



WORK SESSION AGENDA

BOARD OF CLALLAM COUNTY COMMISSIONERS

223 East 4th Street Room 160

Port Angeles, Washington

Monday, March 11, 2024 – 9:00 a.m.

Board of Clallam County Commissioner meetings will also be available virtually at:

If you would like to participate in the meeting via Zoom audio only, call 253-215-8782 and use meeting ID: 875 561 7844 and passcode: 12345

If you would like to participate in the meeting via Zoom video conference, visit <https://zoom.us/j/8755617844> and use meeting ID: 875 561 7844 and passcode: 12345

This meeting can be viewed on a live stream at this link: <https://www.clallamcountywa.gov/669/Live-Archived-Meetings-Online>

Public comment can be directed to the Clerk of the Board at 360-417-2256 or Loni.Gores@clallamcountywa.gov

Administration ? 9 a.m.

1. [Calendar/Correspondence](#)

2. [Olympic National Forest update](#)

[Update](#) 

3. [Resolution appointing members to the Revenue Advisory Committee](#)

[Resolution](#) 

4. [Call for bids to be received no later than Tuesday, April 9, 2024 at 10 a.m. regarding the Lake Pleasant Piling Replacement Project](#)

[Call for bids](#) 

5. [Resolution modifying and closing revolving, petty cash, and change funds for the Health and Human Services Department](#)

[Resolution](#) 

6. [Agreement with Department of Natural Resources for 2022 Community Wildfire Defense Grant](#)

[Agreement](#) 

7. [Purchase order with Titan Armor Solutions for purchase of rifle-rated ballistic armor](#)

[Purchase order](#) 

8. Purchase order with ESRI Inc, for government enterprise agreement annual subscription

Purchase order 

Public Works

9. Land purchase agreement with Peeshbad LLC for fish passage barrier on the Hoko-Ozette Road

Land purchase agreement 

10. Agreement amendment 1 with County Road Administration Board CRAB for the Carlsborg Repaving Project

Agreement amendment 1 

Budget

11. Discussion on proposed budget reduction to be considered on March 26 (4a)*

Budget reductions 

12. Discussion on proposed budget revisions to be considered on March 26 (4b)*

Budget revisions 

13. Discussion of proposed supplemental appropriations to be considered on March 26 (4c)*

Supplemental appropriations 

14. Discussion of proposed debatable emergencies to be considered on March 26 (4d)*

Debatable emergencies 

Board of Commissioners

15. Agreement with Department of Commerce for the Secure Federal Funding Initiative Recompete (2c)*

Agreement 

16. Agreement with North Olympic Development Council for Strategy Development Grant Recompete (2d)*

Agreement 

17. Agreement with Washington State University for Strategy Development Grant Recompete (2e)*

Agreement 

18. Presentation on Climate Change and Implication of Forest Management Streamflow ? Oliver Grah

Presentation 

19. Legislative session update

Update 

General Discussion/Items for Future Agendas

- A. Department of Transportation Highway 101 Project Discussion (March 18 at 9 a.m.)
- B. Department of Natural Resources Meeting (March 18 at 1 p.m.)
- C. Joint Meeting with Port of Port Angeles (April 22 at 11 a.m. ? hosted at Port)
- D. CASA Update (May 13)
- E. Department of Transportation Highway 101 Project Discussion (June 10 at 9 a.m.)
- F. Department of Natural Resources Meeting (June 17 at 1 p.m.)
- G. Department of Natural Resources Meeting (August 19 at 1 p.m.)
- H. Department of Transportation Highway 101 Project Discussion (September 9 at 9 a.m.)
- I. Joint Meeting with Port of Port Angeles (October 28 at 11 a.m. ? hosted at BOCC)
- J. Department of Natural Resources Meeting (November 18 at 1 p.m.)
- K. Department of Transportation Highway 101 Project Discussion (December 9 at 9 a.m.)
- L. Fair Rodeo Update (TBD)
- M. Clallam Conservation District Update (TBD)
- N. Hearing Examiner update (TBD)

EXECUTIVE SESSION

The Board may recess into Executive Session to consider employment or dismissal of personnel, to review the performance of a public employee, to consult with legal counsel, to consider the position to be taken in collective bargaining, to consider acquisition or sale of real estate, or other matters per RCW 42.30.110

- Other items may be added at the discretion of the Board and additional Work Sessions may be scheduled if more time is needed to allow for adequate discussion.
- Written testimony presented by members of the public during the Board meeting is considered a public document and must be submitted to the Clerk of the Board.
- Copies of public documents from Board meetings are available by contacting the Public Records Department.



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AGENDA ITEM SUMMARY

MAR 11 2024

(Must be submitted NLT 3PM Wednesday for next week agenda)

Department: BOCC

WORK SESSION ☒ **Meeting Date:** 3-11-24 – 9 a.m.

REGULAR AGENDA ☐ **Meeting Date:**

Required originals approved and attached? ☐
Will be provided on:

Item summary:

- | | | |
|---|--|--|
| ☐ Call for Hearing | ☐ Contract/Agreement/MOU - Contract # | |
| ☐ Resolution | ☐ Proclamation | ☐ Budget Item |
| ☐ Draft Ordinance | ☐ Final Ordinance | ☒ Other - update |

Documents exempt from public disclosure attached: ☐

Executive summary:

Olympic National Forest Update:

The Olympic National Forest is a vital resource and asset for residents of, and visitors to, Clallam County - both as a source of outdoor recreation, and as a source of revenue including serving as a substantial component of the county's annual PILT (Payment In Lieu of Taxes) revenue.

To better foster communication, the Board of Commissioners has invited ONF managers for updates, information-sharing and conversation.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐
None

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)

To better foster communication, the Board of Commissioners has invited ONF managers for updates, information-sharing and conversation.

County Official signature & print name: Loni Gores Loni Gores, Clerk

Name of Employee/Stakeholder attending meeting: Board of Commissioners and Olympic National Forest – Kelly Lawrence and Susan Beall

Relevant Departments: Board of Commissioners

Date submitted: 2-15-24

* Work Session Meeting - Submit 1 single sided/not stapled copy

** Regular Meeting – Submit 1 single sided/not stapled copy and originals (1 or 3 copies)



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MAR 11 2024

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

Department: BOCC

WORK SESSION ☒ Meeting Date: 3-11-24

REGULAR AGENDA ☒ Meeting Date: 3-19-24

Required originals approved and attached? ☐

Will be provided on:

Item summary:

- | | |
|--|--|
| ☐ Call for Hearing | ☐ Contract/Agreement/MOU - Contract # |
| ☒ Resolution | ☐ Proclamation ☐ Budget Item |
| ☐ Draft Ordinance | ☐ Final Ordinance ☐ Other |

Executive summary:

On February 20, 2024 the Board of Commissioners established a Revenue Advisory Committee (RAC) under BOCC Resolutions 15, 2024.

The RAC will confer with the County on issues related to state timber management, fiduciary responsibilities, trends, public engagement with State and Federal Forest management agencies, issues impacting timber management and revenues which benefit the community, and such other related matters as the Board of County Commissioners directs.

RAC shall consist of one representative from the County and each to the taxing districts, and the DNR. Each participating entity shall select a representative and alternate for continuity of committee discussion, participation and progress.

Resolution to appoint taxing district representatives and alternates to the Revenue Advisory Committee.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐
None.

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)

Resolution to appoint taxing district representatives and alternates to the Revenue Advisory Committee.

County Official signature & print name: Loni Gores Loni Gores, Clerk

Name of Employee/Stakeholder attending meeting: Board of Commissioners, Clallam County Departments

Date submitted: 3-6-24

* Work Session Meeting - Submit 1 single sided/not stapled copy
** Regular Meeting - Submit 1 single sided/not stapled copy and originals (1 or 3 copies)



RESOLUTION _____, 2024

APPOINTING REPRESENTATIVES TO THE REVENUE ADVISORY COMMITTEE

THE BOARD OF CLALLAM COUNTY COMMISSIONERS finds as follows:

1. The Department of Natural Resources (DNR) manages over 160,000 acres of state forest lands which include 93,000 acres of State Transfer Lands that help fund services in Clallam County such as roads, libraries, fire districts, ports, hospitals and emergency management.
2. DNR manages those certain state forest lands in trust for the benefit of Clallam County and the taxing districts within Clallam County. These beneficiaries are given most of the revenue from timber sales and other revenue-producing activities.
3. Clallam County, along with benefiting taxing districts within the County, are interested in forming an advisory group to share information and input regarding timber management and the resulting revenue distribution.
4. The County finds that such an advisory committee would be in the best interest of the County, the benefiting taxing districts within the County, and the community.
5. On February 20, 2024 the Clallam County Board of Commissioners established a Revenue Advisory Committee (RAC) under Resolution 15, 2024.
6. The RAC shall consist of one representative from the County and each of the taxing districts, and the Department of Natural Resources. Each participating entity shall select a representative and an alternate for continuity of committee discussion, participation and progress. RAC Members will serve for terms of three (3) years.

NOW, THEREFORE, BE IT RESOLVED by the Board of Clallam County Commissioners, in consideration of the above findings of fact:

1. **Randy Johnson** is appointed as the Clallam County Representative for a term expiring December 31, 2026
2. **Mark Ozias** is appointed as the Clallam County Alternate for a term expiring December 31, 2026
3. **David Bingham** is appointed as the Crescent School District #313 Representative for a term expiring December 31, 2026
4. **Ashley Petersen** is appointed as the Crescent School District #313 Alternate for a term expiring December 31, 2026
5. **Janine Ledford** is appointed as the Cape Flattery School District #401 Representative for a term expiring December 31, 2026
6. **Donald Baker** is appointed as the Cape Flattery School District #401 Alternate for a term expiring December 31, 2026
7. **Marty Brewer** is appointed as the Port Angeles School District #121 Representative for a term expiring December 31, 2026
8. **Kira Acker** is appointed as the Port Angeles School District #121 Alternate for a term expiring December 31, 2026
9. **Diana Reaume** is appointed as the Quillayute Valley School District #402 Representative for a term expiring December 31, 2026
10. **Kyle Weakley** is appointed as the Quillayute Valley School District #402 Alternate for a term expiring December 31, 2026

11. **Regan Nickels** is appointed as the Sequim School District #323 Representative for a term expiring December 31, 2026
12. **Noah Glaude** is appointed as the North Olympic Library System Representative for a term expiring December 31, 2026
13. **Amy Hough** is appointed as the North Olympic Library System Alternate for a term expiring December 31, 2026
14. **John Nutter** is appointed as the Olympic Medical Center #2 Representative for a term expiring December 31, 2026
15. **Darryl Wolfe** is appointed as the Olympic Medical Center #2 Alternate for a term expiring December 31, 2026
16. **Connie Beauvais** is appointed as the Port of Port Angeles Representative for a term expiring December 31, 2026
17. **Paul Jarkiewicz** is appointed as the Port of Port Angeles Alternate for a term expiring December 31, 2026
18. **Steve Burke** is appointed as the William Shore Memorial Pool District Representative for a term expiring December 31, 2026
19. **Ryan Amiot** is appointed as the William Shore Memorial Pool District Alternate for a term expiring December 31, 2026
20. **Dan Huff** is appointed as the Clallam Fire District #2 Representative for a term expiring December 31, 2026
21. **Steven Hopf** is appointed as the Clallam Fire District #2 Alternate for a term expiring December 31, 2026
22. **Michael Mingee** is appointed as the Clallam Fire District #3 Representative for a term expiring December 31, 2026
23. **Jeffrey Nicholas** is appointed as the Clallam Fire District #3 Alternate for a term expiring December 31, 2026
24. **Ben Pacheco** is appointed as the Clallam Fire District #4 Representative for a term expiring December 31, 2026
25. **Sherri Lynne Kastner** is appointed as the Clallam Fire District #4 Alternate for a term expiring December 31, 2026
26. **Gregory Bellamy** is appointed as the Clallam Fire District #5 Representative for a term expiring December 31, 2026
27. **Danny Ahrens** is appointed as the Clallam Fire District #5 Alternate for a term expiring December 31, 2026
28. **Scott Horton** is appointed as the Clallam Fire District #6 Representative for a term expiring December 31, 2026

PASSED AND ADOPTED this 19th day of March 2024

BOARD OF CLALLAM COUNTY COMMISSIONERS

Mike French, Chair

Randy Johnson

Mark Ozias

ATTEST:

Loni Gores, MMC, Clerk of the Board



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MAR 11 2024

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

Department: Parks, Fair, and Facilities

WORK SESSION ☒ Meeting Date: 03.11.2024

REGULAR AGENDA ☒ Meeting Date: 03.19.2024

Required originals approved and attached? ☐
Will be provided on:

Item summary:

- ☐ Call for Hearing ☐ Contract/Agreement/MOU - Contract # N/A
☐ Resolution ☐ Proclamation ☐ Budget Item
☐ Draft Ordinance ☐ Final Ordinance ☒ Other: Call for Bids Lk. Pleasant Boat Launch Piling Project

Documents exempt from public disclosure attached: ☐

Executive summary: Notice to call for bids: Lake Pleasant Boat Launch Piling Replacement Project #2304PR.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐ **Funds for this project have been approved in the 2024 Capital Budget and RCO Boating Facilities Grant. The project proposed cost \$140,000.00.**

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
Parks, Fair, and Facilities Department recommend approval of this project.

County Official signature & print name:  Don Crawford.

Name of Employee/Stakeholder attending meeting: Don Crawford.

Relevant Departments: Parks, Fair, and Facilities Department.

Date submitted: 02.7.2024.

* Work Session Meeting - Submit 1 single sided/not stapled copy Agenda Item Summary Call for Bids Lake Pleasant Community Beach County Park Boat Launch Piling Replacements

** Regular Meeting - Submit 1 single sided/not stapled copy and originals (1 or 3 copies)

Revised: 3-04-2019

CLALLAM COUNTY PARKS, FAIR & FACILITIES DEPARTMENT
NOTICE OF CALL FOR BIDS

SEALED BIDS will be received by the Board of Clallam County Commissioners 223 East Fourth Street, Room 150, Port Angeles, Washington until **10:00 a.m. on Tuesday, April 9, 2024** for:

CLALLAM COUNTY
- LK. Pleasant Piling Replacement Bid -

Complete drawings and specifications may be obtained from Pen Print, Inc., Phone 360.457.3404. All bidding and related questions shall be directed to Don Crawford, Clallam County Parks, Fair, & Facilities., Phone: 360.417.2429 or Email: Donald.crawford@clallamcountywa.gov

The sealed bids must be clearly marked on the outside of the envelope, "**BID PROPOSAL – CLALLAM COUNTY – LK. Pleasant Piling Replacement Bid**". Address bid proposal to: Board of Clallam County Commissioners, 223 East 4th Street, Suite 4, Port Angeles, Washington 98362 or hand-deliver to 223 East 4th Street, Room 150, Port Angeles, Washington. Bid documents received late by the Commissioners' Office, delivered to other offices, received by fax or email or by any other means will not be considered. **Late bids will be returned unopened.**

Note: All Bids shall include a 5% Bid Bond on a form approved by Clallam County.

Clallam County hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises as defined in Title VI of the Civil Rights Act of 1964 at 49 CFR Part 23 will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, or sex in consideration for an award.

Clallam County will determine the lowest responsible bidder in accordance with the terms of Clallam County Code Section 3.12.070 and reserves the right to reject any or all bids and to waive minor informalities in the process or to accept the bid, which in its estimation best serves the interests of Clallam County.

Bidders on Washington State Dept. of Labor & Industries or federal debarment list are prohibited from bidding on this project.

Construction Timeframe: 120 Calendar Days from Agreement Approval

A pre-bid walk-through will be conducted on Friday, March 29, 2024 @ 2:00 PM. All interested bidders are to meet at the project site, located at 10 Picnic Loop Beaver, WA. This will be the only opportunity for bidders to review the as-built conditions. Owner and/or the Owners representative will be on site throughout the afternoon to answer questions and provide access for bidders. A bidder's absence will be considered as part of the Bidder responsibility criteria as set forth in the Specifications and Contract Documents.

APPROVED this _____ day of _____ 2024.

**BOARD OF CLALLAM COUNTY
COMMISSIONERS:**

ATTEST:

Mike French, Chair

Loni Gores, Clerk of the Board

Publish: **March 22 , & March 29, 2024(PDN)**
Bill: Clallam County Parks, Fair, & Facilities

END OF SECTION 00100

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MAR 11 2024



AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

Department: Health & Human Services

WORK SESSION ☒ **Meeting Date:** 03/11/2024

REGULAR AGENDA ☒ **Meeting Date:** 03/19/2024

Required originals approved and attached? ☒

Will be provided on:

Item summary:

- | | |
|--|--|
| ☐ Call for Hearing | ☐ Contract/Agreement/MOU - Contract # |
| ☒ Resolution | ☐ Proclamation ☐ Budget Item |
| ☐ Draft Ordinance | ☐ Final Ordinance ☐ Other |

Documents exempt from public disclosure attached: ☐

Executive summary:

The attached Resolution closes petty cash funds for Health and Human Services - Operations, Health and Human Services - Environmental Health, and Developmental Disabilities. HHS would like to reduce the HHS-Operations Port Angeles change fund from \$400 to \$300.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐

Funds are in the HHS budget.

