the two boards. Board members then participated in an extensive discussion of the ways in which they could promote greater sustainability in their work. Members of both boards noted the various approaches, environmental and cost trade-offs, and the importance of sharing information among agencies and project sponsors as this dynamic field evolves. Key points included:

- Policy development should proceed simply and slowly, with careful consideration to unintended consequences. The first step should be policy statements, without changes to evaluation criteria.
- Any policy should prioritize incentives rather than requirements. However, incentives should not penalize good projects where sustainable approaches are impractical or too costly. Proven technologies should be prioritized over newer practices. The cost and location of the materials are also elements of sustainability.
- Lowering the long-term costs should be weighed against initial cost savings.

Board members agreed that the discussion was valuable. They agreed to hold additional joint sessions either annually or biennially, with topics to be determined in the future.

** DRAFT **

Friday, June 25, 2010

Opening and Management Report

Chair Bill Chapman called the meeting to order at 8:38 a.m. Staff called roll, and a quorum was determined.

- The Recreation and Conservation Funding Board (board) approved the agenda as presented.
- The board reviewed Revised Resolution #2010-09, Consent Calendar.

Resolution 2010-09 moved by: Derr and seconded by: Daubert
Resolution APPROVED

Representative Maureen Walsh welcomed the board to Walla Walla. She discussed recreation and conservation projects and efforts in the area, in particular those related to salmon recovery.

Item 2: Management Report

RCO Director Kaleen Cottingham reviewed her management report. In particular, she noted the state audit findings and discussed the changes that the agency has made, and reviewed a memo that she wrote to the board about the agency's response. She assured the board that the agency has not paid for items that the state did not receive, and that we have systems in place, including a risk-based approach to sponsor audits. Kaleen also noted that we are improving those systems and moving to performance based contracts. She concluded by explaining the circumstances related to the grants that were audited. Rachael Langen noted that the mitigation plan had been delivered to OFM for approval on Wednesday June 23.

The board discussed ways to respond to clear the record and whether any further action is needed. They also noted that there are a number of things that were not found in the audit – and that the programs are fundamentally sound. The board asked Kaleen to send a copy of the memo to Rep. Kretz and offer to meet with him. The board also encouraged the RCO to complete its mitigation plan.

Kaleen also noted performance metrics and the expiration of the Biodiversity Council. Rex noted the hard work of the RCO to close the Kiket Island project.

Summary of 2010 Supplemental Budget Impacts

Steve McLellan, policy director, reviewed the legislative session and supplemental budget effects as described in the staff memo.

Grant Management Report

Section managers Marguerite Austin and Scott Robinson reviewed the information in the grant management memo. They discussed project review and evaluation, noting that the review teams included over 100 volunteers from throughout the state. Scott also noted that three interns are currently doing inspections for LWCF and boating grants to help reduce the backlog of inspections due. Marguerite discussed projects that received alternate funding, highlighted the Seahurst Park project in Burien and the Mount Vernon Kiwanis Park, and discussed the final report that staff are developing in PRISM.

Policy Update

In response to board questions at the March meeting, Steve McLellan, policy director, explained that community gardens are eligible in two programs and that the board has funded eight as part of other projects. The agency is authorized to participate in federal grant programs, so new legislation would not be needed if a federal community garden grant program were created. In response to questions from board member Drew, Steve gave further information about the Department of Health community garden grants. Board member Parsons suggested that there be additional outreach for stand-alone community garden projects. Steve noted that we are working to develop the partnership with the DOH. Board member Drew noted that the board would need to think about the definition, scope, and criteria for community gardens. Chair Chapman reminded the board that staff is still seeking funds and that there was a good discussion at the last meeting. Steve noted that there are many moving parts, and that we need to figure out the board's role in the broad scope. The board wants to ensure that they have time at a future meeting to discuss the options and identify the approach they want to take for developing a grant program.

Steve also noted the natural resources reform effort. We are participating in three activities – one front door web access; streamlining grant and loan processes; and building the natural resources GMAP system.

Board Decisions

The board took action on two topics, as follows.

Item 3: Boating Infrastructure Grants: Request to Delegate Authority to Director

Section Manager Marguerite Austin explained the circumstance that led staff to ask the board to delegate authority to the director to forward the list of eligible Washington State BIG projects to the U.S. Fish and Wildlife Service.

Resolution 2010-10 moved by: Derr and seconded by: Parsons
Resolution APPROVED

Item 5: Conversion Request: City of Newcastle, May Creek Trail Addition, RCO #91-211

Grant manager Laura Moxham explained the background and current circumstances surrounding the city of Newcastle's request for approval of a conversion of about 2.5 acres of the May Creek Trail Addition project. The city proposes to replace this property with about 1.1 acres of similar property.

In response to questions from board members, Laura and Newcastle Parks Manager Michael Holly provided the following additional information:

- The replacement property was purchased to satisfy the conversion.
- The replacement and conversion properties were appraised at an R-1 value, as if the retention pond were not there. The conversion property appraisal was done in April 2009; the replacement property was appraised in September 2008. The board expressed concern about the dates of the appraisals, given market changes.
- The trail will not cross private property to provide a crossing to Coal Creek Parkway because there is a new stoplight crossing.
- The city has control over the road and path near the surface water pond. There was no change in ownership to the school district; only a change in use.

The board discussed the request at length, expressing dismay that the conversion happened without board approval and noting the following concerns:

- Would approval set a precedent such that sponsors assume they can put stormwater ponds in RCO-funded parks?
- Are there financial or other penalties that the board can use to discourage sponsors from converting properties without prior approval?
- Could the requirements for conversions be higher if there is clear willful non-compliance from the sponsor?
- Does the board have a way to require that converted properties not be developed further, even after a deed restriction is removed through the conversion process?
- Can the board recoup revenue generated from the property prior to the conversion (e.g., sale of timber)?
- Is there a system through which the warnings and penalties could be progressively applied based on the severity of the conversion or situation?

Kaleen Cottingham, Marguerite Austin, and Scott Robinson provided the following information to the board:

- Staff is working on ways to ensure that sponsors know the rules, especially as their staff changes over time.

- The board does not currently have the authority to levy fines or receive payments. Requesting repayment of the grant would create a revolving loan fund.
- Staff has discovered a number of conversions during inspections. They expect to find more as inspections continue.
- One option for penalties would be to amend the existing high-risk policy to include sponsors that have conversions that were not approved by the board. Staff suggested that the policy should not be retroactive.

Michael Holly noted that the city would be willing to keep the deed restriction on the converted property, as well as the replacement property.

Resolution 2010-11 moved by: Derr and seconded by: Saunders

Amended as follows:

NOW THEREFORE BE IT RESOLVED, the Recreation and Conservation Funding Board expresses its concern with this conversion because it of its failure to respect the grant process. The board reluctantly approves the conversion request and the proposed replacement site for RCO Project #91-211A May Creek Trail Addition, and

BE IT FURTHER RESOLVED, the board authorizes the director to execute the necessary amendments, including retaining the deed of right on the converted property, and

Resolution FAILED 3-5
Members Derr, Chapman, and Saunders voted in favor; Members Brittell, Drew, Parsons, Spanel, and Daubert opposed the resolution.

The board noted that this is part of a broader discussion. They directed staff to research and report on its current authority regarding conversions. The city should not take further action on the conversion until after that discussion.

Briefings

Item 4: Acquisition Policy Updates and Potential Changes

Grant manager Leslie Ryan-Connelly explained that RCO staff is working on updates and revisions to Manual #3: *Acquiring Lands*. Changes will include clarifying procedures; ensuring consistency with other laws and rules; incorporating board-approved policies; and revising existing policy. She explained the different approval processes for procedural changes versus significant policy changes, and gave examples of both. Leslie concluded by describing the timeline and next steps for the process.

Board member Stephen Saunders made the following comments:

- RCO staff should check with the Department of Natural Resources (DNR) transactions team on how they do the work and how they have considered the issues.
- DNR is still working on moving to yellow book for appraisals, but found that few appraisers have yellow book certification. Training is difficult to access.
- Having landowner acknowledgment at the time of application could be a challenge because they are applying for large "envelopes" that could have over 100 owners. Leslie noted that they might need a different approach for landscape-scale projects.

There were no other board comments.

Item 6: Request for Board Guidance: City of Kent Stormwater Proposal RCO #04-1143 (Clark Lake Park Expansion 04)

Grant manager Karl Jacobs described the background and circumstances regarding the city of Kent's proposal to use a portion of Clark Lake Park for off-site stormwater detention and treatment. The proposed stormwater pond is designed to have both ecological and passive recreational benefits to the park. Staff is asking the board to provide direction on whether the proposal (a) is a bona fide recreational amenity or (b) constitutes a conversion.

The board commended the city for bringing the proposal to the board before proceeding. However, they noted that the proposal lacks details and forces the board to make assumptions. The city should have a more complete, specific proposal, and a formal study that demonstrates that the work improves the park and/or is a real enhancement of the wetland. The board noted that the original intent was to mitigate stormwater, not to improve the lake. The scale of the pond in relation to the overall park also is a significant factor in a future decision. Finally, the board noted that the funding source (state versus federal) could affect their decision because of the different policies at the federal level. Based on the information available, several board members were inclined to consider this a conversion.

The board also discussed the general idea of using parks for off-site stormwater mitigation. Members noted concern that the intent of such proposals is usually mitigation cost savings, not park enhancement. They want to be certain that their decisions do not set a precedent that encourages sponsors to use parks for stormwater.

Item 7: Performance Review and Board Work Plan

Rebecca Connolly, Board Liaison and Accountability Manager, presented information about agency performance and the agency's updated strategic plan. She also asked the board to consider changes to its own strategic plan and to adopt a fiscal year 2011 work plan. The board asked for the following revisions:

- Rewrite Principle #3 to read "The plans and strategies (conservation and/or recreation) of federal, state, tribal, local government, and other partners should help guide the identification and prioritization of projects."
- Put the phrase "close to home" back into Strategy 1.B.5.
- Add the revision to the conversion policy (in the agency work plan) to the board work plan.

Member Drew moved to adopt the strategic plan and work plan with these edits. Member Dauber seconded the motion. Motion passed.

Item 7D: Deliverables for Director's Evaluation and Process Discussion

Chair Chapman briefed the board on the director evaluation process and asked for volunteers for the subcommittee. Subcommittee members will be Bill Chapman, Steven Drew, and Harriet Spanel.

Item 8: Preparing for the 2011 Legislative Session

Policy director Steve McLellan explained the decisions that the board will need to make in August regarding budget, and the legislative decision packages that the RCO will put forward regarding the Monitoring Forum and Invasive Species Council. The board indicated support for continuing both bodies.

McLellan also explained the new budget process, noting that the RCO will need to answer a number of questions. The board asked staff to provide the following information at the August meeting:

- The justification that the RCO will provide with the budget request
- Logic and strategy behind different WWRP funding levels
- Information from statewide sessions
- Recommendation on what we need versus the anticipated funding

The board recommended the following key messages for the agency, noting that these will be considered as they make their decision in August.

- Need to show the impact of lost momentum and staffing
- Need to respect partners and keep the momentum of programs that have just started.

- Demonstrate what we bought over the years and the public benefit.
- Tie to jobs and economic stimulus

State Agency Partner Reports

Board member Brittell reported that the Department of Fish and Wildlife is trying to do a better job of managing lands and communicating what they do. They are asking for operations and maintenance dollars in the next session.

Board member Saunders reported that the Department of Natural Resources also is hearing that they need to do a better job of managing lands that they own. They rely heavily on volunteers. He also raised the issue of making costs for activities that support the grant program eligible for reimbursement. These activities include training, supervision, and so on.

Meeting adjourned at 3:15 p.m.

Approved by:

_____ _____

Bill Chapman, Chair Date

WASHINGTON STATE
Recreation and Conservation Funding Board

Recreation and Conservation Funding Board
Briefing Memo

Item 2

Meeting Date:	August 2010
Title:	Operating and Capital Budget Requests for 2011-13
Prepared By:	Steve McLellan, Policy Director Mark Jarasitis, Chief Financial Officer

Approved by the Director: Kaleen Cottingham

Proposed Action: Decision

Summary

The Recreation and Conservation Office must submit its 2011-13 biennial budget (operating and capital) to the Office of Financial Management in early September 2010. Staff is asking the Recreation and Conservation Funding Board (board) to approve several budget requests.

Staff Recommendation

Staff recommends the board set the level of funding request for each of the following programs:

- For the capital budget, we seek your decision on the level of the Washington Wildlife & Recreation Program (WWRP) request.
- For the capital budget, we seek your decision about whether to request funding in the Youth Athletic Facilities program, and if so, at what level.
- For the operating budget, we seek your decision on whether to request funding for the Boating Activities program, and if so, at what level.

In addition, staff recommends proposing funding levels based on estimated revenues for the following grant programs:

- Aquatic Lands Enhancement Act (ALEA)
- Boating Facilities Program (BFP)
- Boating Infrastructure Grants (federal -- BIG)
- Firearm and Archery Range Recreation (FARR)
- Land and Water Conservation Fund (federal –LWCF)
- Nonhighway Off-Road Vehicle Account (NOVA)
- Recreational Trails Program (federal -- RTP)

Staff will enter the request amounts into Resolution #2010-13 during the meeting, before the vote.

RCO, on behalf of the Salmon Recovery Funding Board, will also submit capital and operating budget requests to the Office of Financial Management. The RCO will, on behalf of the agency, the

Invasive Species Council and the Monitoring Forum, submit decision packages to the Office of Financial Management that address operational issues, including technical adjustments and extensions for the Invasive Species Council and Monitoring Forum past their scheduled sunset dates in 2011.

Strategic Plan Link

Consideration and approval of the 2011-13 funding requests enables the board to fulfill its goals, and supports the following objectives and strategies:

> Objective 1.A. – Provide leadership to help our partners strategically invest in the protection, restoration, and development of habitat and recreation opportunities. We do this through policy development, coordination, and advocacy.
>
> Strategy 1.A.1. – Evaluate and develop strategic investment policies and plans so that projects selected for funding meet the state's recreation and conservation needs.
>
> Objective 1.B. – Provide funding to help partners protect, restore, and develop habitat and recreation facilities and lands.

Background

Current Operating Budget Outlook: General Fund

While it appears that Congress will approve additional Medicaid funding for states, other revenues continue to be flat or slightly eroding. As a result, there is still the possibility of further across-the-board general fund budget cuts before the end of the biennium.

Current Operating Budget Outlook: All Funds

The current RCO operating budget for 2009-11 is as follows:

	FY11 FTEs	***Biennial Budget***
General Fund State	9.16	2,966,000
Federal Funds *(~$315K is for Rec/Conservation)*		10,322,000
Biodiversity Private/Local (Grant from Dept. of Transportation)		250,000
Recreation/Conservation *(NOVA, ALEA, Recreation Resources Account, and FARR)*	13.95	4,076,000
Total	**23.11**	**17,614,000**

Budget Outlook for 2011-13: Operating Budget

The financial outlook for the next biennium continues to be grim. The current estimate is that the operating budget will face a shortfall of over $3 billion. Absent significant changes in the underlying budget, that shortfall is projected to increase to over $8.7 billion by the 2013-2015 biennium. This situation could also change depending upon the fate of several initiatives on the fall ballot.

New Budget Process: Essential Services and Priorities of Government

Because of these fiscal realities, the operating budget process will focus on defining "essential" government services and replacing General Fund dollars with user fees or other funds whenever possible. For the first time, OFM has asked agencies to respond to a series of eight questions about each major agency activity[1]. They will use the responses as part of budget analysis through a modified "Priorities of Government" process.

As an initial screen, agencies were asked whether activities are "essential." The test to meet the definition of essential is very strict: the state constitution, federal law, and/or court decision must require the activity. Agencies may propose that other activities are essential (e.g., those that are required by state law; are governed by existing contracts; leverage federal funds; produce general funds; or are supported by fees), but these will face much stricter scrutiny.

For the "recreation and conservation investments" activity, RCO noted that it is required by state law, governed by existing contracts, leverages federal funds, and –in some cases – is supported by fees. As of 2010, RCO manages more than 6,400 grants totaling $1.4 billion. Grant recipients have contributed more than $877 in matching resources, making the total recreation and conservation investment more than $2.3 billion. Beyond the required match, state agencies will often use WWRP grants as match to leverage additional federal grants for large conservation projects.

Another of the eight questions asked whether the activity could "be eliminated or delayed in recessionary times." The background document that accompanied the questions listed WWRP land acquisitions as an example of an activity that might be included in this category. RCO staff noted in response that WWRP is funded from the capital budget so the only effect on the operating budget is a small amount needed for debt service. Also, land prices and interest rates are both at very low levels, making such investments timely. In addition, eliminating new grant funds could have a "ripple effect" on project sponsors who rely on projects as a part of their ongoing operations.

In our discussion with OFM, RCO has made it clear that even if funds for new projects are delayed or deferred, there will continue to be a need for operating funds. Existing contracts require

[1] For OFM purposes, an "activity" is an operating budget description of the work we do. RCO activities include "Manage Recreation and Conservation Investments" and "Manage Salmon Recovery Investments." Individual grant programs are not "activities."

ongoing management, and completed projects have ongoing stewardship obligations that require compliance reviews. For example, in the last budget cycle, the legislature swept a substantial amount of NOVA and Boating funds but left operating funding for RCO. Failure to provide operating funding would result in significant staff reductions and a loss of on-going oversight of the state's investments.

We also have noted that RCO's grant evaluation process appears to fit the Governor's call for increased use of performance contracting and performance incentives. By using a statewide, competitive process to evaluate and rank projects, only the best of the best move forward. Because funds are awarded on a reimbursement basis, there is an incentive for sponsors to promptly complete projects. RCO contracts contain provisions that penalize non-performance or failure to comply with ongoing public stewardship obligations.

As noted above, the responses to these questions will be used by OFM as part of the Priorities of Government analysis, along with agency performance data. Through the Priorities of Government process, all agency activities are ranked in terms of their importance. The entire budget will be evaluated in terms of six core "values," one of which is to "Protect natural resources, cultural and recreational opportunities." There may also be internal budget hearings held by OFM in which agencies are asked to appear and discuss and defend their budget requests. The Governor's proposed 2011-13 budget is scheduled to be released in mid-December.

New Budget Process: Citizen Input and Budget Hearings

In July, a special advisory panel appointed by the Governor held four budget hearings around the state. The panel will not be making specific budget decisions, but is expected to advise the Governor on budget options and strategic approaches to the deficit. At the hearings over 400 citizens testified including a number who supported continued funding for conservation and recreation in general and WWRP in particular.

The Governor also established a website (http://transformwabudget.ideascale.com) to collect suggestions for budget changes from the public. Ideas for natural resources include the use of volunteer and/or prisoner work crews for park maintenance, having polluters pay clean-up fees, requiring annual passes for all state lands, and maintaining NOVA and WWRP grant funds in the next budget cycle.

Budget Outlook for 2011-13: Capital Budget

The operating budget environment has implications for the capital budget. Because of debt limit restrictions, the size of the capital budget is directly affected by the size of the operating budget. We expect there will be significant pressure to move expenses, where possible, from the operating to the capital budget or from dedicated funds to bond funds (thus allowing dedicated funds to be transferred to the operating budget, such as happened with the "sweep" of NOVA and boating funds to State Parks). In any event, the final result is likely to be a smaller and more competitive capital budget. In addition, legislative budget staff indicates that there is significant demand for capital spending from K-12 and higher education. This reinforces the likelihood that capital budget resources will be tight in the 2011-13 biennium.

Analysis

The RCO must submit its 2011-13 biennial budget proposal to the Office of Financial Management by September 8.

Operating Budget

The final operating and capital budget submission will include some technical changes, and decision packages approved by the director, such as requests to extend the Washington Invasive Species Council and Forum on Monitoring Salmon Recovery and Watershed Health.

Grant Programs

As shown in the table below, some of the agency requests will be based on dedicated fund revenue projections, some will be based on expected federal funds, and others are requests for general funds or bond funds. The RCO plans to request full restoration of the Nonhighway Off-Road Vehicle Activities (NOVA) and Boating Facilities Program (BFP) funds that were reprogrammed to State Parks in the 2009-11 biennium.

		Appropriation	
	Source	**07-09**	**09-11**
STATE PROGRAMS			
Programs for which the board requests a funding level			
Washington Wildlife & Recreation Program (WWRP)	Bonds	$100,000,000	$70,000,000
Boating Activities Program	GFS (Operating)	2,000,000	0
Youth Athletic Facilities Program (YAF)	Donation/ Interest, Bonds	2,500,000	0
Programs for which budget is based on revenue projections			
Aquatic Lands Enhancement Program (ALEA)	Sales/Bonds	5,025,000	5,025,000
Boating Facilities Program (BFP)	Tax/Fees	8,021,000	0*
Firearms and Archery Range Recreation Program (FARR)	Tax/Fees	472,000	495,000
Nonhighway, Off-Road Vehicle Program (NOVA)	Tax/Fees	9,036,000	0*
Subtotal, State Programs		***127,054,000***	**75,520,000**
FEDERAL PROGRAMS *(spending authority is sought based on potential federal appropriation)*			
Boating Infrastructure Grant Program (BIG)	Federal	200,000	1,000,000
Land & Water Conservation Fund Program (LWCF)	Federal	1,000,000	4,000,000
Recreational Trail Program (RTP)	Federal	3,500,000	4,000,000
Subtotal, Federal Programs		***4,700,000***	***9,000,000***
RCFB Grant Program Totals		**131,754,000**	**84,520,000**

* The legislature reprogrammed these funds to State Parks in 09-11.

Washington Wildlife and Recreation Program

The Washington Wildlife and Recreation Program (WWRP) is funded through the capital budget with general obligation bonds. Funding for WWRP was doubled to $100 million in 2007, after being near the $50 million level since 1989. As shown in the table below, the board requested $100 million for 2009-11, the governor's budget recommended $50 million, and the legislature ultimately approved $70 million.

Biennium	Board Request	Governor's Budget	Legislative Appropriation
05-07	$60 million	$45 million	$50 million
07-09	$100 million	$70 million	$100 million
09-11	$100 million	$50 million	$70 million

As of July 30, sponsors have submitted 227 grant applications for WWRP totaling $168 million. The following table shows four funding scenarios and the resulting distribution to the eleven WWRP funding categories, as well as the current requests by category. The amount of distributions to each funding category is in accord with statutory requirements.

Dollars in millions	--- Funding Levels ---				***Applications to Date***
	$40 m	**$50 m**	**$70 m**	**$100 m**	
Habitat Conservation Account					
Critical Habitat	$8.7	$9.2	$11.8	$14.0	*$25.6*
Natural Area	$5.8	$6.1	$7.9	$10.5	*$16.1*
Urban Wildlife	$3.9	$4.1	$5.2	$7.0	*$22.5*
State Lands Restoration	$1.0	$1.0	$1.3	$3.5	*$4.0*
Subtotal	$19.4	$20.4	$26.2	$34.9	*$68.2*
Outdoor Recreation Account					
State Parks	$5.8	$6.1	$7.9	$10.5	*$13.0*
Local Parks	$5.8	$6.1	$7.9	$10.5	*$24.5*
Trails	$3.9	$4.1	$5.2	$7.0	*$15.9*
Water Access	$2.9	$3.1	$3.9	$5.2	*$7.8*
State Lands Development	$1.0	$1.0	$1.3	$1.7	*$4.2*
Subtotal	$19.4	$20.4	$26.2	$34.9	*$65.4*
Riparian Protection Account	$0	$3.9	$9.7	$18.4	*$21.7*
Farmlands Preservation Account	$0	$3.9	$5.8	$8.7	*$12.3*
Administration	$1.2	$1.5	$2.3	$3.0	
Total	**$40.0**	**$50.0**	**$70.0**	**$100.0**	***$167.6***

It is important to note that at every level of funding up to and including $100 million, the amount requested exceeds the amount that would be available in program categories. In addition, under

terms of the statute, funding for the Riparian and Farmlands accounts is not provided unless the overall appropriation exceeds $40 million.

The board needs to decide the level of WWRP appropriation of state bond funds to request in this budget cycle.

Boating Activities Program

In 2001, the legislature created the Boating Activities Program, which provides funds for State Parks and RCO boating activities grants. The legislature appropriated $2 million from the General Fund for the 2007-09 biennium, but OFM did not carry the program forward into the base budget for 2009-2011. The board requested, but did not receive, funding for the program in the current biennium. The funding for this program has been from the general fund. The majority of funding in this program is passed through State Parks to local marine law enforcement.

The board needs to decide if it will request an appropriation of state general funds in this budget cycle and if so, at what level.

Youth Athletic Facilities

The Youth Athletic Facilities grant program was created with a one-time $10 million contribution as part of the initiative to build Qwest Field. It was intended that the program would receive ongoing support from surplus funds remaining after the repayment of stadium bonds. To date, no surplus funds have come into the account. The program received a special $2.5 million capital budget bond appropriation in the 2005-07 biennium. About $273,000 remains in the account.

The board needs to decide if it will request an appropriation of state bond funds in this budget cycle and if so, at what level.

Other Grant Programs

For federally supported programs and revenue-supported state programs, the RCO will request budget amounts that reflect estimated federal appropriations and the current revenue projections for the programs. The following table shows the currently estimated funding for these programs.

Program	Funding Source	Estimated Funding
Aquatic Lands Enhancement Account (ALEA)	Revenue from state-owned aquatic lands	$5,025,000
Boating Facilities Program (BFP)	Gasoline tax	$9,590,400
Firearms and Archery Range Recreation (FARR)	Concealed pistol license fees	$264,600
Nonhighway Off-Road Vehicle Activities (NOVA)	Gasoline tax and off-road vehicle use permits	$9,031,400
Boating Infrastructure Grant Program (BIG)	Federal Grant Program (federal Aquatic Resources Trust Fund)	$2,200,000
Land & Water Conservation Fund (LWCF)	Federal Grant Program (federal revenue from selling/leasing off-shore oil and gas resources)	$4,000,000
Recreational Trail Program (RTP)	Federal Grant Program (funding from federal gasoline taxes)	$5,000,000

The RCO is asking the board to authorize the director to make these requests.

Attachments

Resolution 2010-13

Resolution 2010-13
Recreation and Conservation Office 2011-13
Operating & Capital Budget Request

WHEREAS, the Recreation and Conservation Office (RCO) must submit a 2011-13 Operating and Request Budget to the Office of Financial Management; and

WHEREAS, the operating budget will be in conformance with the Office of Financial Management instructions, including carry-forward, maintenance level, and enhancement items; and

WHEREAS, the RCO must also submit a 2011-13 Capital Request Budget to the Office of Financial Management; and

WHEREAS, for federally supported programs and revenue-supported state programs, the amounts requested will need to reflect estimated federal apportionments and the current revenue projections by the Departments of Transportation and Licensing; and

WHEREAS, the Recreation and Conservation Funding Board (board) finds there is a continuing and compelling need for funding to maintain and enhance the state's quality of life and ecosystem health by investing in outdoor recreation opportunities and important plant, fish and wildlife habitat; and

WHEREAS, the Washington Wildlife and Recreation Program and other RCO administered grant programs are critical components furthering the goal of maintaining and enhancing the state's quality of life and healthy ecosystems; and

WHEREAS, requesting budget support for these grant programs, and the RCO administration necessary to implement those grant programs, enables the board to fulfill its mission and goals;

NOW, THEREFORE, BE IT RESOLVED that:

1. The Board hereby approves the 2011-13 Budget requests shown below.

Program	2011-13 Request
Boating Activities Program	$
Washington Wildlife and Recreation Program	$
Youth Athletic Facilities	$
Aquatic Lands Enhancement Account	$5,025,000
Boating Facilities Program	$9,590,400
Boating Infrastructure Grant Program (BIG)	$2,200,000
Firearm and Archery Range Recreation	$264,600
Land and Water Conservation Fund	$4,000,000
Nonhighway and Off-road Vehicle Activities	$9,031,400
Recreational Trails Program	$5,000,000

2. The Director is authorized to modify and/or update the amounts as new revenue forecasts become available or to comply with Office of Financial Management budget instructions or directives. The Director also shall modify and/or update the request as necessary to meet the budget needs of the affiliated boards and councils, and to provide for scheduled rent, services, personnel increment dates, labor contract costs, and other operations costs.

3. The Director is authorized to apply for outside funding sources to supplement the capital budget consistent with the board and agency mission.

4. The Director shall submit any necessary reappropriation requests.

Resolution moved by: _____

Resolution seconded by: _____

Adopted/Defeated/Deferred (underline one)

Date: _____

WASHINGTON STATE
Recreation and Conservation Funding Board

Recreation and Conservation Funding Board
Briefing Memo

Item 3

Meeting Date: August 20, 2010

Title: Progress Report on Acquisition Policy Updates and Potential Changes

Prepared By: Leslie Ryan-Connelly, Senior Grants Manager

Approved by the Director: Kaleen Cottingham

Proposed Action: Briefing

Summary

Staff is preparing revisions to Manual #3: *Acquiring Lands*, with policy changes to be approved by the Recreation and Conservation Funding Board (board) at its October meeting. Staff will update the board on work accomplished since the briefing at the June meeting.

Strategic Plan Link

This work supports the board's strategy to "evaluate and develop strategic investment policies and plans so that projects selected for funding meet the state's recreation and conservation needs."

Background

Staff drafted revisions to Manual #3 *Acquiring Lands* in July. Following the Director's review, staff released three documents for public comment in early August:

- Current Manual 3;
- Draft revised Manual 3; and
- Side by side table comparing current Manual 3 language with revised language

The materials for review are posted on the RCO website under "Rule Making" at http://www.rco.wa.gov/about/rule_making.shtml. Public comments will be accepted through September 10, 2010.

The public can review the side-by side-table to quickly see the proposed revisions. Each section of the table includes an intent statement that summarizes the changes proposed. The revisions that are considered to be "significant policy changes" are highlighted in yellow. As noted in

June, staff will bring those revisions to the board for consideration in October. All other revisions are considered administrative and within the RCO Director's authority.

Proposed Significant Policy Changes

As shown in the following table, the proposed revision includes a number of significant policy changes that will require board approval. Significant policy changes would affect eligible projects, eligible costs, or a sponsor's ability to complete a transaction.

Proposed significant change to Manual 3	***Page number in the side by side table***
Ineligible Projects	9
Pre-Agreement Costs	11
Buying Land before an RCO Project Agreement is Signed	19
Easement Compliance	30
Title Insurance	37
Land Donations	44
Interim Land Use Approval	48
Appraisals and Review Appraisals	51
Appraisal Report Formats	55
Appraisal Reviews	56
Environmental Audits	64
Legal Access	69
Landowner Acknowledgement of Application	73
Acquisition for Future Use	77

Next Steps

At the August board meeting, staff will review the proposed changes and summarize any comments received to date.

In September, staff will review all of the public comments received, make appropriate revisions to the draft manual, and prepare a final draft for the board's consideration at the October board meeting. Staff will prepare a response to comments for all comments received for the board's review as well.

Attachments

A. Documents released for public comment

Recreation and Conservation Office

Revisions and Updates to Manual 3: *Acquiring Lands*

Public Review August 2010

Submit comments to manual3@rco.wa.gov

Current Manual 3 Text	Proposed Manual 3 Text
Eligibility Policies, Page 3 Types of Eligible Land Acquisition Projects An acquisition grant from IAC-SRFB may be used to purchase real property for a variety of habitat conservation, outdoor recreation and salmon recovery purposes. Not all programs, however, provide funding for acquisition. Refer to page 1 for a list of programs that allow acquisition proposals. In general, IAC grants may be used to purchase both fee and less than fee interest in real property. Fee acquisition includes the purchase of the land and improvements by either a *warranty deed* or a *quit claim deed*.	***Intent Statement:* Provides clarification on the types of eligible fee title acquisitions projects funded by RCO. There are no significant policy changes proposed in this section.** **Eligibility Policies** An acquisition grant from RCO may be used to purchase real property for a variety of outdoor recreation, habitat conservation and salmon recovery purposes. Not all programs, however, provide funding for acquisition. Refer to individual program manuals to determine whether acquisition proposals are allowed and if there are any program specific limitations. In general, RCO grants may be used to purchase both fee title and less than fee title interest in real property. The entity that will hold title to the property interests acquired must be a project sponsor or co-sponsor on the RCO Project Agreement, the formal contract between RCO and the project sponsor(s). All project sponsors and co-sponsors must be eligible to receive grant funding in the specific RCO grant program. **Fee Title Acquisitions**

Current Manual 3 Text	Proposed Manual 3 Text
	Fee title acquisition includes the purchase of land and improvements. A deed is the legal document that transfers title to a property and is recorded with the county auditor's office. Eligible types of deeds are statutory warranty, special warranty, quit claim, or bargain and sale deed. Other types of deeds may be eligible on a case by case basis. Consult RCO if the type of deed proposed for acquisition differs from the types listed here. A statutory warranty deed (or "general warranty deed") is the most protective type of deed and RCO's preferred type of conveyance for property. The statutory warranty deed binds the seller to the chain of title back to the origin of the property including all covenants and encumbrances on the title. A special warranty deed is a less protective form of property conveyance for the project sponsor and RCO. The seller conveys the property with only the warranty that he/she owns the property and warrants the encumbrances placed on the property during his/her period of ownership. It does not warrant the chain of title prior to the seller's ownership period. Special warranty deeds are frequently used by executors and trustees. A bargain and sale deed warrants only that the seller holds title to the property, but not the condition of the title and any covenants or encumbrances on the property. This type of deed is frequently used for land donations and foreclosures. A quit claim deed is the least protective type of deed. It conveys the property without any warranty as to the seller's interest in

Current Manual 3 Text	Proposed Manual 3 Text
	the property or any of the covenants or encumbrances. Quit claim deeds can be used to transfer property between family members or cure defects in the title or for other transactions. **Acquisition through Condemnation** Acquisition of property through condemnation or "friendly" condemnation is prohibited in the Salmon Recovery Grants program (WAC 486-12-090) and the Washington Wildlife and Recreation Program (RCW 79A.15.090). Acquisition through condemnation is allowed in all other RCO grant programs unless specifically prohibited.
Less Than Fee Title, Page 3 Less than fee acquisition includes the purchase of a lease, easement (road, right-of-way, trail, conservation right, etc.), property right (agricultural, development, mineral, timber, water, etc.), and reserve interests deeds. Less than fee acquisition is subject to the following conditions: 1. Unless precluded by state law, the interest length must be at least: ▷ 50 years for WWRP, ALEA, and BFP projects ▷ 25 years for NOVA projects ▷ 20 years for YAF projects ▷ 10 years for FARR projects. 2. The interest cannot be revocable at will by the signatories. 3. The value must be supported by an appraisal and appraisal review that meets IAC guidelines (pages 15 through 18). 4. The cost must be a lump sum payment at initiation.	***Intent Statement:* Provides clarification of the types of eligible less than fee title acquisition projects funded by RCO. There are no significant policy changes proposed in this section.** **Less Than Fee Title Acquisitions** Less than fee acquisition includes the purchase of a lease, easement (road, right-of-way, trail, conservation right, agricultural, etc.), other property right (development, mineral, timber, water, etc.), or reserve interest deed. A reserve interest deed conveys all rights to a property except those rights specifically reserved by the seller. The minimum interest length for a project acquiring a less than fee title acquisition differs depending upon the grant program as follows: **Minimum Interest Length for Less Than Fee Acquisitions**

<table>
<tr><th>Current Manual 3 Text</th><th>Proposed Manual 3 Text</th></tr>
<tr><td>The Salmon Habitat Recovery program only allows the purchase of less than fee property rights that safeguard the perpetual use requirements. The purchase of a lease is not eligible.</td><td>
<table>
<tr><th>Grant Program</th><th>Interest Length</th></tr>
<tr><td>• Land and Water Conservation Fund (easements only, leases are not eligible in the LWCF program)
• Salmon Recovery Funding Board (easements only, leases are not eligible in the SRFB program)</td><td>Perpetuity</td></tr>
<tr><td>• Aquatic Lands Enhancement Account
• Boating Facilities Program
• Washington Wildlife and Recreation Program (except those below)</td><td>At least 50 years</td></tr>
<tr><td>• Nonhighway Off-Road Vehicle Activities
• Washington Wildlife and Recreation Program’s Farmland Preservation Program
• Conservation Reserve and Enhancement Program lease extensions in the Washington Wildlife and Recreation Program’s Riparian Protection Account</td><td>At least 25 years</td></tr>
<tr><td>• Youth Athletic Facilities</td><td>At least 20 years</td></tr>
<tr><td>• Firearms and Archery Range Recreation</td><td>At least 10 years</td></tr>
</table>

Lease Requirements
The following terms are required for any lease acquisition:
• The lease may not be revoked by either party signatory to
</td></tr>
</table>

Current Manual 3 Text	Proposed Manual 3 Text
	the agreement (or "revocable at will" by the signatories). If the lease is revoke by a third party, the project sponsor will need to mitigate for the lost lease per RCO's conversion policy in *Manual #7: Funded Projects*. • The lease value must be determined by an appraisal and appraisal review that meets RCO guidelines as described in this manual. • Payment of the lease must be in a lump sum at the start of the lease, not over a period of years, and paid within the active period of the RCO Project Agreement unless payments have been made under an approved waiver of retroactivity. The purchase of a lease is not eligible in the SRFB or LWCF programs.
Perpetual Public Ownership & Stewardship, Page 3 ***Deed of Right.*** Lands acquired in-fee with IAC-SRFB assistance must be dedicated to habitat conservation, outdoor recreation or salmon habitat recovery uses in perpetuity (FARR exception listed below). This is done through a recorded Deed of Right to Use Land for Habitat Conservation, Salmon Habitat Recovery, or Outdoor Recreation Purposes (pages 28, 31, 34). This Deed conveys property interests to the public forever. It must be executed and recorded by the project sponsor *after* taking title to the property but *before* applying for payment. Ideally, it is	***Intent Statement:* Provides clarification on the Deed of Right requirements for all fee title acquisition projects. Provides for procedural instructions. There are no significant policy changes proposed in this section.** **Dedicated Public Ownership & Stewardship** **Deed of Right** The Deed of Right conveys to the people of the State of Washington the rights to preserve, protect, and/or use the property for public purposes consistent with the grant program and the Project Agreement. Lands acquired in fee title must be

Current Manual 3 Text	Proposed Manual 3 Text
recorded at closing so that the Deed of Right will appear on the title insurance policy. FARR Exception. RCW 79A.25.210 exempts Firearms and Archery Range Recreation (FARR) Program projects from this rule. Sponsors of such projects must repay grants accepted for facilities that become closed to the public less than 10 years after final reimbursement. This includes land acquisitions assisted with IAC grants. See FARR Program Manual 11 for more information.	dedicated to outdoor recreation, habitat conservation or salmon habitat recovery purposes as described in the Project Agreement in perpetuity, except in the FARR program. (See *Manual #11: FARR Program Policies and Selection Criteria* for details on long term obligations related to the FARR program). WAC 286. Dedication is done through a recorded Deed of Right. Sponsors must record a Deed of Right with the appropriate county auditor office when acquiring real property rights that include the underlying land. It must be executed and recorded by the project sponsor upon taking title to the property. The county auditor should send back the recorded document to the project sponsor. The project sponsor then provides a copy of the recorded Deed of Right to RCO. Templates for the Deed of Right are in Appendix __ and vary by grant program. Consult RCO if you are unsure which Deed of Right is required for the project. Provide RCO a draft Deed of Right for review prior to recording the document. The deed of right must be recorded at closing with the appropriate county auditor office, unless otherwise approved by RCO. The Deed of Right must appear on the final title insurance policy as an encumbrance on the property prior to receiving reimbursement for acquisition costs. If the Deed of Right is recorded after closing, RCO may request an updated final title report or endorsement to the title insurance policy reflecting the Deed of Right as an encumbrance.

Current Manual 3 Text	Proposed Manual 3 Text
	Removing/Changing a Deed of Right If a project sponsor needs to revise or remove a previously recorded Deed of Right, it may trigger a conversion of previously awarded grant funds and the Project Agreement. You should contact RCO to discuss the situation and how to proceed with meeting the Project Agreement requirements. RCO can also assist with the necessary legal documentation needed to remove the deed of right from the property.
Assignment of Rights, Page 3 An Assignment of Rights is a recorded legal agreement used to convey or assign to IAC-SRFB rights that protect the public interest in conservation easements acquired with IAC-SRFB funds. IAC-SRFB requires a perpetual conveyance. The Assignment of Rights is intended to secure the public's interest in the conservation easement by ensuring the longevity of habitat, restoration and enhancement projects. To accomplish this the Assignment of Rights does four things. 1. It commits the sponsor holding the easement to monitor and enforce the terms of the easement. 2. It gives the IAC-SRFB certain rights for access to the property covered by the conservation easement, which rights are co-held with the sponsor. 3. It indemnifies the state with respect to the acts or omissions of the landowner and sponsor on the salmon recovery or habitat property. 4. It requires the sponsor to consult with IAC-SRFB with respect to any amendment of the conservation easement or	***Intent Statement:* Provides clarification on the Assignment of Right requirements for less than fee title acquisition projects. Provides for procedural instructions. There are no significant policy changes proposed in this section.** **Assignment of Rights** Sponsors file an Assignment of Rights for all easements or leases being acquired unless otherwise noted in this manual. An Assignment of Rights is a recorded legal agreement that transfers certain rights such as access and enforcement to RCO. Easements acquired in the Farmland Preservation Program do not require an Assignment of Right as the farmland easement template incorporates the necessary provisions directly in it. The Assignment of Rights is intended to secure the public's interest in the easement or lease by ensuring the longevity of the project. To accomplish this, the Assignment of Rights does four things.