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)

Approve and sign.

County Official signature & print name:

 KEVIN LoPiccolo

Name of Employee/Stakeholder attending meeting: Kevin LoPiccolo

Relevant Departments: Health & Human Services

Date submitted: March 4, 2024

* Work Session Meeting - Submit 1 single sided/not stapled copy
Funds.docx

Agenda Item Summary - Close Petty Cash and Reduce Change

** Regular Meeting - Submit 1 single sided/not stapled copy and originals (1 or 3 copies)

Revised: 3-04-2019



RESOLUTION _____, 2024

MODIFYING AND CLOSING REVOLVING, PETTY CASH, AND CHANGE FUNDS FOR THE
HEALTH AND HUMAN SERVICES DEPARTMENT

THE BOARD OF CLALLAM COUNTY COMMISSIONERS finds as follows:

1. The Health and Human Services Department desires to close the following petty cash funds:

<u>Budget/Fund</u>	<u>Name</u>	<u>Amount</u>
11301.511	HHS - Operations	\$350
00100.511	HHS - Environmental Health	\$200
11331.511	Developmental Disabilities	\$150

2. Change funds in place for HHS-Operations are currently \$400. HHS would like to reduce the HHS-Operations change fund for Port Angeles from \$400 to \$300 with the balance of \$100 returned to the Treasurer.

<u>Budget/Fund</u>	<u>Name</u>	<u>Current Amount</u>	<u>New Amount</u>
11301.511	HHS – Operations	\$400 (Port Angeles)	\$300
11301.511	HHS – Operations	\$100 (Forks)	No change

NOW, THEREFORE, BE IT RESOLVED by the Board of Clallam County Commissioners, in consideration of the above findings of fact:

1. Close the HHS-Operations, HHS-Environmental Health, and Developmental Disabilities petty cash funds with the balance of \$700 returned to the Treasurer.
2. Reduce the HHS–Operations Port Angeles change fund to \$300 with the balance of \$100 returned to the Treasurer.

PASSED AND ADOPTED this _____ day of _____ 2024

BOARD OF CLALLAM COUNTY COMMISSIONERS

Mike French, Chair

ATTEST:

Randy Johnson

Loni Gores, CMC, Clerk of the Board

Mark Ozias



AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

MAR 11 2024

Department: Sheriff's Office

WORK SESSION ☒ **Meeting Date: March 11, 2024**

REGULAR AGENDA ☒ **Meeting Date: March 19, 2024**

Required originals approved and attached? ☒
Will be provided on:

Item summary:

- | | | |
|---|--|--------------------------------------|
| ☐ Call for Hearing | ☒ Contract/Agreement/MOU | |
| ☐ Resolution | ☐ Proclamation | ☐ Budget Item |
| ☐ Draft Ordinance | ☐ Final Ordinance | ☐ Other |

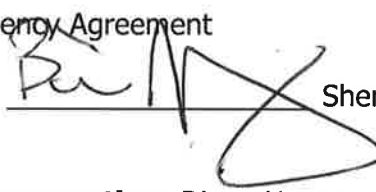
Documents exempt from public disclosure attached: ☐

Executive summary:

The Emergency Management Division of the Sheriff's Office was awarded \$125,000 from the USDA under its 2022 Community Wildfire Defense Grant Program. DNR is administering the grant and requires the BOCC to execute an Interagency Agreement.

Budgetary impact: ☒ **No Budget Impact**

Recommended action: Approval of Interagency Agreement

County Official signature & print name:  Sheriff King

Name of Employee/Stakeholder attending meeting: Diane Harvey

Relevant Departments: Sheriff's Office

Date submitted: 03/06/24

* Work Session Meeting - Submit 1 single sided/not stapled copy Agenda Item: Community Wildfire Interagency Agreement
** Regular Meeting - Submit 1 single sided/not stapled copy and originals (1 or 3 copies) Revised: 3-04-2019



Federal General Grant with

Clallam County

through

Washington State Department of Natural Resources, Wildland Fire Division

Grant Number:

23-DG-11062752-163

For

Clallam County CWDG 2023

Dated: Tuesday, February 13, 2024



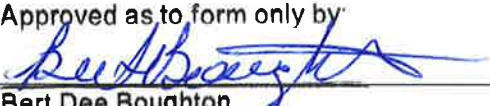
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FOR GRANTEE	FOR DNR
_____ Name, Title	_____ George Geissler, State Forester
_____ Signature	_____ Date
_____ Date	
Approved as to form only by: 	

Bert Dee Boughton
Civil Deputy Prosecuting Attorney
Clallam County

Special Terms and Conditions

1. ACKNOWLEDGEMENT OF FEDERAL FUNDING

Federal Award Date: 9/21/2023
Federal Award Identification Number (FAIN): 23-DG-11062752-163
Total amount of the federal award: \$125,000.00
Awarding official: Kristen Bowles 541-383-5543

The Grantee agrees that any publications (written, visual, or sound) but excluding press releases, newsletters, and issue analyses, issued by the Grantee describing programs or projects funded in whole or in part with federal funds under this Grant, shall contain the following statements:

"This project was supported by Grant No. 23-DG-11062752-163 awarded by USDA Forest Service. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the USDA Forest Service. Grant funds are administered by the Wildfire Management Division, Washington State Department of Natural Resources."

2. GRANT MANAGEMENT

The Representative for each of the parties shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Grant.

The Representative for DNR and their contact information are identified on the Face Sheet of this Grant.

The Representative for the Grantee and their contact information are identified on the Face Sheet of this Grant.



3. COMPENSATION

DNR shall pay an amount not to exceed \$125,000.00 for the performance of all things necessary or incidental to the performance of work as set forth in the Scope of Work.

4. BILLING PROCEDURES AND PAYMENT

DNR will pay Grantee upon acceptance of services provided and receipt of properly completed invoices, which shall be submitted to the Representative for DNR not more often than monthly nor less than quarterly.

The invoices shall describe and document, to DNR's satisfaction, a description of the work performed, the progress of the project, and fees. The invoice shall include the Grant Number **23-DG-11062752-163**. If expenses are invoiced, provide a detailed breakdown of each type. A receipt must accompany any single expenses in the amount of \$50.00 or more in order to receive reimbursement.

Payment shall be considered timely if made by DNR within thirty (30) calendar days after receipt of properly completed invoices. Payment shall be sent to the address designated by the Grantee.

DNR may, in its sole discretion, terminate the Grant or withhold payments claimed by the Grantee for services rendered if the Grantee fails to satisfactorily comply with any term or condition of this Grant.

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by DNR.

Invoices and End of Fiscal Year

Invoices are due on the 20th of the month following the provision of services.

Final invoices for a state fiscal year may be due sooner than the 20th and DNR will provide notification of the end of fiscal year due date.

The Grantee must invoice for all expenses from the beginning of the Grant through June 30, regardless of the Grant start and end date.

Duplication of Billed Costs

The Grantee shall not bill DNR for services performed under this Agreement, and DNR shall not pay the Grantee, if the Grantee is entitled to payment or has been or will be paid by any other source, including grants, for that service.

Disallowed Costs

The Grantee is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subgrantees/subcontractors.

DNR may, in its sole discretion, withhold ten percent (10%) from each payment until acceptance by DNR of the final report (or completion of the project, etc.).



5. **SUBGRANTEE/SUBCONTRACTOR DATA COLLECTION**

Grantee will submit reports, in a form and format to be provided by DNR and at intervals as agreed by the parties, regarding work under this Grant performed by subgrantees/subcontractors and the portion of Grant funds expended for work performed by subgrantees/subcontractors, including but not necessarily limited to minority-owned, woman-owned, and veteran-owned business subgrantees/subcontractors. "Subgrantees/subcontractors" shall mean subgrantees of any tier.

6. **INSURANCE**

The Grantee shall provide insurance coverage as set out in this section. The intent of the required insurance is to protect the state should there be any claims, suits, actions, costs, damages or expenses arising from any loss, or negligent or intentional act or omission of the Grantee or Subgrantee, or agents of either, while performing under the terms of this Grant. Failure to maintain the required insurance coverage may result in termination of this Grant.

The insurance required shall be issued by an insurance company authorized to do business within the state of Washington. Except for Professional Liability or Errors and Omissions Insurance, the insurance shall name the state of Washington, its agents, officers, and employees as additional insureds under the insurance policy. All policies shall be primary to any other valid and collectable insurance. The Grantee shall provide DNR thirty (30) calendar days' advance notice of any insurance cancellation, non-renewal or modification.

The Grantee shall submit to DNR within fifteen (15) calendar days of the Grant start date OR a written request by DNR, a certificate of insurance which outlines the coverage and limits defined in this insurance section. During the term of the Grant, if required or requested, the Grantee shall submit renewal certificates not less than thirty (30) calendar days prior to expiration of each policy required under this section.

The Grantee shall provide, at DNR's request, copies of insurance instruments or certifications from the insurance issuing agency. The copies or certifications shall show the insurance coverage, the designated beneficiary, who is covered, the amounts, the period of coverage, and that DNR will be provided thirty (30) days' advance written notice of cancellation.

The Grantee shall provide insurance coverage that shall be maintained in full force and effect during the term of this Grant, as follows:

Commercial General Liability Insurance Policy. Provide a Commercial General Liability Insurance Policy, including Contractual liability, written on an occurrence basis, in adequate quantity to protect against legal liability arising out of Grant activity but no less than \$1,000,000 per occurrence. Additionally, the Grantee is responsible for ensuring that any Subgrantees provide adequate insurance coverage for the activities arising out of subgrants.

Automobile Liability. In the event that performance pursuant to this Grant involves the use of vehicles, owned or operated by the Grantee or its Subgrantee, automobile liability insurance shall be required. The minimum limit for automobile liability is \$1,000,000 per occurrence, using a Combined Single Limit for bodily injury and property damage.



Professional Liability, Errors and Omissions Insurance. The Grantee shall maintain Professional Liability or Errors and Omissions Insurance. The Grantee shall maintain minimum limits of no less than \$1,000,000 per occurrence to cover all activities by the Grantee and licensed staff employed or under Grant to the Grantee. The state of Washington, its agents, officers, and employees need not be named as additional insureds under this policy.

Fidelity Insurance. Every officer, director, employee, or agent who is authorized to act on behalf of the Grantee for the purpose of receiving or depositing funds into program accounts or issuing financial documents, checks, or other instruments of payment for program costs shall be insured to provide protection against loss:

- A. The amount of fidelity coverage secured pursuant to this Grant shall be \$100,000 or the highest of planned reimbursement for the Grant period, whichever is lowest. Fidelity insurance secured pursuant to this paragraph shall name DNR as beneficiary.
- B. Subgrantees that receive \$10,000 or more per year in funding through this Grant shall secure fidelity insurance as noted above. Fidelity insurance secured by Subgrantees pursuant to this paragraph shall name the Grantee as beneficiary.

7. FRAUD AND OTHER LOSS REPORTING

Grantee shall report in writing all known or suspected fraud or other loss of any funds or other property furnished under this Contract immediately or as soon as practicable to the DNR Representative identified on the Face Sheet.

8. ORDER OF PRECEDENCE

In the event of an inconsistency in this Grant, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable federal and state of Washington statutes and regulations
- Special Terms and Conditions
- General Terms and Conditions
- Attachment A – Scope of Work
- Attachment B – Budget
- Add any other attachments incorporated by reference from the Face Sheet



General Terms and Conditions

1. DEFINITIONS

As used throughout this Grant, the following terms shall have the meaning set forth below:

- A. "Authorized Representative" shall mean the Director and/or the designee authorized in writing to act on the Director's behalf.
- B. "DNR" or "Department" shall mean the Washington Department of DNR.
- C. "Grant" or "Agreement" or "Contract" means the entire written agreement between DNR and the Grantee, including any Exhibits, documents, or materials incorporated by reference. E-mail or Facsimile transmission of a signed copy of this Grant shall be the same as delivery of an original.
- D. "Grantee" shall mean the entity identified on the face sheet performing service(s) under this Grant, and shall include all employees and agents of the Grantee.
- E. "Modified Total Direct Costs" (MTDC) shall mean all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first \$25,000 of each subaward (regardless of the period of performance of the subawards under the award). MTDC excludes equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs and the portion of each subaward in excess of \$25,000.
- F. "Personal Information" shall mean information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers, and "Protected Health Information" under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).
- G. "State" shall mean the state of Washington.
- H. "Subaward" shall mean an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.
- I. "Subrecipient" shall mean a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.



- J. "Subgrantee/subcontractor" shall mean one not in the employment of the Grantee, who is performing all or part of those services under this Grant under a separate Grant with the Grantee. The terms "subgrantee" and "subcontractor" means any tier.

2. ACCESS TO DATA

In compliance with RCW 39.26.180, the Grantee shall provide access to data generated under this Grant to DNR, the Joint Legislative Audit and Review Committee, and the Office of the State Auditor at no additional cost. This includes access to all information that supports the findings, conclusions, and recommendations of the Grantee's reports, including computer models and the methodology for those models.

3. ADVANCE PAYMENTS PROHIBITED

No payments in advance of or in anticipation of goods or services to be provided under this Grant shall be made by DNR.

4. ALL WRITINGS CONTAINED HEREIN

This Grant contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Grant shall be deemed to exist or to bind any of the parties hereto.

5. AMENDMENTS

This Grant may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

6. AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, also referred to as the "ADA" 28 CFR Part 35

The Grantee must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

7. ASSIGNMENT

Neither this Grant, nor any claim arising under this Grant, shall be transferred or assigned by the Grantee without prior written consent of DNR.

8. ATTORNEYS' FEES

Unless expressly permitted under another provision of the Grant, in the event of litigation or other action brought to enforce Grant terms, each party agrees to bear its own attorneys' fees and costs.

9. AUDIT

If the Grantee is a subrecipient and expends \$750,000 or more in federal awards from any and/or all sources in any fiscal year, the Grantee shall procure and pay for a single audit or a program-specific audit for that fiscal year. Upon completion of each audit, the Grantee shall:



- A. Submit to DNR the reporting package specified in Uniform Guidance 2 CFR 200, reports required by the program-specific audit guide (if applicable), and a copy of any management letters issued by the auditor.
- B. Submit to DNR follow-up and developed corrective action plans for all audit findings.

If the Grantee is a subrecipient and expends less than \$750,000 in federal awards from any and/or all sources in any fiscal year, the Grantee shall notify DNR they did not meet the single audit requirement.

The Grantee shall send all single audit documentation to the [Federal Audit Clearinghouse](#).

10. CERTIFICATION REGARDING DEBARMENT, SUSPENSION OR INELIGIBILITY AND VOLUNTARY EXCLUSION- PRIMARY AND LOWER TIER COVERED TRANSACTIONS

- A. Grantee, defined as the primary participant and its principals, certifies by signing these General Terms and Conditions that to the best of its knowledge and belief they:
 - i. Are not presently debarred, suspended, proposed for debarment, and declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.
 - ii. Have not within a three-year period preceding this Grant, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;
 - iii. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of federal Executive Order 12549; and
 - iv. Have not within a three-year period preceding the signing of this Grant had one or more public transactions (Federal, State, or local) terminated for cause of default.
- B. Where the Grantee is unable to certify to any of the statements in this Grant, the Grantee shall attach an explanation to this Grant.
- C. The Grantee agrees by signing this Grant that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by DNR.
- D. The Grantee further agrees by signing this Grant that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," as follows, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

LOWER TIER COVERED TRANSACTIONS

- i. The lower tier Grantee certifies, by signing this Grant that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.



- ii. Where the lower tier Grantee is unable to certify to any of the statements in this Grant, such Grantee shall attach an explanation to this Grant.

E. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, person, primary covered transaction, principal, and voluntarily excluded**, as used in this section, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact DNR for assistance in obtaining a copy of these regulations.

11. CONFIDENTIALITY/SAFEGUARDING OF INFORMATION

A. "Confidential Information" as used in this section includes:

- i. All material provided to the Grantee by DNR that is designated as "confidential" by DNR;
- ii. All material produced by the Grantee that is designated as "confidential" by DNR; and
- iii. All Personal Information in the possession of the Grantee that may not be disclosed under state or federal law.

B. The Grantee shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The Grantee shall use Confidential Information solely for the purposes of this Grant and shall not use, share, transfer, sell or disclose any Confidential Information to any third party except with the prior written consent of DNR or as may be required by law. The Grantee shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale or disclosure of Confidential Information or violation of any state or federal laws related thereto. Upon request, the Grantee shall provide DNR with its policies and procedures on confidentiality. DNR may require changes to such policies and procedures as they apply to this Grant whenever DNR reasonably determines that changes are necessary to prevent unauthorized disclosures. The Grantee shall make the changes within the time period specified by DNR. Upon request, the Grantee shall immediately return to DNR any Confidential Information that DNR reasonably determines has not been adequately protected by the Grantee against unauthorized disclosure.

C. Unauthorized Use or Disclosure. The Grantee shall notify DNR within five (5) working days of any unauthorized use or disclosure of any confidential information, and shall take necessary steps to mitigate the harmful effects of such use or disclosure.

12. CONFLICT OF INTEREST

Notwithstanding any determination by the Executive Ethics Board or other tribunal, DNR may, in its sole discretion, by written notice to the Grantee terminate this Grant if it is found after due notice and examination by DNR that there is a violation of the Ethics in Public Service Act, Chapters 42.52 RCW and 42.23 RCW; or any similar statute involving the Grantee in the procurement of, or performance under this Grant.

Specific restrictions apply to Granting with current or former state employees pursuant to chapter 42.52 of the Revised Code of Washington. The Grantee and their subgrantee(s) must identify any



person employed in any capacity by the state of Washington that worked with the DNR program executing this Grant, including but not limited to formulating or drafting the legislation, participating in procurement planning and execution, awarding Grants, and monitoring Grant, during the 24-month period preceding the start date of this Grant. Identify the individual by name, the agency previously or currently employed by, job title or position held, and separation date. If it is determined by DNR that a conflict of interest exists, the Grantee may be disqualified from further consideration for the award of a Grant.

In the event this Grant is terminated as provided above, DNR shall be entitled to pursue the same remedies against the Grantee as it could pursue in the event of a breach of the Grant by the Grantee. The rights and remedies of DNR provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which DNR makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this Grant.

13. COPYRIGHT PROVISIONS

Unless otherwise provided, all Materials produced under this Grant shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by DNR. DNR shall be considered the author of such Materials. In the event the Materials are not considered "works for hire" under the U.S. Copyright laws, the Grantee hereby irrevocably assigns all right, title, and interest in all Materials, including all intellectual property rights, moral rights, and rights of publicity to DNR effective from the moment of creation of such Materials.

"Materials" means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. "Ownership" includes the right to copyright, patent, register and the ability to transfer these rights.

For Materials that are delivered under the Grant, but that incorporate pre-existing materials not produced under the Grant, the Grantee hereby grants to DNR a nonexclusive, royalty-free, irrevocable license (with rights to sublicense to others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Grantee warrants and represents that the Grantee has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to DNR.

The Grantee shall exert all reasonable effort to advise DNR, at the time of delivery of Materials furnished under this Grant, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Grant. The Grantee shall provide DNR with prompt written notice of each notice or claim of infringement received by the Grantee with respect to any Materials delivered under this Grant. DNR shall have the right to modify or remove any restrictive markings placed upon the Materials by the Grantee.

14. DISPUTES

Except as otherwise provided in this Grant, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing with the Director of DNR, who may designate a neutral person to decide the dispute.

The request for a dispute hearing must:

- be in writing;



- state the disputed issues;
- state the relative positions of the parties;
- state the Grantee's name, address, and Grant number; and
- be mailed to the Director and the other party's (respondent's) Grant Representative within three (3) working days after the parties agree that they cannot resolve the dispute.

The respondent shall send a written answer to the requestor's statement to both the Director or the Director's designee and the requestor within five (5) working days.

The Director or designee shall review the written statements and reply in writing to both parties within ten (10) working days. The Director or designee may extend this period if necessary by notifying the parties.

The decision shall not be admissible in any succeeding judicial or quasi-judicial proceeding.

The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

Nothing in this Grant shall be construed to limit the parties' choice of a mutually acceptable alternate dispute resolution (ADR) method in addition to the dispute hearing procedure outlined above.

15. DUPLICATE PAYMENT

DNR shall not pay the Grantee, if the Grantee has charged or will charge the State of Washington or any other party under any other Grant or agreement, for the same services or expenses.

16. GOVERNING LAW AND VENUE

This Grant shall be construed and interpreted in accordance with the laws of the state of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

17. INDEMNIFICATION

To the fullest extent permitted by law, Grantee shall indemnify, defend, and hold harmless the state of Washington, DNR, agencies of the state and all officials, agents and employees of the state, from and against all claims for injuries or death arising out of or resulting from the performance of the Grant. "Claim" as used in this Grant, means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorney's fees, attributable for bodily injury, sickness, disease, or death, or injury to or the destruction of tangible property including loss of use resulting therefrom.

Grantee's obligation to indemnify, defend, and hold harmless includes any claim by Grantee's agents, employees, representatives, or any subgrantee or its employees.

The Grantee's obligation shall not include such claims that may be caused by the sole negligence of the State and its agencies, officials, agents, and employees. If the claims or damages are caused by or result from the concurrent negligence of (a) the State, its agents or employees and (b) the Grantee, its subgrantees, agents, or employees, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Grantee or its subgrantees, agents, or employees.

Grantee waives its immunity under Title 51 RCW, Industrial Insurance, to the extent it is required to indemnify, defend and hold harmless the state and its agencies, officers, agents or employees.



18. INDEPENDENT CAPACITY OF THE GRANTEE

The parties intend that an independent Grantee relationship will be created by this Grant. The Grantee and its employees or agents performing under this Grant are not employees or agents of the state of Washington or DNR. The Grantee will not hold itself out as or claim to be an officer or employee of DNR or of the state of Washington by reason hereof, nor will the Grantee make any claim of right, privilege or benefit which would accrue to such officer or employee under law. Conduct and control of the work will be solely with the Grantee.

19. INDIRECT COSTS

Grantee shall provide their indirect cost rate that has been negotiated between their entity and the Federal Government. If no such rate exists a de minimis indirect cost rate of 10% of modified total direct costs (MTDC) will be used.

20. INDUSTRIAL INSURANCE COVERAGE

Grantee shall comply with all applicable provisions of Title 51 RCW. If the Grantee fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, DNR may collect from Grantee the full amount payable to the Industrial Insurance Accident Fund. DNR may deduct the amount owed by the Grantee to the accident fund from the amount payable to Grantee by DNR under this Grant, and transmit the deducted amount to the Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the Grantee.

21. LAWS

Grantee shall comply with all applicable laws, ordinances, codes, regulations and policies of local, state, and federal governments, as now or hereafter amended.

22. LICENSING, ACCREDITATION AND REGISTRATION

Grantee shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements or standards necessary for the performance of this Grant.

23. LIMITATION OF AUTHORITY

Only the Authorized Representative or the Authorized Representative's delegate by writing (delegation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Grant. Furthermore, any alteration, amendment, modification, or waiver of any clause or condition of this Grant is not effective or binding unless made in writing and signed by the Authorized Representative.

24. NONCOMPLIANCE WITH NONDISCRIMINATION LAWS

During the performance of this Grant, the Grantee shall comply with all federal, state, and local nondiscrimination laws, regulations and policies. In the event of the Grantee's non-compliance or refusal to comply with any nondiscrimination law, regulation or policy, this Grant may be rescinded, canceled or terminated in whole or in part, and the Grantee may be declared ineligible for further Grants with DNR. The Grantee shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.



The funds provided under this Grant may not be used to fund religious worship, exercise, or instruction. No person shall be required to participate in any religious worship, exercise, or instruction in order to have access to the facilities funded by this Grant.

25. PAY EQUITY

The Grantee agrees to ensure that "similarly employed" individuals in its workforce are compensated as equals, consistent with the following:

- A.** Employees are "similarly employed" if the individuals work for the same employer, the performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed;
- B.** Grantee may allow differentials in compensation for its workers if the differentials are based in good faith and on any of the following:
 - i.** A seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide job-related factor or factors; or a bona fide regional difference in compensation levels.
 - ii.** A bona fide job-related factor or factors may include, but not be limited to, education, training, or experience that is: Consistent with business necessity; not based on or derived from a gender-based differential; and accounts for the entire differential.
 - iii.** A bona fide regional difference in compensation level must be: Consistent with business necessity; not based on or derived from a gender-based differential; and account for the entire differential.

This Grant may be terminated by the Department, if the Department or the Department of Enterprise Services determines that the Grantee is not in compliance with this provision.

26. POLITICAL ACTIVITIES

Political activity of Grantee's employees and officers are limited by the State Campaign Finances and Lobbying provisions of Chapter 42.17A RCW and the Federal Hatch Act, 5 USC 1501 - 1508.

No funds may be used for working for or against ballot measures or for or against the candidacy of any person for public office.

27. PROCUREMENT STANDARDS FOR FEDERALLY FUNDED PROGRAMS

All Grantees must establish procurement policies and procedures in accordance with 2 CFR Part 200, for all purchases funded by this Grant.

The Grantee's procurement system should include at least the following:

- A.** A code or standard of conduct that shall govern the performance of its officers, employees, or agents engaged in the awarding of Grants using federal funds.
- B.** Procedures that ensure all procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition.
- C.** Minimum procedural requirements, as follows:



- i. Follow a procedure to assure the avoidance of purchasing unnecessary or duplicative items.
- ii. Solicitations shall be based upon a clear and accurate description of the technical requirements of the procured items.
- iii. Positive efforts shall be made to use small and minority-owned businesses.
- iv. The type of procuring instrument (fixed price, cost reimbursement) shall be determined by the Grantee, but must be appropriate for the particular procurement and for promoting the best interest of the program involved.
- v. Grants shall be made only with reasonable subgrantees who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement.
- vi. Some form of price or cost analysis should be performed in connection with every procurement action.
- vii. Procurement records and files for purchases shall include all of the following:
 - 1) Grantee selection or rejection.
 - 2) The basis for the cost or price.
 - 3) Justification for lack of competitive bids if offers are not obtained.
- viii. A system for Grant administration to ensure Grantee conformance with terms, conditions and specifications of this Grant, and to ensure adequate and timely follow-up of all purchases.

- D. Grantee and Subgrantee must receive prior approval from DNR for using funds from this Grant to enter into a sole source Grant or a Grant where only one bid or proposal is received when value of this Grant is expected to exceed \$5,000.

Prior approval requests shall include a copy of proposed Grants and any related procurement documents and justification for non-competitive procurement, if applicable.

28. PUBLICITY

The Grantee agrees not to publish or use any advertising or publicity materials in which the state of Washington or DNR's name is mentioned, or language used from which the connection with the state of Washington's or DNR's name may reasonably be inferred or implied, without the prior written consent of DNR.

29. RECAPTURE

In the event that the Grantee fails to perform this Grant in accordance with state laws, federal laws, and/or the provisions of this Grant, DNR reserves the right to recapture funds in an amount to compensate DNR for the noncompliance in addition to any other remedies available at law or in equity.

Repayment by the Grantee of funds under this recapture provision shall occur within the time period specified by DNR. In the alternative, DNR may recapture such funds from payments due under this Grant.

30. RECORDS MAINTENANCE

The Grantee shall maintain books, records, documents, data and other evidence relating to this Grant and performance of the services described herein, including but not limited to accounting procedures



and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Grant.

The Grantee shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the Grant, shall be subject at all reasonable times to inspection, review or audit by DNR, personnel duly authorized by DNR, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

31. REGISTRATION WITH DEPARTMENT OF REVENUE

If required by law, the Grantee shall complete registration with the Washington State Department of Revenue.

32. RIGHT OF INSPECTION

The Grantee shall provide right of access to its facilities to DNR, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Grant.

33. SAVINGS

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Grant and prior to normal completion, DNR may terminate the Grant under the "Termination for Convenience" clause, without the ten business day notice requirement. In lieu of termination, the Grant may be amended to reflect the new funding limitations and conditions.

34. SEVERABILITY

The provisions of this Grant are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Grant.

35. SITE SECURITY

While on DNR premises, Grantee, its agents, employees, or subgrantees shall conform in all respects with physical, fire or other security policies or regulations.

36. SUBGRANTING

The Grantee may only subgrant work contemplated under this Grant if it obtains the prior written approval of DNR.

If DNR approves subgranting, the Grantee shall maintain written procedures related to subgranting, as well as copies of all subgrants and records related to subgrants. For cause, DNR in writing may: (a) require the Grantee to amend its subgranting procedures as they relate to this Grant; (b) prohibit the Grantee from subgranting with a particular person or entity; or (c) require the Grantee to rescind or amend a subgrant.

Every subgrant shall bind the Subgrantee to follow all applicable terms of this Grant. The Grantee is responsible to DNR if the Subgrantee fails to comply with any applicable term or condition of this



Grant. The Grantee shall appropriately monitor the activities of the Subgrantee to assure fiscal conditions of this Grant. In no event shall the existence of a subgrant operate to release or reduce the liability of the Grantee to DNR for any breach in the performance of the Grantee's duties.

Every subgrant shall include a term that DNR and the State of Washington are not liable for claims or damages arising from a Subgrantee's performance of the subgrant.

37. SURVIVAL

The terms, conditions, and warranties contained in this Grant that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Grant shall so survive.

38. TAXES

All payments accrued on account of payroll taxes, unemployment contributions, the Grantee's income or gross receipts, any other taxes, insurance or expenses for the Grantee or its staff shall be the sole responsibility of the Grantee.

39. TERMINATION FOR CAUSE

In the event DNR determines the Grantee has failed to comply with the conditions of this Grant in a timely manner, DNR has the right to suspend or terminate this Grant. Before suspending or terminating the Grant, DNR shall notify the Grantee in writing of the need to take corrective action. If corrective action is not taken within 30 calendar days, the Grant may be terminated or suspended.

In the event of termination or suspension, the Grantee shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original Grant and the replacement or cover Grant and all administrative costs directly related to the replacement Grant, e.g., cost of the competitive bidding, mailing, advertising and staff time.

DNR reserves the right to suspend all or part of the Grant, withhold further payments, or prohibit the Grantee from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the Grantee or a decision by DNR to terminate the Grant. A termination shall be deemed a "Termination for Convenience" if it is determined that the Grantee: (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence.

The rights and remedies of DNR provided in this Grant are not exclusive and are, in addition to any other rights and remedies, provided by law.

40. TERMINATION FOR CONVENIENCE

Except as otherwise provided in this Grant, DNR may, by ten (10) business days' written notice, beginning on the second day after the mailing, terminate this Grant, in whole or in part. If this Grant is so terminated, DNR shall be liable only for payment required under the terms of this Grant for services rendered or goods delivered prior to the effective date of termination.

41. TERMINATION PROCEDURES

Upon termination of this Grant, DNR, in addition to any other rights provided in this Grant, may require the Grantee to deliver to DNR any property specifically produced or acquired for the performance of such part of this Grant as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.



DNR shall pay to the Grantee the agreed upon price, if separately stated, for completed work and services accepted by DNR, and the amount agreed upon by the Grantee and DNR for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, (iii) other property or services that are accepted by DNR, and (iv) the protection and preservation of property, unless the termination is for default, in which case the Authorized Representative shall determine the extent of the liability of DNR. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this Grant. DNR may withhold from any amounts due the Grantee such sum as the Authorized Representative determines to be necessary to protect DNR against potential loss or liability.

The rights and remedies of DNR provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Grant.

After receipt of a notice of termination, and except as otherwise directed by the Authorized Representative, the Grantee shall:

- A. Stop work under the Grant on the date, and to the extent specified, in the notice;
- B. Place no further orders or subgrants for materials, services, or facilities except as may be necessary for completion of such portion of the work under the Grant that is not terminated;
- C. Assign to DNR, in the manner, at the times, and to the extent directed by the Authorized Representative, all of the rights, title, and interest of the Grantee under the orders and subgrants so terminated, in which case DNR has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subgrants;
- D. Settle all outstanding liabilities and all claims arising out of such termination of orders and subgrants, with the approval or ratification of the Authorized Representative to the extent the Authorized Representative may require, which approval or ratification shall be final for all the purposes of this clause;
- E. Transfer title to DNR and deliver in the manner, at the times, and to the extent directed by the Authorized Representative any property which, if the Grant had been completed, would have been required to be furnished to DNR;
- F. Complete performance of such part of the work as shall not have been terminated by the Authorized Representative; and
- G. Take such action as may be necessary, or as the Authorized Representative may direct, for the protection and preservation of the property related to this Grant, which is in the possession of the Grantee and in which DNR has or may acquire an interest.

42. TREATMENT OF ASSETS

Title to all property furnished by DNR shall remain in DNR. Title to all property furnished by the Grantee, for the cost of which the Grantee is entitled to be reimbursed as a direct item of cost under this Grant, shall pass to and vest in DNR upon delivery of such property by the Grantee. Title to other property, the cost of which is reimbursable to the Grantee under this Grant, shall pass to and vest in DNR upon (i) issuance for use of such property in the performance of this Grant, or (ii) commencement of use of such property in the performance of this Grant, or (iii) reimbursement of the cost thereof by DNR in whole or in part, whichever first occurs.



- A. Any property of DNR furnished to the Grantee shall, unless otherwise provided herein or approved by DNR, be used only for the performance of this Grant.
- B. The Grantee shall be responsible for any loss or damage to property of DNR that results from the negligence of the Grantee or which results from the failure on the part of the Grantee to maintain and administer that property in accordance with sound management practices.
- C. If any DNR property is lost, destroyed or damaged, the Grantee shall immediately notify DNR and shall take all reasonable steps to protect the property from further damage.
- D. The Grantee shall surrender to DNR all property of DNR prior to settlement upon completion, termination or cancellation of this Grant.
- E. All reference to the Grantee under this clause shall also include Grantee's employees, agents or subgrantees/subcontractors.

43. WAIVER

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Grant unless stated to be such in writing and signed by Authorized Representative of DNR.