Current Manual 3 Text	Proposed Manual 3 Text
conversion of the salmon recovery or habitat land to another use. Collectively, these provisions of the Assignment of Rights ensure that the IAC-SRFB has the legal ability to step in and act if the sponsor fails to manage or defend the conservation easement as required under IAC-SRFB policies. The Assignment of Rights is to be executed and recorded by the sponsor after taking title to the conservation easement. The approved format of the Assignment of Rights is provided in Appendix G (page 41 [IAC], 48 [SRFB]).	• It commits the sponsor holding the easement or lease to monitor and enforce the terms of the easement or lease. • It gives the RCO certain rights for access to the property covered by the easement or lease, which rights are co-held with the sponsor. • It indemnifies the state with respect to the acts or omissions of the landowner and sponsor on the property. • It requires the sponsor to consult with RCO with respect to any amendment of the easement or lease or conversion of the land to another use. Collectively, the Assignment of Rights ensures that RCO has the legal ability to step in and act if the sponsor fails to manage or defend the easement or lease as required under RCO policies. An unsigned version of the Assignment Rights is incorporated as an exhibit in the easement or lease document. In a separate recording, a signed version of the Assignment of Rights is filed on the property. The county auditor should send back the recorded document to the project sponsor. The project sponsor then provides a copy of the recorded Assignment of Rights to RCO. The Assignment of Rights must be recorded at closing, unless otherwise approved by RCO. The Assignment of Rights must appear on the final title insurance policy as an encumbrance on the property prior to receiving reimbursement for acquisition costs. The template for the Assignment of Rights is in Appendix __. Provide RCO a draft Assignment of Rights for review prior to recording the document.

Current Manual 3 Text	Proposed Manual 3 Text
	An alternative to recording an Assignment of Rights is incorporation of the required language from the Assignment of Rights directly into the easement or lease document, thereby eliminating the requirement to record a separate document with the county auditor office. The language will depend upon the situation. Project sponsors must obtain RCO approval of the draft language prior to executing the easement or lease.
Ineligible Land Acquisition Projects, Page 4 IAC-SRFB program manuals contain specific information regarding ineligible land acquisition elements. The following is meant to provide broad guidance in this area. IAC-SRFB grants may *not* be used to acquire: 1. ***Land owned by the applicant/sponsor***, *except* when specifically required by state law (page 32). 2. ***Land to be used in support of indoor recreation***. This applies equally to existing buildings and undeveloped land where major indoor facilities will be constructed. *Excepted* are: (a) Firearms and Archery Range Recreation (FARR) Program indoor shooting ranges. (b) Enclosed swimming pools or ice-skating rinks that meet Land & Water Conservation Fund (LWCF) guidelines. (c) Existing or future indoor facilities that are compatible with the outdoor uses for which the land was acquired, such as restrooms, storage facilities, site maintenance structure, caretaker's residence, and overnight rustic cabins. 3. ***Land with museums***, or sites to be used for museums.	***Intent Statement:*** **Provides clarification on the types of ineligible acquisition projects. Moves discussions about eligible leases to the section on leases. Adds three types of ineligible projects. The changes in the types of ineligible projects are considered a significant policy change.** **Ineligible Projects** RCFB-SRFB program manuals contain specific information regarding ineligible land acquisition elements. Ineligible land acquisitions are not eligible for grant funding nor can it be used to fulfill a sponsor's match to a funded project. The following is meant to provide broad guidance in this area. RCFB-SRFB grants may not be used to acquire: • Land already owned by the applicant/sponsor, unless the project meets the eligibility requirements described in the "Acquisition of Existing Public Land" section or the "Purchase of Land before the Project Agreement" section in this manual.

Current Manual 3 Text	Proposed Manual 3 Text

4. ***Land to be used primarily for semi-professional and professional activities***, such as arts and athletics.
5. ***Land with sufficient revenue producing potential*** to finance the project's cost.
6. ***Land where exclusive use privileges will be leased***, such as boat moorage/storage or a membership golf course.
7. ***Land to be used solely for hatchery*** style fish production.
8. ***Established outdoor recreation areas*** developed under ownership or management of a public agency.
9. ***Land to mitigate the impact of a non-IAC-SRFB assisted project***, project element, or action of the project sponsor.
 	
LWCF monies may not be used to acquire a leasehold interest unless the land is leased from one public agency to another and includes provisions that safeguard the perpetual use requirement.
 	
Salmon Habitat Recovery funds may not be used to acquire leasehold interests.
	• Land to be used in support of indoor activities. This applies equally to existing buildings and undeveloped land where major indoor facilities will be constructed. Exceptions vary by grant program. See program related manuals for a list of indoor facilities that may be allowed in the program. Some examples of eligible indoor facilities includes:
	  o Indoor shooting ranges in the FARR program;
	  o Indoor swimming pools or ice skating rinks in the LWCF program; and
	  o Indoor facilities the support the outdoor uses of the land such as restrooms, storage facilities, and maintenances sheds,
	• Land with museums, or sites to be used for museums.
	• Land to be used primarily for semi-professional and professional activities, such as arts and athletics.
	• Land with sufficient revenue producing potential to finance the project's cost.
	• Land where exclusive use privileges will be leased, such as boat moorage/storage or a membership golf course.
	• Land to be used solely for hatchery style fish production.
	• Established outdoor recreation areas developed under ownership or management of a public agency.
	• Land to mitigate the impact of a non-RCO assisted project, project element, or action of the project sponsor.
	• Purchase of development rights for transfer to a receiving property.
	• Land that is contaminated per RCW 70.105D.

Current Manual 3 Text	Proposed Manual 3 Text
	• Land donated by a third party in lieu of mitigation fees required for a development.
Federal Agencies, Page 5 Federal agencies are not eligible for land acquisition grants from the IAC-SRFB. RCW 77.85.130(9) allows federal agencies under the Salmon Recovery program to receive title to lands acquired with SRFB grants only if: ‣ Title is transferred to the federal agency after purchase by an eligible sponsor, and ‣ The federal agency agrees to comply with all the terms of the SRFB Project Agreement, including filing the appropriate Deed of Right to Use Land for Salmon Recovery Purposes and/or Assignment of Right for Conservation Easements.	***Intent Statement:* Incorporates current policy from the Salmon Recovery Funding Board. There are no significant policy changes proposed in this section.** **Federal Agencies** Federal agencies are not eligible for land acquisition grants from the RCFB-SRFB. Federal agencies may receive title to lands acquired with SRFB grants funds in certain circumstances. RCW 77.85.130(7). Consult *Manual #18: Salmon Recovery Grants* on specific criteria related to transferring land to a federal entity.
Eligible Costs, Page 5 This section describes eligible acquisition costs. Only eligible acquisition costs can be reimbursed by IAC-SRFB, or used by the sponsor as a match for an IAC-SRFB grant. ***Pre-Agreement Costs.*** Typically, acquisition costs incurred by an applicant before signing the Project Agreement (the formal contract between IAC-SRFB and successful project applicants) are ineligible for reimbursement. However, there are some administrative and incidental costs which applicants may incur before signing the Project Agreement. These include:	***Intent Statement:* Expands the list of eligible pre-agreement costs to also include baseline documentation, clearing title, demolition, and relocation. Sets a time limit for eligible pre-agreement costs. The changes to the eligible pre-agreement costs and the time limit for pre-agreement costs are considered a significant policy change.** **Eligible Acquisition Project Costs** Only eligible acquisition costs can be reimbursed by RCO and used by the sponsor as a match for a grant. See *Manual #8: Reimbursement Manual* for more details on the reimbursement process.

Current Manual 3 Text	Proposed Manual 3 Text

• Administration
• Cultural resources review
• Appraisal
• Hazardous substance assessment
• Appraisal review
• Preliminary title report
• Boundary survey
• Wetland delineation
 	
All eligible acquisition costs can be reimbursed or used as a match if the applicant has requested and received a Waiver of Retroactivity from the Director. For more information, see page 7.
	Pre-Agreement Costs
	Typically, acquisition costs incurred by a project sponsor before signing the Project Agreement (the formal contract between RCO and successful project applicants) are ineligible for reimbursement. However, there are some administrative and incidental costs which applicants may incur before signing the Project Agreement. These costs are eligible pre-agreement costs if incurred up to three years prior to the Project Agreement.
	
	Pre-agreement costs are eligible for reimbursement or used as sponsor match but are limited to:
	
	• Administration Costs (See funding limits in the section on "Administrative Costs".)
	• Incidental costs limited to:
	  ▸ Appraisal & appraisal review
	  ▸ Baseline documentation - conservation easements only
	  ▸ Clearing of non-contested quiet title actions and quelling of outstanding interests
	  ▸ Cultural resources[1] (survey, excavation, on-site monitoring, data recovery, and other costs)
	  ▸ Demolition
	  ▸ Environmental audits as described in this manual
	  ▸ Preliminary title reports
	  ▸ Relocation

[1] Archeological and historical sites and artifacts, and traditional areas or items of religious, ceremonial, and social uses to affected tribes.

Current Manual 3 Text	Proposed Manual 3 Text
	▸ Survey of property boundaries. Surveys must be recorded on the property title. ▸ Wetland delineations All pre-agreement costs incurred must adhere to the requirements in this manual in order for the costs to be eligible for RCO funding or used as sponsor match. Project sponsors must ensure that incidental items such as appraisals, cultural resources review, and relocation costs meet the policies in this manual.

Current Manual 3 Text	Proposed Manual 3 Text
Administrative Costs, Page 5 Eligible project administrative costs include actual direct costs and similarly related charges associated with purchasing land, property rights, leases, or easements. Examples include: • Advertising • Public hearings • Billing preparation • Progress report preparation • Communication • Project administration • Consultation • Room rental • Contract award • Salaries and benefits • Correspondence • Site visits • Meetings • Taxes (administrative goods/services) • Negotiations • Travel costs to site/meeting Administrative costs are limited to no more than 5 percent of the total acquisition. The Director may approve individual project requests for increases up to 10 percent. Increases above 10 percent require IAC-SRFB approval. To request an increase above 5 percent, the sponsor must provide, in writing, justification for the increase. For example, include information on the project's complexity and any efficiency measures taken.	***Intent Statement:*** **Clarifies how the administrative cost maximum is calculated. Provides additional guidance on requests for an increase in the allowable administrative costs. Provides other clarifying language for existing policies. There are no significant policy changes proposed in this section.** **Administrative Costs** Eligible project administrative costs include direct costs related to acquiring the property and related charges. <u>Administrative costs are not eligible in the LWCF program.</u> Eligible administrative costs in all other RCO grant programs include: • Advertising • Attorney fees associated with drafting and review of easement language or quieting non-contested title interests only • Attorney fees in SRFB projects – see *Manual #18: Salmon Recovery Grants* for details) • Billing preparation • Communication • Consultation • Contract award • Correspondence • Meetings • Negotiations • Progress report preparation • Project administration • Public hearings • Room rental

Current Manual 3 Text	Proposed Manual 3 Text
	• Salaries and benefits • Site visits • Taxes (administrative goods/services) • Travel costs to site/meeting Administrative costs are limited to no more than 5 percent of the total costs of the property and incidental costs combined. RCO may approve a request to pay up to 10 percent administrative costs on a case by case basis. Increases above 10 percent require RCFB-SRFB approval. To request an increase above 5 percent, the sponsor must provide, in writing, justification for the increase. The request should include: • An explanation of why the additional administration costs are needed, • An update on the project's progress with specific information about the status of property negotiations, • Whether the same amount of property will be acquired with less funding available for land and incidental costs, and • Whether the project will be completed on time.
Property Cost, Page 6 Direct costs for the purchase of property or property rights are eligible. These include fee ownership and less than fee ownership costs.	***Intent Statement:*** **Requires supporting documentation to be submitted at the time of a reimbursement request. Incorporates existing policy on limits for environmental audits, noxious weed control, and stewardship plans. Requires all**

Current Manual 3 Text	Proposed Manual 3 Text
Fee ownership costs include: • Land • Improvements and structures Less than fee ownership costs include: • Easements, access • Easements, conservation • Easements, trails • Lease • Reserve interest deed • Rights, agriculture • Rights, development • Rights, mineral • Rights, timber • Rights, water ***Incidental Costs.*** These land acquisition support costs do not include actual land purchase. • Appraisal & review • Baseline documentation for conservation easements (page 40) • Closing • Cultural resources[2] (survey, excavation, on-site monitoring, and data recovery). • Demolition	**surveys to be recorded on the property. Clarifies eligible relocation costs. Allows for delinquent taxes on a case by case basis. Clarifies eligible incidental costs in the LWCF program. Incorporates other proposed policy changes referenced in this document. There are no significant policy changes proposed in this section.** **Property Costs** Direct costs for the purchase of real property or property rights are eligible. These include fee ownership and less than fee ownership costs. Fee ownership costs include land, shoreland, tideland, improvements and structures. Less than fee ownership costs may include easements, leases, and separate property rights such as minerals, timber, or water rights, depending upon the specific program. Property costs are determined by conducting an appraisal to determine just compensation to the landowner. The appraised value must be confirmed by an independent appraisal review. See the section on "Appraisal and Appraisal Review." **Incidental Costs** Incidental costs are those costs that are incurred when purchasing land or property rights. Once an incidental item has been completed, <u>the completed document must be submitted along with the invoice requesting reimbursement of the incidental cost item</u>. Electronic documents are preferable.

[2] Archeological and historical sites and artifacts, and traditional areas or items of religious, ceremonial, and social uses to affected tribes

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• Fencing (if needed for public safety or resource protection) • Hazardous substance environmental assessment (page 20) • Noxious weed control (initial control, up to $75 per acre.) • Recording fees • Relocation (includes administration) • Signing • Special reports • Survey (if needed to settle a known boundary dispute[s] or to protect public funds) • Taxes (compensating, excise, and pro rata taxes) • Title reports/insurance (includes insurance and clearing of non-contested quiet title actions [quelling outstanding interests]) • Wetland delineations. ***LWCF.*** Costs eligible in the federal LWCF Program are: • Closing Fees • Land and Existing Improvements • Pro rata Real Estate Taxes • Recording Fees • Relocation of Eligible Occupants, including Administration.	Eligible incidental costs for all RCO programs, except LWCF, are: • Appraisal & appraisal review • Baseline documentation - conservation easements only • Clearing of non-contested quiet title actions and quelling of outstanding interests • Closing fees • Cultural resources[3] (survey, excavation, on-site monitoring, data recovery, and other costs) • Demolition of structures • Fencing • Environmental audits, chain of title reports, and site investigation such as test pits, test wells, and sample analysis (limited to 10% of the appraised value of the property) • Noxious weed control (initial control, up to $125 per acre or $2500 per property for properties less than 20 acres.) • Recording fees • Relocation for eligible displaced tenants only when the property is acquired from a willing seller (including administration). See the section on "Relocation" for specific requirements and eligible costs. • Relocation for eligible displaced residents and tenants when the property is acquired through condemnation (including administration). See the section below on "Relocation" for specific requirements and eligible costs.

[3] Archeological and historical sites and artifacts, and traditional areas or items of religious, ceremonial, and social uses to affected tribes.

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	• Signs – boundary, entrance, notices, rules, etc. • Stewardship Plans – SRFB, WWRP Riparian and WWRP Farmland projects only • Survey of property boundaries – <u>must be recorded on the title</u> • Taxes due at closing (compensating, excise, and pro rata taxes). Delinquent taxes owed on a property prior to acquisition are eligible costs on a case by case basis with pre-approval from RCO. • Title reports and insurance – <u>RCO must be listed as additionally insured on the final title insurance policy</u> • Wetland delineations Incidental costs are limited in the LWCF program and only include: • Relocation allowable under the Uniform Relocation Assistance and Real Property Acquisition Policies, P.L. 94-646. • Cultural resources[4] (survey, excavation, on-site monitoring, data recovery, and other costs)
Ineligible Costs, Page 7 IAC-SRFB funds and sponsor matching monies may not be used for costs peripheral to buying land. Thus, ineligible costs include indirect costs, fees for feasibility studies, court costs, and in most cases, attorney fees. Attorney fees, however, are eligible when	***Intent Statement:* Moves statements on eligible costs to the eligible costs section. There are no significant policy changes proposed in this section.** **Ineligible Costs**

[4] Archeological and historical sites and artifacts, and traditional areas or items of religious, ceremonial, and social uses to affected tribes.

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associated with the drafting and legal review of easement language. The Salmon Habitat Recovery program may provide funding for assessments and feasibility studies as part of a combination project.	RCO funds and sponsor matching monies may not be used for costs peripheral to buying land or property rights. Thus, ineligible costs include indirect costs, fees for feasibility studies, court costs, and in most cases, attorney fees.
Waiver of Retroactivity, Page 7 In most cases, IAC-SRFB grant funds may be used only to reimburse expenses incurred during the period set out in the Project Agreement. This is known as the IAC-SRFB prohibition on retroactivity. However, based on written justification by an applicant regarding the critical need to purchase property before IAC-SRFB approves funding, the Director may issue a "Waiver of Retroactivity". Such a Waiver allows the acquisition costs incurred by the applicant to remain eligible for reimbursement through the next *two* consecutive grant cycles in the program in which the applicant seeks funds. Applicants must submit the waiver application and all required attachments as soon as possible and before closing escrow and taking title to the property. A Waiver is normally sought when an applicant decides that an imminent condition exists that jeopardizes the acquisition and thus decides to pursue the acquisition before funding approval. All such expenditures are made at the applicant's risk. That is, if a grant is not awarded, OIAC will not reimburse expenses.	***Intent Statement:*** **Changes the effective period for a waiver of retroactivity to two years for all grant programs. Incorporates other existing procedures for issuing waivers of retroactivity. Reduces the amount of documentation to submit with a waiver request. The change in the effective period for a waiver is considered a significant policy change that would affect certain grant programs.** **Buying Land before an RCO Project Agreement is Signed** Under most conditions, RCO only will pay for expenses that occur when the Project Agreement is active. However, a project sponsor may get approval from RCO in advance of closing on a property to cover land acquisition costs incurred before the Project Agreement is signed. The approval is called a "waiver of retroactivity" which waives the prohibition to reimburse costs incurred prior to the Project Agreement. (WAC 286-13-085) All acquisition costs that would be eligible during the Project Agreement period become eligible for reimbursement when a waiver of retroactivity is issued (not just pre-agreement costs). A project sponsor must request a waiver of retroactivity prior to acquiring the property. One waiver of retroactivity can be issued for the same property to cover different grant programs.

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The process to obtain a Waiver of Retroactivity differs somewhat between state funded and federally funded grant programs. There are even some differences among federal fund sources. To apply for a Waiver of Retroactivity, the applicant must forward to OIAC the information listed in Appendix I (page 66). This information is listed by fund source. Please note that waivers for the federal LWCF program require approval of IAC's Director approval and the National Park Service.	A project sponsor must request a waiver of retroactivity in advance of closing. The waiver may be requested only when immediate action is necessary and the grant won't be awarded in time. When a waiver is approved, it allows the project sponsor to acquire the property in advance of a signed Project Agreement without forfeiting eligibility to receive grant funding for the project. Approval of a waiver does not however, guarantee funding. When approved, a waiver is good for two years from the date of acquisition. To request a waiver of retroactivity, a project sponsor submits a written request, with a justification regarding the critical need to purchase property; location map; parcel map; and preliminary title report. RCO may request additional documentation as appropriate for review of the request. The request must be submitted prior to closing on the property, preferably 30 days in advance. In the LWCF program, RCO must obtain approval from the National Park Service prior to issuing a waiver of retroactivity so sufficient time is needed for federal and state approval. See more details in *Manual #15: Land and Water Conservation Fund*. Project sponsors compelled to acquire property prior to securing a Project Agreement, do so at their own risk. Be aware, if a grant is not awarded, RCO will not reimburse any expenses. Should a grant subsequently be awarded to acquire the property, all applicable policies in this manual must be met in order to receive reimbursement or to use the acquisition costs as match toward a

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	grant award. For example, the title must be free of encumbrances that limit the value or uses on the property disproportionately to the public benefit, relocation and cultural resource review must be completed, if appropriate, and the appraisal must be conducted to federal standards. In addition, costs associated with less than fee title property rights must meet the terms as outlined in this manual. For example, a conservation easement must be assignable to RCO. Project sponsors considering a less than fee title acquisition and planning to seek RCO grant funding should consult RCO about less than fee title requirements.
IAC-SRFB DECISIONS, PAGE 7 The following list summarizes many acquisition project decisions that may only be made by IAC in a public meeting. Each is in accord with statutes, rules, and IAC-SRFB policies. 1. Initial grant approval. 2. Any project cost increase that exceeds 10 percent of the total previously approved by IAC-SRFB. Cost increases are not allowed in some *IAC* programs. 3. A "conversion" that changes the project site or how the site is used from that described in the Project Agreement. 4. A significant change in the project's scope. Typically, such a modification includes any that the Director feels may have changed the project's evaluation score. Not included are changes that do not significantly modify the way the public uses a facility *or* the intended habitat conservation, salmon	***Intent Statement:* Incorporates existing policy regarding cost increases, scope changes, and conversions. There are no significant policy changes proposed in this section.** **RCFB-SRFB Decisions** The following list summarizes many acquisition project decisions that may only be made by RCFB-SRFB in a public meeting or by a subcommittee of the RCFB-SRFB. Each is in accord with statutes, rules, and RCFB-SRFB policies. 1. Initial grant approval. 2. A project cost increase of more than 10 percent of the project total in the Project Agreement for RCFB funded projects. Cost increases are only allowed in certain grant programs. Consult *Manual #7: Funded Projects* for more

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habitat recovery, or recreational opportunity funded by IAC-SRFB. 5. Changes in policy; for example, establishing new grant limits or eligible expenditures.	criteria related to cost increases for RCFB funded projects. 3. A project cost increase of more than 20 percent of the project total in the Project Agreement for SRFB funded projects. Consult *Manual #18: Salmon Recovery Grants* for more criteria related to cost increases for SRFB funded projects. 4. Approval to pay more than 10 percent in administrative costs of the total land and incidental costs combined. 5. A major scope change in the property to be acquired. See *Manual #7: Funded Projects* for more criteria and information regarding major scope changes. 6. 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: Funded Projects* for more criteria and information regarding conversions. 7. Changes in policy; for example, establishing new grant limits or eligible expenditures.
DIRECTOR'S DECISIONS, PAGE 8 The Director or staff designee makes many acquisition project decisions. The following list summarizes some of these decisions, each in accord with statutes, rules, and IAC-SRFB policies: 1. Appoint advisory committee and evaluation team members. 2. Establish and/or waive grant program deadlines. OIAC may not extend application — WAC 286-13-	***Intent Statement:* Incorporates all existing Director decisions in this manual, other manuals, and WAC. Requires that an appeal of a director decision be made sixty days in advance of a board meeting. There are no significant policy changes proposed in this section.** **Director Decisions** The RCO Director or staff designee makes many acquisition project decisions. The following list summarizes some of these

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deadlines for Salmon Recovery projects.	040(3) WAC 420-12-030 (1)	decisions that relate to acquisition projects, each in accord with statutes, rules, and RCO policies: 1. Authorize project reimbursements. 2. Approve a project cost increase up to 10 percent of the project total in the Project Agreement for RCFB funded projects. A cost increase is limited to a specific parcel's fair market value. (WAC 286-13-085). Cost increases are not allowed in all RCFB grant programs. Consult *Manual #7: Funded Projects* for more criteria related to cost increases for RCFB funded projects. 3. Approve a project cost increase up to 20 percent for SRFB funded projects up to 10 percent of the project total in the Project Agreement for SRFB funded projects. Consult *Manual #18: Salmon Recovery Grants* for more criteria related to cost increases for SRFB funded projects. 4. Approve paying up to 10 percent in administrative costs of the total land and incidental project costs. 5. Approve payment of certain attorney fees. 6. Approve payment of delinquent taxes due at the time of closing. 7. Approve payment up to 10 percent above the review appraised value of a property. 8. Approve the procurement of an appraisal by a third party. 9. Approve disregarding of new encumbrances on the property when determining appraised value. 10. Approve more than one appraisal and appraisal review per property. 11. Waive appraisal requirements for property that does not
3. Authorize grant application forms.	WAC 286-04-010, 286-13-020	
4. Accept or deny plans submitted to comply with grant eligibility requirements.	WAC 286-35-030	
5. Make project funding recommendations to IAC-SRFB .	WAC 420-04-040	
6. Require that applicants submit additional project information after approval of funding and before executing a Project Agreement.		
7. Execute Agreements for projects approved by IAC-SRFB .	WAC 286-13-060(1) WAC 420-12-050 (1)	
8. Authorize cost increases of 10 percent or less of an IAC project's approved initial cost.	WAC 286-04-070(3) WAC 420-12-060	
9. Authorize project reimbursements.	WAC 286-13-070	
10. Waive IAC sign recognition requirements.	WAC 286-13-120	
11. Terminate the Project Agreement.	Project Agreeme	

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nt 12. Require that grant funds be repaid to IAC-SRFB if spent in a manner that conflicts with applicable statutes, rules, and/or policy manuals. — WAC 286-13-100 WAC 420-12-075 13. Approve interim non-public use of an IAC assisted site. An applicant or sponsor may request that a decision made by the Director be reconsidered. This is done by writing to the Chair of the IAC-SRFB at least thirty days before a board meeting [WAC 286-04-060(3) and 240-04-30(3)]. Requests will be placed on the meeting agenda with an opportunity for the petitioner to address the board. Any subsequent IAC-SRFB decision is final.	exceed $10,000. 12. Approve environmental assessment costs above 10 percent of the review appraised value of a property. 13. Approve the qualifications of a relocation agent. 14. Approve a minor scope change in the property to be acquired. See *Manual #7: Funded Projects* for more criteria and information regarding minor scope changes. 15. Approve the all draft legal documents for less than fee acquisitions. 16. Issue a waiver of retroactivity to purchase property prior to execution of a RCO Project Agreement. 17. Waive sign recognition and public access requirements. 18. Terminate the Project Agreement. 19. Approve interim and compatible uses of an RCO assisted site. 20. Approve delayed restoration or development for future uses. 21. Require that grant funds be repaid to RCO if spent in a manner that conflicts with the Project Agreement or applicable statutes, rules, and/or policy manuals. A project sponsor may request that a decision made by the Director be reconsidered. This is done by writing to the Chair of the RCFB-SRFB at least sixty calendar days before a board meeting. Requests will be placed on the meeting agenda with an opportunity for the petitioner to address the board. Any subsequent RCFB-SRFB decision is final.
PHASED PROJECTS, PAGE 8	***Intent Statement:* Provides additional guidance on proposing**

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Phased, or staged, projects are subject to the following: ‣ Approval of any single phase is limited to that stage, no endorsement or approval is given or implied toward future stages. ‣ Each phase must stand on its merits as a viable project. ‣ Each phase must be submitted as a separate application. ‣ Progress on earlier stages is considered by IAC-SRFB when making decisions on current projects.	**phased projects. There are no significant policy changes proposed in this section.** **Phased Projects** Large projects can be complex, multi-year, multi-partner, and require extensive analysis, coordination, and implementation. A project sponsor should consider the potential complexity that large-scale or multi-million dollar projects may create, and should discuss phasing with RCO staff. Approval of any single stage is limited to that stage. No endorsement or approval is given or implied toward future stages. Progress on earlier stages may be considered by the RCFB-SRFB when making decisions on current proposals by the applicant. Phased projects are subject to all of the following criteria: • Each stage must stand on its own merits as a viable project. • Each stage must be submitted as a separate application.
COMBINATION PROJECTS, PAGE 9 Combination projects involve land acquisition and either facility development, planning, restoration or assessments and feasibility studies. Eligible combination projects vary by program; see policy manuals for details. To help ensure timely completion of combination projects, at least one month before IAC considers approval of funding for such projects, applicants must secure the property by one of the following methods: 1. Acquisition under the Waiver of Retroactivity policies and	***Intent Statement:* Incorporates existing SRFB policy. There are no significant policy changes proposed in this section.** **Combination Projects** Combination projects involve real property acquisition in combination with other work after the property is acquired such as a feasibility study, site planning, or construction. Eligible combination projects vary by program. See applicable policy manuals for details

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procedures (page 7). 2. Have property in escrow pending IAC-SRFB grant approval. 3. Obtain an option on the property that extends past the IAC-SRFB funding meeting. Execution of the option must occur within 90 days after this meeting. 4. Provide draft copies of all leases or easements to OIAC for review. Execution of the leases or easements must occur within 90 days after the funding meeting.	**RCFB Funded Projects** To help ensure timely completion of combination projects, the RCFB has set progress policies related to combination projects. At least one month before the RCFB considers approving funding for a combination grant, the project sponsor must secure the property by one of the following methods: 1. Acquisition under the waiver of retroactivity policies and procedures in this manual. 2. Have property in escrow pending grant approval. Closing must occur within 90 days after the funding meeting. 3. Obtain an option on the property that extends past the RCFB funding meeting. Execution of the option must occur within 90 days after this meeting. If the acquisition is for a non-perpetual interest, and if not already acquired 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 RCFB funding meeting. **SRFB Funded Projects** To help ensure timely completion of combination projects, SRFB funded projects must acquire properties within 18 months of the SRFB funding meeting.
ACQUIRING EASEMENTS, PAGE 9 Acquiring less than fee simple title may be a cost effective and	***Intent Statement:*** **Provides clarifying information and procedures. There are no significant policy changes proposed in**

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appropriate strategy for some acquisition projects. Policies included in this manual such as appraisal requirements, hazardous substances certifications, Deeds of Right/Assignments of Right, and title insurance all apply equally to acquisition of easements. Sponsors are responsible to ensure that the appraisal accurately reflects the subject property and rights to be acquired. Appraisals and appraisal reviews must meet the guidelines provided pages 15 and 18. Sponsors and OIAC must also review the preliminary title report and encumbrances for consistency with the purpose of acquiring the easement. Sponsors will need to secure title insurance on the rights purchased. The insurance policy must show that the property rights are free of unacceptable liens and encumbrances. This may involve releasing the subject portion of a larger parcel from liens at the time of closing. Draft easement documents should be pre-approved by OIAC to help ensure compliance with IAC-SRFB policies.	**this section.** **Acquiring Easements, Leases and other Targeted Property Rights** Acquisition of easements, leases and specific property interests, such as timber or water rights, are referred to as less than fee property rights. The holder of the easement or lease has control of specific property rights, but does not own the fee title interest in the underlying property. Acquiring less than fee title property rights may be an appropriate strategy for some acquisition projects. All policies included in this manual apply to the acquisition of less than fee rights including appraisal and appraisal review requirements, hazardous substances certifications, filing an Assignment of Rights or Deed of Right, and title insurance. The project sponsor is responsible to ensure that the appraisal accurately reflects the subject property and rights to be acquired. Hazardous substances certification is not required in the Farmland Preservation Program. The property title must be reviewed prior to closing on the property to ensure consistency with the purpose of acquiring the easement. (See the section on "Encumbrances and Title Insurance".) The property must be free of unacceptable liens and encumbrances. This may involve releasing all or portions of a parcel from liens at the time of closing or ensuring the lien is subordinate to the RCO funded easement. A subordination clause in the easement binds any existing or future lien holder to

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	the terms of the easement. Prior to closing on a less than fee rights transaction, the project sponsor must provide RCO with the preliminary title report, appraisal and appraisal review, and draft conveyance documents. Draft legal documents must be pre-approved by RCO to ensure compliance with RCFB-SRFB policies. Provide adequate time for RCO review of your draft documents which may include consultation with the Attorney General's Office.
CONSERVATION EASEMENTS, PAGE 9 IAC-SRFB allows sponsors that wish to protect habitat resources to consider less than fee simple acquisition techniques, such as conservation easements. To assist in purchasing such easements, IAC-SRFB has established three required document templates: ‣ Model Baseline Documentation & Narrative (Appendix F, page 40) ‣ Assignment of Right (Appendix G, page 41 [IAC], 48 [SRFB]). ‣ Model Conservation Easement (Appendix H, page 54) These three reports, or similar documents, are required of all sponsors acquiring conservation easements.	***Intent Statement:* Provides clarifying information and procedures. Incorporates existing policies in other manuals. Adds a section on easement monitoring. The requirement to provide RCO with an easement monitoring report once every five years is considered a significant policy change.** **Habitat and Salmon Recovery Conservation Easements** For the purchase of habitat and salmon recovery conservation easements, the RCFB-SRFB has developed a model conservation easement outline intended to provide an overview of the required and optional provisions to be included. (See section below for details on agricultural conservation easements.) If a sponsor chooses not to use the model easement, or to use only portions thereof, the sponsor must demonstrate that the easement language used addresses each applicable provision of the model easement and is consistent with the intent of each provision, with the appropriate grant program manual, and with the laws of the State of Washington. The complete model

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	habitat and salmon recovery conservation easement template is located in Appendix ___. All habitat and salmon recovery conservation easements must include an Assignment of Rights on behalf of the RCO. The Assignment of Rights ensures RCO certain rights for access and stewardship to the property. The Assignment of Rights protects RCO's investment in the property, similar to a Deed of Right in a fee title acquisition, and requires replacement of the property should the easement be extinguished. The Assignment of Rights is recorded immediately following recording of the easement. The Assignment of Rights template is located in Appendix ___. **Agricultural Conservation Easements** For the purchase of agricultural conservation easements in the Farmland Preservation Program, the RCFB has developed a model agricultural conservation easement with specific required and optional provisions to be included. If a sponsor chooses not to use the model easement, or to use only portions thereof, the sponsor must demonstrate that the easement language used addresses each applicable provision of the model easement and is consistent with the intent of each provision, with the Farmland Preservation Program manual, and with the laws of the State of Washington. The complete model agricultural conservation easement template is located in Appendix ___. See Manual *#10f: Washington Wildlife and Recreation Program, Farmland Preservation Program* for details on the model agricultural conservation easement.

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	Baseline Inventory Baseline documentation is required for all conservation and agricultural easements acquired with RCO funds. The baseline documentation must be prepared prior to closing and signed by the landowner and easement holder at closing. In the event of poor seasonal conditions for documenting all conservation values, an interim baseline with a completion schedule must be signed at closing. If the baseline has been completed and a significant amount of time has elapsed before the easement is transferred, it should be reviewed and possibly updated prior to closing. (*Sponsors should consult IRS regulations on the timing of a property's conditions at the time of any gift.) **Easement Compliance** The model habitat and agricultural conservation easement templates require that each easement include a provision to provide access to the Grantee (RCO's project sponsor) to conduct a general inspection of the easement area and to monitor compliance with the easement terms. RCO recommends a project sponsor conduct easement monitoring at least annually. Project sponsors must submit an easement monitoring report to RCO at least once every five years.
TRAIL & ACCESS EASEMENTS, PAGE 10 Easements are sometimes the preferred option for securing perpetual access. Easements may be desired for purposes of site management or for public recreation. At minimum easement documents must include:	***Intent Statement:*** **Provides clarifying information and procedures. There are no significant policy changes proposed in this section.** **Trail and Access Easements**

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1. A precise legal description with corresponding boundary map 2. Statutory language necessary to convey real property interests in Washington state 3. Statement of duration 4. Statement of purpose 5. Clear description of the rights that are being conveyed 6. Provide right to prevent any activity or use of the property that is inconsistent with the purpose of the trail/access easement 7. Maintenance clause, and 8. Provide for a Deed of Right to the state of Washington through IAC-SRFB.	Trail easements may be appropriate for trail related projects such as trail corridors. Access easements may be necessary in order to secure legal or public access to a property or for construction purposes. Trail and access easements must include: 1. A surveyed legal description and map; 2. Statutory language necessary to convey real property interests in Washington state; 3. Statement of duration; 4. Statement of purpose; 5. Clear description of the rights that are being conveyed; 6. Provide right to prevent any activity or use of the property that is inconsistent with the purpose of the trail/access easement; 7. Maintenance clause; and 8. An Assignment of Right to the state of Washington through RCFB-SRFB or include RCO's Deed of Right language directly in the easement.
MITIGATION ACQUISITIONS, PAGE 10 Under certain conditions, IAC funds may be used to buy and/or develop land required by a mitigation plan. Typically, this occurs when a project to be developed with IAC funds eliminates a pre-existing opportunity, amenity, or function. For example, a mitigation plan may require that a wetland to be lost when an athletic field is developed be replaced with property that matches the original wetland's attributes. In such cases, a portion of the IAC grant may be used to buy and develop	***Intent Statement:* Provides clarifying information and procedures. There are no significant policy changes proposed in this section.** **Property Acquired for Mitigation Purposes** RCO funds may be used to buy land required by a mitigation plan when the mitigation is a requirement of a project to be developed with RCO funds. For example, a new wetland may be required as mitigation for development of an athletic field on an existing wetland area.

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the replacement land. When this occurs, IAC urges sponsors to buy land that will also serve as a habitat, natural area, or recreation site. In such cases, the maximum amount of an IAC grant allowed for mitigation is 25 percent. Any property acquired or developed this way is included in the Project Agreement. Acquisitions for mitigation purposes are not eligible in the Salmon Habitat Recovery program.	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 grant funding allowed for the mitigation portion of the project (including purchase of the land and the construction costs) is 25 percent of the total construction and associated administrative cost in the Project Agreement. RCO encourages the purchase and development of mitigation land that serves multiple functions such as providing habitat and recreation at the site. Any mitigation property acquired or developed must be included in the Project Agreement and included within the legal description of the recorded Deed of Right or Assignment of Rights. Acquisitions specifically for mitigation purposes related to impacts from other projects are not eligible for funding.
ACQUIRING PUBLICLY OWNED LANDS, PAGE 10 Publicly owned lands are eligible for IAC-SRFB acquisition grants only under the following circumstances: ‣ State law requires that the agency owning the land must receive compensation and ‣ The land was not originally acquired by the agency for habitat conservation (for habitat conservation proposals), salmon habitat recovery (for salmon habitat recovery proposals), or recreation use (for outdoor recreation proposals) and ‣ The land has never been publicly managed for habitat conservation (for habitat conservation proposals), salmon	***Intent Statement:* Provides clarifying information and procedures. There are no significant policy changes proposed in this section.** **Acquisition of Existing Public Property** In general, property that is already under public ownership or management is not eligible for RCO grant funding. (See the section "Ineligible Projects.") There are two exceptions to this policy that allows existing public property to be eligible for RCO grant funding.

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habitat recovery (for salmon habitat recovery proposals), or recreation (for outdoor recreation proposals). RCW 39.33.010 provides for the transfer of lands from one public body to another without compensation.	1. The property was acquired under a waiver of retroactivity. See the section on "Buying Land before a RCO Project Agreement is Signed"; <u>or</u> 2. The following three circumstances are satisfied: a. State law requires that the agency owning the land must receive compensation, <u>and</u> b. The land was not originally acquired by the selling agency for habitat conservation (for habitat conservation proposals), salmon habitat recovery (for salmon habitat recovery proposals), or recreation use (for outdoor recreation proposals), <u>and</u> c. The land has never been publicly managed for habitat conservation (for habitat conservation proposals), salmon habitat recovery (for salmon habitat recovery proposals), or recreation (for outdoor recreation proposals). RCW 39.33 provides for the transfer of land from one public body to another without the requirement of full value compensation. Therefore, a project sponsor must provide other statutory evidence that the selling agency must receive full value for the property. For example, RCW 43.09.210 requires full value compensation of land when a local government transfers property from one department to another and RCW 87.03.136 requires irrigation districts to receive reasonable market value in certain transactions.