Attachment A: Scope of Work

A substantially revised CWPP will be created during this project. The creation of this new CWPP will involve: (1) community stakeholder outreach, education and input; (2) climate change analysis to better predict wildfire risk; (3) extensive hazard risk assessment to identify WUI areas and neighborhoods with vulnerable populations that may face wildfire risk; (4) development of applicable building codes, zoning ordinances to mitigate fire risk; (5) understanding the effects of smoke in our County and devising effective ways to combat it; (6) determination of places in the County where vegetative management is needed to best reduce fire risk; (7) working with state and local foresters, land managers, fire service, emergency managers, and planners to identify opportunities to use prescribed fire or other means to mitigate wildfire risk and improve forest health; (8) assessing whether our current fire response can be improved; (9) outlining recovery efforts needed for future wildfires and (10) creating an action plan that identifies short-term and long-range goals depending on the capabilities of the community and the prioritization of risk identified.

It is expected that a wide range of topics would be addressed in these viewpoints, including identification of WUI areas in the County, vegetative management recommendations, how to improve response time, how best to provide education to the public on wildfire risk, starting up a formal wildfire assessment program for residents of the County, reviewing our building codes to better mitigate wildfire risk in our community, understanding the recent legislative and policy efforts by Washington State to develop land use measures for fire adaption, post-recovery planning from wildland fires, how best to reach out to neighborhoods at risk for wildland fires, especially neighborhoods with proportionally high vulnerable populations and how to reduce intentional ignitions.

1. Data Collection and Document Review [June 2023 - October 2023] Consultants will collect data to create Wildfire Hazard and Risk Assessment, demographics will be reviewed, climate change data will be examined.
2. Steering Committee Creation [June July 2023] Comprised of County and City representatives, Fire District representatives, tribal representatives and others who have expertise in addressing wildland fire risk; state and federal representatives (i.e., DNR, Park Service, USDA Forest Service) will be invited to meetings and provided opportunities for input into the process. Steering Committee will exist for the duration of the entire CWPP update.
3. Stakeholder Engagement and Outreach [November July 2024] public survey, various in-person meetings in each of the Countys five operational areas, a booth at the Clallam County Fair and the Countys Public Safety Fair to solicit public input, Public Hearing in front of the Clallam County Board of Commissioners with the opportunity for public comment.



Attachment B: Budget

	Applicant Budget [WA]			Update
	Grant	Match		TOTAL
	Funds Requested	Applicant	Non-Federal Contributors	Total Project Cost
9	Personnel / Labor:	\$10,000	\$5,000	\$15,000
	Fringe Benefits:	\$2,600	\$1,300	\$3,900
	Travel:			
	Equipment:			
	Supplies:			
	Contractual:	\$125,000		\$125,000
	Other:			
	Indirect Costs:			
	TOTAL:	\$125,000	\$12,600	\$6,300
				\$143,900

The total budget for this CWPP project, including match, totals \$143,900. The grant funds requested total \$125,000 which will be used to hire consultants which will assist the Project Steering Committee in performing public outreach/workshops, collecting data to develop a wildfire hazard assessment, providing expert input on issues such as vegetative management and Wildland urban interface identification, mitigation strategies and recovery planning for future wildfire incidents, building code and WUI code provisions that could be recommended to our County Commissioners for approval that will reduce fire risk in the County and assist in drafting the Community Wildfire Plan. The \$125,000 contractual cost assumption was based upon communication with one of the consultants who recently assisted Washington State in developing the Washington State Wildland Fire Protection 10-Year Strategic Plan. The assumption is to have two consultants work together one conversant in public outreach and one consultant with the technical expertise in Forestry/Wildfire Management. We assume that \$35,000 of the contractual grant funds will be used for the Forestry consultant and the balance would be used for the consultant providing public outreach/Plan drafting services. This is precisely the model that Washington State used for its Strategic Wildfire Plan. There will be a bid process with a RFP. The County will review all service bids and determine the winning bid. A contract will be signed with the winning bidder.



The matching funds of \$18,900 is comprised of \$15,000 of dedicated personnel costs and \$3,900 of fringe benefits (26% of salary). A total of \$12,600 (\$10,000 in salary and \$2,600 in fringe benefit) of the \$18,900 match funds will come from a Clallam Countys Sheriff Office staff member who has expertise in emergency management and public outreach and will chair the Project Steering Committee. That staff members hourly rate will be \$40.00 per hour in 2023. We are assuming that this individual will lead the project and dedicate at least 250 hours to this eighteen month project. The remainder of the matching funds, a total of \$6,300 (\$5,000 in salary and \$1,300 in fringe benefit) will come from the Fire District representatives who will be on the Steering Committee calculated as: 5 representatives x 25 hours x \$40 per hour and a 26% fringe benefit rate. This assumes 8-10 meetings of the Steering Committee and some additional time to markup a draft of the revised CWPP.

The matching funds of \$18,900 is a 15% match which exceeds the 10% match requirement under the Notice of Funding for CWDG.



Attachment C: Insurance Addendum

Clallam County may provide coverage under a self-insured/liability pool or self-insured risk management program. Clallam County shall provide: (1) a description of its self-insurance program, and (2) a certificate and/or letter of coverage that outlines coverage limits and deductibles. All self-insured risk management programs or self-insured/liability pool financial reports must comply with Generally Accepted Accounting Principles (GAAP) and adhere to accounting standards promulgated by: 1) Governmental Accounting Standards Board (GASB), 2) Financial Accounting Standards Board (FASB), and 3) the Washington state Auditor's annual instructions for financial reporting. Clallam County shall maintain sufficient documentation to support the aggregate claim liability information reported on the balance sheet. DNR, its agents, and employees need not be named as additional insured, as this is prohibited by the risk pool.

Rich Sill, Human Resources Director

Name, Title

A handwritten signature in blue ink, appearing to read "R. Sill", written over a horizontal line.

Signature

A handwritten date "2-28-24" in blue ink, written over a horizontal line.

Date



AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

MAR 11 2024

Department: Sheriff

WORK SESSION ☒ Meeting Date: 3/11/24

REGULAR AGENDA ☐ Meeting Date:

Required originals approved and attached? ☒
Will be provided on:

Item summary:

- | | | |
|---|--|--|
| ☐ Call for Hearing | ☐ Contract/Agreement/MOU - Contract # | |
| ☐ Resolution | ☐ Proclamation | ☐ Budget Item |
| ☐ Draft Ordinance | ☐ Final Ordinance | ☒ Purchase Order – Administrator Signature |

Documents exempt from public disclosure attached: ☐

Executive summary: As part of the approved 2023 budget, the Sheriff's Office was approved to purchase rifle-rated ballistic armor to augment the standard vest worn by deputies. These plates were purchased as intended last year. Investigations by Homeland Security (HSI) last fall into the testing standards of those plates proved that the process was deficient and the security rating of the plates was potentially overstated, leading HSI to announce agencies should not wear them or depend on their protection. Since the need for this additional protection remains, Risk has offered to replace the deficient plates with a product appropriately certified by the National Institute of Justice.

Budgetary impact: The Risk budget will cover this cost, the vendor is a member of Sourcewell cooperative purchasing contract #011221-HCM.

Recommended action: Administrator authorization

County Official signature & print name: Brian King, Sheriff

Handwritten signature of Brian King in black ink.

Name of Employee/Stakeholder attending meeting: Brian King, Tom Reyes, Tammy Sullenger

Relevant Departments: Sheriff, Risk

Date submitted: 3/6/24

* Work Session Meeting - Submit 1 single sided/not stapled copy
** Regular Meeting – Submit 1 single sided/not stapled copy and originals (1 or 3 copies)



Port Angeles, WA 98362

360-417-2567

VENDOR NAME:	Titan Armor Solutions	PURCHASE ORDER #:	
ADDRESS:	900 N Liberty St		
	Harrisonburg, VA 22802	DATE:	3/12/2024
PHONE:			
FAX:		VENDOR ACCT #:	

PURCHASE ORDER NUMBER MUST APPEAR ON ALL INVOICES, PACKAGES, ETC.

QUANTITY	STOCK NUMBER	ITEM ORDERED	UNIT PRICE	TOTAL
60		HighCom Armor-Guardian 4s17 Rifle Armor Level IV Stand Alone, NIJ 0101.06 Certified DEA compliant, size 10x12 SC	\$ 160.00	\$9,600.00
30		Agilite K19 Plate Carrier, Black, One Size Fits 10x12 and SAPI small, med, large	\$ 225.00	\$6,750.00
		Pricing associated with Estimate #1570 Sourcewell Contract #011221-HCM		
		SUBTOTAL		\$16,350.00
		TAX	8.90%	\$1,455.15
		SHIPPING COST	0	\$0.00
		TOTAL		\$17,805.15

Budget Fund	Special Instructions
	Paid by Risk
BARS Number	

	AMY BUNDY, CHIEF CRIMINAL DEPUTY	TODD MIELKE, ADMINISTRATOR
	A-Bundy CID 3	

After signatures acquired, route a copy to the Accountant.

ESTIMATE



Titan Armor Solutions, Inc
900 N Liberty St, Harrisonburg, VA 22802,
UNITED STATES
titanarmorsolutions@gmail.com; Website:
titanarmorsolutions.com

Estimate No#: 1570

Estimate Date: Feb 22, 2024

\$16,350.00

ESTIMATED AMOUNT

BILL TO

Clallam County Sheriff's Office
Amy Bundy
amy.bundy@clallamcountywa.gov
Phone: +1 360-460-4309

SHIP TO

Clallam County Sheriff's Office
Amy Bundy

#	ITEMS & DESCRIPTION	QTY/HRS	PRICE	AMOUNT(\$)
1	4s17-SC-SC-1012 HighCom Armor-Guardian 4s17 Rifle Armor, Level IV Stand Alone, NIJ 0101.06 Certified, DEA Compliant, size: 10x12 SC	60	\$160.00	\$9,600.00
2	8055.2BLKM/L AGILITE K19 Plate Carrier, Black, One Size, (Fits 10x12 and SAPI Small, Medium and Large)	30	\$225.00	\$6,750.00
3	Shipping Free Shipping to Agency FedEx	1	\$0.00	\$0.00
		Subtotal		\$16,350.00
		TOTAL		\$16,350.00 USD

NOTES TO CUSTOMER

LE Agency Government Contract Pricing
Free Shipping
D-U-N-S: 095790238
Sourcewell Contract # 011221-HCM
Buy Board Contract # 698-23
eVA Supplier Code: SUP267441

TERMS AND CONDITIONS

RESTRICTED ITEMS FOR EXPORT

These items are controlled by the U.S. Government and authorized for export only to the country of ultimate destination for use by the ultimate consignee or end-user(s) herein

identified. They may not be resold, transferred, or otherwise disposed of, to any other country or to any person other than the authorized ultimate consignee or end-user(s), either in their original form or after being incorporated into other items, without first obtaining approval from the U.S. government or as otherwise authorized by U.S. law and regulations.

ATTACHMENTS

HighCom_AUTH SELLER_TitanArmor(002).pdf ;Guardian 4s17 Product Spec.pdf
;TitanArmorW9.pdf ;Domestic_Incoming_Wire_Instructions_TAS.pdf



SWIMMERS CUT



- + **Protection:** Level IV Stand Alone Armor Piercing
- + **NIJ Standard 0101.06 CERTIFIED:** This product is NIJ 0101.06 compliant and can be found on the NIJ's CPL (Compliant Product List)
- + **DEA:** Hard Armor Protocol Compliant
- + **RST:** Rifle Special Threats Validated
- + **Material:** Ceramic strike face composite backing
- + **Exterior Cover:** 1000D CORDURA®, Textured Nylon
- + **Thickness:** 0.95" or 24mm
- + **Cuts:** Available in full cut, shooters, and swimmers (10"x12" shooters cut is considered nominal 9.5"x11.5" dimensions)
- + **Warranty:** 10 years on all ballistic material excluding exterior cover and 1 year on exterior cover material and workmanship

SIZE	CURVATURE	CUT	WEIGHT		SIZE	CURVATURE	CUT	WEIGHT		SIZE	CURVATURE	CUT	WEIGHT	
5"x7"	Single Curve	Full	2.6 lbs	1.2 kg	6"x8"	Single Curve	Full	3.5 lbs	1.6 kg	10"x12"	Single Curve	Full	8.5 lbs	3.9 kg
5"x8"	Single Curve	Full	3.0 lbs	1.3 kg	8"x10"	Single Curve	Full	5.7 lbs	2.6 kg	10"x12"	Single Curve	Shooters	7.2 lbs	3.3 kg
6"x5"	Single Curve	Full	2.5 lbs	1.1 kg	8"x10"	Single Curve	Shooters	5.6 lbs	2.5 kg	10"x12"	Single Curve	Swimmers	7.7 lbs	3.5 kg

STANDARD	WEAPON	PROJECTILE	GR	VEL FT/S	VEL M/S	[+/- FT/S]
NIJ 0101.06	Rifle	.30 Caliber Armor Piercing (AP) Bullets (M2 AP)	166	2880	878	(+/- 30)
DEA 2017	Rifle	.223 Remington Tactical Bonded Soft Point	62	2600	792	(+/- 50)
DEA 2017	Rifle	5.56 x 45mm M855 (Green Tip)	62	3100	945	(+/- 50)
DEA 2017	Rifle	7.62 x 39mm Mild Steel Core	123	2400	731	(+/- 50)
DEA 2017	Rifle	7.62mm FMJ, Steel Jacketed Bullets (M80)	147	2750	838	(+/- 50)
DEA 2017	Rifle	.308 Winchester PSPB Core-Lokt Ultra Bonded	150	2600	792	(+/- 50)
Special	Rifle	.223 SCS Brush Hog	55	3150	960	(+/- 50)
Special	Rifle	5.56 x 45mm M193 FMJ	55	3250	991	(+/- 50)
Special	Rifle	7.62 x 39mm (BZ API)	122	2380	725	(+/- 50)
Special	Rifle	7.62 x 51mm (M61 AP)	150.5	2750	838	(+/- 50)
Special	Rifle	7.62 x 54R (LPS)	148	2880	878	(+/- 50)
Special	Rifle	7.62 x 54R-B-32 API	155	2800	853	(+/- 50)
Special	Rifle	7.62 x 63mm-JSP	150	2780	847	(+/- 50)
Special	Rifle	Rifle AK-47, M, SKS 7.62 x 39mm Ball	123	2380	725	(+/- 50)
Special	Rifle	12-gauge, 2 3/4 -in mag., 1oz. Slug	437.5	1145	349	(+/- 50)
Special	Rifle	5.56 x 45mm M855A1	62	3100	945	(+/- 50)



RST VALIDATED

GUARDIAN THREAT CHART

ROUNDS TESTED

STANDARD	PROJECTILE	4sas7	4sss2	4s16	4s17	4s17m	34i1	3s9	3s9m	3s11
NIJ 0101.06	9mm Full Metal Jacketed Round Nose (FMJ RN)	✓	✓	✓	✓	✓	✓	✓	✓	✓
NIJ 0101.06	.44 Magnum Semi Jacketed Hollow Point (SJHP)	✓	✓	✓	✓	✓	✓	✓	✓	✓
NIJ 0106.01	7.62 mm FMJ, Steel Jacketed Bullets (M80)	✓	✓	✓	✓	✓	✓	✓	✓	✓
NIJ 0101.06	.30 caliber armor piercing (AP) bullets (M2 AP)	✓	✓	✓	✓	✓	✓			
DEA 2017	.223 Remington Tactical Bonded Soft Point	✓	✓		✓	✓		✓	✓	
DEA 2017	5.56 x 45mm M855 (Green Tip)	✓	✓		✓	✓		✓	✓	
DEA 2017	7.62 x 39mm Mild Steel Core	✓	✓		✓	✓		✓	✓	✓
DEA 2017	7.62 mm FMJ, Steel Jacketed Bullets (M80)	✓	✓		✓	✓		✓	✓	
DEA 2017	.308 Winchester PSPB Core-Lokt Ultra Bonded	✓	✓		✓	✓		✓	✓	
Special	.223 SCS Brush Hog		✓		✓	✓		✓	✓	✓
Special	7.62 x 39mm (BZ API)		✓		✓	✓		✓	✓	
Special	7.62 x 51mm (M61 AP)		✓		✓	✓	✓	✓	✓	
Special	7.62 x 54R (LPS)		✓		✓	✓		✓	✓	
Special	7.62 x 54R-B-32 API		✓		✓	✓				
Special	7.62 x 63mm-JSP		✓		✓	✓		✓	✓	
Special	Rifle AK-47, M, SKS 7.62 x 39mm Ball		✓		✓	✓		✓	✓	



HIGHCOM

GUARDIAN PLATES

OVERVIEW

GUARDIAN PLATES

TESTING STANDARDS



HighCom offers a full line of military and law enforcement grade Level IIIA Special Threat, Level III and Level IV hard armor plate inserts. Our hard armor is some of the best in the world, and can be vouched for by our customers at the Department of Defense and U.S. federal and state agencies, in addition to countless international coalition forces and law enforcement agencies that actively deploy our products in life threatening situations. Our plates are designed, developed and manufactured using state-of-the-art processes and equipment to ensure quality and performance when deployed by operators throughout numerous tactical and urban situations. Our hard armor plates are NIJ compliant, with models available for NIJ 2005 Interim and NIJ 0101.06 standards. In addition, they undergo special threat assessment, and some models are independently tested according to the NIJ 0108.01 standard. We also perform additional testing against V50 and special threats, and can work with specific customer requirements against other threat assessments when requested.

NIJ 0101.06 BALLISTIC THREATS

LEVEL	WEAPON	PROJECTILE	GR	VEL FT/S	VEL M/S	(+/- FT/S)
IIIA	Handgun	.357 SIG FMJ Flat Nose (FN)		125	1470	448 (+/- 30)
IIIA	Handgun	.44 Magnum Semi Jacketed Hollow Point (SJHP)		240	1400	427 (+/- 30)
III	Rifle	7.62 mm FMJ, steel jacketed bullets (M80)		147	2780	847 (+/- 30)
IV	Rifle	.30 caliber armor piercing (AP) bullets (M2 AP)		166	2880	878 (+/- 30)

DEA FEDERAL STANDARDS

LEVEL	STANDARD	WEAPON	PROJECTILE	GR	VEL FT/S	VEL M/S	(+/- FT/S)
Special	DEA 2017	Rifle	.223 Remington Tactical Bonded Soft Point	62	2600	792	(+/- 50)
Special	DEA 2017	Rifle	5.56 x 45mm M855 (Green Tip)	62	3100	945	(+/- 50)
Special	DEA 2017	Rifle	7.62 x 39mm Mild Steel Core	123	2400	732	(+/- 50)
Special	DEA 2017	Rifle	7.62 mm FMJ, steel jacketed bullets (M80)	147	2750	838	(+/- 50)
Special	DEA 2017	Rifle	.308 Winchester PSPB Core-Lokt Ultra Bonded	150	2600	792	(+/- 50)

RIFLE SPECIAL THREATS

LEVEL	STANDARD	WEAPON	PROJECTILE	GR	VEL FT/S	VEL M/S	(+/- FT/S)
RST	Special	Rifle	.223 SCS Brush Hog	55	3150	960	(+/- 50)
RST	Special	Rifle	7.62 x 39mm (BZ API)	122	2380	725	(+/- 50)
RST	Special	Rifle	7.62 x 51mm (M61 AP)	150.5	2750	838	(+/- 50)
RST	Special	Rifle	7.62 x 54R (LPS)	148	2880	878	(+/- 50)
RST	Special	Rifle	7.62 x 54R-b-32 API	155	2800	853	(+/- 50)
RST	Special	Rifle	7.62 x 63mm-JSP	150	2780	847	(+/- 50)
RST	Special	Rifle	Rifle AK-47, M, SKS 7.62 x 39mm Ball	123	2380	725	(+/- 50)
RST	Special	Rifle	7.62 x 39mm (M43 MSC PS)	123	2380	725	(+/- 50)
RST	Special	Rifle	5.56 x 45mm M193 FMJ	55	3250	991	(+/- 50)
RST	Special	Rifle	12-gauge, 2 ¾ -in mag., 1oz. Slug	437.5	1145	349	(+/- 50)
RST	Special	Rifle	5.56 x 45mm M855A1	62	3100	945	(+/- 50)
RST	Special	Rifle	5.45 x 39mm MSC (7N6)	53	3000	915	(+/- 98)

LEVEL IV

RIFLE ARMOR PLATES



Multi-hit protection from armor piercing rifle rounds with HighCom Armor's Guardian line of Level IV plates. Manufactured in the USA, this proven line of ballistic protection are capable of stopping NIJ Level IV threat as well as some models being tested to DEA federal standards and rifle special threats including M855 (Green Tip), M80, and Rifle AK-47. Please refer to the product spec or visit highcomarmor.com for complete list of ballistic rounds tested.



4sas7	4sss2	4s16	4s17	4s17m	34i1
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Level IV Stand Alone Multi-Hit	Level IV Stand Alone Multi-Hit	Level IV Stand Alone Multi-Hit	Level IV Stand Alone Multi-Hit	Level IV Stand Alone Multi-Hit	Level III/IV ICW NIJ IIIA Soft Armor
NIJ 2005IR Certified DEA Compliant	NIJ 2005IR Certified	NIJ 0101.06 Tested	NIJ 0101.06 Certified DEA Compliant	NIJ 0101.06 Certified DEA Compliant	NIJ 0101.06 Tested
RST Validated	RST Validated	RST Validated	RST Validated	RST Validated	RST Validated
Warranty: 5 year	Warranty: 5 years	Warranty: 5 years	Warranty: 10 years	Warranty: 10 years	Warranty: 5 years

SPECIFICATIONS											
Ceramic Strike Face Composite Backing Nylon Cover		Light Weight Silicon Carbide + UHMWPE Nylon Cover		Ceramic + UHMWPE Nylon Cover		Ceramic Strike Face Composite Backing Nylon Cover		Ceramic Strike Face Composite Backing Nylon Cover		Ceramic + UHMWPE Nylon Cover	
Thickness: 0.75"		Thickness: 0.97"		Thickness: 0.75"		Thickness: 0.95"		Thickness: 0.95"		Thickness: 0.85"	
10"x12" SC	7.2 lbs	10"x12" SC	5.2 lbs	10"x12" SC	6.2 lbs	10"x12" SC	7.2 lbs	10"x12" SC	7.2 lbs	10"x12" SC	6.5 lbs
Single Curve Multi Curve		Single Curve Multi Curve		Single Curve Multi Curve		Single Curve		Multi Curve		Single Curve Multi Curve	
Shooter, Full, Swimmers, SAPI		Shooter, Full, Swimmers, SAPI		Shooter, Full, Swimmers, SAPI		Shooter, Full, Swimmers		Shooter, SAPI		Shooter, Full, Swimmers, SAPI	
Available Sizes: 15		Available Sizes: 15		Available Sizes: 15		Available Sizes: 9		Available Sizes: 6		Available Sizes: 15	

BALLISTIC ROUNDS TESTED											
- NIJ 2005IR Level IV Threats - DEA 2017 Ballistic Standard - Rifle Special Threats		- NIJ 0101.06 Level IV Threats - DEA 2017 Ballistic Standard - Rifle Special Threats		NIJ 0101.06 Level IV Threats		- NIJ 0101.06 Level IV Threats - DEA 2017 Ballistic Standard - Rifle Special Threats		- NIJ 0101.06 Level IV Threats - DEA 2017 Ballistic Standard - Rifle Special Threats		- NIJ 0101.06 Level III Threats - NIJ 0101.06 Level IV Threats	

LEVEL III

STAND ALONE PLATES



With today's growing threats the need for rifle armor protection is greater than ever. Our Guardian Level III plates go above and beyond industry standards to meet and exceed mission-critical requirements from the most demanding missions. Available in ceramic, super lightweight UHMWPE, and steel, Guardian Level III plates provide multi-hit protection from high velocity rifle rounds.



3s9	3s9m	3s11	3s11m	ar500	ar1000
-----	------	------	-------	-------	--------

Level III ++ Stand Alone Multi-Hit	Level III ++ Stand Alone Multi-Hit	Level III Stand Alone Multi-Hit	Level III Stand Alone Multi-Hit	Level III + Stand Alone Multi-Hit	Level III + Stand Alone Multi-Hit
NIJ 0101.06 Certified DEA Compliant	NIJ 0101.06 Certified DEA Compliant	NIJ 0101.06 Certified	NIJ 0101.06 Certified	NIJ 0101.06 Certified DEA Compliant	NIJ 0101.06 Certified DEA Compliant
RST Validated	RST Validated	RST Validated	RST Validated	RST Validated	RST Validated
Warranty: 10 years	Warranty: 10 years	Warranty: 10 years	Warranty: 10 years	Warranty: 10 years	Warranty: 10 years
SPECIFICATIONS					
Ceramic Strike Face Composite Backing Nylon Cover	Ceramic Strike Face Composite Backing Nylon Cover	Super Lightweight UHMWPE (Floats in Water) Nylon Cover	Super Lightweight UHMWPE (Floats in Water) Nylon Cover	H-H Steel Rhino Extreme 11-50 Anti-Spall Coating	U-H-H Steel Rhino Extreme 11-50 Anti-Spall Coating
Thickness: 1.15"	Thickness: 1.15"	Thickness: 1.25"	Thickness: 1.25"	Thickness: 0.35"	Thickness: 0.35"
10"x12" SC 5.3 lbs	10"x12" SC 5.3 lbs	10"x12" SC 2.9 lbs	10"x12" SC 2.9 lbs	10"x12" SC 7.5 lbs	10"x12" SC 5.9 lbs
Single Curve	Multi-Curve	Single Curve	Multi-Curve	Single Curve	Single Curve
Shooter, Full, Swimmer	Shooter, SAPI	Shooter, Full, Swimmers, SAPI	Shooter, SAPI	Shooter, Full, Swimmers, SAPI	Shooter, Full, Swimmers, SAPI
Available Sizes: 9	Available Sizes: 6	Available Sizes: 9	Available Sizes: 6	Available Sizes: 15	Available Sizes: 15
BALLISTIC ROUNDS TESTED					
- NIJ 0101.06 Level III Threats - DEA 2017 Ballistic Standards - Rifle Special Threats	- NIJ 0101.06 Level III Threats - DEA 2017 Ballistic Standards	- NIJ 0101.06 Level III Threats 7.62 x 39mm Mild Steel Core 5.56 x 45mm M193 FMJ	- NIJ 0101.06 Level III Threats 7.62 x 39mm Mild Steel Core 5.56 x 45mm M193 FMJ	- NIJ 0101.06 Level III Threats - DEA 2017 Ballistic Standards	- NIJ 0101.06 Level III Threats - DEA 2017 Ballistic Standards 5.56 x 45mm M193 FMJ

LEVEL III

ICW PLATES + SPECIAL THREAT



Guardian Level III ICW plates work in-conjunction with NIJ IIIA soft armor panels to provide high velocity rifle protection in a lighter and thinner solutions as well as add extra protection against blunt force trauma. We also offer special threat hard armor solutions for rifle and handgun protection. Please refer to the product spec or visit highcomarmor.com for complete list of ballistic rounds tested.



3i7m ICW sa3920



3i10m



RSTP



RSTP SA+



RSTP Gen 2



STP

Level III ICW sa3920 IIIA Soft Armor Multi-Hit	Level III ICW NIJ IIIA Soft Armor Multi-Hit	Rifle Special Threat ICW NIJ IIIA Soft Armor Modified SAPI Multi-Hit	Rifle Special Threat Stand Alone Modified SAPI Multi-Hit	Level III+ Rifle Special Threat ICW IIIA Soft Armor Multi-Hit	Handgun Special Threat Stand Alone Multi-Hit
NIJ 0101.06 Certified	NIJ 0101.06 Tested	NIJ 0101.06 Tested (Modified SAPI)	NIJ 0101.06 Tested (Modified SAPI)	NIJ 0101.06 Tested	NIJ 0108.01 Tested HST Validated
Warranty: 10 years	Warranty: 5 years	Warranty: 5 years	Warranty: 5 years	Warranty: 5 years	Warranty: 5 years
SPECIFICATIONS					
100% DSM Dyneema UHMWPE Rhino Extreme™ 11-50 Anti-Spall Coating	100% DSM Dyneema UHMWPE Rhino Extreme™ 11-50 Anti-Spall Coating or Nylon Cover	Ceramic + UHMWPE Nylon Cover	Ceramic + UHMWPE Nylon Cover	Ceramic with UHMWPE backing Nylon Cover or Polyurea	Super Lightweight UHMWPE Rhino Extreme™ 11-50 Anti-Spall Coating
Thickness: 0.70"	Thickness: 0.47"	Thickness: 0.55"	Thickness: 0.90"	Thickness: 0.75"	Thickness: 0.25"
SAPI M	2.2 lbs	SAPI M	1.9 lbs	SAPI M	3.6 lbs
SAPI M	2.2 lbs	SAPI M	1.9 lbs	SAPI M	3.6 lbs
Multi Curve	Multi Curve	Single Curve Multi Curve	Single Curve Multi Curve	Multi Curve	Flat, Single Curve, Multi Curve
Shooter, SAPI	Shooter, SAPI	Shooter, Full, Swimmer, SAPI	Shooter, Full, Swimmer, SAPI	SAPI	Shooter, Full, Swimmer, SAPI
Available Sizes: 6	Available Sizes: 5	Available Sizes: 15	Available Sizes: 15	Available Sizes: 5	Available Sizes: 29
BALLISTIC ROUNDS TESTED					
- NIJ 0101.06 Level III Threats 7.62 x 39mm Mild Steel Core 5.56 x 45mm M193	- NIJ 0101.06 Level III Threats 7.62 x 39mm Mild Steel Core 5.56 x 45mm M193	- NIJ 0101.06 Level III Threats 7.62 x 39mm Mild Steel Core 5.56 x 45mm M855 (Green Tip) 5.56 x 45mm M193	- NIJ 0101.06 Level III Threats 7.62 x 39mm Mild Steel Core 5.56 x 45mm M855 (Green Tip) 5.56 x 45mm M193 5.56 x 45mm M193	- NIJ 0101.06 Level III Threats 7.62 x 39mm Mild Steel Core 5.56 x 45mm M855 (Green Tip) 5.56 x 45mm M193 7.62 x 54R (LPS)	- NIJ 0108.01 Handgun Threats 9mm +P+ (SXT) .40 S&W JHP, Speer Gold Dot (GDHP) 5.7 x 28mm SS195 5.7 x 28mm SS197

PLATE OPTIONS

SIZES, CUTS, CURVATURES



Guardian Hard Armor Plates are available in Shooter Cut, Full Cut, Swimmer Cut and SAPI cuts and are available in 15 sizes, 3 curvatures from 5"x7" trauma pockets to full coverage front and back plates. Sizes, cuts, and curvatures vary by model.

SHOOTER CUTS



8"x10"

10"x12"

SAPI CUTS



7.25"x11.5" (XS)

8.75"x11.75" (S)

9.5"x12.5" (M)

10"x13.25" (L)

11"x14" (XL)

FULL CUTS



5"x7"

5"x8"

6"x6"

6"x8"

8"x10"

10"x12"

SWIMMER CUT



10"x12"

CURVATURES



FLAT



SINGLE CURVE



MULTI CURVE



AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

8
MAR 11 2024

Department: G.I.S.

WORK SESSION



Meeting Date: MONDAY, 3/11

REGULAR AGENDA



Meeting Date: TUESDAY, 3/19

Required originals approved and attached? ☒
Will be provided on:

Item summary:

☐ Call for Hearing

☐ Contract/Agreement/MOU - Contract #

☐ Resolution

☐ Proclamation

☐ Budget Item

☐ Draft Ordinance

☐ Final Ordinance

☒ Other

Documents exempt from public disclosure attached: ☐

Executive summary: The attached purchase order exceeds the department head signatory limits and needs to be counter-signed by the BOCC chair. This is for year 3 of a previously approved Service Agreement with ESRI. The funds are already budgeted and approved in the 2024 GIS budget.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)

Request that BOCC Chair counter-sign the attached purchase order.

County Official signature & print name:

A handwritten signature in blue ink, appearing to read "Mark Doten".

MARK DOTEN

Name of Employee/Stakeholder attending meeting: CHAD THEISMANN

Relevant Departments: Geographic Information Services

Date submitted:

3/4/24

* Work Session Meeting - Submit 1 single sided/not stapled copy

** Regular Meeting - Submit 1 single sided/not stapled copy and originals (1 or 3 copies)



CLALLAM COUNTY
Information Technology Department
 223 East Fourth Street, Suite 13 Port Angeles, WA 98362-3015 360.417.2346
 Mark Doten

01/03/2024

ESRI Inc. (0000532)

380 New York Street
 Redlands, CA 92373

Attn: Cara Golde cgolde@esri.com

Phn: 909.793.2853 ext 6183

Fax: 909-793-4801

P.O.#.....

Budget#...

SRF#.....

Dept.....

For.....

GIS20240103

00100.421.51881.48.0110

N/A

Geographic Information Systems
(GIS)ESRI Enterprise Agreement Fee
Software / Maintenance

Customer Number 10428. Quotation # 26177608. Start Date 01/31/2024 - End Date 01/30/2025.

Dear Cara:

Please place on-order for Clallam County the following:

Mfg Part#	Description	Price	Qty	Extension
168179	Populations of 50,001 to 100,000 Small Government Enterprise Agreement Annual Subscription. Start Date: 01/31/2023 to End Date: 1/30/2024. Quotation No. 26177608	55,000.00	1	55,000.00

Subtotal: 55,000.00

8.8% Tax: 4,840.00

Shipping: 0.00

Total: 59,840.00

Please apply any additional bid discounts and confirm the availability. **Please bill and ship to the Information Technology Department. Do not ship partial. Please ship complete unless otherwise notified.**

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Doten".