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ACQUISITION OF STRUCTURES TO BE RETAINED, PAGE 11 A structure incidental to a project is eligible for IAC grant assistance if it will be demolished, or if it is allowed by program policy to be used to support the primary habitat conservation or outdoor recreation activity at the site. The anticipated use must be clearly identified in the project application so that IAC may determine the structure's significance to the project. Allowable support facilities vary by program. Consult the appropriate program policy manual for guidance on allowable facilities.	***Intent Statement:* Provides clarifying information and procedures. There are no significant policy changes proposed in this section.** **Existing Structures** All structures on property acquired with RCO grant assistance must be removed or demolished unless RCO determines the structure is allowed by program policy and will support the intended uses at the site. Allowable structures vary by program. Consult the appropriate program policy manual for guidance on allowable structures. Prior to the demolition or removal of any structure or any ground disturbing activity, a project sponsor must comply with cultural resource review requirements in this manual under the "Cultural Resources Review" section. If project sponsor wishes to retain a structure that exists on the property, the intended use of the structure must be clearly identified in the grant application. RCO will then determine whether the structure is eligible to be retained per the specific grant program policies. If allowed, discussion of the structure's purpose and use must be included in the evaluation process. If a project sponsor wishes to retain a structure that is not eligible for RCO grant funding, then the structure and associated land and support facilities may be excluded from the scope of

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	the grant proposal. See the section on "Project Scoping" for more details on how to exclude areas from the scope of an RCO project.
ENCUMBRANCES, PAGE 11 Property rights acquired with IAC-SRFB funding assistance must be free of encumbrances that limit the value or uses disproportionately to the public benefit (i.e., habitat conservation or salmon habitat recovery values or the recreation use of a site). Appraisal reports must include consideration of existing encumbrances in order for an acquisition to qualify for reimbursement (page 15).	***Intent Statement:*** **Provides clarifying information and procedures regarding preliminary title review. Requires RCO to be listed as additionally insured on the final title insurance policy. Allows for costs related to extended title insurance on a case by case basis. Requiring RCO to be listed as additionally insured on the title insurance policy and allowing for costs related to extended title insurance are considered significant policy changes.** **Encumbrances and Title Insurance** Property rights acquired with RCO funding assistance must be free of encumbrances that limit the value or uses disproportionately to the public benefit (i.e., habitat conservation or salmon habitat recovery values or the recreation use of a site). Appraisal reports must consider the impact of all encumbrances on the property at the time of closing as part of the appraisal question in order for an acquisition to qualify for reimbursement. If the appraisal contains certain assumptions that may impact value, RCO may require that certain assumptions be perfected at closing (e.g., assumptions regarding legal access). The final title insurance policy must show that the property rights are free of unacceptable encumbrances as determined by RCO.

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	Preliminary Title Review RCO requires preliminary title review of all proposed acquisitions to ensure the above policies are met prior to closing on the property. Sponsors may choose one of the following three options for conducting preliminary title review. 1. Submit the preliminary title report for the target property (or properties) to be acquired for review prior to RCO issuing a Project Agreement. The RCO will review the preliminary title report and identify any encumbrances that may be of concern and/or need to be cleared prior to closing. 2. Submit the preliminary title report for the target property (or properties) to be acquired for review prior to RCO issuing a Project Agreement along with RCO's Preliminary Title Report Checklist in Appendix ____. On the checklist, the sponsor certifies that they have reviewed the title and identifies which encumbrances will be cleared prior to closing. 3. Request approval from RCO to conduct preliminary title review independently without RCO review. Your request must demonstrate your "best practices" for clearing title and ensuring that properties will meet RCO requirements in this manual. A sponsor may request independent review approval as an organization if it conducts multiple acquisitions with RCO funding. If approval is granted, a project sponsor proceeds with acquiring land at its own risk. RCO will withhold payment at reimbursement time if a property title does not meet RCO requirements.

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	Preliminary title review occurs after grant funding is awarded but prior to RCO issuing a Project Agreement. If a project sponsor does not provide the preliminary title report to RCO prior to issuing a Project Agreement, a special condition will be added to the Project Agreement that requires submittal of the preliminary title report prior to the release of any grant funds. RCO may request a preliminary title report as part of a grant application if the conditions of the property are unclear or may potentially be ineligible for grant funding. RCO recommends project sponsors request an updated preliminary title report one month prior to closing on the property to ensure no new encumbrances have been placed on the property since the last title review. *Title Insurance* A title insurance policy must be purchased on all real property acquisitions for the appraised value of the property regardless of whether the grant funds are from federal or state sources. RCO must be listed as additionally insured on the final title insurance policy. Extended or enhanced title insurance may be appropriate for other acquisitions on a case by case basis. Extended title insurance may require a boundary survey and other additional costs. Contact RCO if you are required or are considering purchasing extended title insurance and seeking RCO reimbursement for the cost. An exception to the title insurance requirement may be the purchase of land from a railroad company or other unusual

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	transactions. Consult with RCO if you are unable to obtain title insurance.
ACQUISITION & RELOCATION POLICIES, PAGE 11 Federal and state laws require agencies to comply with the *Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970*, commonly referred to as the Uniform Relocation Act, or URA (Public Law 91-646, as amended by the Surface Transportation and Uniform Relocation Assistance Act, P. Law. 100-17-1987; and chapter 8.26 RCW) on federally funded public projects. Failure to comply could lead to the loss of federal funding. Based on this, each applicant should review chapter 8.26 RCW to determine its need to comply. This should be done before submitting a land acquisition application, as IAC-SRFB is not responsible for providing advice regarding compliance. Please be advised compliance with the URA is mandatory for most recipients of federal funds. Regardless of whether or not a sponsor follows chapter 8.26 RCW, all sponsors must still abide by the appraisal and review requirements set forth in this manual (pages 15 and 18).	***Intent Statement:* Provides clarifying information and procedures based upon current law. Provides clarification on eligible relocation costs. There are no significant policy changes proposed in this section.** **Relocation** Federal and state laws require RCO to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, commonly referred to as the Uniform Relocation Act, or URA on all federal and state funded projects. (Public Law 91-646, as amended by the Surface Transportation and Uniform Relocation Assistance Act, P. Law. 100-17-1987; and chapter 8.26 RCW.) Local agencies (e.g., cities, counties, and special purpose districts) with powers of eminent domain may opt out of the relocation requirements per RCW 8.26.010(2) if the project <u>does not</u> involve federal funds. All other RCO project sponsors must comply with the relocation requirements. An RCO funded acquisition that involves the purchase of property from a willing seller is considered a voluntary transaction per WAC 468-100-101(2)(a). The project sponsor must provide the property owner written assurance that the property will not be acquired through condemnation at the beginning of any negotiation. See Appendix ___ for an example

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	letter. As the acquisition is a voluntary transaction, the seller is not eligible for relocation costs but any tenant that qualifies as a displaced person is eligible for relocation per an approved relocation plan. In those circumstances when a project sponsor must acquire property through condemnation and it is eligible in the RCO grant program, RCO will reimburse for residential, commercial and tenant relocation expenses for eligible displaced persons per an approved relocation plan.
UNIFORM ACQUISITION PROCEDURES, PAGE 11 The following procedures satisfy the acquisition requirements of the Uniform Real Property Acquisition portion of RCW 8.26.180 and chapter 468-100 WAC. While these requirements may apply to others, at minimum, agencies awarded LWCF or other federal monies must comply with these procedures: 1. The agency contacts the owner to learn if the land is for sale. In writing, the sponsor also offers the owner and tenants relocation assistance in accordance with the Uniform Relocation Act (page 40). Neither purchase negotiations nor price shall be discussed at this time. The parties may, however, discuss how they will determine the purchase price. 2. The agency determines whether or not relocation of owner or tenants will be involved and provides them with a written notice describing the agency's relocation program. 3. The agency has the real estate appraised (page 15) and	***Intent Statement:* Provides clarifying information and procedures based upon current law. There are no significant policy changes proposed in this section.** **Acquisition Procedures** Project sponsors of all RCO acquisition projects must follow the acquisition procedures per RCW 8.26.180 and chapter 468-100 WAC. These procedures apply to all RCO grant funded acquisition projects, both state and federal funding sources, regardless of whether there is relocation involved in the transaction. Below is a step-by-step process that is intended to guide sponsors in meeting the required procedures of RCW 8.26.180. If a project sponsor has a different process, contact RCO to ensure compliance with the requirements. Project sponsors must follow the following procedures:

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provides the owner with an opportunity to be present during the appraiser's inspection. (Appendix A) 4. The agency has the appraisal reviewed by an IAC-SRFB approved procedure (page 18). After receiving the reviewed (estimated) fair market value from the review appraiser, the agency may follow one of two options: Follow these steps if the agency wishes to negotiate an option for the property before IAC-SRFB approval: l) Using the "Offer of Purchase at Estimated Just Compensation" (page 26), the agency informs the owner of the value of the property based on the results of the reviewed appraisal. In writing, the agency also offers the owner and tenants eligible relocation costs. Nonprofit organizations and others exempt from RCW 8.26 may use the "Offer to Purchase" (page 27). 2) The agency secures an option to acquire the property. The option agreement must[5]: a. Be based on the offer to purchase. b. Not commit the agency to acquire the property. c. Stipulate that the cost of securing the option is to be applied to the purchase price, if the cost of the option is to be an eligible cost. d. Be valid at least 40 days beyond the date an IAC-SRFB Project Agreement would be issued. B. After receipt of the executed Project Agreement, follow these steps if the agency does not plan to secure an	1. Contact the landowner to learn if the land is for sale or if they are willing to entertain an offer. 2. In writing, inform the landowner that they are not compelled to sell the property to the agency, rather this is a voluntary transaction and relocation assistance will be provided for tenants that are eligible displaced person in accordance with the Uniform Relocation Act RCW 8.26. The value of the property or the purchase price is not discussed at this time. The parties may discuss how the property will be valued and how they will determine a purchase price. 3. If applicable, consult with an approved relocation agent and determine the eligibility of any relocation assistance for any tenants. 4. If applicable, provide the landowner a written notice describing the relocation program. 5. Obtain an appraisal of the property and provide the landowner an opportunity to be present during the appraiser's inspection. 6. Obtain a review of the appraisal to confirm the value of record. 7. Present the landowner with a statement of just compensation which informs the landowner of the appraised value of the property and offers eligible tenant relocation assistance, if applicable. A sample form is available in Appendix ___. 8. Negotiate an option agreement or purchase and sale

[5] These elements are especially important if the sponsor does not have adequate resources to acquire the property without IAC-SRFB funds.

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option before acquiring the property: 1) Using the "Offer of Purchase at Estimated Just Compensation" (pages 26 and 27), the agency informs the owner of the value of the property based on the results of the reviewed appraisal. In writing, the agency also offers the owner and tenants eligible relocation assistance in accord with the Uniform Relocation Act (page 11). Nonprofit organizations and others exempt from RCW 8.26 may use the "Offer to Purchase" (page 27). 2) The agency acquires the property by a Warranty Deed, easement, lease execution or other IAC-SRFB approved instrument.	agreement with the landowner. If an option agreement or purchase and sale agreement is secured <u>before</u> execution of an RCO Project Agreement, the agreement should: a. Be based upon the statement of just compensation price established by an appraisal and confirmed by an appraisal review; b. Not commit the agency to acquire the property; c. Stipulate that any cost of securing an option is to be applied to the purchase price (This ensures that the cost of the option is an eligible RCO grant expense later.) d. Be valid at least 40 days beyond the date an RCO Project Agreement is issued. 9. Conduct any due diligence proceedings (e.g., title review, hazardous substances review, etc.), ensure compliance with RCO policies, and obtain RCO approval for any draft legal documents. 10. Acquire the property and record conveyance documents and a RCO Deed of Right or Assignment of Right, as applicable, with the county auditor.
UNIFORM RELOCATION ASSISTANCE, PAGE 12 The sponsor may perform the administrative services needed to prepare a Relocation Plan, prepare relocation cost estimates, and relocate displaced persons if it has a qualified agent (staff or contract). OIAC must agree in advance on the qualifications of the agent to perform the work and it must be approved by the	***Intent Statement:* Provides clarifying information and procedures. There are no significant policy changes proposed in this section.** **Relocation Services** The project sponsor must conduct administrative services

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lead agency, Washington State Department of Transportation (WSDOT). Otherwise, the sponsor will need to hire either a qualified consultant, a qualified staff person from another state agency, or relocation staff from WSDOT to perform these services. The sponsor pays the cost of these services directly to the consultant or agency. The sponsor must inform property owners and tenants about the relocation assistance entitlements for which they may be eligible. This should be done according to the procedures set forth in the Uniform Relocation Act. Be aware the Act is specific about when and how relocation is discussed with those persons considered displaced. For more information about relocation assistance or acceptable forms to be used in providing relocation assistance, contact WSDOT, Real Estate Services Relocation Program Manager, 360/ 705-7329 or visit the WSDOT web site at www.wsdot.wa.gov/realestate.	needed to comply with the Uniform Relocation Act RCW 8.26, if there are eligible displaced persons associated with the property. These services may include preparation of a relocation plan, relocation cost estimate, and relocation services. RCO must agree in advance on the qualifications of the relocation agent to perform the work. The relocation agent must be approved by the lead agency, Washington Department of Transportation (WSDOT). The project sponsor may need to contract with another state agency, such as WSDOT, to perform these services. Administrative costs and contracts to conduct relocation are eligible relocation expenses in an RCO grant. For more information about relocation assistance or acceptable forms to be used in providing relocation assistance, contact WSDOT Real Estate Services Relocation Program at http://www.wsdot.wa.gov/realestate/.
ACKNOWLEDGMENT & SIGNS, PAGE 13 Land acquisition project sponsors *must* acknowledge the IAC-SRFB funding assistance, by program if possible. This includes: ‣ Prominent placement of on-site signs, unless waived by the Director. The sponsor may build such signs to harmonize with an existing design standard *or* request a standard acknowledgement sign from OIAC. ‣ In any release or publication developed or modified for the project. ‣ Comments at dedication ceremonies; notify OIAC at least two weeks before the ceremony.	***Intent Statement:* Provides clarifying information and procedures. There are no significant policy changes proposed in this section.** **Funding Acknowledgement and Signs** Acquisition projects, except projects in the Farmland Preservation Program, must acknowledge the RCO funding assistance, by program. Some habitat conservation or salmon habitat recovery areas contain species or other resources so sensitive that it is unwise to places signs at the site. In these cases, the project sponsor may seek RCO approval to waive

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Some habitat conservation or salmon habitat recovery areas contain species or other resources so sensitive that it is unwise to allow access to the general public. In these cases, the sponsor should seek IAC-SRFB approval to waive signing and/or public access requirements.	signing requirements Acknowledgement includes: • Prominent placement of a sign on the property, unless waived by RCO. The sponsor may build such signs to harmonize with an existing design standard or request a standard acknowledgement sign from RCO. • Recognition in any release or publication developed or modified for the project. • Recognition at dedication ceremonies; notify RCO at least two weeks before the ceremony if you wish to have a representative of RCO at the ceremony.
WHEN LAND ACQUISITION COSTS EXCEED FAIR MARKET VALUE, PAGE 13 IAC-SRFB accepts an appraisal as a valid estimate of a property's value *if* the appraisal has been reviewed and approved as described on pages 15 and 18. After the appraisal (reviewed and approved), however, negotiations between the seller and sponsor may establish a higher price. If the sponsor plans to seek IAC-SRFB reimbursement for this higher price, it must ask for approval by the Director. This written request must discuss: ‣ Why the property owner does not accept the appraised value, and ‣ Why the project sponsor and the IAC-SRFB should pay more than this estimated fair market value.	***Intent Statement:* Provides clarifying information and procedures. There are no significant policy changes proposed in this section.** **Acquisition for More than the Appraised Value** RCO reimburses for land costs based upon the appraised value that is confirmed by an appraisal review. If negotiations with the property owner establish a higher price, the project sponsor may agree to pay a higher price and only seek reimbursement from RCO based upon the appraisal value. In limited circumstances, RCO may approve paying up to ten percent more than the appraised value of the property. Approval to pay more than the appraised value is not approval for additional grant funds or a grant cost increase. It allows RCO

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In such cases, IAC-SRFB considers both the negotiated price *and* appraised value in establishing its reimbursement and/or grant amount. The Director may approve paying up to 10 percent more than the appraised value of a property. The 10 percent amount is based on the appraisal (reviewed and approved). Such cost adjustments are made on a parcel-by-parcel or property basis, not on the total project cost. This approval does not include additional funds for the project; however, it does allow reimbursement based on the higher approved purchase price. IAC sponsors may seek IAC approval for any increase greater than 10 percent. Sponsors should review IAC-SRFB program policy manuals and IAC Manual #7, *Funded Projects: Policies and the Project Agreement* for information regarding cost increases for acquisition projects. Once IAC-SRFB awards funding, a sponsor can pay more than the appraised value (reviewed and approved) without approval if it does not seek a cost increase or reimbursement for the higher value. If IAC-SRFB denies an increase, the sponsor may pay more than the appraised value if the sponsor bears the responsibility of the increased cost.	to reimburse for the higher approved purchase price. Approvals are made on a property by property basis, not for the entire scope of a project. Requests for reimbursement above ten percent of the appraised value must be approved by the RCFB-SRFB. A project sponsor must request approval to pay more than the appraised value prior to closing on the property. The written request must address the following questions and include a copy of the appraisal, appraisal review, and draft purchase and sale agreement or option agreement. • What was the appraised value of the property? • What is the proposed purchase price? • How may the appraised value not reflect market value? Include adequate market data to substantiate the purchase price. • How far back in time or how far afield did the appraiser need to go to find comparable values? Were there adequate comparables readily available? • Did any of the comparables include other RCO or public or private conservation acquisitions? • Are there any proposed interim land uses on the property? • Will the additional expense result in a scope change with the Project Agreement? Will original scope of work still be completed? • Are there alternative properties within the Project Agreement that could be pursued or is this project unique

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	in some way (e.g. specific park location, wildlife species nesting area on site, sensitive plant species on site)? When considering whether to pay above the review appraisal value, RCO considers both the negotiated price and appraised value in establishing its reimbursement and/or grant amount. If RCO denies approval to pay above the review appraised value, the project sponsor may pay the higher price at its own expense.
DOCUMENTATION REQUIRED FOR LAND DONATIONS, PAGE 14 If the project sponsor buys the land for less than estimated fair compensation and seeks a donation of credit for this value, a statement of difference in value must be supplied to IAC-SRFB. The statement must be signed by the seller and acknowledge that before the sale, the owner: ‣ Was aware of the estimated just compensation amount ‣ Was offered the estimated just compensation amount, if required (see the section titled *Acquisition & Relocation Policies*, page 11). ‣ Made the choice to sell for less than the estimated fair compensation voluntarily, as an act of free will.	***Intent Statement:*** **Provides clarifying information and procedures. Removes the requirement to offer the property owner just compensation consistent with practices in the LWCF program. Identifies land donations related to development impact fees is not eligible for grant funding or sponsor match which is considered a significant policy change.** **Land Donations** Property acquired at less than fair market value is eligible for RCO grant funding as a land donation from the seller. The land donated must meet program eligibility requirements. The land donation transaction must follow the Acquisition Procedures section in this manual including appraisal, appraisal review, hazardous substances certification, title insurance, etc. If property is acquired at less than the review appraised value, the project sponsor must obtain a statement signed by the landowner that acknowledges that before the sale the owner: • Was provided a statement of just compensation which

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	identifies the appraised value of the property including land, improvements and relocation, and • Is donating all or a portion of the value of the property voluntarily, as an act of free will. The landowner donation statement must be provided at the time the project sponsor requests reimbursement from RCO. In general, donations of land in lieu of permit fees or dedication of land as a requirement of a permit approval for third party related development impacts are not eligible donations of land for RCO grant purposes and may not be used as sponsor match.
ESCROW PAYMENTS, PAGE 14 Although IAC-SRFB local agency and nonprofit organization grant programs typically operate on a reimbursement basis, after execution of a Project Agreement, escrow payments for acquisitions may be made. Requests for such payments must include copies of: 1. A legally binding agreement between the sponsor and seller, normally called a "Purchase and Sale Agreement". 2. A copy of the Buyer's Estimated Settlement Statement. 3. Evidence showing that the sponsor's share has been deposited into an "Escrow" account. 4. The "Transfer Deed(s)" (which may or may not have been executed). 5. The "Deed of Right/Assignment of Rights" (which may or may not have been executed). 6. The "Preliminary Title Insurance Report," if not previously	***Intent Statement:*** **Provides clarifying information and procedures. There are no significant policy changes proposed in this section.** **Escrow Payments** Although RCO grant programs operate on a reimbursement basis, RCO can deposit grant funds in an escrow account for a pending acquisition as long as certain conditions are met. RCO requires a minimum of 30 days to process an escrow payment. Contact RCO early to begin the escrow payment process. RCO may not be able to process an escrow payment if the request is submitted less than 30 days in advance. A project sponsor must request an escrow deposit in writing and include the following documents: 1. Acquisition reimbursement forms (e.g., A-19, Form 201

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provided. 7. The "Offer to Purchase" if required. 8. Hazardous Substances Certification. After IAC-SRFB advances payment, a copy of the executed and recorded deed, recorded "Deed of Right/Assignment of Rights," and Title Insurance Policy, naming the sponsor as legal owner, must be promptly provided.	and Form 207) as required in *Manual #8: Reimbursements.* 2. A legally binding agreement between the project sponsor and the landowner, typically a "Purchase and Sale Agreement" or an "Option Agreement". 3. The "Offer to Purchase at Just Compensation". 4. Land owner donation statement, if applicable. 5. A copy of the Buyer's Estimated Settlement Statement with evidence showing that the matching share has been deposited into the escrow account. 6. Escrow payment instructions that include reference to recording RCO's Deed of Right or Assignments of Rights, as applicable. 7. The draft transfer Deed or Easement. 8. The draft Deed of Right (for fee title acquisitions) or Assignment of Rights (for easements). 9. Baseline inventory (for conservation easements only). 10. An updated preliminary title insurance report, if not previously provided. 11. Appraisal and appraisal review. 12. Hazardous Substances Certification and supporting checklist or environmental site assessment. (Not required for projects funded in the Farmland Preservation Program.) After RCO deposits its funds in the escrow account and the transaction is complete, a copy of the executed and recorded deed, recorded Deed of Right or Assignment of Rights, and final title insurance policy, naming the sponsor as legal owner, must

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	be provided within 60 days. Once RCO deposits funding, closing must occur within 14 days or funds will be returned to RCO.
COMPATIBLE MULTIPLE USE, PAGE 14 IAC-SRFB allows non-outdoor recreation, salmon habitat recovery or habitat conservation use of acquisition projects, such as timber management, grazing, and other natural resource uses. These uses must be: ‣ Clearly compatible with the outdoor recreation, salmon habitat recovery or habitat conservation use approved in the Project Agreement ‣ Clearly secondary to the outdoor recreation, salmon habitat recovery or habitat conservation use approved in the Project Agreement ‣ Approved by the Director in writing.	***Intent Statement:* Provides clarifying information and procedures. There are no significant policy changes proposed in this section. The compatible use policy is currently under internal review and will be released for public review at a later date.** **Compatible Uses** RCO allows certain non-outdoor recreation, salmon habitat recovery, and habitat conservation use of acquisition projects, such as timber management, grazing, and other natural resource uses. These uses must be clearly compatible with and secondary to the outdoor recreation, salmon habitat recovery or habitat conservation use approved in the Project Agreement. RCO must approve any proposed compatible use in advance.
PUBLIC ACCESS In most cases, regardless of whether the property is developed, lands acquired with IAC grant assistance must be available for public use. Use of undeveloped or partially developed recreation areas may be restricted, however, total exclusion of the general public must be avoided. Sponsors must immediately dedicate lands acquired with IAC-SRFB assistance to public use. No one must deny the public this access even in the period between acquisition and any planned development or restoration.	***Intent Statement:* There are no significant policy changes proposed in this section.** **Public Access** In most cases, regardless of whether the property is developed, lands acquired in fee title with RCO grant assistance must be available for public use. Use of undeveloped or partially developed properties may be restricted; however, total exclusion of the general public must be avoided. Project sponsors must immediately dedicate lands acquired with RCO assistance to public use even in the period between acquisition and any

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Exceptions. On request, the Director may, in writing, allow the following exceptions to this public access policy: ‣ Sensitive natural areas, salmon habitat recovery sites and critical habitats. ‣ Areas where safety is a temporary issue.	planned development or restoration. RCO may approve a request to restrict the public's access to a property under the following scenarios: • Sensitive natural areas, salmon habitat recovery sites and critical habitats; • Cultural resources sites; or • Areas where public safety is a concern (temporary issue).
INTERIM LAND USES, PAGE 15 ***Second Party Use.*** Sometimes a sponsor may wish to request that IAC-SRFB allow a second party's on-site activity even though the activity is not addressed in the Project Agreement. The Director may, in writing, allow this use when: ‣ The use is a *continuing* second party use ‣ Any hindrance to public use of the assisted site is minimal ‣ The second party's use will be phased out within *three years* of the date of acquisition ‣ Use of any income derived from the second party use is consistent with the IAC-SRFB income policy. ***Life Estates.*** Under a life estate, an owner uses IAC-SRFB assisted property to the end of his or her life. IAC-SRFB allows life estates when: ‣ The estate does not totally limit public use of the site ‣ The impact of the reservation of the estate is addressed in the valuation of the property. Appraisers should treat a life estate as an encumbrance.	***Intent Statement:*** **Clarifies what is an interim use. Includes criteria related to the purpose of the project or funding program when making decisions. Allows for RCO to retain grant funding for second party uses until the use ceases (LWCF program requirement). Limits a life estate to the property owner only. Changes to the criteria and retaining funds are considered significant policy changes.** **Interim Land Use Approval** Sometimes a landowner or lessee may wish to retain certain uses on a property as part of a negotiation with a project sponsor to acquire a property. Certain uses may be allowable with prior RCO approval. A project sponsor must request approval for an interim land before a closing on the property and taking ownership. RCO may approve certain special land uses on an interim basis to allow the landowner or lessee an opportunity to continue use of the land as described below.

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‣ The Director gives written approval of the estate's provisions.	***Existing Second Party Use.*** A secondary party use is an activity that was occurring on the land before the property was acquired by the project sponsor and the landowner or lessee wishes to continue that use after the property is acquired with RCO grant funds. RCO may retain a percentage of grant funding during the interim period until the second party use ceases. RCO may approve a second party use when: ‣ The use is a *continuing* second party use. The use is already occurring on the land at the time the property is acquired; ‣ Any hindrance to public use or to the purpose of the RCO Project Agreement or RCO funding program requirements is minimal; ‣ The second party's use will be phased out within *three years* of the date of acquisition. If the use will proceed longer than three years, it may only be considered for approval under the compatible use policy; and ‣ Use of any income derived from the second party use is consistent with the RCO income policy. ***Life Estates.*** A life estate is a real property interest for the duration of a person's life. RCO may approve a life estate when: ‣ The life estate does not totally hinder the public use or the purpose of the RCO Project Agreement or RCO funding program requirements; ‣ The life estate is for the owner of the property only; ‣ The impact of the reservation of the life estate is

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	addressed in the valuation of the property. Appraisers must treat a life estate as an encumbrance; and ‣ The terms of the life estate have been reviewed and accepted by RCO.
ESTIMATING LAND VALUE, PAGE 15 As a part of the application process, applicants must identify one of the following as evidence of the proposed land acquisition's value: ‣ An Appraisal, with or without review, or ‣ Letter of Opinion (see Appendix E for format), or ‣ Estimate of Value by an agency or organization staff member.	***Intent Statement:*** **This section is deleted. This is an application question and not necessary for the policy manual.**
APPRAISAL REQUIREMENTS, PAGE 16 The applicant/sponsor must obtain and pay for a real estate appraisal and review when a land acquisition is to be assisted with IAC-SRFB funds. These reports may not be procured by the seller or other party with an actual or potential interest in the sale unless approved by the Director. If IAC-SRFB awards funding for the acquisition, the cost of these reports is eligible for reimbursement even *if* incurred before execution of the Project Agreement. Note that appraisals and reviews are not eligible as match or for reimbursement in the federal LWCF program. The appraisal standards for federally funded grant programs differ from those for state funded grant programs. If the applicant/sponsor is seeking a federal grant for acquisition (LWCF and some SRFB), then the appraisal report and review ***must*** be in compliance with the Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA).	***Intent Statement:*** **Changes the appraisal and review appraisal standards to the Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA) or "yellow book" for most transactions. Appraisal conducted with the Uniform Standards of Professional Appraisal Practice (USPAP) only acceptable in certain Farmland Preservation Program projects. Allows for a third party's to procure an appraisal on behalf of a project sponsor under certain conditions. Requires the submittal of documents at the time of a reimbursement request. Clarifies expenses eligible for the LWCF program. Allows for an extended "shelf life" of an appraisal for any transaction. The changes in the appraisal standards, allowing third party appraisals, and providing extended "shelf Life" for all fund sources are considered significant policy changes.** **Appraisals and Review Appraisals**

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For all other funding programs, IAC-SRFB recognizes the appraisal standards recommended by the current *Uniform Standards of Professional Appraisal Practice* (USPAP) publication ***with the following exceptions***: ‣ Extraordinary Assumptions and Hypothetical Conditions must be clearly listed and justified in the appraisal report and be found reasonable by the review appraiser; ‣ Appraisals must include consideration of existing encumbrances; ‣ The restricted format for reporting appraisals is not acceptable; and ‣ Appraisers must provide a point value, rather than a value range (Example: $257,000 rather than $240,000 to $270,000). These exceptions are deemed necessary to ensure prudent use of public funds, and are discussed in further detail in the text below. ***It is the responsibility of applicants/sponsors to share these exceptions in writing with the appraisers and review appraisers who will be preparing documents for the funded project.*** Appraisal reports include a statement of assumptions and limiting conditions. Applicants/sponsors should avoid the use of hypothetical conditions unless consistent with USPAP guidelines. If the appraiser uses extraordinary (special) assumptions and/or hypothetical conditions, the appraiser must clearly state these within the report and must provide a reasonable basis, or justification, for using them. Additionally, the review appraiser	An appraisal and appraisal review is the basis for RCO determining just compensation to the landowner. The project sponsor first contracts for an appraisal of the property to determine the market value of the property. Then the project sponsor contracts for an independent review of the appraisal to confirm the market value identified in the appraisal. All appraisals and review appraisals must meet the standards in the Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA). http://www.justice.gov/enrd/land-ack/. RCO uses these standards for all acquisition projects regardless of funding source. The UASFLA are considered supplemental standards to the Uniform Standards of Professional Appraisal Practice (USPAP) and are meant to bolster the level of documentation and compliance with standard appraisal practices in government or government financed land acquisitions. In the Farmland Preservation Program only, when the Natural Resource Conservation Service (NRCS) is the funding partner in the project, RCO will accept an appraisal conducted according to the UASFLA or Uniform Standards of Professional Appraisal Practice (USPAP) or an appraisal review conducted by the NRCS as the project sponsor's appraisal review. The appraisal and review appraisal must be procured on behalf of the project sponsor. The appraisal and review appraisal may not be procured on behalf of the seller or other third party with an actual or potential interest in the sale unless approved by the Director. If the project sponsor is partnering with a third party

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must list all extraordinary (special) assumptions and /or hypothetical conditions and comment on their reasonableness. If the findings are that the assumptions or conditions are not reasonable, the value of the land may not be supported and sponsors risk the burden of additional costs that are not eligible for reimbursement. The appraiser and review appraiser must consider the impact on value of encumbrances and reservations that will be on the property as it is finally to be conveyed, which may be different than characterized on the preliminary title report. It is the responsibility of the project sponsor to provide the appraiser and review appraiser with the preliminary title report and the encumbrance documents. In addition, the sponsor must also inform the appraiser of any changes on title to be made up to closing, including encumbrances which will be cleared and any new encumbrances or reservations which are to be created. An exception to this is the Deed of Right/Assignment of Rights required by IAC-SRFB. IAC-SRFB may require supplemental information or appraisal updates prior to reimbursement if the original report does not accurately reflect the encumbrances in place at the time of conveyance. If a legal requirement beyond the sponsors control would create a new encumbrance at closing and the sponsor wishes to instruct the appraiser to disregard the impact to value, the sponsor may seek the Director's approval for an exception to this policy. All such requests must be submitted in writing.	(e.g., land trust or other agency is assisting with negotiating the transaction or will co-hold right or hold third party rights), then the appraisal and appraisal review may be procured on behalf of the project sponsor and the third party. The project sponsor must be listed as an intended user of the appraisal. The cost to procure an appraisal and review appraisal are eligible project costs and are reimbursable per the Project Agreement, except for projects funded through the Land and Water Conservation Fund (see below). A copy of the appraisal and review appraisal must be submitted to RCO at the time of the reimbursement request for the appraisal and review costs. RCO recommends the project sponsor submit the appraisal and review appraisal in advance of closing on the property for RCO review to ensure that the scope of the appraisal meets the terms of the Project Agreement and this manual. If a project is funded through the Land and Water Conservation Fund, the project sponsor must procure the appraisal and review appraisal at its own expense and the cost is not eligible as part of meeting the sponsor match requirement. See *Manual #15: Land and Water Conservation Fund* for more details on eligible acquisition costs in this program. Only one appraisal and one review appraisal for each property is eligible. RCO may approve the cost for additional appraisals and review appraisals per property on a case by case basis. The project sponsor must submit a written request to approve reimbursement for an additional appraisal and review that

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Appraisals for state-funded grant projects are considered to have a "shelf life" of one year from the effective date of the appraisal. Sponsors must either purchase the property within the one-year period or have a signed "purchase and sale" agreement that reflects the appraised and reviewed value. In some cases, when land values are very stable, IAC-SRFB will accept a written statement from the review appraiser certifying that land values have not changed since the effective date of the appraisal. The "shelf life" of an appraisal for state-funded grant programs may not exceed 18 months under any circumstances. Appraisals for federally funded grant projects have a "shelf life" of 12 months. Appraisal updates are acceptable under USPAP and federal guidelines, however a review appraisal is necessary for appraisal updates. OIAC will only reimburse for one appraisal report and one review per property in a given Project Agreement period. The Director will consider written requests to approve reimbursement for an additional appraisal and review. The request must include adequate justification as to why the additional work was required. Updates obtained within 24 months of the original appraisal dates will not be considered a second appraisal for reimbursement purposes.	includes adequate justification as to why the additional work is required. Appraisal updates with an updated appraisal review are acceptable grant costs. An appraisal update obtained within 24 months of the original appraisal effective date is not considered a second appraisal and costs associated with the appraisal update are an eligible cost in the Project Agreement. RCO recommends that any extraordinary assumptions or hypothetical conditions provided to the appraiser first be reviewed by RCO for compliance with RCO policies and the Project Agreement. RCO reserves the right to require a project sponsor to update an appraisal or procure a new appraisal, at the project sponsor's expense, if the appraised value of the property is subject to any extraordinary assumption or hypothetical conditions not previously reviewed and approved by RCO. Appraisals are considered to have a "shelf life" of one year from the effective date of the appraisal of record. Sponsors must either purchase the property or have a signed "purchase and sale" agreement that reflects the appraised value within one year of the effective date of the appraisal. If the property is not acquired or a purchase and sale agreement is not secured with the 12-months of the effective date of the appraisal, the project sponsor must obtain a written statement from the review appraiser, or the appraiser with confirmation

<table>
<tr><th>Current Manual 3 Text</th><th>Proposed Manual 3 Text</th></tr>
<tr><td></td><td>from the review appraiser, stating that land values have not changed and the appraised value is the same since the effective date of the appraisal. The “shelf life” of an appraisal for any RCO funded acquisition may not exceed 18 months under any circumstances. If the shelf-life of an appraisal and appraisal review has expired, the project sponsor will need to procure an updated appraisal and review appraisal within the allowed 24 month period for updates.

Summary of Appraisal “Shelf Life” Requirements
<table>
<tr><td>Appraisal “shelf life”</td><td>12 months after effective date</td></tr>
<tr><td>Written statement to extend “shelf life”</td><td>Up to 18 months after effective date</td></tr>
<tr><td>Updated appraisal</td><td>Up to 24 months after effective date</td></tr>
</table></td></tr>
<tr><td>APPRAISING CONVERSIONS, PAGE 17
A conversion occurs when a sponsor converts the use of a grant-assisted property from its intended use to some other use. See IAC Manual 7, Funded Projects: Polices for a complete discussion of conversions and the process required for replacement of the public investment as required by the Deed of Right or Assignment of Rights.

In order to determine the market value of a property being converted, the sponsor must instruct the appraiser to assume the Deed of Right is not encumbering the property. Since the Deed of Right will be extinguished once the conversion is</td><td>Intent Statement: Provides clarifying information and procedures. There are no significant policy changes proposed in this section.