Mark Doten
 Information Technology Director

Mike French
 Chair, Clallam County
 Board of Commissioners

Xc: Mark Doten



Esri Inc
380 New York Street
Redlands CA 92373

Subject: Renewal Quotation

Date: 01/03/2024
To: Chad Theismann
Organization: County of Clallam
GIS Dept
Fax #: 360-417-2470 **Phone #:** 360-417-2260

From: Alan Chrest
Fax #: 909-307-3083 **Phone #:** + 19093692857 Ext. 2857
Email: achrest@esri.com

Number of pages transmitted
(including this cover sheet): 5

Quotation #26177608
Document Date: 10/30/2023

Please find the attached quotation for your forthcoming term. Keeping your term current may entitle you to exclusive benefits, and if you choose to discontinue your coverage, you will become ineligible for these valuable benefits and services.

If your quote is regarding software maintenance renewal, visit the following website for details regarding the maintenance program benefits at your licensing level
<http://www.esri.com/apps/products/maintenance/qualifying.cfm>

All maintenance fees from the date of discontinuation will be due and payable if you decide to reactivate your coverage at a later date.

Please note: Certain programs and license types may have varying benefits. Complimentary User Conference registrations, software support, and software and data updates are not included in all programs.

Customers who have multiple copies of certain Esri licenses may have the option of supporting some of their licenses with secondary maintenance.

For information about the terms of use for Esri products as well as purchase order terms and conditions, please visit
<http://www.esri.com/legal/licensing/software-license.html>

If you have any questions or need additional information, please contact Customer Service at 888-377-4575 option 5.

**esri**[®]

380 New York Street
Redlands, CA 92373
Phone: + 190936928572857
Fax #: 909-307-3083

Quotation

Date: 10/30/2023**Quotation Number:** 26177608**Contract Number:** SMALL GOVT ELA US

County of Clallam
GIS Dept
co IT Dept
223 E 4th St Ste 13
Port Angeles WA 98362-3000
Attn: Chad Theismann
Customer Number: 10428

For questions regarding this document, please contact Customer Service at 888-377-4575.

Send Purchase Orders To:

Environmental Systems Research Institute, Inc.
380 New York Street
Redlands, CA 92373-8100
Attn: Alan Chrest

Please include the following remittance address on your Purchase Order:

Environmental Systems Research Institute, Inc.
P.O. Box 741076
Los Angeles, CA 90074-1076

Item	Qty	Material#	Unit Price	Extended Price
------	-----	-----------	------------	----------------

Per the terms and conditions in your Esri Enterprise License Agreement, your organization is required to provide an annual usage report. This report should detail all deployments made under this agreement for your previous term, and should be provided to Esri as an Excel spreadsheet.

The annual usage report must include actual license counts by product, licensee, and location.

Please return your report via email to ea_usage_reports@esri.com.

Thank you in advance for your prompt attention to this matter.

10	1	168179	55,000.00	55,000.00
Populations of 50,001 to 100,000 Small Government Enterprise Agreement Annual Subscription				
Start Date: 01/31/2024				
End Date: 01/30/2025				

Please note Esri has introduced a price change and this quote reflects current pricing for your organization. It is important to us that we are able to continue to deliver value through enhancements to products, solutions, and capabilities.

Your renewal provides access to all the benefits you are familiar with, which you can review at <https://go.esri.com/maintenance>. For questions related to the price change, please reach out to your assigned Esri Account Manager.

Quotation is valid for 90 days from document date.

Any estimated sales and/or use tax has been calculated as of the date of this quotation and is merely provided as a convenience for your organization's budgetary purposes. Esri reserves the right to adjust and collect sales and/or use tax at the actual date of invoicing. If your organization is tax exempt or pays state taxes directly, then prior to invoicing, your organization must provide Esri with a copy of a current tax exemption certificate issued by your state's taxing authority for the given jurisdiction.

Esri may charge a fee to cover expenses related to any customer requirement to use a proprietary vendor management, procurement, or invoice program.

To expedite your order, please reference your customer number and this quotation number on your purchase order.



esri[®]

380 New York Street
Redlands, CA 92373
Phone: + 190936928572857
Fax #: 909-307-3083

Quotation

Page 2

Date: 10/30/2023

Quotation Number: 26177608

Contract Number: SMALL GOVT ELA US

Item Qty Material#

Unit Price

Extended Price

Item Subtotal	55,000.00
Estimated Taxes	4,840.00
Total	USD 59,840.00

DUNS/CEC: 06-313-4175 CAGE: 0AMS3

**esri**[®]

380 New York Street
Redlands, CA 92373
Phone: + 190936928572857
Fax #: 909-307-3083

Quotation

Page 3

Date: 10/30/2023

Quotation Number: 26177608

Contract Number: SMALL GOVT ELA US

Item Qty Material#

Unit Price

Extended Price

Renewal Options:

- Online: Renew through My Esri site at <https://my.esri.com>
 - Credit Card
 - Purchase Order
 - Email Authorization
- Email or Fax: Email Authorization, Purchase Order or signed quote to:
 - Fax: 909-307-3083
 - Email: service@esri.com

Requests via email or signed quote indicate that you are authorized to obligate funds for your organization and your organization does not require a purchase order.

If there are any changes required to your quotation please respond to this email and indicate any changes in your invoice authorization.

If you choose to discontinue your support, you will become ineligible for support benefits and services. All maintenance fees from the date of discontinuation will be due and payable if you decide to reactivate your support coverage at a later date.

The items on this quotation are subject to and governed by the terms of this quotation, the most current product specific scope of use document found at

<http://assets.esri.com/content/dam/esrisites/media/legal/product-specific-terms-of-use/e300.pdf>, and your applicable signed agreement with Esri. If no such agreement covers any item quoted, then Esri's standard terms and conditions found at <http://assets.esri.com/content/dam/esrisites/media/legal/ma-full/ma-full.pdf> apply to your purchase of that item. Federal government entities and government prime contractors authorized under FAR 51.1 may purchase under the terms of Esri's GSA Federal Supply Schedule. Supplemental terms and conditions found at

<http://www.esri.com/en-us/legal/terms/state-supplemental> apply to some state and local government purchases. All terms of this quotation will be incorporated into and become part of any additional agreement regarding Esri's offerings.

Acceptance of this quotation is limited to the terms of this quotation. Esri objects to and expressly rejects any different or additional terms contained in any purchase order, offer, or confirmation sent to or to be sent by buyer. Unless prohibited by law, the quotation information is confidential and may not be copied or released other than for the express purpose of system selection and purchase/license. The information may not be given to outside parties or used for any other purpose without consent from Esri. Delivery is FOB Origin.

In order to expedite processing, please reference the quotation number and any/all applicable Esri contract number(s) (e.g. MPA, ELA, SmartBuy GSA, BPA) on your ordering document.

**esri**[®]

380 New York Street
Redlands, CA 92373
Phone: + 190936928572857
Fax #: 909-307-3083

Quotation

Page 4

Date: 10/30/2023	Quotation No: 26177608	Customer No: 10428	Contract No: SMALL GOVT ELA US
Item Qty Material#		Unit Price	Extended Price

US FEDERAL CUSTOMERS: If you are a federal customer or a contractor purchasing on behalf of a federal customer a purchase order is required to receive an invoice. Please email the purchase order to service@esri.com

By signing below, you are authorizing Esri to issue a software support invoice in the amount of
USD 55,000 plus sales tax, if applicable.

Please check one of the following:

☒ I agree to pay any applicable sales tax.

☐ I am tax exempt. Please contact me if Esri does not have my current exempt information on file.


Signature of Authorized Representative

1/4/23
Date

MARK DOTEN
Name (Please Print)

IT DIRECTOR
Title



a

AGENDA ITEM SUMMARY

MAR 11 2024

(Must be submitted NLT 3PM Wednesday for next week agenda)

Department: Public Works/Roads

WORK SESSION ☒ **Meeting Date: 03/11/2024**

REGULAR AGENDA ☒ **Meeting Date: 03/19/2024**

Required originals approved and attached? ☐
Will be provided on: 03/08/2024

Item summary:

- | | | |
|---|--|--|
| ☐ Call for Hearing | ☐ Contract/Agreement/MOU - Contract # | |
| ☐ Resolution | ☐ Proclamation | ☐ Budget Item |
| ☐ Draft Ordinance | ☐ Final Ordinance | ☒ Other Easement Agreement |

Documents exempt from public disclosure attached: ☐

Executive summary:

There is a fish passage barrier on the Hoko-Ozette Road that needs to be replaced. This is the second of three parcels we need easements from to make this repair. North Olympic Salmon Coalition is taking the lead on this project. The county is providing right of way.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☒

This was accounted for in the 2024 budget.

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)

Approve

County Official signature & print name: Joe Donisi 

Name of Employee/Stakeholder attending meeting: Joe Donisi, Linda Capps

Relevant Departments: Roads

Date submitted: 03/06/2024

* Work Session Meeting - Submit 1 single sided/not stapled copy
** Regular Meeting – Submit 1 single sided/not stapled copy and originals (1 or 3 copies)

CRP

Land Purchase Agreement

Land – 1.802 acres - \$7062.00

Total	\$14,306.00
-------	--------------------

The undersigned property owners hereby authorize and grant Clallam County the right to provide the above agreement, together with the right to enter upon their remaining lands as may be necessary to perform any of the above. There are no other agreements written or oral other than those stated herein.

Paul J. Lenz
Property Owner

Property Owner

P.O. Box 436
Address; Street or Box No.

City Norwalk State WA Zip 98357

Y. C.
R/W Agent or Witness

Approved By:

Joe Brown 3-6-24
Assistant Engineer Date

Mark Ozias. Date

Joe Dornin 3-6-24
County Engineer Date

Randy Johnson Date

Deputy Prosecuting Attorney _____ Date _____

Mike French Date

Easement

THE GRANTOR Peeshbad, LLC

for and in consideration of \$10.00 and other valuable consideration grants and conveys to
**CLALLAM COUNTY, A POLITICAL SUBDIVISION, BY AND THROUGH ITS ROAD
DEPARTMENT**

an easement over, under, upon and across the hereinafter described lands, situate in the County of
Clallam, State of Washington, for the purpose of roads, slopes, drainage, clear zone and utilities to the
same extent and purpose as if the rights herein conveyed had been acquired under Eminent Domain
statutes of the State of Washington.

Being a portion of Tax Parcel No: 210000

SEE LEGAL ATTACHED

Dated March 05 20 24

GRANTOR:

GRANTOR:

STATE OF WASHINGTON)
COUNTY OF CLALLAM) ss.

On this 5th day of March, 20 24 before me, the under-signed, a Notary Public in
and for the State of Washington, duly commissioned and sworn, personally appeared

Daniel Greene and _____, to me known
to be the X President and _____ Secretary, respectively, of Peeshbad LLC the corporation that
executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of
said corporation, for the uses and purposes therein mentioned, and on oath states that he
authorized to execute the said instrument and that the seal affixed is the corporate seal of said corporation.

Witness my hand and official seal hereto affixed the day and year first above written.

Linda Gages Notary Public in and for the State of Washington,

residing at Port Angeles, WA

My appointment expires: 11/22/27

That portion of Exhibit A contained withing the following Right of Way description.

Right of Way Description

RIGHT OF WAY OF HOKO-OZETTE ROAD WITHIN PORTIONS OF SECTION 23, TOWNSHIP 31 NORTH, RANGE 14 WEST, W.M., CLALLAM COUNTY, WASHINGTON

COMMENCING AT A 1-INCH GALVANIZED CONDUIT WITH A 3-INCH BRASS CAP STAMPED "HANSON NATURAL RESOURCES T31N R14W NE 1/16 523 1996 LS 12223" MARKING THE NORTHEAST SIXTEENTH CORNER OF SECTION 23 SET PER BOOK 36 OF SURVEYS, PAGE 36, RECORDS OF CLALLAM COUNTY, WASHINGTON.

THENCE NORTH 86° 19' 56" WEST 1319.13 FEET TO THE CENTER NORTH SIXTEENTH CORNER OF SAID SECTION.

THENCE CONTINUING NORTH 86° 19' 56" WEST 723.74 FEET TO THE POINT OF BEGINNING.

SAID POINT BEARS SOUTH 84° 54' 08" EAST 596.53 FEET FROM A 1-INCH GALVANIZED CONDUIT WITH A 3-INCH BRASS CAP AS DESCRIBED IN BOOK 36 OF SURVEYS, PAGE 36, RECORDS OF CLALLAM COUNTY, WASHINGTON MARKING THE WITNESS CORNER TO THE NORTHWEST SIXTEENTH CORNER OF SECTION 23.

THENCE NORTH 3° 48' 44" WEST 8.66 FEET

THENCE NORTH 82° 52' 56" EAST 247.61 FEET

THENCE NORTH 72° 02' 12" EAST 382.53 FEET

THENCE NORTH 82° 57' 30" EAST 250.00 FEET

THENCE SOUTH 84° 53' 12" EAST 332.45 FEET

THENCE NORTH 82° 57' 30" EAST 172.11 FEET TO THE WEST LINE OF THAT PARCEL DESCRIBED UNDER AUDITOR'S FILE NUMBER 375766

THENCE SOUTH 5° 38' 51" WEST ALONG SAID WEST LINE 30.75 FEET TO THE AS-BUILT CENTERLINE OF THE HOKO-OZETTE ROAD

THENCE NORTH 82° 57' 30" EAST ALONG SAID CENTERLINE 102.50 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL.

THENCE SOUTH 5° 38' 51" WEST ALONG THE SOUTHERLY EXTENSION OF SAID PARCEL AND ALONG THE EAST LINE OF PARCEL 5 OF BOOK 27 OF SURVEYS, PAGE 89, RECORDS OF SAID COUNTY A DISTANCE OF 30.75 FEET

THENCE SOUTH 82° 57' 30" WEST 261.10 FEET

THENCE SOUTH 70° 48' 12" WEST 332.45 FEET

THENCE SOUTH 82° 57' 30" WEST 159.58 FEET TO THE NORTH-SOUTH CENTERLINE OF SECTION 23

THENCE SOUTH 3° 34' 11" WEST ALONG SAID NORTH-SOUTH CENTERLINE 16.22 FEET TO THE CENTER-NORTH SIXTEENTH CORNER OF SECTION 23

THENCE CONTINUING SOUTH 3° 34' 11" WEST ALONG SAID NORTH-SOUTH CENTERLINE 67.54 FEET

THENCE SOUTH 7° 02' 30" EAST 117.67 FEET

THENCE NORTH 85° 16' 50" WEST 723.54 FEET TO A POINT BEARING SOUTH 3° 48' 44" WEST FROM THE POINT OF BEGINNING

THENCE NORTH 3° 48' 44" WEST 171.34 FEET TO THE POINT OF BEGINNING

CONTAINING 6.629 ACRES MORE OR LESS

EXHIBIT A

THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER, SECTION 23, TOWNSHIP 31 NORTH, RANGE 14 WEST, W.M., CLALLAM COUNTY, WASHINGTON

14
23

RIGHT-OF-USE AS MAPPED
IN AUGUST 2023
(SEE NOTE 4)

N 03°48'44" W (RADIAL BEARING,
STATION 0+00

STATION 0+00

N 03°48'44" W (RADIAL BEARING)

N 03°48'44"

8.66

N 82°52'56" E 247.61

N 8°41'00" E

200

N 72°02'12" E 382.53

N 82°57'30" E 250.

N 0334'11" E 1319.51
1099.81

1099.81

101.74

16.22

4

—

127.90

6 + 3 = 9

136.12



34.16

523

15.42-

13.59

12.66-

583.35

12

D=00°05'21"
R=11540.02
L=17.97

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21.34

一七

OF UNKNOWN TITLE
451 SQUARE FEET

10 E
COUNTY



AGENDA ITEM SUMMARY MAR 11 2024
(Must be submitted NLT 3PM Wednesday for next week agenda)

Department: Public Works

WORK SESSION ☒ **Meeting Date: 3/11/24**

REGULAR AGENDA ☒ **Meeting Date: 3/19/24**

Required originals approved and attached? ☒
Will be provided on:

Item summary:

- | | | |
|---|---|--------------------------------------|
| ☐ Call for Hearing | ☒ Contract/Agreement/MOU - Contract # | |
| ☐ Resolution | ☐ Proclamation | ☐ Budget Item |
| ☐ Draft Ordinance | ☐ Final Ordinance | ☐ Other |

Documents exempt from public disclosure attached: ☐

Executive summary:

This item is a contract amendment that allows the County to receive additional RAP funds for the Carlsborg Repaving project.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐

This item allows the Road department to receive an additional \$50,000 of RAP funding.

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)

That the Commissioners approve the contract amendment.

County Official signature & print name:

Joe Donisi

Name of Employee/Stakeholder attending meeting: Joe Donisi & Darby Twight

Relevant Departments: Public Works

Date submitted:



February 22, 2024

MEMO TO: Joe Donisi, PE, County Engineer, Clallam County Public Works

MEMO FROM: Steven R. Johnson PE, Grant Programs Manager 

RE: RAP Funding Amendment

Enclosed are three original unsigned contract amendments offered to your county for increased RATA funding for the **Carlsborg Road Project 0519-01**; that is approved per CRABoard Resolution 2022-010.

Pursuant to WAC 136-170-030 (1)(a) these contracts must be signed by your County Commissioner/County Executive and received in our office no later than **April 7, 2024** to be valid. Please request your Commissioner/County Executive sign all three originals for each project.