Converting the Use of an RCO Funded Acquisition Project
A conversion occurs when a property acquired with RCO grant funding will be used for purposes other than originally stated in the Project Agreement. See RCO Manual #7, Funded Projects: Polices for a complete discussion of conversions and the process required for replacement of the public investment as required by the RCO Deed of Right or RCO Assignment of Rights.</td></tr>
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approved, the appraised value should reflect a property free and clear of this encumbrance.	When determining the market value of the property being converted, the project sponsor must instruct the appraiser to make a special assumption that the RCO Deed of Right or Assignment of Right is not encumbering the property and to assume zoning has kept up with surrounding properties. Since the RCO Deed of Right or Assignment of Right will be extinguished once the conversion is approved, the appraised value must reflect the property free and clear of this encumbrance.
APPRAISAL REPORTING CRITERIA, PAGE 17 USPAP allows three formats of appraisal reports: Self-contained, Summary and Restricted. IAC-SRFB will accept two of the three formats: Self-contained and Summary. Project sponsors must choose the appropriate reporting method established by USPAP based upon the following criteria: 1. *Self-Contained Appraisal Report*: Used if the appraisal problem involves partial land takes, acquisitions involving damages, conservation or other easements, complex appraisal issues, etc. 2. *Summary Appraisal Report*: Used if the appraisal problem involves only "whole takes" of the subject property. In other words, use this report when non-complex acquisition of an entire parcel occurs with no partial takings or resulting damages to remaining properties. 3. *Restricted Appraisal Report.* IAC-SRFB will not accept appraisals reported in the restricted format. In cases where the estimated value of the subject property does	***Intent Statement:*** **Clarifies the qualifications for persons preparing a "Finding of Value" for properties less than $10,000 which is considered a significant policy change.** **Appraisal Report Formats** UASFLA allows for self-contained and summary reports. Restricted use reports are not acceptable. In determining whether to obtain a self-contained or summary report, project sponsors should consult with the appraiser on the appropriate reporting method based upon the following criteria: ▪ *Self-Contained Appraisal Report*: Used if the appraisal problem involves partial land takes, acquisitions involving damages, conservation or other easements, complex appraisal issues, etc. ▪ *Summary Appraisal Report*: Used if the appraisal problem involves only "whole takes" of the subject property. In other words, use this report when non-complex acquisition of an

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not exceed $10,000, and the acquisition is not complex, project sponsors may be exempt from having to meet USPAP reporting standards. Prior approval for such exemptions must be requested in writing. In lieu of normal reporting procedures, a report may be filed that: • Includes the preparer's name, experience and qualifications. • Includes a description of the methods and factors used to reach the conclusion. This description must have enough detail to allow IAC to understand how the preparer used market information to decide fair market value.	entire parcel occurs with no partial takings or resulting damages to remaining properties. In cases where the estimated value of the subject property does not exceed $10,000, and the acquisition is not complex, project sponsors may be exempt from having to meet UASFLA appraisal standards. Prior approval from RCO for such exemptions must be requested in writing. In lieu of the USAFLA appraisal standards, a project sponsor may submit a written "Finding of Value" that includes: • The preparer's name, experience and qualifications. The preparer must have sufficient understanding of the real estate market and shall not have any interest, direct or indirect, in the real property to be valued for compensation. Sponsor staff may not prepare the "Finding of Value." • A description of the methods and factors used to reach the value for compensation. This description must have enough detail to allow RCO to understand how the preparer used market information to decide a fair market value.
APPRAISAL REVIEWS, PAGE 18 Appraisals valuing IAC-SRFB funded acquisitions require review by another eligible appraiser (see next section, *Appraiser Qualifications*). Values established by appraisal review form the basis of the estimated fair market value and subsequent reimbursement.	***Intent Statement:*** **Changes to reflect federal "yellow book" standards are considered a significant policy change.** **Appraisal Reviews** Independent appraisals reviews are required for all appraisals to confirm the just compensation for the property. Appraisal

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1. Appraisal review reporting requirements are established by USPAP. 2. If the value of the appraisal review differs from the original appraisal, the reviewer must adhere to the appraisal guidelines listed in this Manual when establishing a new value. 3. The review appraiser must either approve or reject the value conclusion. The reviewer may approve the value and either acknowledge that the appraisal meets the guidelines in this manual or develop or obtain the necessary work product to bring the report into compliance. If the reviewer rejects the value, the sponsor must either require the reviewer to provide a compliant value conclusion or obtain a new appraisal. In all instances of desk reviews, where the review appraiser rejects the appraised value and becomes the appraiser of record by providing an alternate value conclusion, the review appraisal must take the form of a field review or new appraisal assignment in accord with IAC guidelines. Appraisal reviews must include field inspections of the subject properties and comparables in cases where the appraisal sets the property value at $250,000 or higher. Desk reviews are acceptable for properties having a value less than $250,000.	reviews must follow the UASFLA technical review reporting requirements and this manual. Appraisal reviews must include field inspections of the subject properties and comparables in cases where the appraisal sets the property value subject of the RCO acquisition project is $250,000 or higher. Desk reviews are acceptable for properties having a value less than $250,000. The review appraiser must approve or reject the value conclusion in the original appraisal. • If the review appraiser approves the value established in the original appraisal, he/she can either acknowledge that the appraisal meets the UASFLA or develop or obtain the necessary work product to bring the original appraisal into compliance. • If the review appraiser rejects the value established in the original appraisal, the project sponsor must either instruct the review appraiser to establish a new property value or obtain a new appraisal. The new property value determined then becomes the just compensation for the property. If the review appraiser had previously conducted a desk review of the property and now is working to establish a new property value, the review appraisal must take the form of a field review. Costs for a second appraisal and review must be pre-approved by RCO.
APPRAISER'S QUALIFICATIONS, PAGE 18 ***Appraisers.*** Chapter 18.140 RCW, Certified Real Estate Appraiser	***Intent Statement:*** **Updates the types of appraisers currently licensed by the Department of Licensing. Limits project sponsor**

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Act, establishes three certification or license categories. Sponsors, or applicants must select an appraiser with appropriate certifications or licenses to perform IAC-SRFB assisted acquisitions. 1. *State-certified general real estate appraiser* (license number begins with 270-11): Eligible to develop and communicate real estate appraisals of all types of properties. 2. *State-certified residential real estate appraiser* (license number begins with 270-17): Eligible to develop and communicate real estate appraisals of all types of *residential* property of one to four units without regard to transaction value or complexity and *nonresidential* property having a transaction value less than $250,000. 3. *State licensed real estate appraiser* (license number begins with 270-16): Eligible to develop and communicate real estate appraisals of noncomplex one to four residential units having a transaction value less than one million dollars, complex one to four residential units having a transaction value less than $250,000, and nonresidential property having a transaction value less than $250,000. Sponsor staff may perform appraisals, but must meet the above licensing or certification requirements. ***Review Appraisers.*** IAC views the estimated fair market value of real property as the value established by a second appraiser's review of an eligible appraisal. Project sponsors, or applicants, must use the same methodology and criteria for selecting a review appraiser as used for selecting an appraiser.	**staff to conducting only the appraisal or review, not both. There are no significant policy changes proposed in this section.** **Appraiser and Review Appraiser Qualifications** Chapter 18.140 RCW, Certified Real Estate Appraiser Act, establishes four certification or license categories. • *State-certified general real estate appraiser* (license number begins with 270-11): Eligible to develop and communicate real estate appraisals of all types of properties. • *State-certified residential real estate appraiser* (license number begins with 270-17): Eligible to develop and communicate real estate appraisals of all types of *residential* property of one to four units without regard to transaction value or complexity and *nonresidential* property having a transaction value less than $250,000. • *State licensed real estate appraiser* (license number begins with 270-16): Eligible to develop and communicate real estate appraisals of noncomplex one to four residential units having a transaction value less than one million dollars, complex one to four residential units having a transaction value less than $250,000, and nonresidential property having a transaction value less than $250,000. • *State registered appraiser trainee* (license number begins with 100): Eligible to assist certified real estate appraisers while gaining experience. The appraisal or review appraisal must also be signed by a certified real estate

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1. Review appraisers must have an equal or greater license certification than the original appraiser. 2. Review appraisers cannot be selected from the same firm, organization, or agency/sponsor as the appraiser. 3. Sponsor staff may perform review appraisals, but must meet the above licensing or certification requirements.	appraiser. Project sponsors must select an appraiser and review appraiser with appropriate certifications or licenses from Washington State to perform RCO funded acquisitions, unless the appraisal review is conducted by the Natural Resources Conservation Service for a Farmland Preservation Program project. Review appraisers must have an equal or greater license certification than the original appraiser and cannot be selected from the same firm, organization or agency/sponsor who conducted the original appraisal. Project sponsor staff may perform appraisals or review appraisals if they meet the state licensing requirements. Project sponsor staff may not conduct the appraisal and appraisal review on the same property. If a project sponsor's staff is conducting appraisal or review appraisal work, that same staff person may not function as a negotiator in the transaction or work directly with the independent appraiser or review appraiser that performed appraisal work for that property.
USER FEES AND OTHER INCOME, PAGE 19 User or other fees may be charged in connection with areas and facilities developed or acquired with IAC-SRFB grants. (*Excepted* are Firearms and Archery Range Recreation Program safety classes –firearm and/or hunter– for which a *facility/range* fee must not be charged — RCW 79A.25.210, ¶8.) Such fees must be: ‣ Proportional to the value of the service or opportunity	***Intent Statement:* Incorporates existing language from the Project Agreement Standard Terms and Conditions. There are no significant policy changes proposed in this section.** **Income and Income Use** The source of any income generated in a funded project or project area must be compatible with the funding source and the agreement. User and/or other fees may be charged in

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provided ‣ Within the prevailing range of public facility fees in the area for similar services or opportunities. ‣ Compatible with the element(s) defined in the Project Agreement. Sponsors shall not express a preference for users of IAC-SRFB grant assisted projects on the basis of residence (including preferential reservation, membership, and/or permit systems) *except* that reasonable differences in admission and other fees may be maintained on the basis of residence. Even so, IAC-SRFB discourages the imposition of differential fees. Fees for nonresidents must not exceed twice the fee imposed on residents. Where there is no fee for residents but a fee is charged to nonresidents, the nonresident fee shall not exceed the amount that would be imposed on residents at comparable state or local public facilities. [WAC 286-13-115(2)]. Regardless of whether income or fees in an IAC-SRFB assisted area (including entrance, utility corridor permit, cattle grazing, timber harvesting, farming, riparian plantings, etc.) are gained during or after the reimbursement period cited in the Agreement, unless precluded by state law [WAC 286-13-110(2)], the revenue may only be used to offset: ‣ The Sponsor's matching funds; and/or; ‣ The Project's total cost; and/or ‣ The expense of operation, maintenance and/or repair of the facility or program assisted by the IAC-SRFB grant; and/or	connection with land acquired or facilities developed with funding board grants if the fees are consistent with the: a) Value of any service(s) furnished; b) Value of any opportunities furnished; and c) 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) for which a facility/range fee must not be charged (Chapter 79A.25.210 RCW). Regardless of whether income or fees in 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 agreement, unless precluded by state or federal law, the revenue may only be used to offset: 1. The sponsor's matching funds; 2. The project's total cost; 3. The expense of operation, maintenance, stewardship, monitoring, and/or repair of the facility or program assisted by the funding board grant; 4. The expense of operation, maintenance, stewardship, monitoring, and/or repair of other similar units in the sponsor's system; and/or 5. Capital expenses for similar acquisition and/or development.

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‣ The expense of operation and maintenance of other units in the Sponsor's park and recreation, salmon habitat recovery and/or habitat conservation system; and/or ‣ Capital expenses for similar acquisition and/or development.	
CIVIL RIGHTS, PAGE 20 Chapter 49.60 RCW is Washington's Law Against Discrimination. It provides broad protection from bias. Among the many rights provided are equal opportunity in real estate transactions, credit transactions, and the right to enjoy public accommodations. To obtain more information on these and related laws, contact the Washington State Human Rights Commission office in your area.	***Intent Statement:* The section is deleted. It is in the Project Agreement Standard Terms and Conditions. There are no significant policy changes proposed in this section.**
INSPECTIONS, PAGE 20 Office staff may visit each acquisition project site as follows: 1. *Pre-award Visit.* Made during the application phase, normally with the applicant. 2. *Post Completion Compliance Visit*. Performed periodically to ensure the site is kept as described in the Project Agreement.	***Intent Statement:* Provides notice that inspections may occur throughout the life of an application and project. There are no significant policy changes proposed in this section.** **Inspections** RCO may visit an acquisition project site at reasonable times. Inspections may occur at the application phase, before project funding, during the active Project Agreement, and post project completion. For less than fee title acquisitions, RCO will follow terms of access as stipulated in the legal document.
HAZARDOUS SUBSTANCES, PAGE 20 Any entity that acquires property may be subject to hazardous waste liabilities, according to the Model Toxics Control Act, RCW 70.105D. IAC-SRFB urges applicants to carefully consider the	***Intent Statement:* Incorporates existing language from the Project Agreement Standard Terms and Conditions. There are no significant policy changes proposed in this section.**

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following requirement before applying for funding assistance. **Certification** Sponsors that receive funding assistance to buy property must complete a Hazardous Substances Certification for each parcel (pages 38 and 39) and provide documentation to support the certification. The Sponsor should complete this certification prior to the closing date of their purchase and sale agreement. The certification must be submitted before IAC-SRFB makes its final reimbursement. The certification must state that the parcel meets current state and federal standards for allowed levels of certain substances. The standards apply equally to substances that: ‣ *Are* hazardous, toxic, harmful, or dangerous ‣ *Are designated as* hazardous, toxic, harmful, or dangerous ‣ *Have components that are* designated as hazardous, toxic, harmful, or dangerous ‣ *Are subject to regulation as* hazardous, toxic, harmful, or dangerous ‣ *Are regarded as a pollutant* by any federal, state, or local law, regulation, statute, or ordinance.	**Hazardous Substances Certification** Project sponsors that receive funding assistance to buy real property, except for property acquired in the Farmland Preservation Program, must certify that each parcel meets standards established under the Model Toxics Control Act (MTCA), RCW 70.105D. Purchase of property contaminated with any hazardous substance not meeting the MTCA standards is ineligible for RCO grant funding. A hazardous substances is defined as: • Any dangerous or extremely hazardous waste as defined in Chapter 70.105.010(5) and (6) RCW, or any dangerous or extremely hazardous waste designated by rule pursuant to Chapter 70.105 RCW; • Any hazardous substance as defined in Chapter 70.105.010(14) RCW or any hazardous substance as defined by rule pursuant to Chapter 70.105. RCW; • Any substance that, on March 1, 1989, is a hazardous substance under section 101(14) of the federal cleanup law, 42 U.S.C. Sec. 9601(14); • Petroleum or petroleum products; and • Any substance or category of substances, including solid waste decomposition products, determined by the director [or director's designee] of the Department of Ecology by rule to present a threat to human health or the environment if released into the environment. • The term hazardous substance does not include any of the following when contained in an underground storage

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	tank from which there is not a release: Crude oil or any fraction thereof or petroleum, if the tank is in compliance with all applicable federal, state, and local law. Project sponsors must complete a Hazardous Substances Certification for each parcel and provide documentation to support the certification. The certification form is provided in Appendix ___. The certification ensures that the project sponsor has inspected, investigated, and conducted an environmental audit (see below) of the parcel for the presence of hazardous substances. The project sponsor must certify: 1. No hazardous substances were found on the site, or 2. Any hazardous substances found have been treated and/or disposed of in compliance with applicable state and federal laws, and the site deemed "clean." 3. The sponsor will defend, protect and hold harmless RCO and any and all of its employees and/or agents, from and against any and all liability, cost (including but not limited to all costs of defense and attorneys' fees) and any and all loss of any nature from any and all claims or suits resulting from the presence of, or the release or threatened release of, hazardous substances on the property being acquired. Project sponsor should complete the hazardous substances certification prior to the acquiring the property. The certification must be submitted to RCO before reimbursement of the

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	property costs.
Hazardous Substances Support Documentation, Page 20 All sponsors must attach an environmental assessment to the Hazardous Waste Certification Form (Appendix F), submitted to IAC-SRFB when the sponsor requests reimbursement. The American Society of Testing Materials recognizes a national standard related to environmental assessments. A Phase 1 environmental assessment is a file review of known and documented historical uses of a site. It includes a title search and review of federal, state and/or local records that would indicate if any hazardous materials had been found, or if there was a reason to suspect hazardous materials had been present at some time. An example would be an underground storage tank identified by the Department of Ecology, or an old dumpsite identified by the local department of health. Sponsors are strongly encouraged to include an on-site inspection for evidence of past activity or current dumping. Sponsors may complete the assessment using agency or organizational staff. If any evidence of hazardous substances appears in the Phase 1 assessment, then a Phase 2 assessment is warranted. Sponsors should consult with a qualified specialist for Phase 2 assessment obligations. Careful review of the section on Buying Contaminated Property is essential if hazardous substances are found. A typical outline for a Phase 1 environmental assessment is provided as a property assessment checklist on page 39.	***Intent Statement:*** **Incorporates existing language from the Project Agreement Standard Terms and Conditions. Expands the list of allowable forms of environmental audits. Requires project sponsors to consult with RCO on environmental audit findings related to non-hazardous substances. Clarifies cost related to non-hazardous substances removal are eligible grant expenses. Purchase of contaminated property is ineligible for grant funding. Changes with environmental audits, eligible costs, and the prohibition on purchase of contaminated property are considered significant policy changes.** ***Environmental Audits*** An environmental audit is required supporting documentation for each Hazardous Substances Certification. Acceptable environmental audits are: • Environmental site assessments per American Society for Testing and Materials (ASTM) standards, • All Appropriate Inquiries per U.S. Environmental Protection Agency standards, or • Property Assessment Checklist provided in Appendix ___. If an environmental audit identifies action items that are not related to cleanup of a hazardous substance (e.g., debris cleanup, empty tank removal, structure removal), consult with RCO on which items will need to be completed to meet the terms of the Project Agreement. RCO will review the

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	environmental audit report for action items necessary to make the property safe and available for public use. Non-hazardous substance action items may be eligible demolition expenses. RCO strongly advises project sponsors to buy land that has never been contaminated or is certified as meeting hazardous substances requirements. Clean-up costs are very hard to predict. Attempts to clean-up a site can result in substantial expenses that are not eligible for RCO reimbursement or as sponsor match. If a project sponsor wishes to purchase a contaminated property, the property will be eligible for RCO funding after it has been cleaned up. The project sponsor may then request a waiver of retroactivity at the time of the RCO grant application.
BUYING CONTAMINATED PROPERTY, PAGE 21 Land that contains any of the substances listed in the **Certification** section, above, may be eligible for IAC-SRFB funding assistance. That is, the Director may write approval for the purchase of land with these substances if presented with an environmental assessment. The assessment must discuss clean-up costs and give clear evidence that cleansing can be finished quickly. If the Director requests, the sponsor must provide additional related information to help in making a decision. Once the Director approves purchase of a contaminated site, the sponsor may be reimbursed up to 90 percent of eligible costs *before* the site meets the standards for acceptable	***Intent Statement:*** **This section is deleted. The prohibition on purchase of contaminated property is considered significant policy change.**

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contamination levels. Once these standards have been met, OIAC will reimburse the remaining 10 percent. In estimating fair market value, IAC-SRFB will only consider land appraised *as if it were clean*. This is the maximum amount IAC-SRFB will reimburse. Furthermore, IAC-SRFB will not consider cost increases for expenses related to clean-up or a seller's desire to recover clean-up costs. This leaves applicants/sponsors with two options. First, the seller may agree to do all required clean-up *before* the sale, and second, the sponsor may do clean-up *after* the sale. IAC-SRFB strongly advises applicants/sponsors to buy land that has never been contaminated or is certified as meeting current state and federal standards. Clean-up costs are very hard to predict. Attempts to clean-up a site can result in substantial expenses that are not eligible for IAC-SRFB reimbursement.	
ELIGIBLE COSTS, PAGE 21 ***Environmental Assessment Costs.*** Some environment assessment costs related to hazardous substances are eligible for reimbursement. These costs may be reimbursed up to 10 percent of the estimated fair market value of the property, appraised as if it were clean. With adequate justification, the Director may write approval for assessment costs over 10 percent. Eligible hazardous substance environmental assessments costs are: ‣ Chain of Title Report	***Intent Statement:*** **This section is moved to the eligible costs section. There is not a significant policy change.**

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‣ Preliminary Investigation/Audit of Site ‣ Environmental Reports and Assessments ‣ Invasive testing, including test pits, test wells, and other drilling procedures ‣ Chemical analysis of water, soil, waste materials, etc. ‣ Leak testing of underground storage tanks ‣ Monitoring and testing of clean-up when done by a seller. *CLEAN-UP COSTS.* Clean-up costs are eligible for reimbursement. The amount eligible is based on the estimated fair market value appraised as if it were clean.	
CONTRACT OR INSTALLMENT SALES, PAGE 22 IAC-SRFB will not financially assist land bought on a contract or installment basis if the contract period exceeds the IAC-SRFB Project Agreement period. Full payment must be made to the seller within the agreement reimbursement period. This ensures that the sponsor: ‣ Has clear ownership of the property ‣ Can meet the "Deed of Right" requirements, that is, convey use of the property to the state forever, for outdoor recreation, salmon recovery or habitat conservation purposes. IAC-SRFB recognizes that this may be an obstacle when buying from an owner who, for tax reasons, wants to sell on a multi-year installment or contract basis only. Private non-profit land trusts may offer a solution to this problem for state or local agencies submitting ALEA, BFP, LWCF, or WWRP projects by	***Intent Statement:*** **There are no significant policy changes proposed in this section.** **CONTRACT OR INSTALLMENT SALES, PAGE 22** RCO will not financially assist land bought on a contract or installment basis if the contract period exceeds the Project Agreement period. Full payment must be made to the seller within the agreement reimbursement period. This ensures that the sponsor: ‣ Has clear ownership of the property ‣ Can meet the "Deed of Right" requirements, that is, convey use of the property to the state forever, for outdoor recreation, salmon recovery or habitat conservation purposes. RCO recognizes that this may be an obstacle when buying from an owner who, for tax reasons, wants to sell on a multi-year

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acting as an intermediary to the transaction. For example, the land trust may contract to purchase the property on a seller-financed basis with note payments scheduled according to the seller's tax needs. The land trust then sells the property to the sponsoring agency on a lump sum basis, while retaining liability for the note payments. If the seller requests, the land trust may provide collateral in several ways, other than using the property itself. For example, the trust could arrange for a letter of credit in favor of the seller to secure the note. An alternative is for the trust to purchase a certificate of deposit, which can be assigned to the seller for security purposes. Normally, either of these cash collateral methods of security is acceptable to sellers. Both would result in the acquisition of the land free of purchase money encumbrances. These procedures are suggested only to broaden the options of applicants as they seek to acquire important outdoor recreation and habitat conservation land. Presently this option is only available to applicants for the ALEA, BFP, LWCF or WWRP.	installment or contract basis only. Private non-profit land trusts may offer a solution to this problem for state or local agencies by acting as an intermediary to the transaction. For example, the land trust may contract to purchase the property on a seller-financed basis with note payments scheduled according to the seller's tax needs. The land trust then sells the property to the sponsoring agency on a lump sum basis, while retaining liability for the note payments. If the seller requests, the land trust may provide collateral in several ways, other than using the property itself. For example, the trust could arrange for a letter of credit in favor of the seller to secure the note. An alternative is for the trust to purchase a certificate of deposit, which can be assigned to the seller for security purposes. Normally, either of these cash collateral methods of security is acceptable to sellers. Both would result in the acquisition of the land free of purchase money encumbrances. These procedures are suggested only to broaden the options of applicants as they seek to acquire important outdoor recreation and habitat conservation land. Presently this option is only available to applicants for the ALEA, BFP, LWCF or WWRP.
BOUNDARY MAPS, PAGE 22 IAC-SRFB requires sponsors to submit a boundary map of each parcel/property acquired. The boundary map and/or attachments must include the following:	***Intent Statement:*** **Map requirements are expanded to ensure the property acquired is clearly documented for the project file and to assist with compliance review later. This is not considered a significant policy change.**

Current Manual 3 Text	Proposed Manual 3 Text
1. IAC-SRFB project number and name 2. Date of the map preparation 3. Adjoining streets and roads. 4. The lands acquired and protected under the Deed of Right or Assignment of Rights. To make sure the property is clearly shown, the following methods of identification are acceptable: ‣ Deed references. ‣ Adjoining ownerships, ‣ Adjoining water bodies or other natural landmarks. ‣ Latitude-longitude of cardinal points ‣ Survey information, or ‣ Measurements from permanent locators may also be used. 5. The map should also identify the location of all known easements, outstanding rights, deed/lease restrictions, reversionary interests, etc. A survey is not required, however if a survey has been completed with IAC-SRFB assistance, a copy must be submitted to OIAC.	**Property Boundary Map Requirements** RCO requires a property boundary map for each parcel/property acquired. The boundary map must include: 1. RCO project number and name 2. Project sponsor name 3. Date of the map preparation 4. Adjoining streets and roads 5. Boundary line of land protected by the Deed of Right or Assignment of Right, whichever is applicable. 6. Location of all known easements, outstanding rights, deed/lease restrictions, and reversionary interests. 7. North arrow and scale 8. GPS coordinates Other information to assist with identifying the property include deed references, adjoining ownerships, adjoining water bodies or other natural landmarks, geographic coordinates, survey information, and other measurements. A professional survey is not required, however, if a survey has been completed with RCO funding assistance, it must recorded with the county auditor and a copy provided to RCO.
	NEW SECTION ***Intent Statement:*** **Requires legal access be obtained for all parcels acquired. Provides for the ability to waive legal access requirements. Legal access requirements are considered a significant policy change.**

Current Manual 3 Text	Proposed Manual 3 Text
	Legal Access In most cases, lands acquired in fee title with RCO grant assistance must have legal access to the land or by other adjacent land. Legal access is important for RCO compliance and inspection purposes. A project sponsor must obtained pre-approval from RCO for acquisition of property with no legal access. RCO may approve acquisition of property with no legal access with the following three conditions: • The project sponsor owns the adjacent land and can access the property from its existing property holdings; and • RCO will be able to conduct compliance inspections with minimal burden to get to the property; and • The review appraised value reflects a lack of legal access to the property. If the appraised value of a property assumes legal access when there is none, the project sponsor must acquire and perfect the assumed legal access as part of the transaction. If the assumed legal access cannot be obtained, RCO may approve reimbursement based upon the value of the property in an updated appraisal, without legal access, as long as RCO will be able to conduct its inspection and compliance responsibilities without the legal access.
	NEW SECTION

Current Manual 3 Text	Proposed Manual 3 Text
	Intent Statement: **Cultural resource review requirements are incorporated consist with the Project Agreement Standard Terms and Conditions, orders, and laws. This is not considered a significant policy change.** **Cultural Resources Review** The real property acquired through RCO funding is subject to Governor's Executive Order (EO) 05-05 (www.governor.wa.gov/execorders) or compliance with Section 106 of the National Historic Preservation Act (NHPA) concerning the review, analysis, and consultation with the Washington Department of Archaeology and Historic Preservation (DAHP) and affected Native American Tribes for archaeological and cultural resources. RCO requires documented compliance with EO 05-05 or NHPA, whichever is applicable to the project. RCO will issue a notice to proceed (if applicable) when appropriate documentation has been received. Cultural resources review is not required for projects funded in the Farmland Preservation Program. "Cultural resources" means archeological and historical sites and artifacts, traditional areas, and items of religious, ceremonial, and social uses for tribes. The goal is to ensure that reasonable action is taken to avoid adverse impacts to those resources. The cost associated with cultural resources review is an eligible item for reimbursement in your grant. Using materials from the grant application, RCO submits project information to the Washington State Department of Archaeology

Current Manual 3 Text	Proposed Manual 3 Text
	and Historic Preservation and affected tribes to determine if the project has the potential to damage cultural resources and whether consultation will be required. You may be asked to complete a cultural resources survey. The consultation must be completed before any ground disturbing activity begins. In the event that archaeological or historic materials are discovered during project 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 following: concerned Native American Tribes' cultural resources staff and cultural committees, RCO, and DAHP. In the event that human remains are discovered during project activity, 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: concerned Native American Tribes' cultural resources staff and cultural committees, RCO, DAHP, the coroner and local law enforcement in the most expeditious manner possible according to RCW 68.50.
	NEW SECTION ***Intent Statement:*** **Incorporated existing policies from other program manuals. This is not considered a significant policy change.** **Stewardship Plans** All SRFB acquisition projects require a stewardship plan. A plan is necessary to ensure the project objectives are met and the site

Current Manual 3 Text	Proposed Manual 3 Text
	will be maintained and monitored for at least 10 years from the project agreement completion date. Consult *Manual #18: Salmon Recovery Grants*, for specifics on what the stewardship plan must include. Stewardship plans are also encouraged, but not required, for land acquired with funds from the Riparian Protection Account and Farmland Preservation Program in the Washington Wildlife and Recreation Program. Consult *Manual #10b: Washington Wildlife and Recreation Program Habitat Conservation Account and Riparian Protection Account* or *Manual #10f: Farmland Preservation Program* for specifics on what the stewardship plan must include.
	NEW SECTION ***Intent Statement:* Requires project sponsors to submit a Landowner Acknowledgement Form with the grant application to ensure the property owner is aware of the pending application. The form is currently required only for SRFB projects. Landowner acknowledgement at application is considered a significant policy change.** **Landowner Acknowledgement of Application** As part of any grant application for acquisition of real property, the project sponsor must submit a Landowner Acknowledgement Form in Appendix ___ with the grant application for each parcel to be acquired. For multi-site acquisition projects, include, at a minimum, signed Landowner

Current Manual 3 Text	Proposed Manual 3 Text
	Acknowledgement Forms for all known priority parcels.
	NEW SECTION ***Intent Statement:*** **Incorporates a statutory requirement for WWRP projects. Provides direction on how to comply with the requirement at application time. This is not considered a significant policy change.** **Local Jurisdiction Review (WWRP Projects Only)** Per RCW 79A.15.110, project sponsors proposing to acquire property in the Washington Wildlife and Recreation Program (WWRP) must provide the county or city with jurisdiction over the project area an opportunity to review the grant application prior to applying for grant funds. The appropriate county or city legislative authority may, at its discretion, submit a letter to the RCRB identifying the authority's position with regard to the acquisition project. The RCFB shall make the letters received available to the governor and the legislature when the prioritized WWRP project list is submitted as part of RCO's biennial capital budget request. In order to meet this requirement, the project sponsor must provide each member of the city council or county commission, as appropriate, the following information prior to the grant application technical completion deadline. A copy of the packet must be sent to RCO as well. 1. A cover letter referencing RCW 79A.15.110 and the

Current Manual 3 Text	Proposed Manual 3 Text
	option for the legislative authority to provide a letter to the RCFB on the authority's position with regard to the proposed project. 2. The grant application project description as it will be submitted with the grant application. 3. A location map and proposed parcel(s) map of the proposed project. 4. The geographic envelope of the proposed project, if the project sponsor is pursuing a multi-site acquisition strategy. A local government acquiring property within their own political boundaries meet this requirement by submitting the adopted resolution is required with the RCO grant application.
	NEW SECTION ***Intent Statement:*** **Incorporates existing procedures on how to exclude property for ineligible uses on a permanent basis. This is not considered a significant policy change.** **Project Scoping** Prior to acquisition of a property with RCO funding assistance, the project sponsor should clearly identify the intended uses of the property consistent with the Project Agreement. If the project sponsor wishes to use portions of the property for ineligible grant activities or purposes, such as retaining ineligible structures, or the project sponsor proposes a compatible use such as timber management, grazing, and other natural resource uses grazing, the project sponsor must consult with RCO prior to

Current Manual 3 Text	Proposed Manual 3 Text
	acquisition. RCO can work with the project sponsor to exclude areas intended for ineligible grant activities or purposes from its Deed of Right or Assignment of Right and the Project Agreement. The area to be excluded must be clearly delineated and valued in the appraisal process. The Deed of Right must include a legal description of the area that will remain in the RCO funded portion of the project. The appraised value of the area excluded must be established either through a separate appraisal, appraisal update, or by calculating the property value with the existing appraisal information. Consult RCO about negotiating the area to be excluded and the appropriate method for valuing the property.
	NEW SECTION ***Intent Statement:* References existing policy on scope changes in another manual. This is not considered a significant policy change.** **Scope Changes** See *Manual #7: Funded Projects* for criteria related to changing the scope of an acquisition project after the Project Agreement is signed.
	NEW S ECTION ***Intent Statement:* References existing procedures required for public disclosure. This is not considered a significant policy**

Current Manual 3 Text	Proposed Manual 3 Text
	change. **Public Disclosure Rules** RCO records and files, including those related to acquisitions, are public records that are subject to the Public Records Act (RCW 42.56). The appraisal and appraisal review are exempt from public disclosure for three years or until the sale is completed or abandoned. More information about the RCO's disclosure practices is available on the website at http://www.rco.wa.gov/about/public_records.shtml.
	NEW SECTION ***Intent Statement*: Incorporates procedures on deed restrictions that may be required by other funding agencies. This is not considered a significant policy change.** **Complimentary Covenants or Deed Restrictions from Other Funders.** If an acquisition project includes funding from other sources which also require some form of encumbrance on the property such as a Notice of Grant, easement or covenant, project sponsors must provide a draft of the encumbrance to RCO for review. RCO must review the encumbrance for consistency with RCO's Deed of Right or Assignment of Right and the Project Agreement prior to closing on the property. As long as the encumbrance from the other funding source is consistent and compatible with RCO's funding, no conversion will occur. RCO

Current Manual 3 Text	Proposed Manual 3 Text
	will amend the Project Agreement with a special condition to allow for the encumbrance from the other funding source and document that any future conversion will be valued without the other funding sources encumbrance on the title.
	NEW SECTION ***Intent Statement*: Requires property acquired for intended future development or restoration to be completed within three years. Allows for an extension of the three year period under certain circumstances. This is a requirement in the LWCF program and is proposed for all RCO programs. This is considered a significant policy change.** **Acquisition for Future Use** When a project sponsor acquires real property for the purpose of conducting restoration work or public access development in the future, the property must be restored or developed within three years. This ensures that the future intended use is defined when RCO funding is awarded and that the land acquired is put to the intended uses within a reasonable timeframe and the public receives the benefit from their investment. In the interim, between acquisition of the property and the restoration or development work, the property must be open to the public with minimum public investment, consistent with the Public Access policy in this manual. Certain ineligible land uses may be allowed during the interim period consistent with the Special Land Use policy in this manual.

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	If the planned future use of the property will be delayed for up to three years, the project sponsor may be required to submit additional information at the time of application or prior to issuing a Project Agreement. If the planned future use of the property will be delayed for more than three years, the project sponsor must request approval for an extension of the delayed future use in writing before the three year period expires.
APPENDICES	***Intent Statement:* Appendices will be updated at a later date to reflect adopted policies and procedures.**

Interagency Committee for
OUTDOOR RECREATION
SALMON RECOVERY
FUNDING BOARD

ACQUIRING LAND: *POLICIES*

3

MARCH 8, 2007

Interagency Committee for Outdoor Recreation

Our Mission To provide leadership and funding to help our partners protect and enhance Washington's natural and recreational resources for current and future generations.

Our Services To make statewide strategic investments through policy development, grant funding, technical assistance, coordination, and advocacy.

Our Values To provide efficient, fair, and open programs that are conducted with integrity. The results foster healthy lifestyles and communities, stewardship, and economic prosperity in Washington.

Salmon Recovery Funding Board

Our Mission To support salmon recovery by funding habitat protection and restoration projects, and related programs and activities that produce sustainable and measurable benefits for fish and their habitat.

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SECTION 1 – INTRODUCTION

Manual Conventions

IAC (Interagency Committee for Outdoor Recreation) refers to a board and a state agency. The agency is the office staff and provides grant and administrative support to the IAC Board and SRFB (Salmon Recovery Funding Board), as directed under RCW 79A.25.240. The policies in this manual guide both of these independent, Executive branch state government boards. As a reference aid, this manual uses the following conventions:

- Agency – Any federal, state or local political subdivision. Local agency is defined as any county, city or town, or other municipal corporation or political subdivision of the state that has authority to acquire property by eminent domain under state law.
- Applicant – Any agency or organization that has submitted an application to and meets the qualifying standards for soliciting funds administered by OIAC.
- Director – The head of OIAC or the Director's designee.
- IAC – The Interagency Committee for Outdoor Recreation's Board.
- IAC-SRFB – An independent action by the appropriate Board.
- OIAC – Office of the Interagency Committee, includes the Director and other staff supporting both IAC and SRFB.
- Sponsor – An applicant who has been awarded a grant and is bound by an executed IAC-SRFB Project Agreement.
- SRFB – Salmon Recovery Funding Board.

Background

This manual provides basic information about IAC-SRFB policies for acquiring land. It is to be used with individual grant program policy manuals, which provide additional details and identifies any exceptions. Use it for all acquisition projects in these programs:

- Aquatic Land Enhancement Account (*ALEA* – Manual 21)
- Boating Facilities (*BFP* – Manual 9)
- Firearms and Archery Range Recreation (*FARR* – Manual 11)
- Land and Water Conservation Fund (*LWCF* – Manual 15)
- Nonhighway and Off-Road Vehicle Activities (*NOVA* – Manuals 12, 13, 14)
- Riparian Habitat (*RHP* – Manual 6)
- Salmon Habitat Recovery (*SRFB* – Manual 18)
- Washington Wildlife and Recreation (*WWRP* – Manual 10)
- Youth Athletic Facilities (*YAF* – Manual 17).

Manual Authority

Authority for the information in this manual is found in several statutes and rules: RCW[1] 46.09.240, 77.85.120 (1)(d), 79A.15.060(1), 79A.15.070(5), 79A.25.080(2), 79A.25.210, and Titles 286 and 420 WAC[2]. IAC-SRFB adopted the policies in this manual in a public meeting.

The *Land and Water Conservation Fund Grants-in-Aid Manual* (U.S. Dept. of Interior, National Park Service) provides additional guidance for LWCF grants.

Related Publications

There are many publications designed to explain these programs. They include:

- Summary brochures and program fact sheets that describe each program's goals and funding
- Program schedules
- Program policy manuals
- Statues and rules, and
- State plans that give broad policy background.

Contact us to obtain a complete list of these free publications. All materials can be prepared in an alternative format. Most publications are available on our website.

Contact Information

IAC-SRFB encourages anyone interested in its programs to contact OIAC at:

Natural Resources Building	IAC Phone	(360) 902-3000
1111 Washington Street, Floor 2 East	SRFB Phone	(360) 902-2636
P.O. Box 40917	IAC-SRFB FAX	(360) 902-3026
Olympia, Washington 98504-0917	IAC-SRFB TDD	(360) 902-1996
	IAC Email	info@iac.wa.gov
	SRFB Email	salmon@iac.wa.gov
	IAC-SRFB	http://www.iac.wa.gov/

Workshops

Contact OIAC about its annual application and successful applicants workshops. Typically, they are held at various times during the year, depending on each program's grant schedule. The workshops are often held in several locations around the state.

[1] RCW — Revised Code of Washington
[2] WAC — Washington Administrative Code

SECTION 2 – POLICIES

ELIGIBILITY POLICIES

Types of Eligible Land Acquisition Projects

An acquisition grant from IAC-SRFB may be used to purchase real property for a variety of habitat conservation, outdoor recreation and salmon recovery purposes. Not all programs, however, provide funding for acquisition. Refer to page 1 for a list of programs that allow acquisition proposals.

In general, IAC grants may be used to purchase both fee and less than fee interest in real property. Fee acquisition includes the purchase of the land and improvements by either a *warranty deed* or a *quit claim deed*.

Less than fee acquisition includes the purchase of a lease, easement (road, right-of-way, trail, conservation right, etc.), property right (agricultural, development, mineral, timber, water, etc.), and reserve interests deeds.

Less than fee acquisition is subject to the following conditions:

1. Unless precluded by state law, the interest length must be at least:
   - ▹ 50 years for WWRP, ALEA, and BFP projects
   - ▹ 25 years for NOVA projects
   - ▹ 20 years for YAF projects
   - ▹ 10 years for FARR projects.
2. The interest cannot be revocable at will by the signatories.
3. The value must be supported by an appraisal and appraisal review that meets IAC guidelines (pages 15 through 18).
4. The cost must be a lump sum payment at initiation.
5. The Salmon Habitat Recovery program only allows the purchase of less than fee property rights that safeguard the perpetual use requirements. The purchase of a lease is not eligible.

Perpetual Public Ownership & Stewardship

Deed of Right. Lands acquired in-fee with IAC-SRFB assistance must be dedicated to habitat conservation, outdoor recreation or salmon habitat recovery uses in perpetuity (FARR exception listed below). This is done through a recorded Deed of Right to Use Land for Habitat Conservation, Salmon Habitat Recovery, or Outdoor Recreation Purposes (pages 28, 31, 34). This Deed conveys property interests to the public forever. It must be executed and recorded by the project sponsor *after* taking title to the property but *before* applying for payment. Ideally, it is recorded at closing so that the Deed of Right will appear on the title insurance policy.

Assignment of Rights. An Assignment of Rights is a recorded legal agreement used to convey or assign to IAC-SRFB rights that protect the public interest in conservation easements acquired with IAC-SRFB funds. IAC-SRFB requires a perpetual conveyance.

The Assignment of Rights is intended to secure the public's interest in the conservation easement by ensuring the longevity of habitat, restoration and enhancement projects. To accomplish this the Assignment of Rights does four things.

1. It commits the sponsor holding the easement to monitor and enforce the terms of the easement.
2. It gives the IAC-SRFB certain rights for access to the property covered by the conservation easement, which rights are co-held with the sponsor.
3. It indemnifies the state with respect to the acts or omissions of the landowner and sponsor on the salmon recovery or habitat property.
4. It requires the sponsor to consult with IAC-SRFB with respect to any amendment of the conservation easement or conversion of the salmon recovery or habitat land to another use.

Collectively, these provisions of the Assignment of Rights ensure that the IAC-SRFB has the legal ability to step in and act if the sponsor fails to manage or defend the conservation easement as required under IAC-SRFB policies. The Assignment of Rights is to be executed and recorded by the sponsor after taking title to the conservation easement. The approved format of the Assignment of Rights is provided in Appendix G (page 41 [IAC], 48 [SRFB]).

FARR Exception. RCW 79A.25.210 *exempts* Firearms and Archery Range Recreation (FARR) Program projects from this rule. Sponsors of such projects must repay grants accepted for facilities that become closed to the public less than 10 years after final reimbursement. This includes land acquisitions assisted with IAC grants. See FARR Program Manual 11 for more information.

Ineligible Land Acquisition Projects

IAC-SRFB program manuals contain specific information regarding ineligible land acquisition elements. The following is meant to provide broad guidance in this area. IAC-SRFB grants may *not* be used to acquire:

1. ***Land owned by the applicant/sponsor***, *except* when specifically required by state law (page 10).
2. ***Land to be used in support of indoor recreation***. This applies equally to existing buildings and undeveloped land where major indoor facilities will be constructed. *Excepted* are:
   (a) Firearms and Archery Range Recreation (FARR) Program indoor shooting ranges.
   (b) Enclosed swimming pools or ice-skating rinks that meet Land & Water Conservation Fund (LWCF) guidelines.
   (c) Existing or future indoor facilities that are compatible with the outdoor uses for which the land was acquired, such as restrooms, storage facilities, site maintenance structure, caretaker's residence, and overnight rustic cabins.
3. ***Land with museums***, or sites to be used for museums.
4. ***Land to be used primarily for semi-professional and professional activities***, such as arts and athletics.
5. ***Land with sufficient revenue producing potential*** to finance the project's cost.
6. ***Land where exclusive use privileges will be leased***, such as boat moorage/storage or a membership golf course.
7. ***Land to be used solely for hatchery*** style fish production.
8. ***Established outdoor recreation areas*** developed under ownership or management of a public agency.

9. ***Land to mitigate the impact of a non-IAC-SRFB assisted project***, project element, or action of the project sponsor.

LWCF monies may not be used to acquire a leasehold interest unless the land is leased from one public agency to another and includes provisions that safeguard the perpetual use requirement.

Salmon Habitat Recovery funds may not be used to acquire leasehold interests.

Federal Agencies

Federal agencies are not eligible for land acquisition grants from the IAC-SRFB. RCW 77.85.130(9) allows federal agencies under the Salmon Recovery program to receive title to lands acquired with SRFB grants only if:

- Title is transferred to the federal agency after purchase by an eligible sponsor, and
- The federal agency agrees to comply with all the terms of the SRFB Project Agreement, including filing the appropriate Deed of Right to Use Land for Salmon Recovery Purposes and/or Assignment of Right for Conservation Easements.

Eligible Costs

This section describes eligible acquisition costs. Only eligible acquisition costs can be reimbursed by IAC-SRFB, or used by the sponsor as a match for an IAC-SRFB grant.

Pre-Agreement Costs. Typically, acquisition costs incurred by an applicant before signing the Project Agreement (the formal contract between IAC-SRFB and successful project applicants) are ineligible for reimbursement. However, there are some administrative and incidental costs which applicants may incur before signing the Project Agreement. These include:

- Administration
- Appraisal
- Appraisal review
- Boundary survey
- Cultural resources review
- Hazardous substance assessment
- Preliminary title report
- Wetland delineation.

All eligible acquisition costs can be reimbursed or used as a match if the applicant has requested and received a Waiver of Retroactivity from the Director. For more information, see page 7.