Return all three signed, unaltered, originals, to:

Jane Wall, Executive Director
County Road Administration Board
2404 Chandler Court SW, Suite #240
Olympia, WA 98504-0913

Ms. Wall will execute the amendment with her signatures and return two of the signed originals to you for your records.

Please call 360.350.6081 or write if you have questions.

Attachments:
Unsigned original RAP amendment (3 copies)

STATE OF WASHINGTON - COUNTY ROAD ADMINISTRATION BOARD

**RURAL ARTERIAL PROGRAM
PROJECT AGREEMENT FOR CONSTRUCTION PROPOSAL**

AMENDMENT NO. 1

Submitting County: Clallam

Project Number: 0519-01

Date Approved: 04/25/2019

Road Number(s)	Road Name(s)	BMP(s)	EMP(s)	Segment #
94270	Carlsborg Road	1.010	1.760	1

This is Amendment No. 1 to the above described Project Agreement, between the County of Clallam, hereinafter the "County" and the State of Washington County Road Administration Board, hereinafter the "CRABoard."

WHEREAS, the COUNTY and CRABoard desire to amend the original Project Agreement to allow an increase in authorized RATA funding under the conditions described in WAC 136-161-070.

NOW, THEREFORE, pursuant to chapter 36.79 RCW and in consideration of the terms, conditions, covenants, and performance contained herein, or attached and incorporated and made a part hereof,

IT IS MUTUALLY AGREED AS FOLLOWS:

1. The following new language is added as section 15 to the Project Agreement:

Per CRABoard Resolution 2022-010, RATA funding for this project is increased to \$525,000 and the match requirement is removed, allowing 100% reimbursement for up to the full RATA authorized amount.

2. All other terms and conditions of the original Project Agreement shall remain in full force and effect except as modified by this Amendment No. 1.

IN WITNESS WHEREOF, the PARTIES hereto have executed this AMENDMENT No. 1 as of the PARTY's date last signed below.

COUNTY ROAD ADMINISTRATION BOARD:

Clallam COUNTY:

By: _____

By: _____

Date: _____

Date: _____



AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

MAR 11 2024
4a

Department: BOCC

WORK SESSION ☒ Meeting Date: 3-11-24

REGULAR AGENDA ☒ Meeting Date: 3-12-24

Required originals approved and attached? ☐
Will be provided on:

Item summary:

- | | | |
|---|--|--|
| ☐ Call for Hearing | ☐ Contract/Agreement/MOU - Contract # | |
| ☐ Resolution | ☐ Proclamation | ☐ Budget Item |
| ☐ Draft Ordinance | ☐ Final Ordinance | ☒ Other - Notice |

Documents exempt from public disclosure attached: ☐

Executive summary:

Board of Clallam County Commissioners will consider adopting by Resolution the attached budget reduction on March 26, 2024.

Budget reductions – a reduction in revenues and/or expenditures.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐
See attached form(s).

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)

Approve the attached notice – Budget reductions.

County Official signature & print name: Loni Gores Loni Gores

Name of Employee/Stakeholder attending meeting: Board of Commissioners

Relevant Departments: All Departments

* Work Session Meeting - Submit 1 single sided/not stapled copy
** Regular Meeting – Submit 1 single sided/not stapled copy and originals (1 or 3 copies)



NOTICE OF BUDGET REDUCTION

Notice is hereby given Clallam County will consider by Resolution of the Board the budget reduction shown below on March 26, 2024 at 10 a.m. in the Commissioners' Meeting Room (160), Clallam County Courthouse.

PW – RID #149 Osborn Road – The Road Improvement District #149 Osborn Road project was completed in 2023. This fund will no longer be used as it is now inactive, and will be closed/\$836

A copy of the budget change form may be reviewed at the office of the Board of County Commissioners from 8 a.m. to 4:30 p.m., Monday through Friday.

BOARD OF CLALLAM COUNTY COMMISSIONERS

Date: March 12, 2024

Mike French, Chair

Publish: March 16 and 23, 2024

Bill: Commissioners' Office

c: Budget Director
Department(s)
Treasurer

CLALLAM COUNTY BUDGET CHANGE FORM



Date Submitted: 2/08/2024 ✓

Budget Hearing/Meeting Date: 3/26/2024 ✓

- **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds
- **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.
- **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law
- **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase
- X ✓ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	27401.611 ✓	Budget Name	PW – RID #149 Osborn Road ✓
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REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
27401.611 ✓	PW – RID #149 Osborn Road ✓	59295.89.0000 ✓	Other Debt Service Costs	836 ✓
Total				836 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
27401.611 ✓	PW – RID #149 Osborn Road ✓	50800.00.0000 ✓	Ending Fund Balance	836 ✓
Total				836 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

The Road Improvement District #149 Osborn Road project was completed in 2023. This fund will no longer be used, it is now inactive and will be closed.

County Official Approval: _____

(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

[Signature]

[Signature]

12

MAR 11 2024

4b



AGENDA ITEM SUMMARY
(Must be submitted NLT 3PM Wednesday for next week agenda)

Department: BOCC

WORK SESSION ☒ **Meeting Date:** 3-11-24

REGULAR AGENDA ☒ **Meeting Date:** 3-12-24

Required originals approved and attached? ☐
Will be provided on:

Item summary:

- | | | |
|---|--|--|
| ☐ Call for Hearing | ☐ Contract/Agreement/MOU - Contract # | |
| ☐ Resolution | ☐ Proclamation | ☐ Budget Item |
| ☐ Draft Ordinance | ☐ Final Ordinance | ☒ Other - Notice |

Documents exempt from public disclosure attached: ☐

Executive summary:

Board of Clallam County Commissioner will consider adopting by Resolution the attached budget revisions on March 26, 2024.
Budget revisions – Transfer or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐
See attached form(s).

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
Approve the attached notice – Budget revisions.

County Official signature & print name: Loni Gores Loni Gores, Clerk

Name of Employee/Stakeholder attending meeting: Board of Commissioners

Relevant Departments: All Departments



NOTICE OF BUDGET REVISION MEETING

Notice is hereby given Clallam County will consider by Resolution of the Board the budget revision shown below on March 26, 2024 at 10 a.m. in the Commissioners' Meeting Room (160), Clallam County Courthouse.

NonDept – American Rescue Plan Act – Reallocation of ARPA funding for the Board room technology project; additional 2023 invoice not received until 2024/\$49,072

District Court I – To fund the unbudgeted promotion of a Clerk I employee to a Court Clerk II position beginning March 2024. This revision is needed to shift funding from Extra Help to Salaries and Benefits/\$2,000

WSU Extension – Reallocation of funding to cover 2023 expenditures paid in 2024, and reallocating budget for actual expenses/\$99,101

A copy of the budget change forms may be reviewed at the office of the Board of County Commissioners from 8 a.m. to 4:30 p.m., Monday through Friday.

BOARD OF CLALLAM COUNTY COMMISSIONERS

Date: March 12, 2024

Mike French, Chair

Publish: March 16 and 23, 2024

Bill: Commissioners' Office

c: Budget Director
Department(s)
Treasurer

CLALLAM COUNTY BUDGET CHANGE FORM



Date Submitted: 2/23/2024 ✓

Budget Hearing/Meeting Date: 3/26/2024 ✓

- **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds
- **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.
- **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law
- X ✓ **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase
- **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	19961.291 ✓	Budget Name	NonDept – American Rescue Plan Act
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REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
19961.291 ✓	NonDept – ARPA ✓	51420.49.0225 ✓	Unanticipated Services	49,072
Total				49,072 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
19961.291 ✓	NonDept – ARPA ✓	59411.64.5500 ✓	Information Technology Capital	49,072
Total				49,072 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

Reallocation of ARPA funding for the Board room technology project; additional 2023 invoice not received until 2024.

County Official Approval: _____

(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

[Handwritten signature]

MAR 04 2024

CLALLAM COUNTY BUDGET CHANGE FORM



Date Submitted: 3/1/2024

Budget Hearing/Meeting Date: 3/26/2024 ✓

- **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds
- **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.
- **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law
- X ✓ **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase
- **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	00100.871 ✓	Budget Name	District Court 1 ✓
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REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.871. ✓	District Court 1 ✓	51240.10.0600	Extra Help	\$2000 ✓
Total				2,000 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.871. ✓	District Court 1 ✓	51240.10.0010 ✓	Regular Time	\$1,500
00100.871 ✓	District Court 1 ✓	51240.20.0020 ✓	Benefits	\$500
Total				\$2000 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

To fund the unbudgeted promotion of a Clerk I employee to a Court Clerk II position beginning March 2024, this revision is needed to shift \$2,000 of budget funding from DC1's extra help to salaries and benefits

County Official Approval: David H Newport
(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

CLALLAM COUNTY BUDGET CHANGE FORM

RECEIVED
CLALLAM CO. FINANCE

MAR 04 2024



Date Submitted: 3-1-24

Budget Hearing/Meeting Date: 3-26-24 ✓

- **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds
- **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.
- **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law
- x ✓ **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase
- **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	00100.931 ✓	Budget Name	WSU Extension ✓
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REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.931 ✓	WSU Extension ✓	55360.31.0020 ✓	Operating Supplies	4,701 ✓
00100.931 ✓	WSU Extension ✓	55360.41.0020 ✓	Professional Services	91,740 ✓
00100.931 ✓	WSU Extension ✓	57121.41.0020 ✓	Professional Services	2,660
Total				99,101 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.931 ✓	WSU Extension ✓	57121.41.0015 ✓	WSU Contract- Chairman	3,592
00100.931 ✓	WSU Extension ✓	57121.41.0018 ✓	WSU Contract- 4H Youth Agent	10,150
00100.931 ✓	WSU Extension ✓	57121.41.0043 ✓	WSU Contract- Community Health Agent	10,750
00100.931 ✓	WSU Extension ✓	57121.41.0046 ✓	WSU Contract-Animal Agriculture Agent	13,750
00100.931 ✓	WSU Extension ✓	57121.41.0048 ✓	WSU Contract- Master Gardener	60,859
Total				99,101 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

Reallocation of funding to cover 2023 expenditures paid in 2024, and reallocating budget for actual expenses.

County Official Approval: Clea Rome

(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

[Signature]

22



AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

MAR 11 2024

Department: BOCC

WORK SESSION ☒ Meeting Date: 3/11/24

REGULAR AGENDA ☒ Meeting Date: 3/12/24

Required originals approved and attached? ☐
Will be provided on:

Item summary:

- | | | |
|---|--|--|
| ☐ Call for Hearing | ☐ Contract/Agreement/MOU - Contract # | |
| ☐ Resolution | ☐ Proclamation | ☐ Budget Item |
| ☐ Draft Ordinance | ☐ Final Ordinance | ☒ Other - Notice |

Documents exempt from public disclosure attached: ☐

Executive summary:

Board of Clallam County Commissioner will consider adopting by Resolution the attached supplemental appropriations on March 26, 2024.

Supplemental appropriations – increased expenditures due to unanticipated federal, state, and local funds.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐
See attached form(s).

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
Approve the attached notice of supplemental appropriations.

County Official signature & print name: Loni Gores Loni Gores, Clerk

Name of Employee/Stakeholder attending meeting: Board of Commissioners

Relevant Departments: All Departments

- * Work Session Meeting - Submit 1 single sided/not stapled copy
** Regular Meeting – Submit 1 single sided/not stapled copy and originals (1 or 3 copies)

Budget Supplementals 3-12-24
Revised: 3-04-2019

Questions? Call Loni Gores, Clerk of the Board, ext 2256



NOTICE OF SUPPLEMENTAL APPROPRIATIONS BUDGET MEETING

Notice is hereby given Clallam County will consider by Resolution of the Board, the supplemental budget appropriations in the following funds pursuant to RCW 36.40.100, at 10 a.m. on March 26, 2024 in the Commissioners' Meeting Room (160) of the Clallam County Courthouse.

HHS Operations –

- The Washington State Department of Health Consolidated Contract is adding additional WIC funding. This funding will be used to support the budgeted costs of the WIC program/\$34,113
- Additional funding is received from FPHS Communications to be used for the installation of a new electronic sign at the 3rd Street building location/\$50,000

HHS – Developmental Disabilities – The DSHS Developmental Disabilities state contract is adding additional revenue for administration. This funding will be used for supplies and furnishings. Purchases will include replacing and older desk that is being shared by two individuals to be better able to accommodate two employees, bookshelves, additional secure locking file storage, and replenish program supplies/\$25,152

Sheriff – Operations – WASPC has awarded the Sheriff's Office with \$44,865 to pay for the initial contract payment of our Axon Body Worn Camera implementation. This will reimburse the first year of contract coverage providing equipment, digital storage, licenses, and maintenance. County Risk covered this cost, so this reimbursement will allow the Sheriff's Office to repay Risk's investment in this program/\$44,865

Copies of the budget change forms may be viewed at the office of the Board of Clallam County Commissioners from 8 a.m. to 4:30 p.m., Monday through Friday.

BOARD OF CLALLAM COUNTY COMMISSIONERS

Date: March 12, 2024

Mike French, Chair

Publish: March 16 and 23, 2024

Bill: Commissioners

c: Budget Director
Treasurer
Department(s)

CLALLAM COUNTY BUDGET CHANGE FORM

RECEIVED
CLALLAM CO. FINANCE

FEB 22 2024



Date Submitted: 2/22/23 ✓

Budget Hearing/Meeting Date: 3/26/24 ✓

- ☒ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds
- ☐ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.
- ☐ **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law
- ☐ **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase
- ☐ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	11301.511 ✓	Budget Name	HHS Operations ✓
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REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
11301.511 ✓	HHS Operations ✓	33310.55.0010 ✓	WIC	34,113
Total				34,113 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBERxxxxx.xx.xx xx	ACCOUNT DESCRIPTION	AMOUNT
11301.511 ✓	HHS Operations ✓	50800.00.0000 ✓	Ending Fund Balance	34,113
Total				34,113 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

The Washington State Department of Health Consolidated Contract is adding additional WIC funding. This funding will be used to support the budgeted costs of the WIC program.

County Official Approval: _____
(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

Handwritten signature and initials.

17

CLALLAM COUNTY BUDGET CHANGE FORM



Date Submitted: 3/04/2024

Budget Hearing/Meeting Date: 03/26/24 ✓

- ☒ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds
- ☐ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.
- ☐ **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law
- ☐ **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase
- ☐ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	11301.511 ✓	Budget Name	HHS Operations ✓
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REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
11301.511 ✓	HHS Operations ✓	34620.00.0214 ✓	Interfund: FPHS Administration	50,000
Total				50,000 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
11301.511 ✓	HHS Operations ✓	59462.63.0010- 0100	Other Improvements	50,000
Total				50,000 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

Additional funding is received from FPHS Communications funding to be used for the installation of a new electronic sign at the 3rd street building location.

County Official Approval: _____
(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

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FEB 22 2024

CLALLAM COUNTY BUDGET CHANGE FORM



Date Submitted: 2/22/23 ✓

Budget Hearing/Meeting Date: 3/26/24 ✓

- ☒ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds
- ☐ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.
- ☐ **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law
- ☐ **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase
- ☐ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	11331.511 ✓	Budget Name	HHS – Developmental Disabilities ✓
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REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
11331.511 ✓	HHS – Developmental Disabilities ✓	33404.68.1554	state DSHS Grant Administration	25,152
Total				25,152 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
11331.511 ✓	HHS – Developmental Disabilities ✓	59468.64.0065 ✓	Furnishings	10,000
11331.511 ✓	HHS – Developmental Disabilities ✓	56810.31.0010 ✓	Office Supplies	5,000
11331.511 ✓	HHS – Developmental Disabilities ✓	50800.00.0000 ✓	Ending Fund Balance	10,152
Total				25,152 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

The DSHS Developmental Disabilities state contract is adding additional revenue for administration. This funding will be used for , supplies and furnishings. Purchases will include replacing an older desk that is being shared by two individuals to be better able to accommodate two employees, bookshelves, additional secure locking file storage, and replenish program supplies.

County Official Approval: _____
(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

18

FEB 23 2024



CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 2/23/24 ✓

Budget Hearing/Meeting Date: 3/26/24 ✓

- ☒ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds
- ☐ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.
- ☐ **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law
- ☐ **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase
- ☐ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	00100.811 ✓	Budget Name	Sheriff – Operations ✓
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REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.811 ✓	Sheriff – Operations ✓	36991.00.0010 ✓	Other Miscellaneous <i>Revenue</i>	44,865
Total				44,865 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.811 ✓	Sheriff – Operations ✓	52122.48.0155 ✓	<i>Saas -</i> Software as Service	44,865
Total				44,865 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

WASPC has awarded the Sheriff's Office with \$44,865 to pay for the initial contract payment of our Axon Body Worn Camera implementation. This will reimburse the first year of contract coverage providing equipment, digital storage, licenses, and maintenance. County Risk covered this cost, so this reimbursement will allow the Sheriff's Office to repay Risk's investment in this program.