Administrative Costs. Eligible project administrative costs include actual direct costs and similarly related charges associated with purchasing land, property rights, leases, or easements. Examples include:

- Advertising
- Billing preparation
- Communication
- Consultation
- Contract award
- Correspondence
- Meetings
- Negotiations
- Public hearings
- Progress report preparation
- Project administration
- Room rental
- Salaries and benefits
- Site visits
- Taxes (administrative goods/services)
- Travel costs to site/meeting.

Administrative costs are limited to no more than 5 percent of the total acquisition. The Director may approve individual project requests for increases up to 10 percent. Increases above 10 percent require IAC-SRFB approval. To request an increase above 5 percent, the sponsor must provide, in writing, justification for the increase. For example, include information on the project's complexity and any efficiency measures taken.

Property Costs. Direct costs for the purchase of property or property rights are eligible. These include fee ownership and less than fee ownership costs.

Fee ownership costs include:

- Land
- Improvements and structures

Less than fee ownership costs include:

- Easements, access
- Easements, trails
- Reserve interest deed
- Rights, development
- Rights, timber
- Easements, conservation
- Lease
- Rights, agriculture
- Rights, mineral
- Rights, water.

Incidental Costs. These land acquisition support costs do not include actual land purchase.

- Appraisal & review
- Baseline documentation for conservation easements (page 40)
- Closing
- Cultural resources[1] (survey, excavation, on-site monitoring, and data recovery).
- Demolition
- Fencing (if needed for public safety or resource protection)
- Hazardous substance environmental assessment (page 20)
- Noxious weed control (initial control, up to $75 per acre.)
- Recording fees
- Relocation (includes administration)
- Signing
- Special reports
- Survey (if needed to settle a known boundary dispute[s] or to protect public funds)
- Taxes (compensating, excise, and pro rata taxes)
- Title reports/insurance (includes insurance and clearing of non-contested quiet title actions [quelling outstanding interests])
- Wetland delineations.

LWCF. Costs eligible in the federal LWCF Program are:

- Closing Fees
- Land and Existing Improvements

[1] Archeological and historical sites and artifacts, and traditional areas or items of religious, ceremonial, and social uses to affected tribes

- Pro rata Real Estate Taxes
- Recording Fees
- Relocation of Eligible Occupants, including Administration.

Ineligible Costs

IAC-SRFB funds and sponsor matching monies may not be used for costs peripheral to buying land. Thus, ineligible costs include indirect costs, fees for feasibility studies, court costs, and in most cases, attorney fees. Attorney fees, however, are eligible when associated with the drafting and legal review of easement language. The Salmon Habitat Recovery program may provide funding for assessments and feasibility studies as part of a combination project.

Waiver of Retroactivity

In most cases, IAC-SRFB grant funds may be used only to reimburse expenses incurred during the period set out in the Project Agreement. This is known as the IAC-SRFB prohibition on retroactivity.

However, based on written justification by an applicant regarding the critical need to purchase property before IAC-SRFB approves funding, the Director may issue a "Waiver of Retroactivity". Such a Waiver allows the acquisition costs incurred by the applicant to remain eligible for reimbursement through the next *two* consecutive grant cycles in the program in which the applicant seeks funds. Applicants must submit the waiver application and all required attachments as soon as possible and before closing escrow and taking title to the property.

A Waiver is normally sought when an applicant decides that an imminent condition exists that jeopardizes the acquisition and thus decides to pursue the acquisition before funding approval. All such expenditures are made at the applicant's risk. That is, if a grant is not awarded, OIAC will not reimburse expenses.

The process to obtain a Waiver of Retroactivity differs somewhat between state funded and federally funded grant programs. There are even some differences among federal fund sources. To apply for a Waiver of Retroactivity, the applicant must forward to OIAC the information listed in Appendix I (page 66). This information is listed by fund source. Please note that waivers for the federal LWCF program require approval of IAC's Director approval *and* the National Park Service.

GENERAL POLICIES

The following list summarizes many acquisition project decisions that may only be made by IAC in a public meeting. Each is in accord with statutes, rules, and IAC-SRFB policies.

IAC-SRFB Decisions

1. Initial grant approval.
2. Any project cost increase that exceeds 10 percent of the total previously approved by IAC-SRFB. Cost increases are not allowed in some *IAC* programs.
3. A "conversion" that changes the project site or how the site is used from that described in the Project Agreement.
4. A significant change in the project's scope. Typically, such a modification includes any that the Director feels may have changed the project's evaluation score. Not included are changes that do not significantly modify the way the public uses a facility *or* the intended habitat

conservation, salmon habitat recovery, or recreational opportunity funded by IAC-SRFB.

5. Changes in policy; for example, establishing new grant limits or eligible expenditures.

Director's Decisions

The Director or staff designee makes many acquisition project decisions. The following list summarizes some of these decisions, each in accord with statutes, rules, and IAC-SRFB policies:

1. Appoint advisory committee and evaluation team members.	
2. Establish and/or waive grant program deadlines. OIAC may not extend application deadlines for Salmon Recovery projects.	WAC 286-13-040(3) WAC 420-12-030 (1)
3. Authorize grant application forms.	WAC 286-04-010, 286-13-020
4. Accept or deny plans submitted to comply with grant eligibility requirements.	WAC 286-35-030
5. Make project funding recommendations to IAC-SRFB .	WAC 420-04-040
6. Require that applicants submit additional project information after approval of funding and before executing a Project Agreement.	
7. Execute Agreements for projects approved by IAC-SRFB .	WAC 286-13-060(1) WAC 420-12-050 (1)
8. Authorize cost increases of 10 percent or less of an IAC project's approved initial cost.	WAC 286-04-070(3) WAC 420-12-060
9. Authorize project reimbursements.	WAC 286-13-070
10. Waive IAC sign recognition requirements.	WAC 286-13-120
11. Terminate the Project Agreement.	Project Agreement
12. Require that grant funds be repaid to IAC-SRFB if spent in a manner that conflicts with applicable statutes, rules, and/or policy manuals.	WAC 286-13-100 WAC 420-12-075
13. Approve interim non-public use of an IAC assisted site.	

An applicant or sponsor may request that a decision made by the Director be reconsidered. This is done by writing to the Chair of the IAC-SRFB at least thirty days before a board meeting [WAC 286-04-060(3) and 240-04-30(3)]. Requests will be placed on the meeting agenda with an opportunity for the petitioner to address the board. Any subsequent IAC-SRFB decision is final.

Phased Projects

Phased, or staged, projects are subject to the following:

- Approval of any single phase is limited to that stage, no endorsement or approval is given or implied toward future stages.
- Each phase must stand on its merits as a viable project.
- Each phase must be submitted as a separate application.

- Progress on earlier stages is considered by IAC-SRFB when making decisions on current projects.

Combination Projects

Combination projects involve land acquisition and either facility development, planning, restoration or assessments and feasibility studies. Eligible combination projects vary by program; see policy manuals for details. To help ensure timely completion of combination projects, at least one month before IAC considers approval of funding for such projects, applicants must secure the property by one of the following methods:

1. Acquisition under the Waiver of Retroactivity policies and procedures (page 7).
2. Have property in escrow pending IAC-SRFB grant approval.
3. Obtain an option on the property that extends past the IAC-SRFB funding meeting. Execution of the option must occur within 90 days after this meeting.
4. Provide draft copies of all leases or easements to OIAC for review. Execution of the leases or easements must occur within 90 days after the funding meeting.

Acquiring Easements

Acquiring less than fee simple title may be a cost effective and appropriate strategy for some acquisition projects. Policies included in this manual such as appraisal requirements, hazardous substances certifications, Deeds of Right/Assignments of Right, and title insurance all apply equally to acquisition of easements. Sponsors are responsible to ensure that the appraisal accurately reflects the subject property and rights to be acquired. Appraisals and appraisal reviews must meet the guidelines provided pages 15 and 18.

Sponsors and OIAC must also review the preliminary title report and encumbrances for consistency with the purpose of acquiring the easement. Sponsors will need to secure title insurance on the rights purchased. The insurance policy must show that the property rights are free of unacceptable liens and encumbrances. This may involve releasing the subject portion of a larger parcel from liens at the time of closing.

Draft easement documents should be pre-approved by OIAC to help ensure compliance with IAC-SRFB policies.

Conservation Easements

IAC-SRFB allows sponsors that wish to protect habitat resources to consider less than fee simple acquisition techniques, such as conservation easements. To assist in purchasing such easements, IAC-SRFB has established three required document templates:

- Model Baseline Documentation & Narrative (Appendix F, page 40)
- Assignment of Right (Appendix G, page 41 [IAC], 48 [SRFB]).
- Model Conservation Easement (Appendix H, page 54)

These three reports, or similar documents, are required of all sponsors acquiring conservation easements.

Trail & Access Easements

Easements are sometimes the preferred option for securing perpetual access. Easements may be desired for purposes of site management or for public recreation. At minimum easement documents must include:

1. A precise legal description with corresponding boundary map
2. Statutory language necessary to convey real property interests in Washington state
3. Statement of duration
4. Statement of purpose
5. Clear description of the rights that are being conveyed
6. Provide right to prevent any activity or use of the property that is inconsistent with the purpose of the trail/access easement
7. Maintenance clause, and
8. Provide for a Deed of Right to the state of Washington through IAC-SRFB.

Mitigation Acquisitions

Under certain conditions, IAC funds may be used to buy and/or develop land required by a mitigation plan. Typically, this occurs when a project to be developed with IAC funds eliminates a pre-existing opportunity, amenity, or function.

For example, a mitigation plan may require that a wetland to be lost when an athletic field is developed be replaced with property that matches the original wetland's attributes. In such cases, a portion of the IAC grant may be used to buy and develop the replacement land. When this occurs, IAC urges sponsors to buy land that will also serve as a habitat, natural area, or recreation site. In such cases, the maximum amount of an IAC grant allowed for mitigation is 25 percent. Any property acquired or developed this way is included in the Project Agreement.

Acquisitions for mitigation purposes are not eligible in the Salmon Habitat Recovery program.

Acquiring Publicly Owned Lands

Publicly owned lands are eligible for IAC-SRFB acquisition grants only under the following circumstances:

- State law requires that the agency owning the land must receive compensation *and*
- The land was not originally acquired by the agency for habitat conservation (for habitat conservation proposals), salmon habitat recovery (for salmon habitat recovery proposals), or recreation use (for outdoor recreation proposals) *and*
- The land has never been publicly managed for habitat conservation (for habitat conservation proposals), salmon habitat recovery (for salmon habitat recovery proposals), or recreation (for outdoor recreation proposals).

RCW 39.33.010 provides for the transfer of lands from one public body to another without compensation.

Acquisition of Structures to be Retained

A structure incidental to a project is eligible for IAC grant assistance if it will be demolished, or if it is allowed by program policy to be used to support the primary habitat conservation or outdoor recreation activity at the site. The anticipated use must be clearly identified in the project application so that IAC may determine the structure's significance to the project. Allowable support facilities vary by program. Consult the appropriate program policy manual for guidance on allowable facilities.

Encumbrances

Property rights acquired with IAC-SRFB funding assistance must be free of encumbrances that limit the value or uses disproportionately to the public benefit (i.e., habitat conservation or salmon habitat recovery values or the recreation use of a site).

Appraisal reports must include consideration of existing encumbrances in order for an acquisition to qualify for reimbursement (page 15).

Acquisition & Relocation Policies

Federal and state laws require agencies to comply with the *Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970*, commonly referred to as the Uniform Relocation Act, or URA (Public Law 91-646, as amended by the Surface Transportation and Uniform Relocation Assistance Act, P. Law. 100-17-1987; and chapter 8.26 RCW) on federally funded public projects. Failure to comply could lead to the loss of federal funding. Based on this, each applicant should review chapter 8.26 RCW to determine its need to comply. This should be done before submitting a land acquisition application, as IAC-SRFB is not responsible for providing advice regarding compliance. Please be advised compliance with the URA is mandatory for most recipients of federal funds.

Regardless of whether or not a sponsor follows chapter 8.26 RCW, all sponsors must still abide by the appraisal and review requirements set forth in this manual (pages 15 and 18).

Uniform Acquisition Procedures

The following procedures satisfy the acquisition requirements of the Uniform Real Property Acquisition portion of RCW 8.26.180 and chapter 468-100 WAC. While these requirements may apply to others, at minimum, agencies awarded LWCF or other federal monies must comply with these procedures:

1. The agency contacts the owner to learn if the land is for sale. In writing, the sponsor also offers the owner and tenants relocation assistance in accordance with the Uniform Relocation Act (page 12). Neither purchase negotiations nor price shall be discussed at this time. The parties may, however, discuss how they will determine the purchase price.
2. The agency determines whether or not relocation of owner or tenants will be involved and provides them with a written notice describing the agency's relocation program.
3. The agency has the real estate appraised (page 15) and provides the owner with an opportunity to be present during the appraiser's inspection. (Appendix A)
4. The agency has the appraisal reviewed by an IAC-SRFB approved procedure (page 18). After receiving the reviewed (estimated) fair market value from the review appraiser, the agency may follow one of two options:

A. Follow these steps if the agency wishes to negotiate an option for the property before IAC-SRFB approval:

   l) Using the "Offer of Purchase at Estimated Just Compensation" (page 26), the agency informs the owner of the value of the property based on the results of the reviewed appraisal. In writing, the agency also offers the owner and tenants eligible relocation costs. Nonprofit organizations and others exempt from RCW 8.26 may use the "Offer to Purchase" (page 27).

   2) The agency secures an option to acquire the property. The option agreement must[1]:

      a. Be based on the offer to purchase.
      b. Not commit the agency to acquire the property.
      c. Stipulate that the cost of securing the option is to be applied to the purchase price, if the cost of the option is to be an eligible cost.
      d. Be valid at least 40 days beyond the date an IAC-SRFB Project Agreement would be issued.

B. After receipt of the executed Project Agreement, follow these steps if the agency does not plan to secure an option before acquiring the property:

   1) Using the "Offer of Purchase at Estimated Just Compensation" (pages 26 and 27), the agency informs the owner of the value of the property based on the results of the reviewed appraisal. In writing, the agency also offers the owner and tenants eligible relocation assistance in accord with the Uniform Relocation Act (page 11). Nonprofit organizations and others exempt from RCW 8.26 may use the "Offer to Purchase" (page 27).

   2) The agency acquires the property by a Warranty Deed, easement, lease execution or other IAC-SRFB approved instrument.

Uniform Relocation Assistance

The sponsor may perform the administrative services needed to prepare a Relocation Plan, prepare relocation cost estimates, and relocate displaced persons *if* it has a qualified agent (staff or contract). OIAC must agree in advance on the qualifications of the agent to perform the work and it must be approved by the lead agency, Washington State Department of Transportation (WSDOT). Otherwise, the sponsor will need to hire either a qualified consultant, a qualified staff person from another state agency, or relocation staff from WSDOT to perform these services. The sponsor pays the cost of these services directly to the consultant or agency.

The sponsor must inform property owners and tenants about the relocation assistance entitlements for which they may be eligible. This should be done according to the procedures set forth in the Uniform Relocation Act. Be aware the Act is specific about when and how relocation is discussed with

[1] These elements are especially important if the sponsor does not have adequate resources to acquire the property without IAC-SRFB funds.

those persons considered displaced.

For more information about relocation assistance or acceptable forms to be used in providing relocation assistance, contact WSDOT, Real Estate Services Relocation Program Manager, 360/ 705-7329 or visit the WSDOT web site at www.wsdot.wa.gov/realestate.

Acknowledgment & Signs

Land acquisition project sponsors *must* acknowledge the IAC-SRFB funding assistance, by program if possible. This includes:

- Prominent placement of on-site signs, unless waived by the Director. The sponsor may build such signs to harmonize with an existing design standard *or* request a standard acknowledgement sign from OIAC.
- In any release or publication developed or modified for the project.
- Comments at dedication ceremonies; notify OIAC at least two weeks before the ceremony.

Some habitat conservation or salmon habitat recovery areas contain species or other resources so sensitive that it is unwise to allow access to the general public. In these cases, the sponsor should seek IAC-SRFB approval to waive signing and/or public access requirements.

When Land Acquisition Costs Exceed Fair Market Value

IAC-SRFB accepts an appraisal as a valid estimate of a property's value *if* the appraisal has been reviewed and approved as described on pages 15 and 18. After the appraisal (reviewed and approved), however, negotiations between the seller and sponsor may establish a higher price.

If the sponsor plans to seek IAC-SRFB reimbursement for this higher price, it must ask for approval by the Director. This written request must discuss:

- Why the property owner does not accept the appraised value, and
- Why the project sponsor and the IAC-SRFB should pay more than this estimated fair market value.

In such cases, IAC-SRFB considers both the negotiated price *and* appraised value in establishing its reimbursement and/or grant amount.

The Director may approve paying up to 10 percent more than the appraised value of a property. The 10 percent amount is based on the appraisal (reviewed and approved). Such cost adjustments are made on a parcel-by-parcel or property basis, not on the total project cost.

This approval does not include additional funds for the project; however, it does allow reimbursement based on the higher approved purchase price. IAC sponsors may seek IAC approval for any increase greater than 10 percent. Sponsors should review IAC-SRFB program policy manuals and IAC Manual #7, *Funded Projects: Policies and the Project Agreement* for information regarding cost increases for acquisition projects.

Once IAC-SRFB awards funding, a sponsor can pay more than the appraised value (reviewed and approved) without approval if it does not seek a cost increase or reimbursement for the higher value. If IAC-SRFB denies an increase, the

sponsor may pay more than the appraised value if the sponsor bears the responsibility of the increased cost.

Documentation Required for Land Donations

If the project sponsor buys the land for less than estimated fair compensation and seeks a donation of credit for this value, a statement of difference in value must be supplied to IAC-SRFB. The statement must be signed by the seller and acknowledge that before the sale, the owner:

- Was aware of the estimated just compensation amount
- Was offered the estimated just compensation amount, if required (see the section titled *Acquisition & Relocation Policies*, page 11).
- Made the choice to sell for less than the estimated fair compensation voluntarily, as an act of free will.

Escrow Payments

Although IAC-SRFB local agency and nonprofit organization grant programs typically operate on a reimbursement basis, after execution of a Project Agreement, escrow payments for acquisitions may be made. Requests for such payments must include copies of:

1. A legally binding agreement between the sponsor and seller, normally called a "Purchase and Sale Agreement".
2. A copy of the Buyer's Estimated Settlement Statement.
3. Evidence showing that the sponsor's share has been deposited into an "Escrow" account.
4. The "Transfer Deed(s)" (which may or may not have been executed).
5. The "Deed of Right/Assignment of Rights" (which may or may not have been executed).
6. The "Preliminary Title Insurance Report," if not previously provided.
7. The "Offer to Purchase" if required.
8. Hazardous Substances Certification.

After IAC-SRFB advances payment, a copy of the executed and recorded deed, recorded "Deed of Right/Assignment of Rights," and Title Insurance Policy, naming the sponsor as legal owner, must be promptly provided.

Compatible Multiple Use

IAC-SRFB allows non-outdoor recreation, salmon habitat recovery or habitat conservation use of acquisition projects, such as timber management, grazing, and other natural resource uses. These uses must be:

- Clearly compatible with the outdoor recreation, salmon habitat recovery or habitat conservation use approved in the Project Agreement
- Clearly secondary to the outdoor recreation, salmon habitat recovery or habitat conservation use approved in the Project Agreement
- Approved by the Director in writing.

Public Access

In most cases, regardless of whether the property is developed, lands acquired with IAC grant assistance must be available for public use. Use of undeveloped or partially developed recreation areas may be restricted,

however, total exclusion of the general public must be avoided.

Sponsors must immediately dedicate lands acquired with IAC-SRFB assistance to public use. No one must deny the public this access even in the period between acquisition and any planned development or restoration.

Exceptions. On request, the Director may, in writing, allow the following exceptions to this public access policy:

- Sensitive natural areas, salmon habitat recovery sites and critical habitats.
- Areas where safety is a temporary issue.

Interim Land Uses

Second Party Use. Sometimes a sponsor may wish to request that IAC-SRFB allow a second party's on-site activity even though the activity is not addressed in the Project Agreement. The Director may, in writing, allow this use when:

- The use is a *continuing* second party use
- Any hindrance to public use of the assisted site is minimal
- The second party's use will be phased out within *three years* of the date of acquisition
- Use of any income derived from the second party use is consistent with the IAC-SRFB income policy.

Life Estates. Under a life estate, an owner uses IAC-SRFB assisted property to the end of his or her life. IAC-SRFB allows life estates when:

- The estate does not totally limit public use of the site
- The impact of the reservation of the estate is addressed in the valuation of the property. Appraisers should treat a life estate as an encumbrance.
- The Director gives written approval of the estate's provisions.

Estimating Land Value

As a part of the application process, applicants must identify one of the following as evidence of the proposed land acquisition's value:

- An Appraisal, with or without review, or
- Letter of Opinion (see Appendix E for format), or
- Estimate of Value by an agency or organization staff member.

APPRAISAL REQUIREMENTS

The applicant/sponsor must obtain and pay for a real estate appraisal and review when a land acquisition is to be assisted with IAC-SRFB funds. These reports may not be procured by the seller or other party with an actual or potential interest in the sale unless approved by the Director. If IAC-SRFB awards funding for the acquisition, the cost of these reports is eligible for reimbursement even *if* incurred before execution of the Project Agreement. Note that appraisals and reviews are not eligible as match or for reimbursement in the federal LWCF program.

The appraisal standards for federally funded grant programs differ from those for state funded grant programs. If the applicant/sponsor is seeking a federal grant for acquisition (LWCF and some SRFB), then the appraisal report and review ***must*** be in compliance with the Uniform Appraisal Standards for

Federal Land Acquisitions (UASFLA).

For all other funding programs, IAC-SRFB recognizes the appraisal standards recommended by the current *Uniform Standards of Professional Appraisal Practice* (USPAP) publication ***with the following exceptions***:

- Extraordinary Assumptions and Hypothetical Conditions must be clearly listed and justified in the appraisal report and be found reasonable by the review appraiser;
- Appraisals must include consideration of existing encumbrances;
- The restricted format for reporting appraisals is not acceptable; and
- Appraisers must provide a point value, rather than a value range (Example: $257,000 rather than $240,000 to $270,000).

These exceptions are deemed necessary to ensure prudent use of public funds, and are discussed in further detail in the text below. ***It is the responsibility of applicants/sponsors to share these exceptions in writing with the appraisers and review appraisers who will be preparing documents for the funded project.***

Appraisal reports include a statement of assumptions and limiting conditions. Applicants/sponsors should avoid the use of hypothetical conditions unless consistent with USPAP guidelines. If the appraiser uses extraordinary (special) assumptions and/or hypothetical conditions, the appraiser must clearly state these within the report and must provide a reasonable basis, or justification, for using them. Additionally, the review appraiser must list all extraordinary (special) assumptions and /or hypothetical conditions and comment on their reasonableness. If the findings are that the assumptions or conditions are not reasonable, the value of the land may not be supported and sponsors risk the burden of additional costs that are not eligible for reimbursement.

The appraiser and review appraiser must consider the impact on value of encumbrances and reservations that will be on the property as it is finally to be conveyed, which may be different than characterized on the preliminary title report. It is the responsibility of the project sponsor to provide the appraiser and review appraiser with the preliminary title report and the encumbrance documents. In addition, the sponsor must also inform the appraiser of any changes on title to be made up to closing, including encumbrances which will be cleared and any new encumbrances or reservations which are to be created. An exception to this is the Deed of Right/Assignment of Rights required by IAC-SRFB. IAC-SRFB may require supplemental information or appraisal updates prior to reimbursement if the original report does not accurately reflect the encumbrances in place at the time of conveyance.

If a legal requirement beyond the sponsors control would create a new encumbrance at closing and the sponsor wishes to instruct the appraiser to disregard the impact to value, the sponsor may seek the Director's approval for an exception to this policy. All such requests must be submitted in writing.

Appraisals for state-funded grant projects are considered to have a "shelf life"

of one year from the effective date of the appraisal. Sponsors must either purchase the property within the one-year period or have a signed "purchase and sale" agreement that reflects the appraised and reviewed value. In some cases, when land values are very stable, IAC-SRFB will accept a written statement from the review appraiser certifying that land values have not changed since the effective date of the appraisal. The "shelf life" of an appraisal for state-funded grant programs may not exceed 18 months under any circumstances.

Appraisals for federally funded grant projects have a "shelf life" of 12 months.

Appraisal updates are acceptable under USPAP and federal guidelines, however a review appraisal is necessary for appraisal updates.

OIAC will only reimburse for one appraisal report and one review per property in a given Project Agreement period. The Director will consider written requests to approve reimbursement for an additional appraisal and review. The request must include adequate justification as to why the additional work was required. Updates obtained within 24 months of the original appraisal dates will not be considered a second appraisal for reimbursement purposes.

Appraising Conversions

A conversion occurs when a sponsor converts the use of a grant-assisted property from its intended use to some other use. See IAC Manual 7, *Funded Projects: Polices* for a complete discussion of conversions and the process required for replacement of the public investment as required by the Deed of Right or Assignment of Rights.

In order to determine the market value of a property being converted, the sponsor must instruct the appraiser to assume the Deed of Right is not encumbering the property. Since the Deed of Right will be extinguished once the conversion is approved, the appraised value should reflect a property free and clear of this encumbrance.

Appraisal Reporting Criteria

USPAP allows three formats of appraisal reports: Self-contained, Summary and Restricted. IAC-SRFB will accept two of the three formats: Self-contained and Summary. Project sponsors must choose the appropriate reporting method established by USPAP based upon the following criteria:

1. *Self-Contained Appraisal Report*: Used if the appraisal problem involves partial land takes, acquisitions involving damages, conservation or other easements, complex appraisal issues, etc.
2. *Summary Appraisal Report*: Used if the appraisal problem involves only "whole takes" of the subject property. In other words, use this report when non-complex acquisition of an entire parcel occurs with no partial takings or resulting damages to remaining properties.
3. *Restricted Appraisal Report*. IAC-SRFB will not accept appraisals reported in the restricted format.

In cases where the estimated value of the subject property does not exceed $10,000, and the acquisition is not complex, project sponsors may be exempt from having to meet USPAP reporting standards. Prior approval for such exemptions must be requested in writing. In lieu of normal reporting

procedures, a report may be filed that:

- Includes the preparer's name, experience and qualifications.
- Includes a description of the methods and factors used to reach the conclusion. This description must have enough detail to allow IAC to understand how the preparer used market information to decide fair market value.

Appraisal Reviews

Appraisals valuing IAC-SRFB funded acquisitions require review by another eligible appraiser (see next section, *Appraiser Qualifications*). Values established by appraisal review form the basis of the estimated fair market value and subsequent reimbursement.

1. Appraisal review reporting requirements are established by USPAP.
2. If the value of the appraisal review differs from the original appraisal, the reviewer must adhere to the appraisal guidelines listed in this Manual when establishing a new value.
3. The review appraiser must either approve or reject the value conclusion. The reviewer may approve the value and either acknowledge that the appraisal meets the guidelines in this manual or develop or obtain the necessary work product to bring the report into compliance. If the reviewer rejects the value, the sponsor must either require the reviewer to provide a compliant value conclusion or obtain a new appraisal.

   In all instances of desk reviews, where the review appraiser rejects the appraised value and becomes the appraiser of record by providing an alternate value conclusion, the review appraisal must take the form of a field review or new appraisal assignment in accord with IAC guidelines.
4. Appraisal reviews must include field inspections of the subject properties and comparables in cases where the appraisal sets the property value at $250,000 or higher. Desk reviews are acceptable for properties having a value less than $250,000.

Appraiser's Qualifications

Appraisers. Chapter 18.140 RCW, Certified Real Estate Appraiser Act, establishes three certification or license categories. Sponsors, or applicants must select an appraiser with appropriate certifications or licenses to perform IAC-SRFB assisted acquisitions.

1. *State-certified general real estate appraiser* (license number begins with 270-11): Eligible to develop and communicate real estate appraisals of all types of properties.
2. *State-certified residential real estate appraiser* (license number begins with 270-17): Eligible to develop and communicate real estate appraisals of all types of *residential* property of one to four units without regard to transaction value or complexity and *nonresidential* property having a transaction value less than $250,000.
3. *State licensed real estate appraiser* (license number begins with 270-16): Eligible to develop and communicate real estate appraisals of noncomplex one to four residential units having a transaction value less than one million dollars, complex one to four residential units having a transaction value

less than $250,000, and nonresidential property having a transaction value less than $250,000.

Sponsor staff may perform appraisals, but must meet the above licensing or certification requirements.

Review Appraisers. IAC views the estimated fair market value of real property as the value established by a second appraiser's review of an eligible appraisal. Project sponsors, or applicants, must use the same methodology and criteria for selecting a review appraiser as used for selecting an appraiser.

1. Review appraisers must have an equal or greater license certification than the original appraiser.
2. Review appraisers cannot be selected from the same firm, organization, or agency/sponsor as the appraiser.
3. Sponsor staff may perform review appraisals, but must meet the above licensing or certification requirements.

USER FEES AND OTHER INCOME

User or other fees may be charged in connection with areas and facilities developed or acquired with IAC-SRFB grants. (*Excepted* are Firearms and Archery Range Recreation Program safety classes –firearm and/or hunter– for which a *facility/range* fee must not be charged — RCW 79A.25.210, ¶8.) Such fees must be:

- Proportional to the value of the service or opportunity provided
- Within the prevailing range of public facility fees in the area for similar services or opportunities.
- Compatible with the element(s) defined in the Project Agreement.

Sponsors shall not express a preference for users of IAC-SRFB grant assisted projects on the basis of residence (including preferential reservation, membership, and/or permit systems) *except* that reasonable differences in admission and other fees may be maintained on the basis of residence. Even so, IAC-SRFB discourages the imposition of differential fees. Fees for nonresidents must not exceed twice the fee imposed on residents. Where there is no fee for residents but a fee is charged to nonresidents, the nonresident fee shall not exceed the amount that would be imposed on residents at comparable state or local public facilities. [WAC 286-13-115(2)].

Regardless of whether income or fees in an IAC-SRFB assisted area (including entrance, utility corridor permit, cattle grazing, timber harvesting, farming, riparian plantings, etc.) are gained during or after the reimbursement period cited in the Agreement, unless precluded by state law [WAC 286-13-110(2)], the revenue may only be used to offset:

- The Sponsor's matching funds; and/or;
- The Project's total cost; and/or
- The expense of operation, maintenance and/or repair of the facility or program assisted by the IAC-SRFB grant; and/or
- The expense of operation and maintenance of other units in the Sponsor's park and recreation, salmon habitat recovery and/or habitat conservation

system; and/or
- Capital expenses for similar acquisition and/or development.

CIVIL RIGHTS

Chapter 49.60 RCW is Washington's Law Against Discrimination. It provides broad protection from bias. Among the many rights provided are equal opportunity in real estate transactions, credit transactions, and the right to enjoy public accommodations.

To obtain more information on these and related laws, contact the Washington State Human Rights Commission office in your area.

INSPECTIONS

Office staff may visit each acquisition project site as follows:

1. *Pre-award Visit.* Made during the application phase, normally with the applicant.
2. *Post Completion Compliance Visit.* Performed periodically to ensure the site is kept as described in the Project Agreement.

HAZARDOUS SUBSTANCES

Any entity that acquires property may be subject to hazardous waste liabilities, according to the Model Toxics Control Act, RCW 70.105D. IAC-SRFB urges applicants to carefully consider the following requirement before applying for funding assistance.

Certification

Sponsors that receive funding assistance to buy property must complete a Hazardous Substances Certification for each parcel (pages 38 and 39) and provide documentation to support the certification. The Sponsor should complete this certification prior to the closing date of their purchase and sale agreement. The certification must be submitted before IAC-SRFB makes its final reimbursement. The certification must state that the parcel meets current state and federal standards for allowed levels of certain substances. The standards apply equally to substances that:

- *Are* hazardous, toxic, harmful, or dangerous
- *Are designated as* hazardous, toxic, harmful, or dangerous
- *Have components that are* designated as hazardous, toxic, harmful, or dangerous
- *Are subject to regulation as* hazardous, toxic, harmful, or dangerous
- *Are regarded as a pollutant* by any federal, state, or local law, regulation, statute, or ordinance.

Hazardous Substances Support Documentation

All sponsors must attach an environmental assessment to the Hazardous Waste Certification Form (Appendix F), submitted to IAC-SRFB when the sponsor requests reimbursement. The American Society of Testing Materials recognizes a national standard related to environmental assessments. A Phase 1 environmental assessment is a file review of known and documented historical uses of a site. It includes a title search and review of federal, state and/or local records that would indicate if any hazardous materials had been found, or if there was a reason to suspect hazardous materials had been present at some time.

An example would be an underground storage tank identified by the Department of Ecology, or an old dumpsite identified by the local department of health. Sponsors are strongly encouraged to include an on-site inspection for evidence of past activity or current dumping. Sponsors may complete the assessment using agency or organizational staff.

If any evidence of hazardous substances appears in the Phase 1 assessment, then a Phase 2 assessment is warranted. Sponsors should consult with a qualified specialist for Phase 2 assessment obligations. Careful review of the section on Buying Contaminated Property is essential if hazardous substances are found. A typical outline for a Phase 1 environmental assessment is provided as a property assessment checklist on page 39.

Buying Contaminated Property

Land that contains any of the substances listed in the Certification section, above, may be eligible for IAC-SRFB funding assistance. That is, the Director may write approval for the purchase of land with these substances if presented with an environmental assessment. The assessment must discuss clean-up costs and give clear evidence that cleansing can be finished quickly. If the Director requests, the sponsor must provide additional related information to help in making a decision.

Once the Director approves purchase of a contaminated site, the sponsor may be reimbursed up to 90 percent of eligible costs *before* the site meets the standards for acceptable contamination levels. Once these standards have been met, OIAC will reimburse the remaining 10 percent.

In estimating fair market value, IAC-SRFB will only consider land appraised *as if it were clean*. This is the maximum amount IAC-SRFB will reimburse. Furthermore, IAC-SRFB will not consider cost increases for expenses related to clean-up or a seller's desire to recover clean-up costs.

This leaves applicants/sponsors with two options. First, the seller may agree to do all required clean-up *before* the sale, and second, the sponsor may do clean-up *after* the sale.

IAC-SRFB *strongly* advises applicants/sponsors to buy land that has never been contaminated or is certified as meeting current state and federal standards. Clean-up costs are very hard to predict. Attempts to clean-up a site can result in substantial expenses that are not eligible for IAC-SRFB reimbursement.

Eligible Costs

Environmental Assessment Costs. Some environment assessment costs related to hazardous substances are eligible for reimbursement. These costs may be reimbursed up to 10 percent of the estimated fair market value of the property, appraised as if it were clean. With adequate justification, the Director may write approval for assessment costs over 10 percent. Eligible hazardous substance environmental assessments costs are:

- Chain of Title Report
- Preliminary Investigation/Audit of Site
- Environmental Reports and Assessments

- Invasive testing, including test pits, test wells, and other drilling procedures
- Chemical analysis of water, soil, waste materials, etc.
- Leak testing of underground storage tanks
- Monitoring and testing of clean-up when done by a seller.

Clean-Up Costs. Clean-up costs are eligible for reimbursement. The amount eligible is based on the estimated fair market value appraised as if it were clean.

CONTRACT OR INSTALLMENT SALES

IAC-SRFB will not financially assist land bought on a contract or installment basis if the contract period exceeds the IAC-SRFB Project Agreement period. Full payment must be made to the seller within the agreement reimbursement period. This ensures that the sponsor:

- Has clear ownership of the property
- Can meet the "Deed of Right" requirements, that is, convey use of the property to the state forever, for outdoor recreation, salmon recovery or habitat conservation purposes.

IAC-SRFB recognizes that this may be an obstacle when buying from an owner who, for tax reasons, wants to sell on a multi-year installment or contract basis only. Private non-profit land trusts may offer a solution to this problem for state or local agencies submitting ALEA, BFP, LWCF, or WWRP projects by acting as an intermediary to the transaction. For example, the land trust may contract to purchase the property on a seller-financed basis with note payments scheduled according to the seller's tax needs. The land trust then sells the property to the sponsoring agency on a lump sum basis, while retaining liability for the note payments.

If the seller requests, the land trust may provide collateral in several ways, other than using the property itself. For example, the trust could arrange for a letter of credit in favor of the seller to secure the note. An alternative is for the trust to purchase a certificate of deposit, which can be assigned to the seller for security purposes. Normally, either of these cash collateral methods of security is acceptable to sellers. Both would result in the acquisition of the land free of purchase money encumbrances.

These procedures are suggested only to broaden the options of applicants as they seek to acquire important outdoor recreation and habitat conservation land. Presently this option is only available to applicants for the ALEA, BFP, LWCF or WWRP.

BOUNDARY MAPS

IAC-SRFB requires sponsors to submit a boundary map of each parcel/property acquired. The boundary map and/or attachments must include the following:

1. IAC-SRFB project number and name
2. Date of the map preparation
3. Adjoining streets and roads.
4. The lands acquired and protected under the Deed of Right or Assignment

of Rights. To make sure the property is clearly shown, the following methods of identification are acceptable:

- Deed references.
- Adjoining ownerships,
- Adjoining water bodies or other natural landmarks.
- Latitude-longitude of cardinal points
- Survey information, or
- Measurements from permanent locators may also be used.

5. The map should also identify the location of all known easements, outstanding rights, deed/lease restrictions, reversionary interests, etc.

A survey is not required, however if a survey has been completed with IAC-SRFB assistance, a copy must be submitted to OIAC.

Section 3 – Appendices

Appendix A

STATEMENT OF ACCOMPANIMENT

Date:

Name of Owner:

Appraiser:

Project Sponsor:

Dear:

The ___Project Sponsor___ has requested that I appraise the following property:

According to the records at the _____ County Auditors Office, you are the owner of the above-mentioned property. In compliance with the State and/or Federal regulations, the appraiser must ask if the owner would like to accompany him/her when he/she inspects the property.

I plan to appraise the property on _____, and this letter is an invitation for you to go with me when I appraise the property. Please indicate below whether or not you wish to accompany me and return the letter to me as soon as possible. If you do wish to be present but cannot make the set date and time, please call me at _____.

Sincerely yours,

Reply by the owner

I have read the above letter and I **[ ]** do, **[ ]** do not wish to accompany the appraiser to inspect the property.

_____

(Signature of Owner)

Appendix B-1

OFFER OF PURCHASE AT ESTIMATED JUST COMPENSATION

Sample Letter

Date of Offer

Property Owner
Address

RE: Offer of Purchase at Estimated Just Compensation

Dear Property Owner:

This letter is to advise you of the estimated just compensation for your real property as described herein (or attached) and the offer to purchase the property at no less than the estimated just compensation.

In compliance with State and Federal law, you are advised that the estimate of just compensation for fee interest in your property is: $_____.

You are hereby offered $ (Estimated Just Compensation) for your property which is the *estimated* Fair Market Value of your real property herein (or attached) described.

Property description paragraph or reference to attachment.

Please acknowledge receipt of this letter by completing the following section:

STATEMENT OF OWNER

	T	F
I have read the statement of Estimated Just Compensation above	[ ]	[ ]
I have been offered, at a minimum, the Estimated Just Compensation	[ ]	[ ]
There are no persons living on the property	[ ]	[ ]
There are no businesses being conducted on the property by others	[ ]	[ ]

The following are the names and addresses of persons living or conducting business on the property (include owner if in occupancy):

Owner signature: _____

Please retain this letter for your records, and return a completed copy to me by_____. If you have questions please call me.

Sincerely,

Public Agency

NOTE: This offer, in effect, opens official negotiations with the owner or his/her representative. No discussions with the owner prior to this time should include purchase price (page 11).

Appendix B-2

OFFER TO PURCHASE
(For Use by Nonprofit Organizations)

Sample Letter

Date of Offer

Property Owner
Address

RE: Offer to Purchase

Dear Property Owner:

This letter is to advise you of the estimated fair market value of your real property as described herein (or attached) and the offer to purchase the property.

In compliance with IAC-SRFB policy, you are advised that the estimate of just compensation for fee interest in your property is: $_____.

We hereby offer $ (_____) for your real property herein (or attached) described.

Property description paragraph or reference to attachment.

Please acknowledge receipt of this letter by completing the following section:

STATEMENT OF OWNER

	T	F
I have read the offer to purchase, stated above	[ ]	[ ]
There are no persons living on the property	[ ]	[ ]
There are no businesses being conducted on the property by others	[ ]	[ ]

The following are the names and addresses of persons living or conducting business on the property (include owner if in occupancy):

Owner signature: _____

Please retain this letter for your records, and return a completed copy to me by_____. If you have questions please call me.

Sincerely,

Nonprofit Organization

Format. The *Deed of Right* must be recorded with the county. As such, it must meet the format requirements of RCW 65.04.045, including proper display of the address of the party to whom it must be returned (in this case, IAC); page, margin, and font size; titles, etc. Check with the county auditor or recording officer for specific requirements.

DEED OF RIGHT TO USE LAND FOR

CONSERVATION PURPOSES

The Grantor, _____ for and in consideration of monies coming in whole or in part from the Habitat Conservation Account of the General Fund of the State of Washington and in fulfillment of terms of the Project Agreement identified below, conveys and grants to the State of Washington individually and as the representative of all the people of the State, the right to use the real property described below forever for conservation purposes.

Those purposes are described in the Project Agreement entered into between the Grantor and the State of Washington through the Interagency Committee for Outdoor Recreation entitled _____ Project Number _____ signed by the Grantor on the ____ day of and by the Interagency Committee on the ___ day of _____ and the application and supporting materials which are on file with the Grantor and the State in connection with the Project Agreement.

The Grantor will not make or permit to be made any use of the real property described in this deed, or any part of it, which is inconsistent with the right to use for conservation purposes herein granted unless the State, through the Interagency Committee for Outdoor Recreation or its successors, consents to the inconsistent use, which consent shall be granted only upon conditions which will ensure that other conservation land of at least equal fair market value at the time of change of use and of as nearly as feasible equivalent qualities, characteristics and location for conservation purposes for which state assistance was originally granted will be substituted in the manner provided in RCW 79A.25.100 for marine recreation land, whether or not the real property covered by this deed is marine recreation land. RCW 79A.25.100 reads as follows:

> "Marine recreation land with respect to which money has been expended under RCW 43.99.080 (recodified as RCW 79A.25.080) shall not, without the approval of the committee, be converted to uses other than those for which such expenditure was originally approved. The committee shall only approve any such conversion upon conditions which will assure the substitution of other marine recreation land of at least equal fair market value at the time of conversion and of as nearly as feasible equivalent usefulness and location."

The real property covered by this deed is described as follows:

Appendix C-1, page 3 of 3

This deed shall in no way modify or extinguish the functions of the Grantor under the Project Agreement, including the Grantor's functions to operate and maintain the land as set out in the Project Agreement.

Dated this _____ day of _____ , 20_____

By: _____ .
Title

ATTEST:

_____

STATE OF WASHINGTON)
: SS.
COUNTY OF)

THIS IS TO CERTIFY that on this ____ day of _____, 20____, before me the undersigned Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____ to me. This individual is known to be the , of the _____ that executed the foregoing deed and acknowledged to me that they signed and sealed the same as the free and voluntary act and deed of said _____ and on oath stated that they were authorized to execute said instrument and that the seal affixed is the seal of said _____ .

WITNESS my hand and official seal the day and year in this certificate first above written.

_____ ,
Notary Public in and for the State of Washington, residing in
_____ County.

My commission expires _____ .

Appendix C-2, page 1 of 3

Format. The *Deed of Right* must be recorded with the county. As such, it must meet the format requirements of RCW 65.04.045, including proper display of the address of the party to whom it must be returned (in this case, SRF Board); page, margin, and font size; titles, etc. Check with the county auditor or recording officer for specific requirements.

DEED OF RIGHT TO USE LAND FOR

SALMON RECOVERY

The Grantor, _____ for and in consideration of monies coming in whole or in part from the Salmon Recovery Funding Board of the State of Washington and in fulfillment of terms of the Project Agreement identified below, conveys and grants to the State of Washington individually and as the representative of the people of the State, the right to use the real property described below forever for salmon recovery and conservation purposes.

Those purposes are described in the Project Agreement entered into between the Grantor and the State of Washington through the Salmon Recovery Funding Board, titled _____ Project Number _____ signed by the Grantor on the ____ day of _____ and by the Salmon Recovery Funding Board on the ___ day of and the application and supporting materials which are on file with the Grantor and the State in connection with the Project Agreement.

The Grantor will not make or permit to be made any use of the real property described in this deed, or any part of it, which is inconsistent with the right to use for salmon recovery and conservation purposes herein granted unless the State, through the Salmon Recovery Funding Board or its successors, consents to the inconsistent use. This consent shall be granted only upon the following conditions, which will ensure other land will be substituted.

The conditions are that the substituted salmon recovery and conservation land must be: (1) of at least equal fair market value at the time of change of use and of as nearly as feasible equivalent (2) qualities, (3) characteristics and (4) location for salmon recovery and conservation purposes for which state assistance was originally granted.

Appendix C-2, page 2 of 3

The real property covered by this deed is described as follows:

This deed shall in no way modify or extinguish the functions of the Grantor under the Project Agreement, including the Grantor's functions to operate and maintain the land as set out in the Project Agreement.

Dated this _____ day of _____ , 20_____

By: _____ .
Title

ATTEST:

_____

STATE OF WASHINGTON)
: SS.
COUNTY OF)

THIS IS TO CERTIFY that on this ____ day of _____, 20____, before me the undersigned Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____ to me. This individual is known to be the , of the _____ that executed the foregoing deed and acknowledged to me that they signed and sealed the same as the free and voluntary act and deed of said _____ and on oath stated that they were authorized to execute said instrument and that the seal affixed is the seal of said _____ .

WITNESS my hand and official seal the day and year in this certificate first above written.

_____ ,
Notary Public in and for the State of Washington, residing in
_____ County.

My commission expires _____ .

Appendix C-3., page 1 of 3

Format. The *Deed of Right* must be recorded with the county. As such, it must meet the format requirements of RCW 65.04.045, including proper display of the address of the party to whom it must be returned (in this case, IAC); page, margin, and font size; titles, etc. Check with the county auditor or recording officer for specific requirements.

DEED OF RIGHT TO USE LAND

FOR PUBLIC **RECREATION** PURPOSES

The Grantor, _____ for and in consideration of monies coming in whole or in part from the Outdoor Recreation Account of the General Fund of the State of Washington and in fulfillment of terms of the Project Agreement identified below, conveys and grants to the State of Washington individually and as the representative of all the people of the State, the right to use the real property described below forever for the outdoor recreation purposes.

Those purposes are described in the Project Agreement entered into between the Grantor and the State of Washington through the Interagency Committee for Outdoor Recreation entitled _____ Project Number _____ signed by the Grantor on the ____ day of and by the Interagency Committee on the ___ day of _____ and the application and supporting materials which are on file with the Grantor and the state in connection with the Project Agreement.

The Grantor will not make or permit to be made any use of the real property described in this deed, or any part of it, which is inconsistent with the right to use for public outdoor recreation herein granted unless the state, through the Interagency Committee for Outdoor Recreation or its successors, consents to the inconsistent use, which consent shall be granted only upon conditions which will ensure that other outdoor recreation land of at least equal fair market value at the time of change of use and of as nearly as feasible equivalent usefulness and location for the public recreation purposes for which state assistance was originally granted will be substituted in the manner provided in RCW 79A.25.100 for marine recreation land, whether or not the real property covered by this deed is marine recreation land. RCW 79A.25.100 reads as follows:

> "Marine recreation land with respect to which money has been expended under RCW 43.99.080 (recodified as RCW 79A.25.080) shall not, without the approval of the committee, be converted to uses other than those for which such expenditure was originally approved. The committee shall only approve any such conversion upon conditions which will assure the substitution of other marine recreation land of at least equal fair market value at the time of conversion and of as nearly as feasible equivalent usefulness and location."

The real property covered by this deed is described as follows:

Appendix C-3, page 3 of 3

This deed shall in no way modify or extinguish the functions of the Grantor under the Project Agreement, including the Grantor's functions to operate and maintain the land as set out in the Project Agreement.

Dated this _____ day of _____ , 20_____

By: _____ .
Title

ATTEST:

_____

STATE OF WASHINGTON)
: SS.
COUNTY OF)

THIS IS TO CERTIFY that on this ____ day of _____, 20____, before me the undersigned Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____ to me. This individual is known to be the , of the _____ that executed the foregoing deed and acknowledged to me that they signed and sealed the same as the free and voluntary act and deed of said _____ and on oath stated that they were authorized to execute said instrument and that the seal affixed is the seal of said _____ .

WITNESS my hand and official seal the day and year in this certificate first above written.

_____ ,
Notary Public in and for the State of Washington, residing in
_____ County.

My commission expires _____ .

Appendix D.

IAC FORMAT FOR:

LETTER OF OPINION

Date:

For:

Re: Property Located at

Dear _____:

In accordance with your request, I have made a feasibility study of the above referenced property as of ___*(date)*____. This feasibility study consisted of *(state specifically what steps the appraiser performed in his study, and what analysis, if any, he made)*. It should be clearly understood that an appraisal has not been made of the above referenced property, and that this letter does not constitute an appraisal report.

Based upon this preliminary study, it is the appraiser's belief that if an appraisal were made, the final valuation estimate as of ___*(date)*__ would probably be in the range of approximately $_____ to $_____. (See note A)

It should be clearly understood that the this approximate range of value is subject to adjustment upon completion of an appraisal.

Very truly yours,

(Signature)

Note A: The letter of opinion never refers to a specific value.

Appendix E-1.

HAZARDOUS SUBSTANCES CERTIFICATION

The _____ (project sponsor), as the recipient of funding assistance specified in IAC Project Agreement #_____ titled _____ does hereby give assurance that it does not know and has no reason to know that any hazardous substance, the release or threatened release of which has resulted in or contributed to the need for remedial action, was released or disposed of, in or at the property or properties that are included in the above-referenced Project Agreement. The project sponsor further warrants that it has obtained representations and warranties concerning the environmental condition of the property from the seller and has inspected the property to the scope and extent described in the attached *Property Assessment Checklist for Hazardous Substances Certification.*[1]

_____

Signature

_____

Title

_____

Date

[1] An environmental assessment report, or a checklist of the sponsor's design, may be substituted for this *Checklist*.

Appendix E-2.

Property Assessment Checklist for Hazardous Substances Certification

Date: **Property Name**:

Legal Description: **Co. Parcel #**
Street Address:

I. Land Use - Subject Property

Use	Yes	No	Unk
Commercial/industrial	( )	( )	( )
Dryland agriculture	( )	( )	( )
Forest	( )	( )	( )
Grazing	( )	( )	( )
Irrigated agriculture	( )	( )	( )
Residential	( )	( )	( )
Vacant undeveloped	( )	( )	( )
Other	( )	( )	( )

Comment:

II. Land Use - Adjacent Properties

Use	Yes	No	Unk
Commercial/industrial	( )	( )	( )
Dryland agriculture	( )	( )	( )
Forest	( )	( )	( )
Grazing	( )	( )	( )
Irrigated agriculture	( )	( )	( )
Residential	( )	( )	( )
Vacant undeveloped	( )	( )	( )
Other	( )	( )	( )

Comment:

III. Public Records

List/Agency Action	Yes	No	Unk
Federal superfund	( )	( )	( )
Ecology haz sites list	( )	( )	( )
Ecology leaking UST list	( )	( )	( )
Ecology UST list	( )	( )	( )
Ecology enforcement	( )	( )	( )
County dumps/landfills	( )	( )	( )
County enforcement	( )	( )	( )
Fire district response	( )	( )	( )

Comment:

IV. Field Inspection

Risk Indicators	Yes	No	Unk	Risk Indicators	Yes	No	Unk	Risk Indicators	Yes	No	Unk
Abandoned equipment	( )	( )	( )	Chemical spills	( )	( )	( )	Off site water discharge	( )	( )	( )
Above ground tanks	( )	( )	( )	Chemigation/fertigation	( )	( )	( )	Oil used for dust control	( )	( )	( )
Attractive nuisances/hazards	( )	( )	( )	Discolored soils	( )	( )	( )	Piles of “unknowns”	( )	( )	( )
Buildings	( )	( )	( )	Distressed vegetation	( )	( )	( )	Pilings, docks, wharfs	( )	( )	( )
* Asbestos	( )	( )	( )	Electrical equipment	( )	( )	( )	Pits, ponds, lagoons	( )	( )	( )
* Fiberglass	( )	( )	( )	Excavations/fills	( )	( )	( )	Railroads	( )	( )	( )
* Hazardous condition	( )	( )	( )	Flood hazard	( )	( )	( )	Under ground tanks	( )	( )	( )
* Lead	( )	( )	( )	Foundations	( )	( )	( )	Unstable soils/slopes	( )	( )	( )
* Urea formaldehyde	( )	( )	( )	Garbage dumps	( )	( )	( )	Water sheens	( )	( )	( )
Burn piles	( )	( )	( )	Hazmat use, storage, dumping	( )	( )	( )	Wells	( )	( )	( )
Chemical filling areas	( )	( )	( )	Manholes, fill pipes, drains	( )	( )	( )	Other	( )	( )	( )

Comment (Note: attach additional comments, map and photos):

V. Conclusion & Recommendation

( ) **No Apparent Risk** There is no apparent liability to the department, or it presents an acceptable level of risk, as explained below.
( ) **Low Level of Risk that can be Mitigated** There is a risk level that can be avoided if certain actions are taken or conditions met, as explained below.
( ) **Risk needs Further Investigation** There is a potential or known risk that needs a Phase 1 environmental assessment completed, as explained below.
( ) **High Risk** There is a potential or known risk that outweighs benefit to the department, as explained below.

Rationale: I reviewed the following documents/undertook the following actions in arriving at the above conclusion: ( ) Aerial photos; ( ) Title search; ( ) Public Records; ( ) Personal interview (who?)_____; ( ) Site inspection; ( ) Other
Comment:

Signed **Title** **Date**

Appendix F.

BASELINE DOCUMENTATION

Completing a baseline documentation allows you to record and characterize the environmental aspects of the Property at the time of easement acquisition. Documentation provides the basis for future easement monitoring and, if necessary, enforcement. It is particularly important in court in the event of an easement violation. Baseline documentation is also required by the IRS for any tax-deductible easement gifts.

IAC requires that a baseline documentation be completed on all properties with a conservation easement. If the baseline documentation is not filed as an attachment to the conservation easement it must be referenced in the conservation easements as to its existence and whereabouts. In determining where the original baseline documentation will reside, you may want to consider who the holder of the easement is and who may be undertaking future compliance monitoring and enforcement activities. IAC must be provided with a copy of the baseline documentation.

Baseline data should characterize and document the condition of property features protected or affected by the easement terms. Baseline documentation should be descriptive and include maps, plans, photos (aerials or ground), and narratives. Documentation methodology should be objective and reproducible so that future monitoring can be repeated in a comparable manner. Include ecological, biological, geological, land use and other property features. The level of detail for each category may vary depending on physical land features and the specific terms of the easements. Generally, the more restrictive the terms of the easements, the more detailed the documentation should be.

Using your own format. If you choose to use your own format, the baseline documentation must include:

- ☑ USGS quad map (1:24,000, 7.5”), showing property lines and other contiguous or nearby protected areas, and a parcel map or county assessors map showing property boundaries.
- ☑ A map of the area drawn to scale showing all existing human-made improvements or incursions (such as roads, buildings, fences, or structures), vegetation and wildlife (species locations, breeding and roosting areas, and migration routes), land use history (including present uses and recent past disturbances), and distinct natural features (such as large trees and riparian areas).
- ☑ A narrative description of the property protected by the conservation easement (at or near the time of easement purchase). Include habitat values, unique and existing land features, natural resources (include vegetation, and fish and wildlife), water quality and quantity, and historic and current land uses.
- ☑ Photographs (black and white) taken at permanent photo point locations on the property that adequately depict the conservation easement area and natural resources to be protected. The photographs should document the condition of the resource at or near the time of easement purchase. Include aerial photos with property boundaries indicated (if possible).

The Land Trust Alliance has two excellent references regarding baseline documentation, monitoring, and stewardship of easements: *Managing Conservation Easements. Sampling Policies and Forms from the Land Trust Community*; and *The Conservation Easement Stewardship Guide. Designing, Monitoring, and Enforcing Easements.*

Format. The *Assignment of Rights* must be recorded with the county. As such, it must meet the format requirements of RCW 65.04.045, including proper display of the address of the party to whom it must be returned (in this case, IAC); page, margin, and font size; titles, etc. Check with the county auditor or recording officer for specific requirements.

ASSIGNMENT OF RIGHTS
INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

This ASSIGNMENT OF RIGHTS (this "Assignment") is executed as of the _____ day of _____, 20__, by _____, a _____ ("Assignor"), to and in favor of THE STATE OF WASHINGTON ("State"), through the Interagency Committee for Outdoor Recreation ("IAC").

RECITALS

A. Assignor has entered into a conservation easement ("Conservation Easement") with [a] certain property owner[s] (collectively "Owner") in the _____ portion of the _____ watershed (W.R.I.A. number #_____ under WAC 173-500-040) in _____, Washington. The name[s] and address[es] of the Owner and the recording number of the Conservation Easement are set forth in *Exhibit 1* attached hereto and incorporated herein. The legal description of the Property subject to the Conservation Easement are set forth in *Exhibit 2* attached hereto and incorporated herein.

B. The conservation purpose of the Conservation Easement is described in the Conservation Easement. That purpose is also described in the Project Agreement entered into between the recipient of IAC funds (“Sponsor”) and the State through the IAC entitled _____ Project Number _____ dated _____, 20__ and the application and supporting materials which are on file with the State in connection with the Project Agreement, which Project Agreement is incorporated herein by this reference. That purpose includes protection [and restoration] [and enhancement] [, restoration and enhancement] of habitat, as defined in the Conservation Easement.

C. Owner has authorized Assignor to assign to the State certain rights for access to and stewardship of the property covered by the Conservation Easement. Assignment of such rights is a necessary condition to receipt of grant funding under the Project Agreement and the policies of the Habitat Conservation Account administered by the IAC. Such rights are valuable to the State in connection with ensuring protection of habitat under the terms of the Conservation Easement, and are particularly valuable because Assignor and Owner have agreed that Assignor will retain all responsibility for obligations of the Assignor under the Conservation Easement.

D. These recitals are incorporated herein by this reference.

Now, therefore, Assignor and the State agree as follows:

AGREEMENT

1. **Assignment**. For and in consideration of monies coming in whole or in part from the Habitat Conservation Account of the General Fund of the State of Washington and in fulfillment of terms of the Project Agreement identified herein, Assignor does hereby assign, transfer, set over, convey and deliver to the State individually, and as the representative of all the people of the State, the following rights (collectively referred to as "Rights") under the Conservation Easement the recording number of which is listed in *Exhibit 1* attached hereto and incorporated herein by this reference:

a. **Access**. To enter the Conservation Zone, as defined in the Conservation Easement, through the Property subject to the Conservation Easement at a reasonable time and upon prior arrangement with Assignor and Owner, in order to monitor and evaluate performance, compliance, and/or quality assurance under the Project Agreement.

b. **Injunction and Restoration**. In the event of the failure of Assignor to undertake such injunction and restoration, to enjoin any use of, or activity in, the Conservation Zone which is inconsistent with the terms of the Conservation Easement, including trespass by members of the public, and undertake or cause to be undertaken the restoration of such areas or features of the Conservation Zone as may be damaged by uses or activities contrary to the provisions of the Conservation Easement.

c. **Enforcement**. In the event of the failure of Assignor to undertake such enforcement, to enforce the terms of the Conservation Easement, and thereby assume the Assignor's remedies under the Conservation Easement.

d. **Amendments**. To review and approve any proposed amendments to the Conservation Easement. Review and approval by IAC's Director will be for compliance with the terms of the Project Agreement.

e. **Termination For Reasons of Impracticability**. To review and approve any proposed agreements to terminate the Conservation Easement, or release a portion of the Conservation Zone from the terms of the Conservation Easement, before expiration of the term of the Conservation Easement for the reason that circumstances have rendered the conservation purpose of the Conservation Easement impractical to achieve.

f. **Stewardship Plans**. To review any Stewardship Plans, including habitat restoration and enhancement plans, as defined in the Conservation Easement. Review by IAC's Director will be for compliance with the terms of the Project Agreement.

These Rights shall be held in common with Assignor or Assignor's successors and assigns.

2. **State's Exercise of Rights**. The State hereby represents and warrants that its exercise of rights under this Assignment will be consistent with the conservation purpose defined in the Conservation Easement and the Project Agreement.

3. **Representations and Warranties of Assignor**. Assignor hereby represents and warrants to the State that:

a. Owner, identified in *Exhibit 1* attached hereto and incorporated herein, has authorized and approved this Assignment.

b. Assignor shall enforce the terms of the Conservation Easement as provided in the Conservation Easement.

c. Assignor shall comply with, and IAC shall not be responsible for determining compliance with, all applicable federal, state, and local laws, regulations, and policies in its administration of the Conservation Easement or the undertaking of any of its rights under the Conservation Easement.

d. Neither Assignor nor Owner has any claims or causes of action, at law or in equity, with respect to any Conservation Easement as of the date provided above.

4. **Obligations**. It is expressly understood and agreed that, by the acceptance of this Assignment, the State has not assumed, and shall not become obligated to keep, fulfill, observe, perform or discharge, any duty or obligation of Assignor under the Conservation Easement.

5. **Indemnity**. Assignor shall defend, protect and hold harmless the State, IAC, or any employees thereof, from and against any and all costs, claims, fees and expenses arising out of or in any way relating to Assignor's representations and warranties under this Assignment, Assignor's obligations under the Conservation Easement, or the acts by or omissions of Assignor or Owner.

6. **Replacement Property.** The Conservation Easement may be extinguished in whole or in part before expiration of its term (if any) under certain circumstances identified in the Conservation Easement. Assignor may be entitled to compensation in such event. Assignor shall use all such proceeds for acquisition, restoration and/or enhancement of substantially equivalent property or property interests. Assignor hereby agrees to consult with, and receive the approval of, the IAC in the selection of any replacement property and to assign to the State the same or substantially equivalent rights for access to and stewardship of the replacement property as provided for in this Assignment.

7. **Restriction on Assignment.** Assignor shall not assign the Conservation Easement, or the performance of any obligations to the State under the Conservation Easement, without the express written consent of the IAC's Director.

8. **Assignment Term.** The term of this Assignment shall be the same as the term of the Conservation Easement, and shall expire upon the expiration date of the Conservation Easement (if any).

9. **Disputes.** Any disputes between Assignor and the State under this Assignment shall be governed by the terms of the Project Agreement.

10. **Governing Law/Venue.** This Assignment shall be governed by the laws of the State of Washington. In the event of a lawsuit between Assignor and the State involving this Assignment, venue shall be proper only in Thurston County. Assignor by executing this Assignment, acknowledges the jurisdiction of the courts of the State of Washington in this matter.

11. **Severability**. If any provision of this Assignment or any provision of any document incorporated by reference herein shall be held invalid, such invalidity shall not affect the other provisions of this Assignment which can be given effect without the invalid provision and to this end the provisions of this Assignment are declared to be severable.

ASSIGNOR:

_____ ,

_____

By _____

Its _____

STATE:

THE STATE OF WASHINGTON, through its Interagency Committee for Outdoor Recreation

By _____
Its *Director*

ATTACHMENTS:

Exhibit 1 - Owner and Conservation Easement Recording Number
Exhibit 2- Legal Description of Property Subject to Conservation Easement

Appendix G-1, page 5 of 6

STATE OF WASHINGTON)
) ss:
COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the _____ of _____ to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

_____
Notary Public

_____
Print Name

_____
My commission expires

(Use this space for notarial stamp/seal)

STATE OF WASHINGTON)
) ss:
COUNTY OF THURSTON)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the Director of the Interagency Committee for Outdoor Recreation of the State of Washington to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

_____
Notary Public

_____
Print Name

_____
My commission expires

(Use this space for notarial stamp/seal)

EXHIBIT 1

OWNER AND CONSERVATION EASEMENT RECORDING NUMBER

Name(s): _____

Address: _____

_____

_____

Recording No.: _____

_____

EXHIBIT 2

LEGAL DESCRIPTION FOR PROPERTY SUBJECT TO CONSERVATION EASEMENT

DESCRIPTION OF CONSERVATION ZONE

Format. The *Assignment of Rights* must be recorded with the county. As such, it must meet the format requirements of RCW 65.04.045, including proper display of the address of the party to whom it must be returned (in this case, SRFB); page, margin, and font size; titles, etc. Check with the county auditor or recording officer for specific requirements.

ASSIGNMENT OF RIGHTS—SALMON RECOVERY FUNDING BOARD

This ASSIGNMENT OF RIGHTS (this "Assignment") is executed as of the _____ day of _____, 20__, by _____, a _____ ("Assignor"), to and in favor of THE STATE OF WASHINGTON ("State"), through the Salmon Recovery Funding Board ("SRFB"), administered by the Interagency Committee for Outdoor Recreation ("IAC").

RECITALS

A. Assignor has entered into a conservation easement ("Conservation Easement") with [a] certain property owner[s] (collectively "Owner") in the _____ portion of the _____ watershed (W.R.I.A. number #_____ under WAC 173-500-040) in _____, Washington. The name[s] and address[es] of the Owner and the recording number of the Conservation Easement are set forth in *Exhibit 1* attached hereto and incorporated herein. The legal description of the Property subject to the Conservation Easement are set forth in *Exhibit 2* attached hereto and incorporated herein.

B. The conservation purpose of the Conservation Easement is described in the Conservation Easement. That purpose is also described in the Project Agreement entered into between the recipient of SRFB funds ("Sponsor") and the State through the SRFB entitled _____ Project Number _____ dated _____, 20__ and the application and supporting materials which are on file with the State in connection with the Project Agreement, which Project Agreement is incorporated herein by this reference. That purpose includes protection [and restoration] [and enhancement] [, restoration and enhancement] of habitat, as defined in the Conservation Easement.

C. Owner has authorized Assignor to assign to the State certain rights for access to and stewardship of the property covered by the Conservation Easement. Assignment of such rights is a necessary condition to receipt of grant funding under the Project Agreement and the policies of the Salmon Recovery Funding Board administered by the IAC. Such rights are valuable to the State in connection with ensuring protection of habitat under the terms of the Conservation Easement, and are particularly valuable because Assignor and Owner have agreed that Assignor will retain all responsibility for obligations of the Assignor under the Conservation Easement.

D. These recitals are incorporated herein by this reference.

Now, therefore, Assignor and the State agree as follows:

AGREEMENT

1. **Assignment**. For and in consideration of monies coming in whole or in part from the State of Washington and in fulfillment of terms of the Project Agreement identified herein, Assignor does hereby assign, transfer, set over, convey and deliver to the State individually, and as the representative of all the people of the State, the following rights (collectively referred to as "Rights") under the Conservation Easement the recording number of which is listed in *Exhibit 1* attached hereto and incorporated herein by this reference:

a. **Access**. To enter the Conservation Zone, as defined in the Conservation Easement, through the Property subject to the Conservation Easement at a reasonable time and upon prior arrangement with Assignor and Owner, in order to monitor and evaluate performance, compliance, and/or quality assurance under the Project Agreement.

b. **Injunction and Restoration**. In the event of the failure of Assignor to undertake such injunction and restoration, to enjoin any use of, or activity in, the Conservation Zone which is inconsistent with the terms of the Conservation Easement, including trespass by members of the public, and undertake or cause to be undertaken the restoration of such areas or features of the Conservation Zone as may be damaged by uses or activities contrary to the provisions of the Conservation Easement.

c. **Enforcement**. In the event of the failure of Assignor to undertake such enforcement, to enforce the terms of the Conservation Easement, and thereby assume the Assignor's remedies under the Conservation Easement.

d. **Amendments**. To review and approve any proposed amendments to the Conservation Easement. Review and approval by IAC's Director will be for compliance with the terms of the Project Agreement.

e. **Termination For Reasons of Impracticability**. To review and approve any proposed agreements to terminate the Conservation Easement, or release a portion of the Conservation Zone from the terms of the Conservation Easement, before expiration of the term of the Conservation Easement for the reason that circumstances have rendered the conservation purpose of the Conservation Easement impractical to achieve.

f. **Stewardship Plans**. To review any Stewardship Plans, including habitat restoration and enhancement plans, as defined in the Conservation Easement. Review by IAC's Director will be for compliance with the terms of the Project Agreement.

These Rights shall be held in common with Assignor or Assignor's successors and assigns.

2. **State's Exercise of Rights**. The State hereby represents and warrants that its exercise of rights under this Assignment will be consistent with the conservation purpose defined in the Conservation Easement and the Project Agreement.

3. **Representations and Warranties of Assignor**. Assignor hereby represents and warrants to the State that:

a. Owner, identified in *Exhibit 1* attached hereto and incorporated herein, has authorized and approved this Assignment.

b. Assignor shall enforce the terms of the Conservation Easement as provided in the Conservation Easement.

c. Assignor shall comply with, and the SRFB and IAC shall not be responsible for determining compliance with, all applicable federal, state, and local laws, regulations, and policies in its administration of the Conservation Easement or the undertaking of any of its rights under the Conservation Easement.

d. Neither Assignor nor Owner has any claims or causes of action, at law or in equity, with respect to any Conservation Easement as of the date provided above.

4. **Obligations**. It is expressly understood and agreed that, by the acceptance of this Assignment, the State has not assumed, and shall not become obligated to keep, fulfill, observe, perform or discharge, any duty or obligation of Assignor under the Conservation Easement.

5. **Indemnity**. Assignor shall defend, protect and hold harmless the State, the SRFB, the IAC, or any employees thereof, from and against any and all costs, claims, fees and expenses arising out of or in any way relating to Assignor's representations and warranties under this Assignment, Assignor's obligations under the Conservation Easement, or the acts by or omissions of Assignor or Owner.

6. **Replacement Property.** The Conservation Easement may be extinguished in whole or in part before expiration of its term (if any) under certain circumstances identified in the Conservation Easement. Assignor may be entitled to compensation in such event. Assignor shall use all such proceeds for acquisition, restoration and/or enhancement of substantially equivalent property or property interests. Assignor hereby agrees to consult with, and receive the approval of, the SRFB and the IAC in the selection of any replacement property and to assign to the State the same or substantially equivalent rights for access to and stewardship of the replacement property as provided for in this Assignment.

7. **Restriction on Assignment.** Assignor shall not assign the Conservation Easement, or the performance of any obligations to the State under the Conservation Easement, without the express written consent of the IAC's Director.

8. **Assignment Term.** The term of this Assignment shall be the same as the term of the Conservation Easement, and shall expire upon the expiration date of the Conservation Easement (if any).

9. **Disputes.** Any disputes between Assignor and the State under this Assignment shall be governed by the terms of the Project Agreement.

10. **Governing Law/Venue.** This Assignment shall be governed by the laws of the State of Washington. In the event of a lawsuit between Assignor and the State involving this Assignment, venue shall be proper only in Thurston County. Assignor by executing this Assignment, acknowledges the jurisdiction of the courts of the State of Washington in this matter.

11. **Severability**. If any provision of this Assignment or any provision of any document incorporated by reference herein shall be held invalid, such invalidity shall not affect the other provisions of this Assignment which can be given effect without the invalid provision and to this end the provisions of this Assignment are declared to be severable.

ASSIGNOR:

_____ ,

_____

By _____

Its _____

STATE:

THE STATE OF WASHINGTON, through its Salmon Recovery Funding Board, administered by the IAC

By _____

Its *Director*

ATTACHMENTS:

Exhibit 1 - Owner and Conservation Easement Recording Number
Exhibit 2- Legal Description of Property Subject to Conservation Easement

STATE OF WASHINGTON)
) ss:
COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the _____ of _____ to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

_____
Notary Public

_____
Print Name

_____
My commission expires

(Use this space for notarial stamp/seal)

STATE OF WASHINGTON)
) ss:
COUNTY OF THURSTON)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the Director of the Salmon Recovery Funding Board, administered by the IAC of the State of Washington to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

_____
Notary Public

_____
Print Name

_____
My commission expires

(Use this space for notarial stamp/seal)

EXHIBIT 1

OWNER AND CONSERVATION EASEMENT RECORDING NUMBER

Name(s): _____

Address: _____

_____

_____

Recording No.: _____

_____

EXHIBIT 2

LEGAL DESCRIPTION FOR PROPERTY SUBJECT TO CONSERVATION EASEMENT

DESCRIPTION OF CONSERVATION ZONE

CONSERVATION EASEMENT REQUIREMENTS

Introductory Key

☑ = **Required** provisions

☐ = Provisions to **strongly consider**

"Arial typeface" = Sample language

[Italicized/bracketed language] = text choices which may or may not apply

---

Recitals: Background Information

☑ Separately identify the portion of the property that contains the habitat or conservation value that will be protected, or protected and restored or enhanced, by the conservation easement.

> The portion of the Property containing conservation values and protected by this Easement is described in Exhibit __ (description) and shown in Exhibit __ (site map), which are attached and incorporated into this Easement by this reference.

☑ Note conservation values provided by the property.

> The Conservation Zone provides habitat and other natural values (collectively, the "Conservation Values"), as more particularly described in Recitals __ and __ below.

☑ Refer to the baseline documentation (page 40).

> The specific conservation values of the Property are documented in an inventory of relevant features of the Property, dated _____ *[on file at the offices of Grantee][attached hereto as Exhibit ___]* and incorporated by this reference ("Baseline Documentation"), which consists of reports, maps, photographs, and other documentation that the parties agree provide, collectively, an accurate representation of the Property at the time of conservation easement acquisition, and which is intended to serve as an objective information baseline for monitoring compliance with the terms of this grant.

Conveyance and consideration

☑ Track statutory language necessary to convey real property interests in Washington State.

☑ Identify term of conservation easement (e.g., 30 year-term or in perpetuity).

Purpose

☑ Identify habitat protection as one of the specific purposes of the conservation easement.

Purpose. The purpose of this Easement is to assure that the Conservation Zone will be retained predominantly in its natural condition *[as "a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem,"]*, and to prevent any use of, or activity on, the Conservation Zone that will *[significantly]* impair or interfere with the Conservation Values of the Conservation Zone (the "Purpose"). This Purpose includes the protection of habitat as defined in Recital I.__ of this Easement. Grantor intends that this Easement will confine the use of, or activity on, the Conservation Zone to such uses and activities that are consistent with this Purpose. *[Except as specifically provided for in Section __, t][T]*his Easement shall not be construed as affording to the general public physical access to the Property.

☑ Identify, as appropriate, any plans to monitor, protect, maintain, restore or enhance the Conservation Zone.

Stewardship Plan. To further this Purpose, Grantee may develop a plan for stewardship of the Conservation Zone (the "Stewardship Plan") [*which is attached as Exhibit __ and incorporated into this Easement by this reference*]. The Stewardship Plan [*is intended to describe*][*describes*] activities to monitor, protect, maintain, and *[restore] [enhance]* the original and natural conditions of the Conservation Zone.

Rights Conveyed to Grantee

☑ List the rights that are being conveyed to the organization holding the conservation easement (Grantee).

To accomplish the purpose of this Easement the following rights are conveyed to Grantee by this Easement:

☑ Provide right of organization to preserve conservation values of the property.

[Identification] Protection [Restoration] [Enhancement]. To *[identify,]* preserve and protect *[in perpetuity]* and to *[restore] [enhance] [maintain] [and manage]* the Conservation Values of the Conservation Zone.

☑ Provide right of organization to enter the land for inspection and enforcement, and where applicable, environmental monitoring, maintenance, restoration, and enhancement.

Access.

1. To enter the Property *[annually]*, at a reasonable time and upon prior written notice to Grantor, for the purpose of making a general inspection of the Conservation Zone to monitor compliance with this Easement.

2. To enter the Property *[, or allow Grantee's invitees or licensees to enter the Property,]* at reasonable times and upon prior written notice to Grantor, for the purpose of *[restoring] [enhancing] [maintaining] [managing]* the Conservation Values of the Conservation Zone through implementation of the Stewardship Plan.

3. To enter the Property at such other times as are necessary if Grantee has a reason to believe that a violation of the Easement is occurring or has occurred, for the purpose of mitigating or terminating the violation and otherwise enforcing the provisions of this Easement. Such entry shall be upon prior reasonable notice to Grantor, and Grantee shall not in any case unreasonably interfere with Grantor's use and quiet enjoyment of the Property.

☑ Provide right to injunction to prevent any activity on or use of the property that is inconsistent with the purpose of the conservation easement and to require restoration of the land to condition at time of the grant of easement.

Injunction and Restoration. To enjoin any use of, or activity on, the Conservation Zone that is inconsistent with the Purpose of this Easement, including trespasses by members of the public, and to require *[or undertake]* the restoration of such areas or features of the Conservation Zone as may be damaged by uses or activities inconsistent with the provisions of this Easement, all in accordance with Section __.

☑ Provide right of organization to enforce terms of the conservation easement.

To enforce the terms of this Easement, consistent with Section __.

Permitted Uses and Activities

☑ Tailor "permitted uses and activities" to the land, the parties, the reasons for protection, and needs of the landowner to enjoy the property. Permitted uses might include modification of existing structures, construction of roads or structures in specified areas, access by grantor for passive recreation, agricultural or timber harvesting activities in specified areas or under specified conditions.

☑ Include ability to undertake stewardship activities on the property.

Stewardship Activities. The undertaking of any activity pursuant to any Stewardship Plan covering the Conservation Zone is consistent with the purpose of this Easement.

Prohibited Uses and Activities

☑ Tailor "prohibited uses and activities" to the land, the parties, the reasons for protection, and needs of the landowner to enjoy the property. Prohibited uses might include agricultural or timber harvesting activities in specified areas, land subdivision, construction of roads or structures, hunting, or mining.

Notice and Approval

☑ Require advance notice to organization if landowner plans to undertake certain permitted actions that could be inconsistent with the purpose of the conservation easement.

☑ Provide right of organization to approve, deny or condition proposed actions of landowner.

☑ Provide addresses of landowner and organization for required notices under the easement.

Dispute Resolution and Grantee's Remedies

☑ Provide right of organization to give notice of violations to landowner, with demand for repair or restoration.

Notice of Violation, Corrective Action. If Grantee determines that Grantor is in violation of the terms of this Easement or that a violation is threatened, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Conservation Zone resulting from any use or activity inconsistent with the Purpose of this Easement, to restore the portion of the Conservation Zone so injured to its prior condition in accordance with a plan approved by Grantee.

Grantor's Failure to Respond. Grantee may bring an action as provided in subsection ___ if Grantor:

1. Fails to cure the violation within thirty (30) days after receipt of a notice of violation from Grantee; or

2. Under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fails to begin curing the violation within the thirty (30) day period and fails to continue diligently to cure such violation until finally cured.

Grantee's Action.

1. *Injunctive Relief*. Grantee may bring an action at law or in equity in a court having jurisdiction to enforce the terms of this Easement:

   a. To enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction; and

b. To require the restoration of the Property to the condition that existed prior to any such injury.

2. *Damages.* Grantee shall be entitled to recover damages for violation of the terms of this Easement or injury to any Conservation Values protected by this Easement, including, without limitation, damages for the loss of environmental values. Without limiting Grantor's liability in any way, Grantee [*, in its sole discretion, may*][*shall first*] apply any damages recovered to the cost of undertaking corrective or restoration action on the Conservation Zone.

   Emergency Enforcement. If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the Conservation Zone, Grantee may pursue its remedies under this section without prior notice to Grantor or without waiting for the period provided for cure to expire.

   Scope of Relief. Grantee's rights under this section apply equally in the event of either actual or threatened violations of the terms of this Easement. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in this section, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of providing either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

☐ Consider providing that costs of enforcing the terms of the easement are to be borne by landowner unless landowner prevails in court.

In the event Grantee must enforce the terms of this Easement, the costs of restoration necessitated by acts or omissions of Grantor, its agents, employees, contractors, family members, invitees or licensees in violation of the terms of this Easement and Grantee's reasonable enforcement expenses, including attorneys' and consultants' fees, shall be borne by Grantor or those of its personal representatives, heirs, successors, or assigns, against whom a judgment is entered. *[In the event that Grantee secures redress for an Easement violation without initiating or completing a judicial proceeding, the costs of such restoration and Grantee's reasonable expenses shall be borne by Grantor and those of its personal representatives, heirs, successors, or assigns who are otherwise determined to be responsible for the unauthorized use or activity.] [If Grantor ultimately prevails in any judicial proceeding initiated by Grantee to enforce the terms of this Easement, each party shall bear its own costs.]*

☐ Consider providing that enforcement of the terms of the easement is at discretion of organization.

Forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any terms of this Easement by Grantor, its agents, employees, contractors, family members, invitees or licensees shall not be deemed or construed to be a waiver by Grantee of such term of any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.

☐ Consider providing that landowner waive claims and defenses, based upon waiver, laches, estoppel, or prescription.

Grantor acknowledges that it has carefully reviewed this Easement and has consulted with and been advised by counsel of its terms and requirements. In full knowledge of the provisions of this Easement, Grantor hereby waives any claim or defense it may have against Grantee or its successors or assigns under or pertaining to this Easement based upon waiver, laches, estoppel, or prescription.

☐ Strongly consider providing that organization cannot bring enforcement action against landowner for injury to the property resulting from circumstances beyond landowner's control.

Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor to abate, correct, or restore any condition on the Conservation Zone or to recover damages for any injury to or change in the Conservation Zone resulting from causes beyond Grantor's control, including, without limitation, natural changes, fire, flood, storm, or earth movement, or from acts of trespassers, that Grantor could not reasonably have anticipated or prevented or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Conservation Zone resulting from such causes. *[In the event the terms of this Easement are violated by acts of trespassers that Grantors could not reasonably have anticipated or prevented, Grantor agrees, at Grantee's option, to join in any suit, to assign its right of action to Grantee, or to appoint Grantee its attorney in fact, for the purpose of pursuing enforcement action against the responsible parties.]*

Costs, Liabilities and Insurance, Taxes, Environmental Compliance, & Indemnification

☐ Consider providing that landowner remains responsible for property and for maintaining adequate comprehensive general liability insurance coverage.

☐ Consider providing that landowner still pays property taxes, reduced or otherwise.

☑ Require landowner to represent and warrant that no toxic or hazardous substances are found on the property.

Grantor represents and warrants that, after reasonable investigation and to the best of Grantor's knowledge:.

1. Grantor and the Property are in compliance with all federal, state, and local laws, regulations, and requirements, applicable to the Property and its use, including without limitation all federal, state, and local environmental laws, regulations, and requirements;

2. There has been no release, dumping, burying, abandonment or migration from off-site onto the Property of any substances, materials, or wastes that are hazardous, toxic, dangerous, or harmful or are designated as, or contain components that are, or are designated as, hazardous, toxic, dangerous, or harmful and/or that are subject to regulation as hazardous, toxic, dangerous, or harmful by any federal, state or local law, regulation, statute, or ordinance;

3. There is no pending or threatened litigation affecting the Property or any portion of the Property that will materially impair the Conservation Values of the Conservation Zone. No civil or criminal proceedings have been instigated or are pending against Grantor or its predecessors by government agencies or third parties arising out of alleged violations of environmental laws, and neither Grantor nor its predecessors in interest have received any notices of violation, penalties, claims, demand letters, or other notifications relating to a breach of environmental laws.

☑ Require landowner to be responsible for environmental cleanup on the property unless caused through the activities of the organization or agency.

Remediation. If, at any time, there occurs, or has occurred, a release in, on, or about the Property of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic or dangerous to the air, water or soil, or in any way harmful or threatening to human health or environment, Grantor agrees to take all steps necessary to assure its containment and remediation, including any cleanup that may be required, unless the release was caused by Grantee, in which case Grantee should be responsible for remediation.

☑ Require landowner to remain responsible for losses, personal injuries, environmental concerns, and other damages unless caused by fault or negligence of the organization.

Grantor hereby agrees to release and hold harmless, indemnify, and defend Grantee and its members, directors, officers, employees, agents, and contractors and the personal representatives, heirs, successors, and assigns of each of them (collectively "Indemnified Parties") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including, without limitation, reasonable attorneys' and consultants' fees, arising from or in any way connected with:

1. Injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property that is not a consequence of any activity of any of the Indemnified Parties undertaken under the rights granted to Grantee under this Easement;

2. Violations or alleged violations of, or other failure to comply with, any federal, state or local environmental law or regulation relating to pollutants or hazardous, toxic or dangerous substances or materials, including, without limitation, CERCLA (42 U.S.C. 9601 *et seq.*) and MTCA (ch. 70.105D RCW), by any person other than any of the Indemnified Parties, in any way affecting, involving, or relating to the Property, unless such violations or alleged violations are due to the acts or omissions of any of the Indemnified Parties on the Property;

3. The presence or release in, on, from, or about the Property, at any time, of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement of hazardous, toxic or dangerous to the air, water, or soil, or in any way harmful or threatening to human health or the environment, unless caused solely by any of the Indemnified Parties;

4. The obligations, covenants, representations and warranties specified in this section.

Extinguishment, Valuation and Subsequent Transfer

☑ Provide that conservation easement may be extinguished in whole or in part before expiration of its term only if: (a) the organization determines that the purpose of the conservation easement is no longer practical to accomplish and the parties agree to extinguish the easement or release a portion of the conservation zone from the conservation easement; (b) a court determines that the purpose of the conservation easement is no longer possible to accomplish; or (c) the property is taken by eminent domain. Refer to the Assignment of Rights, Appendix H, page 41 (IAC), 48 (SRFB).

Extinguishment. This Easement may be terminated or extinguished, whether in whole or in part, before expiration of the term of the Easement only under one or more of the following circumstances:

1. The parties jointly agree to extinguish this Easement, or release a portion of the Conservation Zone from the terms of this Easement, upon a determination by Grantee in its discretion that circumstances have rendered the Purpose of this Easement impractical to achieve. Grantee's determination shall be in accordance with the provisions of the Assignment of Rights referenced in Section ___.

2. Upon petition by one or all of the parties, a court having jurisdiction over this Easement determines by judicial proceedings that circumstances have rendered the Purpose of this Easement impossible to achieve.

3. All or any of the Conservation Zone is taken by exercise of the power of eminent domain or acquired in lieu of condemnation, whether by public, corporate, or other authority. *[Grantor and Grantee shall act jointly to recover the full value of the interest in the Conservation Zone subject to the taking or in lieu purchase and all direct or incidental damages resulting from the taking or in lieu purchase. All expenses reasonably incurred by Grantor and Grantee in connection with the taking or in lieu purchase shall be paid out of the amount received.]*

Grantor and Grantee agree that the proceeds to which Grantee shall be entitled, after the satisfaction of prior claims, from any sale, exchange, or involuntary conversion of all or any portion of the Conservation Zone subsequent to such termination or extinguishment, shall be determined, unless otherwise provided by Washington law at the time, in accordance with Section __ of this Easement.

☑ Specify how to determine the fair market value of the real property interest held by the organization.

This Easement constitutes a real property interest immediately vested in Grantee, which, for the purpose of Section __ of this Easement, the parties stipulate to have a fair market value determined by *[multiplying the fair market value of the Property unencumbered by the Easement (minus any increase in the value after the effective date of this Easement attributable to improvements) by the ratio of the purchase price for the Easement to the fair market value of the Property, without deduction for the purchase price for the Easement, as of the effective date of this Easement]*.

☑ Require landowner to reference conservation easement in subsequent deeds and notify organization of sale or transfer and name of prospective transferee (but landowner's failure to do so must not impair the validity of the conservation easement or limit its enforceability in any way).

Subsequent Transfer. Grantor agrees to:

1. Incorporate the terms of this Easement by reference in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Property, including, without limitation, a leasehold interest;

2. Describe this Easement in and append it to any executory contract for the transfer of any interest in the Property;

3. Give written notice to Grantee of the transfer of any interest in all or a portion of the Property no later than forty-five (45) days prior to the date of such transfer. Such notice to Grantee shall include the name, address, and telephone number of the prospective transferee or the prospective transferee's representative.

The failure of Grantor to perform any act required by this subsection shall not impair the validity of this Easement or limit its enforceability in any way.

Easement Amendment

☐ Consider allowing for amendment of the conservation easement, provided that the amendment does not affect the qualification of the conservation easement or the status of the organization or agency under applicable laws, is consistent with the original purpose of the conservation easement and does not shorten its duration, and is in accordance with the Assignment of Rights.

If circumstances arise under which an amendment to or modification of this Easement would be appropriate, Grantor and Grantee are free to jointly amend this Easement; *provided* that no amendment shall be allowed that will affect the qualification of this Easement or the status of Grantee under any applicable laws, including without limitation RCW 64.04.130, ch. 84.34 RCW *[, or Section 170(h) of the Internal Revenue Code of 1986, as amended]* (or any successor provision((s)) then applicable). Any such amendment shall be consistent with the original Purpose of this Easement and shall not shorten its duration, shall be in accordance with the provisions of the Assignment of Rights referenced in Section ___, and shall be recorded in the official records of _____ County, Washington, and any other jurisdiction in which such recording is required.

Assignment and Succession

☑ Provide right of organization to assign (transfer) easement to another organization or entity eligible under the IAC, which also *qualifies* under Washington law [and IRS regulations], in accordance with the Assignment of Rights.

Assignment. This Easement is transferable, but Grantee may assign its rights and obligations under this Easement only to an organization that is authorized to acquire and hold conservation easements under RCW 64.04.130 or RCW 84.34.250 (or any successor provision((s)) then applicable) *[and a qualified organization at the time of transfer under Section 170(h) of the Internal Revenue Code of 1986, as amended (or any successor provision then applicable), and the applicable regulations promulgated there under]* and in

accordance with the provisions of the Assignment of Rights referenced in Section ___. As a condition of such transfer, Grantee shall require that the transferee exercise its rights under the assignment consistent with the Purpose of this Easement. Grantee shall notify Grantor in writing, at Grantor's last known address, in advance of such assignment. The failure of Grantee to give such notice shall not affect the validity of such assignment nor shall it impair the validity of this Easement or limit its enforceability in any way.

☑ Provide for assignment of certain rights in the conservation easement to the State of Washington through the Interagency Committee for Outdoor Recreation.

Grantor hereby acknowledges its authorization and approval of the assignment of certain rights in this Easement to the State of Washington through the Interagency Committee for Outdoor Recreation, which rights shall be co-held by Grantee and the State of Washington through the Interagency Committee for Outdoor Recreation. This Assignment of Rights shall be substantially in the form attached to this Easement as Exhibit __.

Recordation

☑ Require that the organization or agency record the conservation easement instrument. (Recordation is the only way to put the world at large on constructive notice of the conservation easement.)

Subordination

☑ Require consent by mortgage holders, owners of easements, lease holders, and other lien holders necessary to "bind" those parties to the terms of the conservation easement.

General Provisions

☑ Provide that interpretation and performance of the conservation easement is governed by the laws of the State of Washington.

☑ Provide for liberal construction in favor of the grant of the conservation easement to effect the purpose of the conservation easement.

☑ Provide that conservation easement terms are binding upon parties and their successors and assigns.

☑ Require execution and acknowledgment by landowner and organization or agency.

Waiver of Retroactivity Checklist

Complete this page and include with the request.

✓	Elements	Comments (optional)
[ ]	Waiver of Retroactivity Request Memorandum	
[ ]	Waiver of Retroactivity Property Information	
[ ]	Waiver of Retroactivity Questionnaire	
[ ]	Appraisal • IAC Guidelines for ALEA, BFP, NOVA, WWRP & state-funded SRFB projects • Uniform Appraisal Standards for Federal Land Acquisitions (some SRFB and LWCF)	
[ ]	Appraisal Review • IAC Guidelines for ALEA, BFP, NOVA, WWRP & state-funded SRFB projects • Uniform Appraisal Standards for Federal Land Acquisitions (some SRFB and LWCF)	
[ ]	Preliminary Title Report	
[ ]	Location Map	
[ ]	Parcel Map	
[ ]	Other applicable items (i.e. option agreement, relocation information, draft conservation easement, etc.):	
	Additional Requirements for LWCF:	
[ ]	6(f) Boundary Map (see Manual 15 for details)	
[ ]	Environmental Assessment (see Manual 15 for details)	

Waiver of Retroactivity Request Memorandum

TO: Interagency Committee for Outdoor Recreation (IAC)
P.O. Box 40917
Olympia, Washington 98504-0917

FROM:

Agency/Organization Name:

Mailing Address: _____

City/State/Zip Code: _____

_____

Contact Person's Name:

Title:

Telephone Number: _____

IAC is hereby asked to consider this request for a Waiver of Retroactivity for the outdoor recreation or habitat conservation property identified below. This request has been prepared in compliance with IAC's Manual #3, Acquiring Land: Policies. We have furnished the required documentation and agree to adhere to all appropriate state and federal statutes governing land transactions. We are aware that the Waiver of Retroactivity, if approved, does not guarantee funding of a project. A waiver, however, will typically allow the acquisition to remain eligible for IAC funding consideration through two program funding cycles.

Property Name(s):

Describe the circumstances that led to this waiver request:

We certify that to the best of our knowledge, the information provided in this request is true and correct.

Authorized Representative: _____

(Signature) *(Date)*

Waiver of Retroactivity Property Information

	Property	Property	Property
PROPERTY NAME:			
DATE TO BE ACQUIRED:			
ACRES TO BE ACQUIRED			
LAND CHARACTERISTICS (Enter number of acres)			
Uplands			
Wetlands			
Tidelands			
Lake			
PURCHASE TYPE (Check as appropriate)			
Fee ownership	[ ]	[ ]	[ ]
Less than fee (specify-)	[ ]	[ ]	[ ]
ESTIMATED COSTS			
Property (Appraisal Review	$	$	$
Incidental Costs	$	$	$
Total	**$**	**$**	**$**

Description of Proposed Use

Provide:

- A written description of the proposed use of the property to be acquired and/or donated. The description may include adjacent land uses, important land characteristics, information on whether this expands an existing recreation or habitat area, agency planning support, etc.
- To the best of your understanding, the IAC program in which you plan to apply for funding.

Waiver of Retroactivity Questionnaire
1. Who will be responsible for administration, negotiation, and/or implementation of this acquisition (i.e. in-house staff, paid consultant, attorney , volunteers, other agency staff, etc.)? Explain:
2. What type of landowner currently holds title to the property: Federal, Local, Private, State, Tribal?
3. Does the applicant hold a lease, easement or legal use agreement on the site that permits the proposed use? If yes, when will it expire? Explain.
4. Is there, or will there be, any significant public access or use restrictions? If yes, explain:
5. Do plans exist for interim non-public use of the project site? If yes, explain the interim non-public use and whether or not income will be derived through that use:
6. Will there be encumbrances that limit the proposed uses for the site? If yes, explain:
7. Have you purchased an option on the property? If yes, submit a copy of the option agreement.
8. Government agency applicants only: does this application contain elements required as part of a mitigation plan? If yes, explain:
9. Will cleanup of hazardous materials be required? (See requirements which begin on page 20.)

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Manual #3
Acquiring Land: Policies

November 2010

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WASHINGTON STATE
Recreation and Conservation
Funding Board

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Section 1: Introduction

Here, you will outline the key points in this section:

- ✓ Background for this manual
- ✓ Information sources
- ✓ How to contact us

Background

This manual provides basic information about Recreation and Conservation Funding Board and Salmon Recovery Funding Board (RCFB-SRFB) policies for acquiring land. It is to be used with individual grant program policy manuals, which provide additional details and identifies any exceptions. Use it for all acquisition projects in these programs:

- Aquatic Land Enhancement Account (*ALEA* – Manual 21)
- Boating Facilities (*BFP* – Manual 9)
- Firearms and Archery Range Recreation (*FARR* – Manual 11)
- Land and Water Conservation Fund (*LWCF* – Manual 15)
- Nonhighway and Off-Road Vehicle Activities (*NOVA* – Manuals 12, 13, 14)
- Riparian Habitat (*RHP* – Manual 6)
- Salmon Habitat Recovery (*SRFB* – Manual 18)
- Washington Wildlife and Recreation (*WWRP* – Manual 10)
- Youth Athletic Facilities (*YAF* – Manual 17).

Authority for the information in this manual is found in several statutes and rules: RCW[1] 46.09.240, 77.85.120 (1)(d), 79A.15.060(1), 79A.15.070(5), 79A.25.080(2), 79A.25.210, and Titles 286 and 420 WAC[2]. RCFB-SRFB adopted the policies in this manual in a public meeting.

The *Land and Water Conservation Fund Grants-in-Aid Manual* (U.S. Dept. of Interior, National Park Service) provides additional guidance for LWCF grants.

[1] RCW — Revised Code of Washington
[2] WAC — Washington Administrative Code

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Additional Information Sources

There are many publications designed to explain our programs. They include:

- Summary brochures and program fact sheets that describe each program's goals and funding
- Program schedules
- Program policy manuals
- Statues and rules, and
- State plans that give broad policy background.

Contact us to obtain a complete list of these free publications. All materials can be prepared in an alternative format. Most publications are available on our website.

The Recreation and Conservation Office (RCO) encourages anyone interested in its programs to contact RCO at:

Natural Resources Building
1111 Washington Street, Floor 2 East
P.O. Box 40917
Olympia, Washington 98504-0917

RCO Phone	(360) 902-3000
FAX	(360) 902-3026
TDD	(360) 902-1996
Email	info@rco.wa.gov
Web site	http://www.rco.wa.gov/

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Section 2: Eligibility Policies

In this section, you'll learn about:

- ✓ Fee Acquisition policies
- ✓ Less-than-fee policies
- ✓ Easement policies

An acquisition grant from RCO may be used to purchase real property for a variety of outdoor recreation, habitat conservation and salmon recovery purposes. Not all programs, however, provide funding for acquisition. Refer to individual program manuals to determine whether acquisition proposals are allowed and if there are any program specific limitations.

In general, RCO grants may be used to purchase both fee title and less than fee title interest in real property. The entity that will hold title to the property interests acquired must be a project sponsor or co-sponsor on the RCO Project Agreement, the formal contract between RCO and the project sponsor(s). All project sponsors and co-sponsors must be eligible to receive grant funding in the specific RCO grant program.

Fee Title Acquisitions

Fee title acquisition includes the purchase of land and improvements. A deed is the legal document that transfers title to a property and is recorded with the county auditor's office. Eligible types of deeds are statutory warranty, special warranty, quit claim, or bargain and sale deed. Other types of deeds may be eligible on a case by case basis. Consult RCO if the type of deed proposed for acquisition differs from the types listed here.

A statutory warranty deed (or "general warranty deed") is the most protective type of deed and RCO's preferred type of conveyance for property. The statutory warranty deed binds the seller to the chain of title back to the origin of the property including all covenants and encumbrances on the title.

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A special warranty deed is a less protective form of property conveyance for the project sponsor and RCO. The seller conveys the property with only the warranty that he/she owns the property and warrants the encumbrances placed on the property during his/her period of ownership. It does not warrant the chain of title prior to the seller's ownership period. Special warranty deeds are frequently used by executors and trustees.

A bargain and sale deed warrants only that the seller holds title to the property, but not the condition of the title and any covenants or encumbrances on the property. This type of deed is frequently used for land donations and foreclosures.

A quit claim deed is the least protective type of deed. It conveys the property without any warranty as to the seller's interest in the property or any of the covenants or encumbrances. Quit claim deeds can be used to transfer property between family members or cure defects in the title or for other transactions.

Acquisition through Condemnation

Acquisition of property through condemnation or "friendly" condemnation is prohibited in the Salmon Recovery Grants program (WAC 486-12-090) and the Washington Wildlife and Recreation Program (RCW 79A.15.090). Acquisition through condemnation is allowed in all other RCO grant programs unless specifically prohibited.

Deed of Right

The Deed of Right conveys to the people of the State of Washington the rights to preserve, protect, and/or use the property for public purposes consistent with the grant program and the Project Agreement. Lands acquired in fee title must be dedicated to outdoor recreation, habitat conservation or salmon habitat recovery purposes as described in the Project Agreement in perpetuity, **except in the FARR program**. (See *Manual #11: FARR Program Policies and Selection Criteria* for details on long term obligations related to the FARR program). WAC 286. Dedication is done through a recorded Deed of Right.

Sponsors must record a Deed of Right with the appropriate county auditor office when acquiring real property rights that include the underlying land. It must be executed and recorded by the project sponsor upon taking title to the property. The county auditor should send back the recorded document to the project sponsor. The project sponsor then provides a copy of the recorded Deed of Right to RCO. Templates for the Deed of Right are in Appendix **[3] and vary by grant program. Consult RCO if you are unsure

[3] ** All "Appendix" items have been omitted from this draft and will be updated at a later date.

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which Deed of Right is required for the project. Provide RCO a draft Deed of Right for review prior to recording the document.

The Deed of Right must be recorded at closing with the appropriate county auditor office, unless otherwise approved by RCO. The Deed of Right must appear on the final title insurance policy as an encumbrance on the property prior to receiving reimbursement for acquisition costs. If the Deed of Right is recorded after closing, RCO may request an updated final title report or endorsement to the title insurance policy reflecting the Deed of Right as an encumbrance.

Removing/Changing a Deed of Right

Should a project sponsor need to revise or remove a previously recorded Deed of Right, any change requires RCO approval and will most likely be a conversion. The project sponsor should contact RCO to discuss the situation and how to proceed with meeting the Project Agreement and conversion requirements.

Less than Fee Title Acquisitions

Acquisition of easements, leases and specific property interests, such as timber or water rights, are referred to as less than fee property rights. Less than fee acquisition includes the purchase of a lease, easement (road, right-of-way, trail, conservation right, agricultural, etc.), other property right (development, mineral, timber, water, etc.), or reserve interest deed. The holder of the easement or lease has control of specific property rights, but does not own the fee title interest in the underlying property. A reserve interest deed conveys all rights to a property except those rights specifically reserved by the seller.

Acquiring less than fee title property rights may be an appropriate strategy for some acquisition projects. All policies included in this manual apply to the acquisition of less than fee rights including appraisal and appraisal review requirements, hazardous substances certifications, filing an Assignment of Rights or Deed of Right, and title insurance. The project sponsor is responsible to ensure that the appraisal accurately reflects the subject property and rights to be acquired. Hazardous substances certification is not required in the Farmland Preservation Program.

Prior to closing on a less than fee rights transaction, the project sponsor must provide RCO with the preliminary title report, appraisal and appraisal review, and draft conveyance documents. Draft legal documents must be pre-approved by RCO to ensure compliance with RCFB-SRFB policies. Provide adequate time for RCO review of your draft documents which may include consultation with the Attorney General's Office.

The minimum interest length for a project acquiring a less than fee title acquisition differs depending upon the grant program as follows:

Minimum Interest Length for Less Than Fee Acquisitions	
Grant Program	**Interest Length**
• Land and Water Conservation Fund (easements only, leases are not eligible in the LWCF program) • Salmon Recovery Funding Board (easements only, leases are not eligible in the SRFB program)	Perpetuity
• Aquatic Lands Enhancement Account • Boating Facilities Program • Washington Wildlife and Recreation Program (except those below)	At least 50 years
• Nonhighway Off-Road Vehicle Activities • Washington Wildlife and Recreation Program's Farmland Preservation Program • Conservation Reserve and Enhancement Program lease extensions in the Washington Wildlife and Recreation Program's Riparian Protection Account	At least 25 years
• Youth Athletic Facilities	At least 20 years
• Firearms and Archery Range Recreation	At least 10 years

Habitat and Salmon Recovery Conservation Easements

For the purchase of habitat and salmon recovery conservation easements, the RCFB-SRFB has developed a model conservation easement outline intended to provide an overview of the required and optional provisions to be included. (See section below for details on agricultural conservation easements.) If a sponsor chooses not to use the model easement, or to use only portions thereof, the sponsor must demonstrate that the easement language used addresses each applicable provision of the model easement and is consistent with the intent of each provision, with the appropriate grant program manual, and with the laws of the State of Washington. The complete model habitat and salmon recovery conservation easement template is located in Appendix **[4].

All habitat and salmon recovery conservation easements must include an Assignment of Rights on behalf of the RCO. (See section below.) The Assignment of Rights ensures RCO certain rights for access and stewardship to the property. The Assignment of Rights protects RCO's investment in the property, similar to a Deed of Right in a fee title acquisition, and requires replacement of the property should the easement be

[4] ** All "Appendix" items have been omitted from this draft and will be updated at a later date.

extinguished. The Assignment of Rights is recorded immediately following recording of the easement. The Assignment of Rights template is located in Appendix **[5].

Agricultural Conservation Easements

For the purchase of agricultural conservation easements in the Farmland Preservation Program, the RCFB has developed a model agricultural conservation easement with specific required and optional provisions to be included. If a sponsor chooses not to use the model easement, or to use only portions thereof, the sponsor must demonstrate that the easement language used addresses each applicable provision of the model easement and is consistent with the intent of each provision, with the Farmland Preservation Program manual, and with the laws of the State of Washington. The complete model agricultural conservation easement template is located in Appendix **[6]. See *Manual #10f: Washington Wildlife and Recreation Program, Farmland Preservation Program* for details on the model agricultural conservation easement.

Baseline Inventory

Baseline documentation is required for all conservation and agricultural easements acquired with RCO funds. The baseline documentation must be prepared prior to closing and signed by the landowner and easement holder at closing. In the event of poor seasonal conditions for documenting all conservation values, an interim baseline with a completion schedule must be signed at closing. If the baseline has been completed and a significant amount of time has elapsed before the easement is transferred, it should be reviewed and possibly updated prior to closing. (*Sponsors should consult IRS regulations on the timing of a property's conditions at the time of any gift.)

Easement Compliance

The model habitat and agricultural conservation easement templates require that each easement include a provision to provide access to the Grantee (RCO's project sponsor) to conduct a general inspection of the easement area and to monitor compliance with the easement terms. RCO recommends a project sponsor conduct easement monitoring at least annually. Project sponsors must submit an easement monitoring report to RCO at least once every five years.

Trail and Access Easements

Trail easements may be appropriate for trail related projects such as trail corridors. Access easements may be necessary in order to secure legal or public access to a property or for construction purposes. Trail and access easements must include:

[5] All "Appendix" items have been omitted from this draft and will be updated at a later date.
[6] All "Appendix" items have been omitted from this draft and will be updated at a later date.

- A surveyed legal description and map;
- Statutory language necessary to convey real property interests in Washington state;
- Statement of duration;
- Statement of purpose;
- Clear description of the rights that are being conveyed;
- Provide right to prevent any activity or use of the property that is inconsistent with the purpose of the trail/access easement;
- Maintenance clause; and
- An Assignment of Right to the state of Washington through RCFB-SRFB or include RCO's Deed of Right language directly in the easement.

Lease Requirements

The following terms are required for any lease acquisition:

- The lease may not be revoked by either party signatory to the agreement (or "revocable at will" by the signatories). If the lease is revoke by a third party, the project sponsor will need to mitigate for the lost lease per RCO's conversion policy in *Manual #7: Funded Projects*.
- The lease value must be determined by an appraisal and appraisal review that meets RCO guidelines as described in this manual.
- Payment of the lease must be in a lump sum at the start of the lease, not over a period of years, and paid within the active period of the RCO Project Agreement unless payments have been made under an approved waiver of retroactivity.

The purchase of a lease is not eligible in the **SRFB or LWCF programs**.

Assignment of Rights

Sponsors file an Assignment of Rights for all easements or leases being acquired unless otherwise noted in this manual. An Assignment of Rights is a recorded legal agreement that transfers certain rights such as access and enforcement to RCO. Easements acquired in the Farmland Preservation Program do not require an Assignment of Right as the farmland easement template incorporates the necessary provisions directly in it.

The Assignment of Rights is intended to secure the public's interest in the easement or lease by ensuring the longevity of the project. To accomplish this, the Assignment of Rights does four things.

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1. It commits the sponsor holding the easement or lease to monitor and enforce the terms of the easement or lease.

2. It gives the RCO certain rights for access to the property covered by the easement or lease, which rights are co-held with the sponsor.

3. It indemnifies the state with respect to the acts or omissions of the landowner and sponsor on the property.

4. It requires the sponsor to consult with RCO with respect to any amendment of the easement or lease or conversion of the land to another use.

Collectively, the Assignment of Rights ensures that RCO has the legal ability to step in and act if the sponsor fails to manage or defend the easement or lease as required under RCO policies.

An unsigned version of the Assignment Rights is incorporated as an exhibit in the easement or lease document. In a separate recording, a signed version of the Assignment of Rights is filed on the property. The county auditor should send back the recorded document to the project sponsor. The project sponsor then provides a copy of the recorded Assignment of Rights to RCO.

The Assignment of Rights must be recorded at closing, unless otherwise approved by RCO. The Assignment of Rights must appear on the final title insurance policy as an encumbrance on the property prior to receiving reimbursement for acquisition costs. The template for the Assignment of Rights is in Appendix **[7]. Provide RCO a draft Assignment of Rights for review prior to recording the document.

An alternative to recording an Assignment of Rights is incorporation of the required language from the Assignment of Rights directly into the easement or lease document, thereby eliminating the requirement to record a separate document with the county auditor office. The language will depend upon the situation. Project sponsors must obtain RCO approval of the draft language prior to executing the easement or lease.

Eligible Acquisition Project Costs

Only eligible acquisition costs can be reimbursed by RCO and used by the sponsor as a match for a grant. See *Manual #8: Reimbursement Manual* for more details on the reimbursement process.

[7] All "Appendix" items have been omitted from this draft and will be updated at a later date.

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Administrative Costs

Eligible project administrative costs include direct costs related to acquiring the property and related charges. Administrative costs are not eligible in the **LWCF program**. Eligible administrative costs in all other RCO grant programs include:

- Advertising
- Attorney fees associated with drafting and review of easement language or quieting non-contested title interests only
- Attorney fees in SRFB projects – see *Manual #18: Salmon Recovery Grants* for details)
- Billing preparation
- Communication
- Consultation
- Contract award
- Correspondence
- Meetings
- Negotiations
- Progress report preparation
- Project administration
- Public hearings
- Room rental
- Salaries and benefits
- Site visits
- Taxes (administrative goods/services)
- Travel costs to site/meeting

Administrative costs are limited to no more than 5 percent of the total costs of the property and incidental costs combined. RCO may approve a request to pay up to 10 percent administrative costs on a case by case basis. Increases above 10 percent require RCFB-SRFB approval.

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To request an increase above 5 percent, the sponsor must provide, in writing, justification for the increase. The request should include:

- An explanation of why the additional administration costs are needed,
- An update on the project's progress with specific information about the status of property negotiations,
- Whether the same amount of property will be acquired with less funding available for land and incidental costs, and
- Whether the project will be completed on time.

Property Costs

Direct costs for the purchase of real property or property rights are eligible. These include fee ownership and less than fee ownership costs. Fee ownership costs include land, shoreland, tideland, improvements and structures. Less than fee ownership costs may include easements, leases, and separate property rights such as minerals, timber, or water rights, depending upon the specific program.

Property costs are determined by conducting an appraisal to determine just compensation to the landowner. The appraised value must be confirmed by an independent appraisal review. See the section on "Appraisal and Appraisal Review."

Acquisition for More than the Appraised Value

RCO reimburses for land costs based upon the appraised value that is confirmed by an appraisal review. If negotiations with the property owner establish a higher price, the project sponsor may agree to pay a higher price and only seek reimbursement from RCO based upon the appraisal value.

In limited circumstances, RCO may approve paying up to ten percent more than the appraised value of the property. Approval to pay more than the appraised value is not approval for additional grant funds or a grant cost increase. It allows RCO to reimburse for the higher approved purchase price. Approvals are made on a property by property basis, not for the entire scope of a project. Requests for reimbursement above ten percent of the appraised value must be approved by the RCFB-SRFB.

A project sponsor must request approval to pay more than the appraised value prior to closing on the property. The written request must address the following questions and include a copy of the appraisal, appraisal review, and draft purchase and sale agreement or option agreement.

- What was the appraised value of the property?
- What is the proposed purchase price?

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- How may the appraised value not reflect market value? Include adequate market data to substantiate the purchase price.
- How far back in time or how far afield did the appraiser need to go to find comparable values? Were there adequate comparables readily available?
- Did any of the comparables include other RCO or public or private conservation acquisitions?
- Are there any proposed interim land uses on the property?
- Will the additional expense result in a scope change with the Project Agreement? Will original scope of work still be completed?
- Are there alternative properties within the Project Agreement that could be pursued or is this project unique in some way (e.g. specific park location, wildlife species nesting area on site, sensitive plant species on site)?

When considering whether to pay above the review appraisal value, RCO considers both the negotiated price and appraised value in establishing its reimbursement and/or grant amount.

If RCO denies approval to pay above the review appraised value, the project sponsor may pay the higher price at its own expense.

Incidental Costs

Incidental costs are those costs that are incurred when purchasing land or property rights. Once an incidental item has been completed, the completed document must be submitted along with the invoice requesting reimbursement of the incidental cost item. Electronic documents are preferable.

Eligible incidental costs for all RCO programs, **except LWCF**, are:

- Appraisal & appraisal review
- Baseline documentation - conservation easements only
- Clearing of non-contested quiet title actions and quelling of outstanding interests
- Closing fees
- Cultural resources[8] (survey, excavation, on-site monitoring, data recovery, and other costs)

[8] Archeological and historical sites and artifacts, and traditional areas or items of religious, ceremonial, and social uses to affected tribes.

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- Demolition of structures
- Fencing
- Environmental audits, chain of title reports, and site investigation such as test pits, test wells, and sample analysis (limited to 10% of the appraised value of the property)
- Noxious weed control (initial control, up to $125 per acre or $2500 per property for properties less than 20 acres.)
- Recording fees
- Relocation for eligible displaced tenants only when the property is acquired from a willing seller (including administration). See the section on "Relocation" for specific requirements and eligible costs.
- Relocation for eligible displaced residents and tenants when the property is acquired through condemnation (including administration). See the section below on "Relocation" for specific requirements and eligible costs.
- Signs – boundary, entrance, notices, rules, etc.
- Stewardship Plans – **SRFB, WWRP Riparian and WWRP Farmland** projects only
- Survey of property boundaries – must be recorded on the title
- Taxes due at closing (compensating, excise, and pro rata taxes). Delinquent taxes owed on a property prior to acquisition are eligible costs on a case by case basis with pre-approval from RCO.
- Title reports and insurance – RCO must be listed as additionally insured on the final title insurance policy
- Wetland delineations

Incidental costs are limited in the **LWCF program** and only include:

- Relocation allowable under the Uniform Relocation Assistance and Real Property Acquisition Policies, P.L. 94-646.
- Cultural resources[9] (survey, excavation, on-site monitoring, data recovery, and other costs.)

[9] Archeological and historical sites and artifacts, and traditional areas or items of religious, ceremonial, and social uses to affected tribes.

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Pre-Agreement Costs

Typically, acquisition costs incurred by a project sponsor before signing the Project Agreement (the formal contract between RCO and successful project applicants) are ineligible for reimbursement. However, there are some administrative and incidental costs which applicants may incur before signing the Project Agreement. These costs are eligible pre-agreement costs if incurred up to three years prior to the Project Agreement.

Pre-agreement costs are eligible for reimbursement or used as sponsor match but are limited to:

- Administration Costs (See funding limits in the section on "Administrative Costs".)
- Incidental costs limited to:
    - Appraisal & appraisal review
    - Baseline documentation - conservation easements only
    - Clearing of non-contested quiet title actions and quelling of outstanding interests
    - Cultural resources[10] (survey, excavation, on-site monitoring, data recovery, and other costs)
    - Demolition
    - Environmental audits as described in this manual
    - Preliminary title reports
    - Relocation
    - Survey of property boundaries. Surveys must be recorded on the property title.
    - Wetland delineations

All pre-agreement costs incurred must adhere to the requirements in this manual in order for the costs to be eligible for RCO funding or used as sponsor match. Project sponsors must ensure that incidental items such as appraisals, cultural resources review, and relocation costs meet the policies in this manual.

[10] Archeological and historical sites and artifacts, and traditional areas or items of religious, ceremonial, and social uses to affected tribes.

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Buying Land before an RCO Project Agreement is Signed ("Waiver of Retroactivity")

Under most conditions, RCO only will pay for expenses that occur when the Project Agreement is active. However, a project sponsor may get approval from RCO in advance of closing on a property to cover land acquisition costs incurred before the Project Agreement is signed. The approval is called a "waiver of retroactivity" which waives the prohibition to reimburse costs incurred prior to the Project Agreement. (WAC 286-13-085) All acquisition costs that would be eligible during the Project Agreement period become eligible for reimbursement when a waiver of retroactivity is issued (not just pre-agreement costs).

A project sponsor must request a waiver of retroactivity prior to acquiring the property. One waiver of retroactivity can be issued for the same property to cover different grant programs.

A project sponsor must request a waiver of retroactivity in advance of closing. The waiver may be requested only when immediate action is necessary and the grant won't be awarded in time. When a waiver is approved, it allows the project sponsor to acquire the property in advance of a signed Project Agreement without forfeiting eligibility to receive grant funding for the project. Approval of a waiver does not however, guarantee funding. When approved, a waiver is good for two years from the date of acquisition.

To request a waiver of retroactivity, a project sponsor submits a written request, with a justification regarding the critical need to purchase property; location map; parcel map; and preliminary title report. RCO may request additional documentation as appropriate for review of the request. The request must be submitted prior to closing on the property, preferably 30 days in advance.

In the LWCF program, RCO must obtain approval from the National Park Service prior to issuing a waiver of retroactivity so sufficient time is needed for federal and state approval. See more details in *Manual #15: Land and Water Conservation Fund*.

Project sponsors compelled to acquire property prior to securing a Project Agreement, do so at their own risk. Be aware, if a grant is not awarded, RCO will not reimburse any expenses. Should a grant subsequently be awarded to acquire the property, all applicable policies in this manual must be met in order to receive reimbursement or to use the acquisition costs as match toward a grant award. For example, the title must be free of encumbrances that limit the value or uses on the property disproportionately to the public benefit, relocation and cultural resource review must be completed, if appropriate, and the appraisal must be conducted to federal standards.

In addition, costs associated with less than fee title property rights must meet the terms as outlined in this manual. For example, a conservation easement must be assignable to RCO. Project sponsors considering a less than fee title acquisition and planning to seek RCO grant funding should consult RCO about less than fee title requirements.

Ineligible Projects

RCFB-SRFB program manuals contain specific information regarding ineligible land acquisition elements. Ineligible land acquisitions are not eligible for grant funding nor can it be used to fulfill a sponsor's match to a funded project. The following is meant to provide broad guidance in this area. RCFB-SRFB grants may not be used to acquire:

- Land already owned by the applicant/sponsor, unless the project meets the eligibility requirements described in the "Acquisition of Existing Public Land" section or the "Purchase of Land before the Project Agreement" section in this manual.
- Land to be used in support of indoor activities. This applies equally to existing buildings and undeveloped land where major indoor facilities will be constructed. Exceptions vary by grant program. See program related manuals for a list of indoor facilities that may be allowed in the program. Some examples of eligible indoor facilities includes:
    - Indoor shooting ranges in the FARR program;
    - Indoor swimming pools or ice skating rinks in the LWCF program; and
    - Indoor facilities the support the outdoor uses of the land such as restrooms, storage facilities, and maintenances sheds,
- Land with museums, or sites to be used for museums.
- Land to be used primarily for semi-professional and professional activities, such as arts and athletics.
- Land with sufficient revenue producing potential to finance the project's cost.
- Land where exclusive use privileges will be leased, such as boat moorage/storage or a membership golf course.
- Land to be used solely for hatchery style fish production.
- Established outdoor recreation areas developed under ownership or management of a public agency.
- Land to mitigate the impact of a non-RCO assisted project, project element, or action of the project sponsor.
- Purchase of development rights for transfer to a receiving property.
- Land that is contaminated per RCW 70.105D.
- Land donated by a third party in lieu of mitigation fees required for a development.

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Federal Agencies

Federal agencies are not eligible for land acquisition grants from the RCFB-SRFB. Federal agencies may receive title to lands acquired with SRFB grants funds in certain circumstances. RCW 77.85.130(7). Consult *Manual #18: Salmon Recovery Grants* on specific criteria related to transferring land to a federal entity.

Ineligible Costs

RCO funds and sponsor matching monies may not be used for costs peripheral to buying land or property rights. Thus, ineligible costs include indirect costs, fees for feasibility studies, court costs, and in most cases, attorney fees.

Other Eligibility Requirements

Public Access

In most cases, regardless of whether the property is developed, lands acquired in fee title with RCO grant assistance must be available for public use. Use of undeveloped or partially developed properties may be restricted; however, total exclusion of the general public must be avoided. Project sponsors must immediately dedicate lands acquired with RCO assistance to public use even in the period between acquisition and any planned development or restoration.

RCO may approve a request to restrict the public's access to a property under the following scenarios:

- Sensitive natural areas, salmon habitat recovery sites and critical habitats;
- Cultural resources sites; or
- Areas where public safety is a concern (temporary issue).

Legal Access

In most cases, lands acquired in fee title with RCO grant assistance must have legal access to the land or by other adjacent land. Legal access is important for RCO compliance and inspection purposes. A project sponsor must obtained pre-approval from RCO for acquisition of property with no legal access.

RCO may approve acquisition of property with no legal access with the following three conditions:

- The project sponsor owns the adjacent land and can access the property from its existing property holdings; and

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- RCO will be able to conduct compliance inspections with minimal burden to get to the property; and

- The review appraised value reflects a lack of legal access to the property.

If the appraised value of a property assumes legal access when there is none, the project sponsor must acquire and perfect the assumed legal access as part of the transaction. If the assumed legal access cannot be obtained, RCO may approve reimbursement based upon the value of the property in an updated appraisal, without legal access, as long as RCO will be able to conduct its inspection and compliance responsibilities without the legal access.

Existing Structures

All structures on property acquired with RCO grant assistance must be removed or demolished unless RCO determines the structure is allowed by program policy and will support the intended uses at the site. Allowable structures vary by program. Consult the appropriate program policy manual for guidance on allowable structures.

Prior to the demolition or removal of any structure or any ground disturbing activity, a project sponsor must comply with cultural resource review requirements in this manual under the "Cultural Resources Review" section.

If project sponsor wishes to retain a structure that exists on the property, the intended use of the structure must be clearly identified in the grant application. RCO will then determine whether the structure is eligible to be retained per the specific grant program policies. If allowed, discussion of the structure's purpose and use must be included in the evaluation process.

If a project sponsor wishes to retain a structure that is not eligible for RCO grant funding, then the structure and associated land and support facilities may be excluded from the scope of the grant proposal. See the section on "Project Scoping" for more details on how to exclude areas from the scope of an RCO project.

Acquisition of Existing Public Property

In general, property that is already under public ownership or management is not eligible for RCO grant funding. (See the section "Ineligible Projects.") There are two exceptions to this policy that allows existing public property to be eligible for RCO grant funding.

1. The property was acquired under a waiver of retroactivity. See the section on "Buying Land before a RCO Project Agreement is Signed"; <u>or</u>

2. The following three circumstances are satisfied:

a. State law requires that the agency owning the land must receive compensation, and

b. The land was not originally acquired by the selling agency for habitat conservation (for habitat conservation proposals), salmon habitat recovery (for salmon habitat recovery proposals), or recreation use (for outdoor recreation proposals), and

c. The land has never been publicly managed for habitat conservation (for habitat conservation proposals), salmon habitat recovery (for salmon habitat recovery proposals), or recreation (for outdoor recreation proposals).

RCW 39.33 provides for the transfer of land from one public body to another without the requirement of full value compensation. Therefore, a project sponsor must provide other statutory evidence that the selling agency must receive full value for the property. For example, RCW 43.09.210 requires full value compensation of land when a local government transfers property from one department to another and RCW 87.03.136 requires irrigation districts to receive reasonable market value in certain transactions.

Property Acquired for Mitigation Purposes

RCO funds may be used to buy land required by a mitigation plan when the mitigation is a requirement of a project to be developed with RCO funds. For example, a new wetland may be required as mitigation for development of an athletic field on an existing wetland area.

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 grant funding allowed for the mitigation portion of the project (including purchase of the land and the construction costs) is 25 percent of the total construction and associated administrative cost in the Project Agreement.

RCO encourages the purchase and development of mitigation land that serves multiple functions such as providing habitat and recreation at the site. Any mitigation property acquired or developed must be included in the Project Agreement and included within the legal description of the recorded Deed of Right or Assignment of Rights. Acquisitions specifically for mitigation purposes related to impacts from other projects are not eligible for funding.

Land Donations

Property acquired at less than fair market value is eligible for RCO grant funding as a land donation from the seller. The land donated must meet program eligibility requirements. The land donation transaction must follow the Acquisition Procedures section in this manual including appraisal, appraisal review, hazardous substances certification, title insurance, etc.

If property is acquired at less than the review appraised value, the project sponsor must obtain a statement signed by the landowner that acknowledges that before the sale the owner:

- Was provided a statement of just compensation which identifies the appraised value of the property including land, improvements and relocation, and
- Is donating all or a portion of the value of the property voluntarily, as an act of free will.

The landowner donation statement must be provided at the time the project sponsor requests reimbursement from RCO.

In general, donations of land in lieu of permit fees or dedication of land as a requirement of a permit approval for third party related development impacts are not eligible donations of land for RCO grant purposes and may not be used as sponsor match.

Interim Land Uses

Sometimes a landowner or lessee may wish to retain certain uses on a property as part of a negotiation with a project sponsor to acquire a property. Certain uses may be allowable with prior RCO approval. A project sponsor must request approval for an interim land before a closing on the property and taking ownership. RCO may approve certain special land uses on an interim basis to allow the landowner or lessee an opportunity to continue use of the land as described below.

Existing Second Party Use. A secondary party use is an activity that was occurring on the land before the property was acquired by the project sponsor and the landowner or lessee wishes to continue that use after the property is acquired with RCO grant funds. RCO may retain a percentage of grant funding during the interim period until the second party use ceases.

RCO may approve a second party use when:

- The use is a continuing second party use. The use is already occurring on the land at the time the property is acquired;
- Any hindrance to public use or to the purpose of the RCO Project Agreement or RCO funding program requirements is minimal;
- The second party's use will be phased out within three years of the date of acquisition. If the use will proceed longer than three years, it may only be considered for approval under the compatible use policy; and
- Use of any income derived from the second party use is consistent with the RCO income policy.

Life Estates. A life estate is a real property interest for the duration of a person's life. RCO may approve a life estate when:

- The life estate does not totally hinder the public use or the purpose of the RCO Project Agreement or RCO funding program requirements;
- The life estate is for the owner of the property only;
- The impact of the reservation of the life estate is addressed in the valuation of the property. Appraisers must treat a life estate as an encumbrance; and
- The terms of the life estate have been reviewed and accepted by RCO.

Cultural Resources Review

The real property acquired through RCO funding is subject to Governor's Executive Order (EO) 05-05 (www.governor.wa.gov/execorders) or compliance with Section 106 of the National Historic Preservation Act (NHPA) concerning the review, analysis, and consultation with the Washington Department of Archaeology and Historic Preservation (DAHP) and affected Native American Tribes for archaeological and cultural resources. RCO requires documented compliance with EO 05-05 or NHPA, whichever is applicable to the project. RCO will issue a notice to proceed (if applicable) when appropriate documentation has been received. Cultural resources review is not required for projects funded in the Farmland Preservation Program.

"Cultural resources" means archeological and historical sites and artifacts, traditional areas, and items of religious, ceremonial, and social uses for tribes. The goal is to ensure that reasonable action is taken to avoid adverse impacts to those resources. The cost associated with cultural resources review is an eligible item for reimbursement in your grant.

Using materials from the grant application, RCO submits project information to the Washington State Department of Archaeology and Historic Preservation and affected tribes to determine if the project has the potential to damage cultural resources and whether consultation will be required. You may be asked to complete a cultural resources survey. The consultation must be completed before any ground disturbing activity begins.

In the event that archaeological or historic materials are discovered during project 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 following: concerned Native American Tribes' cultural resources staff and cultural committees, RCO, and DAHP. In the event that human remains are discovered during project activity, 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: concerned Native American Tribes' cultural resources staff and cultural committees, RCO, DAHP, the coroner and local law enforcement in the most expeditious manner possible according to RCW 68.50.

Stewardship Plans

All SRFB acquisition projects require a stewardship plan. A plan is necessary to ensure the project objectives are met and the site will be maintained and monitored for at least 10 years from the project agreement completion date. Consult *Manual #18: Salmon Recovery Grants*, for specifics on what the stewardship plan must include.

Stewardship plans are also encouraged, but not required, for land acquired with funds from the Riparian Protection Account and Farmland Preservation Program in the Washington Wildlife and Recreation Program. Consult *Manual #10b: Washington Wildlife and Recreation Program, Habitat Conservation Account and Riparian Protection Account* or *Manual #10f: Washington Wildlife and Recreation Program, Farmland Preservation Program* for specifics on what the stewardship plan must include.

Phased Projects

Large projects can be complex, multi-year, multi-partner, and require extensive analysis, coordination, and implementation. A project sponsor should consider the potential complexity that large-scale or multi-million dollar projects may create, and should discuss phasing with RCO staff. Approval of any single stage is limited to that stage. No endorsement or approval is given or implied toward future stages. Progress on earlier stages may be considered by the RCFB-SRFB when making decisions on current proposals by the applicant.

Phased projects are subject to all of the following criteria:

- Each stage must stand on its own merits as a viable project.
- Each stage must be submitted as a separate application.

Combination Projects

Combination projects involve real property acquisition in combination with other work after the property is acquired such as a feasibility study, site planning, or construction. Eligible combination projects vary by program. See applicable policy manuals for details

Rules for RCFB Funded Combination Projects. To help ensure timely completion of combination projects, the RCFB has set progress policies related to combination projects. At least one month before the RCFB considers approving funding for a combination grant, the project sponsor must secure the property by one of the following methods:

- Acquisition under the waiver of retroactivity policies and procedures in this manual.

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- 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 RCFB funding meeting. Execution of the option must occur within 90 days after this meeting.

If the acquisition is for a non-perpetual interest, and if not already acquired 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 RCFB funding meeting.

Rules for SRFB Funded Combination Projects. To help ensure timely completion of combination projects, SRFB funded projects must acquire properties within 18 months of the SRFB funding meeting.

Contract or Installment Sales

RCO will not financially assist land bought on a contract or installment basis if the contract period exceeds the Project Agreement period. Full payment must be made to the seller within the agreement reimbursement period. This ensures that the sponsor:

- Has clear ownership of the property

- Can meet the "Deed of Right" requirements, that is, convey use of the property to the state forever, for outdoor recreation, salmon recovery or habitat conservation purposes.

RCO recognizes that this may be an obstacle when buying from an owner who, for tax reasons, wants to sell on a multi-year installment or contract basis only. Private non-profit land trusts may offer a solution to this problem for state or local agencies by acting as an intermediary to the transaction. For example, the land trust may contract to purchase the property on a seller-financed basis with note payments scheduled according to the seller's tax needs. The land trust then sells the property to the sponsoring agency on a lump sum basis, while retaining liability for the note payments.

If the seller requests, the land trust may provide collateral in several ways, other than using the property itself. For example, the trust could arrange for a letter of credit in favor of the seller to secure the note. An alternative is for the trust to purchase a certificate of deposit, which can be assigned to the seller for security purposes. Normally, either of these cash collateral methods of security is acceptable to sellers. Both would result in the acquisition of the land free of purchase money encumbrances.

These procedures are suggested only to broaden the options of applicants as they seek to acquire important outdoor recreation and habitat conservation land. Presently this option is only available to applicants for the ALEA, BFP, LWCF or WWRP.

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Section 3: Acquisition Procedures

In this section, you'll learn about:

- ✓ Required procedures
- ✓ Relocation procedures

Acquisition Procedures

Project sponsors of all RCO acquisition projects must follow the acquisition procedures per RCW 8.26.180 and chapter 468-100 WAC. These procedures apply to all RCO grant funded acquisition projects, both state and federal funding sources, regardless of whether there is relocation involved in the transaction. Below is a step-by-step process that is intended to guide sponsors in meeting the required procedures of RCW 8.26.180. If a project sponsor has a different process, contact RCO to ensure compliance with the requirements.

Project sponsors must follow the following procedures:

1. Contact the landowner to learn if the land is for sale or if they are willing to entertain an offer.

2. In writing, inform the landowner that they are not compelled to sell the property to the agency, rather this is a voluntary transaction and relocation assistance will be provided for tenants that are eligible displaced person in accordance with the Uniform Relocation Act RCW 8.26. The value of the property or the purchase price is not discussed at this time. The parties may discuss how the property will be valued and how they will determine a purchase price.

3. If applicable, consult with an approved relocation agent and determine the eligibility of any relocation assistance for any tenants.

4. If applicable, provide the landowner a written notice describing the relocation program.

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5. Obtain an appraisal of the property and provide the landowner an opportunity to be present during the appraiser's inspection.

6. Obtain a review of the appraisal to confirm the value of record.

7. Present the landowner with a statement of just compensation which informs the landowner of the appraised value of the property and offers eligible tenant relocation assistance, if applicable. A sample form is available in Appendix ___.

8. Negotiate an option agreement or purchase and sale agreement with the landowner. If an option agreement or purchase and sale agreement is secured before execution of an RCO Project Agreement, the agreement should:

    - Be based upon the statement of just compensation price established by an appraisal and confirmed by an appraisal review;

    - Not commit the agency to acquire the property;

    - Stipulate that any cost of securing an option is to be applied to the purchase price (This ensures that the cost of the option is an eligible RCO grant expense later.)

    - Be valid at least 40 days beyond the date an RCO Project Agreement is issued.

9. Conduct any due diligence proceedings (e.g., title review, hazardous substances review, etc.), ensure compliance with RCO policies, and obtain RCO approval for any draft legal documents.

10. Acquire the property and record conveyance documents and a RCO Deed of Right or Assignment of Right, as applicable, with the county auditor.

Relocation and Relocation Services

Federal and state laws require RCO to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, commonly referred to as the Uniform Relocation Act, or URA on all federal and state funded projects. (Public Law 91-646, as amended by the Surface Transportation and Uniform Relocation Assistance Act, P. Law. 100-17-1987; and chapter 8.26 RCW.)

Local agencies (e.g., cities, counties, and special purpose districts) with powers of eminent domain may opt out of the relocation requirements per RCW 8.26.010(2) if the project does not involve federal funds. All other RCO project sponsors must comply with the relocation requirements.

An RCO funded acquisition that involves the purchase of property from a willing seller is considered a voluntary transaction per WAC 468-100-101(2)(a). The project sponsor must provide the property owner written assurance that the property will not be

acquired through condemnation at the beginning of any negotiation. See Appendix ___ for an example letter. As the acquisition is a voluntary transaction, the seller is not eligible for relocation costs but any tenant that qualifies as a displaced person is eligible for relocation per an approved relocation plan.

In those circumstances when a project sponsor must acquire property through condemnation and it is eligible in the RCO grant program, RCO will reimburse for residential, commercial and tenant relocation expenses for eligible displaced persons per an approved relocation plan.

The project sponsor must conduct administrative services needed to comply with the Uniform Relocation Act RCW 8.26, if there are eligible displaced persons associated with the property. These services may include preparation of a relocation plan, relocation cost estimate, and relocation services. RCO must agree in advance on the qualifications of the relocation agent to perform the work. The relocation agent must be approved by the lead agency, Washington Department of Transportation (WSDOT). The project sponsor may need to contract with another state agency, such as WSDOT, to perform these services. Administrative costs and contracts to conduct relocation are eligible relocation expenses in an RCO grant.

For more information about relocation assistance or acceptable forms to be used in providing relocation assistance, contact WSDOT Real Estate Services Relocation Program at http://www.wsdot.wa.gov/realestate/.

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Section 4: Appraisals and Review Appraisals

In this section, you'll learn about:

- ✓ Appraisal standards
- ✓ Appraiser qualifications
- ✓ Review appraisals

Just Compensation

An appraisal and appraisal review is the basis for RCO determining just compensation to the landowner. The project sponsor first contracts for an appraisal of the property to determine the market value of the property. Then the project sponsor contracts for an independent review of the appraisal to confirm the market value identified in the appraisal.

Appraisal and Review Appraisal Standards

All appraisals and review appraisals must meet the standards in the Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA). http://www.justice.gov/enrd/land-ack/. RCO uses these standards for all acquisition projects regardless of funding source. The UASFLA are considered supplemental standards to the Uniform Standards of Professional Appraisal Practice (USPAP) and are meant to bolster the level of documentation and compliance with standard appraisal practices in government or government financed land acquisitions.

In the Farmland Preservation Program only, when the Natural Resource Conservation Service (NRCS) is the funding partner in the project, RCO will accept an appraisal conducted according to the UASFLA or Uniform Standards of Professional Appraisal Practice (USPAP) or an appraisal review conducted by the NRCS as the project sponsor's appraisal review.

The appraisal and review appraisal must be procured on behalf of the project sponsor. The appraisal and review appraisal may not be procured on behalf of the seller or other

third party with an actual or potential interest in the sale unless approved by the Director. If the project sponsor is partnering with a third party (e.g., land trust or other agency is assisting with negotiating the transaction or will co-hold right or hold third party rights), then the appraisal and appraisal review may be procured on behalf of the project sponsor and the third party. The project sponsor must be listed as an intended user of the appraisal.

The cost to procure an appraisal and review appraisal are eligible project costs and are reimbursable per the Project Agreement, except for projects funded through the Land and Water Conservation Fund (see below). A copy of the appraisal and review appraisal must be submitted to RCO at the time of the reimbursement request for the appraisal and review costs. RCO recommends the project sponsor submit the appraisal and review appraisal in advance of closing on the property for RCO review to ensure that the scope of the appraisal meets the terms of the Project Agreement and this manual.

If a project is funded through the **Land and Water Conservation Fund**, the project sponsor must procure the appraisal and review appraisal at its own expense and the cost is not eligible as part of meeting the sponsor match requirement. See *Manual #15: Land and Water Conservation Fund* for more details on eligible acquisition costs in this program.

Only one appraisal and one review appraisal for each property is eligible. RCO may approve the cost for additional appraisals and review appraisals per property on a case by case basis. The project sponsor must submit a written request to approve reimbursement for an additional appraisal and review that includes adequate justification as to why the additional work is required.

Appraisal updates with an updated appraisal review are acceptable grant costs. An appraisal update obtained within 24 months of the original appraisal effective date is not considered a second appraisal and costs associated with the appraisal update are an eligible cost in the Project Agreement.

RCO recommends that any extraordinary assumptions or hypothetical conditions provided to the appraiser first be reviewed by RCO for compliance with RCO policies and the Project Agreement. RCO reserves the right to require a project sponsor to update an appraisal or procure a new appraisal, at the project sponsor's expense, if the appraised value of the property is subject to any extraordinary assumption or hypothetical conditions not previously reviewed and approved by RCO.

Appraisals are considered to have a "shelf life" of one year from the effective date of the appraisal of record. Sponsors must either purchase the property or have a signed "purchase and sale" agreement that reflects the appraised value within one year of the effective date of the appraisal.

If the property is not acquired or a purchase and sale agreement is not secured with the 12-months of the effective date of the appraisal, the project sponsor must obtain a written statement from the review appraiser, or the appraiser with confirmation from the

review appraiser, stating that land values have not changed and the appraised value is the same since the effective date of the appraisal. The "shelf life" of an appraisal for any RCO funded acquisition may not exceed 18 months under any circumstances. If the shelf-life of an appraisal and appraisal review has expired, the project sponsor will need to procure an updated appraisal and review appraisal within the allowed 24 month period for updates.

Appraisal "Shelf Life" Requirements	
Appraisal "shelf life"	12 months after effective date
Written statement to extend "shelf life"	Up to 18 months after effective date
Updated appraisal	Up to 24 months after effective date

Appraisal Report Formats

UASFLA allows for self-contained and summary reports. Restricted use reports are not acceptable. In determining whether to obtain a self-contained or summary report, project sponsors should consult with the appraiser on the appropriate reporting method based upon the following criteria:

Self-Contained Appraisal Report: Used if the appraisal problem involves partial land takes, acquisitions involving damages, conservation or other easements, complex appraisal issues, etc.

Summary Appraisal Report: Used if the appraisal problem involves only "whole takes" of the subject property. In other words, use this report when non-complex acquisition of an entire parcel occurs with no partial takings or resulting damages to remaining properties.

In cases where the estimated value of the subject property does not exceed $10,000, and the acquisition is not complex, project sponsors may be exempt from having to meet UASFLA appraisal standards. Prior approval from RCO for such exemptions must be requested in writing. In lieu of the USAFLA appraisal standards, a project sponsor may submit a written "Finding of Value" that includes:

- The preparer's name, experience and qualifications. The preparer must have sufficient understanding of the real estate market and shall not have any interest, direct or indirect, in the real property to be valued for compensation. Sponsor staff may not prepare the "Finding of Value."

- A description of the methods and factors used to reach the value for compensation. This description must have enough detail to allow RCO to

understand how the preparer used market information to decide a fair market value.

Review Appraisal Requirements

Independent appraisals reviews are required for all appraisals to confirm the just compensation for the property. Appraisal reviews must follow the UASFLA technical review reporting requirements and this manual. Appraisal reviews must include field inspections of the subject properties and comparables in cases where the appraisal sets the property value subject of the RCO acquisition project is $250,000 or higher. Desk reviews are acceptable for properties having a value less than $250,000.

The review appraiser must approve or reject the value conclusion in the original appraisal.

- If the review appraiser approves the value established in the original appraisal, he/she can either acknowledge that the appraisal meets the UASFLA or develop or obtain the necessary work product to bring the original appraisal into compliance.

- If the review appraiser rejects the value established in the original appraisal, the project sponsor must either instruct the review appraiser to establish a new property value or obtain a new appraisal. The new property value determined then becomes the just compensation for the property. If the review appraiser had previously conducted a desk review of the property and now is working to establish a new property value, the review appraisal must take the form of a field review. Costs for a second appraisal and review must be pre-approved by RCO.

Appraiser and Review Appraiser Qualifications

Chapter 18.140 RCW, Certified Real Estate Appraiser Act, establishes four certification or license categories.

1. State-certified general real estate appraiser (license number begins with 270-11): Eligible to develop and communicate real estate appraisals of all types of properties.

2. State-certified residential real estate appraiser (license number begins with 270-17): Eligible to develop and communicate real estate appraisals of all types of residential property of one to four units without regard to transaction value or complexity and nonresidential property having a transaction value less than $250,000.

3. State licensed real estate appraiser (license number begins with 270-16): Eligible to develop and communicate real estate appraisals of noncomplex one to four residential units having a transaction value less than one million dollars, complex

one to four residential units having a transaction value less than $250,000, and nonresidential property having a transaction value less than $250,000.

4. State registered appraiser trainee (license number begins with 100): Eligible to assist certified real estate appraisers while gaining experience. The appraisal or review appraisal must also be signed by a certified real estate appraiser.

Project sponsors must select an appraiser and review appraiser with appropriate certifications or licenses from Washington State to perform RCO funded acquisitions, unless the appraisal review is conducted by the Natural Resources Conservation Service for a Farmland Preservation Program project. Review appraisers must have an equal or greater license certification than the original appraiser and cannot be selected from the same firm, organization or agency/sponsor who conducted the original appraisal.

Project sponsor staff may perform appraisals or review appraisals if they meet the state licensing requirements. Project sponsor staff may not conduct the appraisal and appraisal review on the same property. If a project sponsor's staff is conducting appraisal or review appraisal work, that same staff person may not function as a negotiator in the transaction or work directly with the independent appraiser or review appraiser that performed appraisal work for that property.

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Section 5: Other Policies Required for Each Transaction

In this section, you'll learn about:

- ✓ Encumbrances ands title insurance
- ✓ Title review
- ✓ Hazardous substances certification
- ✓ Environmental audits
- ✓ Property boundary maps

Encumbrances and Title Insurance

Property rights acquired with RCO funding assistance must be free of encumbrances that limit the value or uses disproportionately to the public benefit (i.e., habitat conservation or salmon habitat recovery values or the recreation use of a site). Appraisal reports must consider the impact of all encumbrances on the property at the time of closing as part of the appraisal question in order for an acquisition to qualify for reimbursement. If the appraisal contains certain assumptions that may impact value, RCO may require that certain assumptions be perfected at closing (e.g., assumptions regarding legal access). The final title insurance policy must show that the property rights are free of unacceptable encumbrances as determined by RCO.

For less than fee title acquisitions, review of the encumbrances may involve releasing all or portions of a parcel from liens at the time of closing or ensuring the lien is subordinate to the RCO funded easement. A subordination clause in the easement binds any existing or future lien holder to the terms of the easement.

A title insurance policy must be purchased on all real property acquisitions for the appraised value of the property regardless of whether the grant funds are from federal or state sources. RCO must be listed as additionally insured on the final title insurance policy. Extended or enhanced title insurance may be appropriate for other acquisitions on a case by case basis. Extended title insurance may require a boundary survey and

other additional costs. Contact RCO if you are required or are considering purchasing extended title insurance and seeking RCO reimbursement for the cost.

An exception to the title insurance requirement may be the purchase of land from a railroad company or other unusual transactions. Consult with RCO if you are unable to obtain title insurance.

Preliminary Title Review

RCO requires preliminary title review of all proposed acquisitions to ensure the above policies are met prior to closing on the property. Sponsors may choose one of the following three options for conducting preliminary title review.

1. Submit the preliminary title report for the target property (or properties) to be acquired for review prior to RCO issuing a Project Agreement. The RCO will review the preliminary title report and identify any encumbrances that may be of concern and/or need to be cleared prior to closing.

2. Submit the preliminary title report for the target property (or properties) to be acquired for review prior to RCO issuing a Project Agreement along with RCO's Preliminary Title Report Checklist in Appendix **[11]. On the checklist, the sponsor certifies that they have reviewed the title and identifies which encumbrances will be cleared prior to closing.

3. Request approval from RCO to conduct preliminary title review independently without RCO review. Your request must demonstrate your "best practices" for clearing title and ensuring that properties will meet RCO requirements in this manual. A sponsor may request independent review approval as an organization if it conducts multiple acquisitions with RCO funding. If approval is granted, a project sponsor proceeds with acquiring land at its own risk. RCO will withhold payment at reimbursement time if a property title does not meet RCO requirements.

Preliminary title review occurs after grant funding is awarded but prior to RCO issuing a Project Agreement. If a project sponsor does not provide the preliminary title report to RCO prior to issuing a Project Agreement, a special condition will be added to the Project Agreement that requires submittal of the preliminary title report prior to the release of any grant funds. RCO may request a preliminary title report as part of a grant application if the conditions of the property are unclear or may potentially be ineligible for grant funding.

RCO recommends project sponsors request an updated preliminary title report one month prior to closing on the property to ensure no new encumbrances have been placed on the property since the last title review.

[11] All "Appendix" items have been omitted from this draft and will be updated at a later date.

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Complimentary Covenants or Deed Restrictions from Other Funders

If an acquisition project includes funding from other sources which also require some form of encumbrance on the property such as a Notice of Grant, easement or covenant, project sponsors must provide a draft of the encumbrance to RCO for review. RCO must review the encumbrance for consistency with RCO's Deed of Right or Assignment of Right and the Project Agreement prior to closing on the property. As long as the encumbrance from the other funding source is consistent and compatible with RCO's funding, no conversion will occur. RCO will amend the Project Agreement with a special condition to allow for the encumbrance from the other funding source and document that any future conversion will be valued without the other funding sources encumbrance on the title.

Hazardous Substances Certification

Project sponsors that receive funding assistance to buy real property, except for property acquired in the Farmland Preservation Program, must certify that each parcel meets standards established under the Model Toxics Control Act (MTCA), RCW 70.105D. Purchase of property contaminated with any hazardous substance not meeting the MTCA standards is ineligible for RCO grant funding. A "hazardous substance" is defined as:

- Any dangerous or extremely hazardous waste as defined in Chapter 70.105.010(5) and (6) RCW, or any dangerous or extremely hazardous waste designated by rule pursuant to Chapter 70.105 RCW;
- Any hazardous substance as defined in Chapter 70.105.010(14) RCW or any hazardous substance as defined by rule pursuant to Chapter 70.105. RCW;
- Any substance that, on March 1, 1989, is a hazardous substance under section 101(14) of the federal cleanup law, 42 U.S.C. Sec. 9601(14);
- Petroleum or petroleum products; and
- Any substance or category of substances, including solid waste decomposition products, determined by the director [or director's designee] of the Department of Ecology by rule to present a threat to human health or the environment if released into the environment.
- The term "hazardous substance" does not include any of the following when contained in an underground storage tank from which there is not a release: Crude oil or any fraction thereof or petroleum, if the tank is in compliance with all applicable federal, state, and local law.

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Project sponsors must complete a Hazardous Substances Certification for each parcel and provide documentation to support the certification. The certification form is provided in Appendix**[12]. The certification ensures that the project sponsor has inspected, investigated, and conducted an environmental audit (see below) of the parcel for the presence of hazardous substances.

The project sponsor must certify:

- No hazardous substances were found on the site, or
- Any hazardous substances found have been treated and/or disposed of in compliance with applicable state and federal laws, and the site deemed "clean."
- The sponsor will defend, protect and hold harmless RCO and any and all of its employees and/or agents, from and against any and all liability, cost (including but not limited to all costs of defense and attorneys' fees) and any and all loss of any nature from any and all claims or suits resulting from the presence of, or the release or threatened release of, hazardous substances on the property being acquired.

Project sponsor should complete the hazardous substances certification prior to the acquiring the property. The certification must be submitted to RCO before reimbursement of the property costs.

Environmental Audits

An environmental audit is required supporting documentation for each Hazardous Substances Certification. Acceptable environmental audits are:

Environmental site assessments per American Society for Testing and Materials (ASTM) standards,

All Appropriate Inquiries per U.S. Environmental Protection Agency standards, or

Property Assessment Checklist provided in Appendix **[13].

If an environmental audit identifies action items that are not related to cleanup of a hazardous substance (e.g., debris cleanup, empty tank removal, structure removal), consult with RCO on which items will need to be completed to meet the terms of the Project Agreement. RCO will review the environmental audit report for action items necessary to make the property safe and available for public use. Non-hazardous substance action items may be eligible demolition expenses.

[12] All "Appendix" items have been omitted from this draft and will be updated at a later date.
[13] All "Appendix" items have been omitted from this draft and will be updated at a later date.

RCO strongly advises project sponsors to buy land that has never been contaminated or is certified as meeting hazardous substances requirements. Clean-up costs are very hard to predict. Attempts to clean-up a site can result in substantial expenses that are not eligible for RCO reimbursement or as sponsor match. If a project sponsor wishes to purchase a contaminated property, the property will be eligible for RCO funding after it has been cleaned up. The project sponsor may then request a waiver of retroactivity at the time of the RCO grant application.

Property Boundary Map Requirements

RCO requires a property boundary map for each parcel/property acquired. The boundary map must include:

- RCO project number and name
- Project sponsor name
- Date of the map preparation
- Adjoining streets and roads
- Boundary line of land protected by the Deed of Right or Assignment of Right, whichever is applicable.
- Location of all known easements, outstanding rights, deed/lease restrictions, and reversionary interests.
- North arrow and scale
- GPS coordinates

Other information to assist with identifying the property include deed references, adjoining ownerships, adjoining water bodies or other natural landmarks, geographic coordinates, survey information, and other measurements. A professional survey is not required, however, if a survey has been completed with RCO funding assistance, it must recorded with the county auditor and a copy provided to RCO.

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Section 6: Application Requirements

In this section you'll learn about

✓ Key actions required at the time you apply for a grant

Project Scoping

Prior to acquisition of a property with RCO funding assistance, the project sponsor should clearly identify the intended uses of the property consistent with the Project Agreement. If the project sponsor wishes to use portions of the property for ineligible grant activities or purposes, such as retaining ineligible structures, or the project sponsor proposes a compatible use such as timber management, grazing, and other natural resource uses grazing, the project sponsor must consult with RCO prior to acquisition.

RCO can work with the project sponsor to exclude areas intended for ineligible grant activities or purposes from its Deed of Right or Assignment of Right and the Project Agreement. The area to be excluded must be clearly delineated and valued in the appraisal process. The Deed of Right must include a legal description of the area that will remain in the RCO funded portion of the project.

The appraised value of the area excluded must be established either through a separate appraisal, appraisal update, or by calculating the property value with the existing appraisal information. Consult RCO about negotiating the area to be excluded and the appropriate method for valuing the property.

Landowner Acknowledgement of Application

As part of any grant application for acquisition of real property, the project sponsor must submit a Landowner Acknowledgement Form in Appendix **[14] with the grant application for each parcel to be acquired. For multi-site acquisition projects, include, at a minimum, signed Landowner Acknowledgement Forms for all known priority parcels.

[14] All "Appendix" items have been omitted from this draft and will be updated at a later date.

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Local Jurisdiction Review (WWRP Projects Only)

Per RCW 79A.15.110, project sponsors proposing to acquire property in the Washington Wildlife and Recreation Program (WWRP) must provide the county or city with jurisdiction over the project area an opportunity to review the grant application prior to applying for grant funds. The appropriate county or city legislative authority may, at its discretion, submit a letter to the RCRB identifying the authority's position with regard to the acquisition project. The RCFB shall make the letters received available to the governor and the legislature when the prioritized WWRP project list is submitted as part of RCO's biennial capital budget request.

In order to meet this requirement, the project sponsor must provide each member of the city council or county commission, as appropriate, the following information prior to the grant application technical completion deadline. A copy of the packet must be sent to RCO as well.

- A cover letter referencing RCW 79A.15.110 and the option for the legislative authority to provide a letter to the RCFB on the authority's position with regard to the proposed project.
- The grant application project description as it will be submitted with the grant application.
- A location map and proposed parcel(s) map of the proposed project.
- The geographic envelope of the proposed project, if the project sponsor is pursuing a multi-site acquisition strategy.

A local government acquiring property within their own political boundaries meet this requirement by submitting the adopted resolution is required with the RCO grant application.

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Section 7: Post-Award Issues

In this section, you'll learn about:

- ✓ Escrow payment requests
- ✓ Ongoing responsibilities
- ✓ Decision making responsibilities

Escrow Payments

Although RCO grant programs operate on a reimbursement basis, RCO can deposit grant funds in an escrow account for a pending acquisition as long as certain conditions are met. RCO requires a minimum of 30 days to process an escrow payment. Contact RCO early to begin the escrow payment process. RCO may not be able to process an escrow payment if the request is submitted less than 30 days in advance.

A project sponsor must request an escrow deposit in writing and include the following documents:

- Acquisition reimbursement forms (e.g., A-19, Form 201 and Form 207) as required in *Manual #8: Reimbursements*.
- A legally binding agreement between the project sponsor and the landowner, typically a "Purchase and Sale Agreement" or an "Option Agreement".
- The "Offer to Purchase at Just Compensation".
- Land owner donation statement, if applicable.
- A copy of the Buyer's Estimated Settlement Statement with evidence showing that the matching share has been deposited into the escrow account.
- Escrow payment instructions that include reference to recording RCO's Deed of Right or Assignments of Rights, as applicable.
- The draft transfer Deed or Easement.

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- The draft Deed of Right (for fee title acquisitions) or Assignment of Rights (for easements).
- Baseline inventory (for conservation easements only).
- An updated preliminary title insurance report, if not previously provided.
- Appraisal and appraisal review.
- Hazardous Substances Certification and supporting checklist or environmental site assessment. (Not required for projects funded in the Farmland Preservation Program.)

After RCO deposits its funds in the escrow account and the transaction is complete, a copy of the executed and recorded deed, recorded Deed of Right or Assignment of Rights, and final title insurance policy, naming the sponsor as legal owner, must be provided within 60 days. Once RCO deposits funding, closing must occur within 14 days or funds will be returned to RCO.

Funding Acknowledgement and Signs

Acquisition projects, except projects in the Farmland Preservation Program, must acknowledge the RCO funding assistance, by program. Some habitat conservation or salmon habitat recovery areas contain species or other resources so sensitive that it is unwise to places signs at the site. In these cases, the project sponsor may seek RCO approval to waive signing requirements.

Acknowledgement includes:

- Prominent placement of a sign on the property, unless waived by RCO. The sponsor may build such signs to harmonize with an existing design standard or request a standard acknowledgement sign from RCO.
- Recognition in any release or publication developed or modified for the project.
- Recognition at dedication ceremonies; notify RCO at least two weeks before the ceremony if you wish to have a representative of RCO at the ceremony.

Inspections

RCO may visit an acquisition project site at reasonable times. Inspections may occur at the application phase, before project funding, during the active Project Agreement, and post project completion. For less than fee title acquisitions, RCO will follow terms of access as stipulated in the legal document.

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Scope Changes

See *Manual #7: Funded Projects* for criteria related to changing the scope of an acquisition project after the Project Agreement is signed.

Compatible Uses

RCO allows certain non-outdoor recreation, salmon habitat recovery, and habitat conservation use of acquisition projects, such as timber management, grazing, and other natural resource uses. These uses must be clearly compatible with and secondary to the outdoor recreation, salmon habitat recovery or habitat conservation use approved in the Project Agreement. RCO must approve any proposed compatible use in advance.

Income and Income Use

The source of any income generated in a funded project or project area must be compatible with the funding source and the agreement. User and/or other fees may be charged in connection with land acquired or facilities developed with funding board grants if the fees are consistent with the:

- Value of any service(s) 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) for which a facility/range fee must not be charged (Chapter 79A.25.210 RCW).

Regardless of whether income or fees in 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 agreement, unless precluded by state or federal law, the revenue may only be used 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;
- The expense of operation, maintenance, stewardship, monitoring, and/or repair of other similar units in the sponsor's system; and/or
- Capital expenses for similar acquisition and/or development.

Acquisition for Future Use

When a project sponsor acquires real property for the purpose of conducting restoration work or public access development in the future, the property must be restored or developed within three years. This ensures that the future intended use is defined when RCO funding is awarded and that the land acquired is put to the intended uses within a reasonable timeframe and the public receives the benefit from their investment.

In the interim, between acquisition of the property and the restoration or development work, the property must be open to the public with minimum public investment, consistent with the Public Access policy in this manual. Certain ineligible land uses may be allowed during the interim period consistent with the Special Land Use policy in this manual.

If the planned future use of the property will be delayed for up to three years, the project sponsor may be required to submit additional information at the time of application or prior to issuing a Project Agreement. If the planned future use of the property will be delayed for more than three years, the project sponsor must request approval for an extension of the delayed future use in writing before the three year period expires.

Converting the Use of an RCO Funded Acquisition Project

A conversion occurs when a property acquired with RCO grant funding will be used for purposes other than originally stated in the Project Agreement. See RCO *Manual #7, Funded Projects: Polices* for a complete discussion of conversions and the process required for replacement of the public investment as required by the RCO Deed of Right or RCO Assignment of Rights.

When determining the market value of the property being converted, the project sponsor must instruct the appraiser to make a special assumption that the RCO Deed of Right or Assignment of Right is not encumbering the property and to assume zoning has kept up with surrounding properties. Since the RCO Deed of Right or Assignment of Right will be extinguished once the conversion is approved, the appraised value must reflect the property free and clear of this encumbrance.

Public Disclosure Rules

RCO records and files, including those related to acquisitions, are public records that are subject to the Public Records Act (RCW 42.56). The appraisal and appraisal review are exempt from public disclosure for three years or until the sale is completed or abandoned. More information about the RCO's disclosure practices is available on the website at http://www.rco.wa.gov/about/public_records.shtml.

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Who Makes Decisions

Final decisions are made by the Boards that govern the agency. Some decisions have been delegated to the agency Director.

RCFB-SRFB Decisions

The following list summarizes many acquisition project decisions that may only be made by RCFB-SRFB in a public meeting or by a subcommittee of the RCFB-SRFB. Each is in accord with statutes, rules, and RCFB-SRFB policies.

- Initial grant approval.
- A project cost increase of more than 10 percent of the project total in the Project Agreement for RCFB funded projects. Cost increases are only allowed in certain grant programs. Consult *Manual #7: Funded Projects* for more criteria related to cost increases for RCFB funded projects.
- A project cost increase of more than 20 percent of the project total in the Project Agreement for SRFB funded projects. Consult *Manual #18: Salmon Recovery Grants* for more criteria related to cost increases for SRFB funded projects.
- Approval to pay more than 10 percent in administrative costs of the total land and incidental costs combined.
- A major scope change in the property to be acquired. See *Manual #7: Funded Projects* for more criteria and information regarding major scope changes.
- 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: Funded Projects* for more criteria and information regarding conversions.
- Changes in policy; for example, establishing new grant limits or eligible expenditures.

Director Decisions

The RCO Director or staff designee makes many acquisition project decisions. The following list summarizes some of these decisions that relate to acquisition projects, each in accord with statutes, rules, and RCO policies:

- Authorize project reimbursements.

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- Approve a project cost increase up to 10 percent of the project total in the Project Agreement for RCFB funded projects. A cost increase is limited to a specific parcel's fair market value. (WAC 286-13-085). Cost increases are not allowed in all RCFB grant programs. Consult *Manual #7: Funded Projects* for more criteria related to cost increases for RCFB funded projects.

- Approve a project cost increase up to 20 percent for SRFB funded projects up to 10 percent of the project total in the Project Agreement for SRFB funded projects. Consult *Manual #18: Salmon Recovery Grants* for more criteria related to cost increases for SRFB funded projects.

- Approve paying up to 10 percent in administrative costs of the total land and incidental project costs.

- Approve payment of certain attorney fees.

- Approve payment of delinquent taxes due at the time of closing.

- Approve payment up to 10 percent above the review appraised value of a property.

- Approve the procurement of an appraisal by a third party.

- Approve disregarding of new encumbrances on the property when determining appraised value.

- Approve more than one appraisal and appraisal review per property.

- Waive appraisal requirements for property that does not exceed $10,000.

- Approve environmental assessment costs above 10 percent of the review appraised value of a property.

- Approve the qualifications of a relocation agent.

- Approve a minor scope change in the property to be acquired. See *Manual #7: Funded Projects* for more criteria and information regarding minor scope changes.

- Approve the all draft legal documents for less than fee acquisitions.

- Issue a waiver of retroactivity to purchase property prior to execution of a RCO Project Agreement.

- Waive sign recognition and public access requirements.

- Terminate the Project Agreement.

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- Approve interim and compatible uses of an RCO assisted site.
- Approve delayed restoration or development for future uses.
- Require that grant funds be repaid to RCO if spent in a manner that conflicts with the Project Agreement or applicable statutes, rules, and/or policy manuals.

A project sponsor may request that a decision made by the Director be reconsidered. This is done by writing to the Chair of the RCFB-SRFB at least sixty calendar days before a board meeting. Requests will be placed on the meeting agenda with an opportunity for the petitioner to address the board. Any subsequent RCFB-SRFB decision is final.

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