County Official Approval: *Burke*
(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

[Signature]
20



AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

MAR 11 2024

Department: BOCC

WORK SESSION ☒ Meeting Date: 3/11/24

REGULAR AGENDA ☒ Meeting Date: 3/12/24

Required originals approved and attached? ☐
Will be provided on:

Item summary:

- | | | |
|---|--|--|
| ☐ Call for Hearing | ☐ Contract/Agreement/MOU - Contract # | |
| ☐ Resolution | ☐ Proclamation | ☐ Budget Item |
| ☐ Draft Ordinance | ☐ Final Ordinance | ☒ Other - Notice |

Documents exempt from public disclosure attached: ☐

Executive summary:

Board of Clallam County Commissioner will consider adopting by Resolution the attached debatable emergencies on March 26, 2024

Debatable emergency – Public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐
See attached forms.

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
Approve the attached notice of debatable emergencies.

County Official signature & print name: Loni Gores Loni Gores

Name of Employee/Stakeholder attending meeting: Board of Commissioners

Relevant Departments: All Departments

* Work Session Meeting - Submit 1 single sided/not stapled copy
** Regular Meeting – Submit 1 single sided/not stapled copy and originals (1 or 3 copies)



BUDGET RESOLUTION _____, 2024

CALL FOR HEARING FOR DEBATABLE EMERGENCIES IN THE FUNDS LISTED BELOW

THE BOARD OF CLALLAM COUNTY COMMISSIONERS finds as follows:

1. Pursuant to RCW 36.40.140, the following facts constitute a public emergency that could not reasonably have been foreseen at the time of making the budget:

NonDept – Indigent Defense – Additional funding is needed to cover two conflict attorney contracts. One for District Court, the other for Juvenile Offender. These new contracts were not yet in progress when the 2024 Budget was adopted/\$29,723

NOW, THEREFORE, BE IT RESOLVED by the Board of Clallam County Commissioners, in consideration of the above findings of fact:

1. A public hearing on the debatable emergencies listed above will be held March 26, 2024 at 10:30 a.m. in Room 160 of the Clallam County Courthouse.
2. A copy of the budget change forms may be viewed at the office of the Board of Clallam County Commissioners from 8 a.m. to 4:30 p.m., Monday through Friday.

PASSED AND ADOPTED this 12th day of March 2024

BOARD OF CLALLAM COUNTY COMMISSIONERS

Mike French, Chair

Randy Johnson

Mark Ozias

ATTEST:

Loni Gores, MMC, Clerk of the Board

Publish: March 16 and 23, 2024
Bill: Commissioners

c: Budget Director
Treasurer
Department(s)

CLALLAM COUNTY BUDGET CHANGE FORM



Date Submitted: 2/21/2024 ✓

Budget Hearing/Meeting Date: 3/26/2024 ✓

- **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds
- X ✓ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.
- **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law
- **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase
- **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	00100.831 ✓	Budget Name	NonDept – Indigent Defense ✓
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REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.293 ✓	General Fund Reserves ✓	50800.00.0000 ✓	Ending Fund Balance	29,723
Total				29,723 ✓

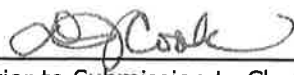
EXPENDITURES

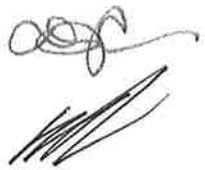
BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.831 ✓	NonDept – Indigent Defense ✓	51240.41.0065 ✓	Court Appointed Attorney	24,000
00100.831 ✓	NonDept – Indigent Defense ✓	51591.41.0142 ✓	Juvenile Offender	5,723
Total				29,723 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

Additional funding is needed to cover two conflict attorney contracts. One for District Court, the other for Juvenile Offender. These new contracts were not yet in progress when the 2024 Budget was adopted.

County Official Approval: 
(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)





15
MAR 11 2024
24

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

Department: BOCC

WORK SESSION ☒ Meeting Date: 3/11/2024

REGULAR AGENDA ☒ Meeting Date: 3/12/2024

Required originals approved and attached? ☐
Will be provided on:

Item summary:

- | | | |
|---|--|---|
| ☐ Call for Hearing | ☒ Contract/Agreement/MOU - Contract # 245.24.006 | |
| ☐ Resolution | ☐ Proclamation | ☐ Budget Item |
| ☐ Draft Ordinance | ☐ Final Ordinance | ☒ Other |

Documents exempt from public disclosure attached: ☐

Executive summary:

Clallam County has been awarded the **Secure Federal Funding Initiative** grant from the **Washington State Department of Commerce**. The grant is designed to assist Washington entities to apply for the large federal grant available through the Inflation Reduction Act, the CHIPS and Science Act and the Infrastructure and Jobs Act.

Clallam County and the North Olympic Peninsula Recompete Coalition (NOPRC) has been selected as a Finalist to compete in the Phase 2 application process. Phase 2 application deadline is April 25, 2024. This additional funding will help us put our best foot forward in the application process.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☒

Budget changes are attached. Revenue and Expenditures increase \$500,000 each for this year.

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)

Please approve grant submission.

County Official signature & print name: Todd Mielke 

Name of Employee/Stakeholder attending meeting: Angi Klahn

Relevant Departments: BOCC

Date submitted: 3/6/2024

* Work Session Meeting - Submit 1 single sided/not stapled copy

** Regular Meeting - Submit 1 single sided/not stapled copy and originals (1 or 3 copies)

Agenda Item Summary - SFFI Grant 3.11.2024
Revised: 3-04-2019

Questions? Call Loni Gores, Clerk of the Board, ext 2256



Grant Agreement with

Clallam County

through

Office of Economic Development & Competitiveness

Grant Number:
Please enter Grant Number

For

SFFI funding will be used to support the economic research, grant writing, and capacity expansion for underserved areas to participate in application.

Dated: Upon Execution

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Face Sheet

Grant Number: <Insert Number>

Office of Economic Development & Competitiveness Securing Federal Funding Initiative

1. Grantee Clallam County 223 E 4 th Street, Suite 4 Port Angeles, WA 98362		2. Grantee Doing Business As (as applicable) N/A	
3. Grantee Representative Angi Klahn BOCC Analyst 360-417-2235 Angi.klahn@clallamcountywa.gov		4. COMMERCE Representative Josh Woodson Industry Sector Development Manager 2001 6 th Ave, Suite 2600 Seattle, WA 98101 (360) 522-0429 Josh.woodson@commerce.wa.gov	
5. Grant Amount \$500,000	6. Funding Source Federal: ☐ State: ☒ Other: ☐ N/A: ☐		7. Start Date Upon Execution
8. End Date June 30, 2024			
9. Federal Funds (as applicable) N/A		Federal Agency: N/A ALN N/A	
10. Tax ID # 91-6001298	11. SWV # SWV0000200-16	12. UBI # 054-004-559	13. UEI # N/A
14. Grant Purpose SFFI funding will be used to support the economic research, grant writing, and capacity expansion for underserved areas to participate in application.			
COMMERCE, defined as the Department of Commerce, and the Grantee, as defined above, acknowledge and accept the terms of this Grant and attachments and have executed this Grant on the date below to start as of the date and year referenced above. The rights and obligations of both parties to this Grant are governed by this Grant and the following other documents incorporated by reference: Grant Terms and Conditions including Attachment "A" – Scope of Work, Attachment "B" – Budget			
FOR GRANTEE _____ Mike French, Chair of the Board, Clallam County Commissioner _____ Signature _____ Date		FOR COMMERCE _____ Chris Green, Assistant Director _____ Date APPROVED AS TO FORM ONLY BY ASSISTANT ATTORNEY GENERAL APPROVAL ON FILE	

Special Terms and Conditions

1. GRANT MANAGEMENT

The Representative for each of the parties shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Grant.

The Representative for COMMERCE and their contact information are identified on the Face Sheet of this Grant.

The Representative for the Grantee and their contact information are identified on the Face Sheet of this Grant.

2. ACKNOWLEDGEMENT OF CLIMATE COMMITMENT ACT FUNDING

If this Agreement is funded in whole or in part by the Climate Commitment Act, Grantee agrees that any website, announcement, press release, and/or publication (written, visual, or sound) used for media-related activities, publicity, and public outreach issued by or on behalf of Grantee which reference programs or projects funded in whole or in part with Washington's Climate Commitment Act (CCA) funds under this Grant, shall contain the following statement:

"The [PROGRAM NAME / GRANT / ETC.] is supported with funding from Washington's Climate Commitment Act. The CCA supports Washington's climate action efforts by putting cap-and-invest dollars to work reducing climate pollution, creating jobs, and improving public health. Information about the CCA is available at www.climate.wa.gov."

The Grantee agrees to ensure coordinated Climate Commitment Act branding on work completed by or on behalf of the Grantee. The CCA logo must be used in the following circumstances, consistent with the branding guidelines posted at [CCA brand toolkit](#), including:

- A. Any project related website or webpage that includes logos from other funding partners;
- B. Any publication materials that include logos from other funding partners;
- C. Any on-site signage including pre-during Construction signage and permanent signage at completed project sites; and
- D. Any equipment purchased with CAA funding through a generally visible decal.

3. COMPENSATION

COMMERCE shall pay an amount not to exceed \$500,000 for the performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Work. Grantee's compensation for services rendered shall be based on the terms of the Scope of Work and Budget.

4. BILLING PROCEDURES AND PAYMENT

COMMERCE will pay Grantee upon acceptance of services provided and receipt of properly completed invoices, which shall be submitted to the Representative for COMMERCE not more often than monthly nor less than quarterly.

The invoices shall describe and document, to COMMERCE's satisfaction, a description of the work performed, the progress of the project, and fees. The invoice shall include the Grant Number .

If expenses are invoiced, provide a detailed breakdown of each type. A receipt must accompany any single expenses in the amount of \$50.00 or more in order to receive reimbursement.

Payment shall be considered timely if made by COMMERCE within thirty (30) calendar days after receipt of properly completed invoices. Payment shall be sent to the address designated by the Grantee.

COMMERCE may, in its sole discretion, terminate the Grant or withhold payments claimed by the Grantee for services rendered if the Grantee fails to satisfactorily comply with any term or condition

of this Grant.

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by COMMERCE.

Invoices and End of Fiscal Year

Invoices are due on the 20th of the month following the provision of services.

Final invoices for a state fiscal year may be due sooner than the 20th and Commerce will provide notification of the end of fiscal year due date.

The Grantee must invoice for all expenses from the beginning of the Grant through June 30, regardless of the Grant start and end date.

Duplication of Billed Costs

The Grantee shall not bill COMMERCE for services performed under this Agreement, and COMMERCE shall not pay the Grantee, if the Grantee is entitled to payment or has been or will be paid by any other source, including grants, for that service.

Disallowed Costs

The Grantee is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subgrantees.

COMMERCE may, in its sole discretion, withhold ten percent (10%) from each payment until acceptance by COMMERCE of the final report (or completion of the project, etc.).

5. SUBGRANTEE DATA COLLECTION

Grantee will submit reports, in a form and format to be provided by Commerce and at intervals as agreed by the parties, regarding work under this Grant performed by subgrantees and the portion of Grant funds expended for work performed by subgrantees, including but not necessarily limited to minority-owned, woman-owned, and veteran-owned business subgrantees. "Subgrantees" shall mean subgrantees of any tier.

6. INSURANCE

The Grantee shall provide insurance coverage as set out in this section. The intent of the required insurance is to protect the state should there be any claims, suits, actions, costs, damages or expenses arising from any loss, or negligent or intentional act or omission of the Grantee or Subgrantee, or agents of either, while performing under the terms of this Grant. Failure to maintain the required insurance coverage may result in termination of this Grant.

The insurance required shall be issued by an insurance company authorized to do business within the state of Washington. Except for Professional Liability or Errors and Omissions Insurance, the insurance shall name the state of Washington, its agents, officers, and employees as additional insureds under the insurance policy. All policies shall be primary to any other valid and collectable insurance. The Grantee shall provide COMMERCE thirty (30) calendar days' advance notice of any insurance cancellation, non-renewal or modification.

The Grantee shall submit to COMMERCE within fifteen (15) calendar days of the Grant start date OR a written request by COMMERCE, a certificate of insurance which outlines the coverage and limits defined in this insurance section. During the term of the Grant, if required or requested, the Grantee shall submit renewal certificates not less than thirty (30) calendar days prior to expiration of each policy required under this section.

Change being sent

The Grantee shall provide, at COMMERCE's request, copies of insurance instruments or certifications from the insurance issuing agency. The copies or certifications shall show the insurance coverage, the designated beneficiary, who is covered, the amounts, the period of coverage, and that COMMERCE will be provided thirty (30) days' advance written notice of cancellation.

The Grantee shall provide insurance coverage that shall be maintained in full force and effect during the term of this Grant, as follows:

Commercial General Liability Insurance Policy. Provide a Commercial General Liability Insurance Policy, including contractual liability, written on an occurrence basis, in adequate quantity to protect against legal liability arising out of Grant activity but no less than \$1,000,000 per occurrence. Additionally, the Grantee is responsible for ensuring that any Subgrantees provide adequate insurance coverage for the activities arising out of subgrants.

Cyber Liability Insurance: The Contractor shall maintain Cyber Liability Insurance. The Contractor shall maintain minimum limits of no less than \$1,000,000 per occurrence to cover all activities by the Contractor and licensed staff employed or under contract to the Contractor. The state of Washington, its agents, officers, and employees need not be named as additional insureds under this policy.

Automobile Liability. In the event that performance pursuant to this Grant involves the use of vehicles, owned or operated by the Grantee or its Subgrantee, automobile liability insurance shall be required. The minimum limit for automobile liability is \$1,000,000 per occurrence, using a Combined Single Limit for bodily injury and property damage.

Professional Liability, Errors and Omissions Insurance. The Grantee shall maintain Professional Liability or Errors and Omissions Insurance. The Grantee shall maintain minimum limits of no less than \$1,000,000 per occurrence to cover all activities by the Grantee and licensed staff employed or under Grant to the Grantee. The state of Washington, its agents, officers, and employees need not be named as additional insureds under this policy.

Fidelity Insurance. Every officer, director, employee, or agent who is authorized to act on behalf of the Grantee for the purpose of receiving or depositing funds into program accounts or issuing financial documents, checks, or other instruments of payment for program costs shall be insured to provide protection against loss:

- A. The amount of fidelity coverage secured pursuant to this Grant shall be \$100,000 or the highest of planned reimbursement for the Grant period, whichever is lowest. Fidelity insurance secured pursuant to this paragraph shall name COMMERCE as beneficiary.
- B. Subgrantees that receive \$10,000 or more per year in funding through this Grant shall secure fidelity insurance as noted above. Fidelity insurance secured by Subgrantees pursuant to this paragraph shall name the Grantee as beneficiary.

7. FRAUD AND OTHER LOSS REPORTING

Grantee shall report in writing all known or suspected fraud or other loss of any funds or other property furnished under this Contract immediately or as soon as practicable to the Commerce Representative identified on the Face Sheet.

8. ORDER OF PRECEDENCE

In the event of an inconsistency in this Grant, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable federal and state of Washington statutes and regulations
- Special Terms and Conditions
- General Terms and Conditions
- Attachment A – Scope of Work

- Attachment B – Budget

General Terms and Conditions

1. DEFINITIONS

As used throughout this Grant, the following terms shall have the meaning set forth below:

- A. "Authorized Representative" shall mean the Director and/or the designee authorized in writing to act on the Director's behalf.
- B. "COMMERCE" shall mean the Washington Department of Commerce.
- C. "Grant" or "Agreement" or "Contract" means the entire written agreement between COMMERCE and the Grantee, including any Exhibits, documents, or materials incorporated by reference. E-mail or Facsimile transmission of a signed copy of this Grant shall be the same as delivery of an original.
- D. "Grantee" or "Contractor" shall mean the entity identified on the face sheet performing service(s) under this Grant, and shall include all employees and agents of the Grantee.
- E. "Personal Information" shall mean information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers, and "Protected Health Information" under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).
- F. "State" shall mean the state of Washington.
- G. "Subgrantee/subcontractor" shall mean one not in the employment of the Grantee, who is performing all or part of those services under this Grant under a separate Grant with the Grantee. The terms "subgrantee" and "subcontractor" mean subgrantee/subcontractor(s) in any tier.
- H. "Subrecipient" shall mean a non-federal entity that expends federal awards received from a pass-through entity to carry out a federal program, but does not include an individual that is a beneficiary of such a program. It also excludes vendors that receive federal funds in exchange for goods and/or services in the course of normal trade or commerce.
- I. "Vendor" is an entity that agrees to provide the amount and kind of services requested by COMMERCE; provides services under the grant only to those beneficiaries individually determined to be eligible by COMMERCE and, provides services on a fee-for-service or per-unit basis with contractual penalties if the entity fails to meet program performance standards.

2. ACCESS TO DATA

In compliance with RCW 39.26.180, the Grantee shall provide access to data generated under this Grant to COMMERCE, the Joint Legislative Audit and Review Committee, and the Office of the State Auditor at no additional cost. This includes access to all information that supports the findings, conclusions, and recommendations of the Grantee's reports, including computer models and the methodology for those models.

3. ADVANCE PAYMENTS PROHIBITED

No payments in advance of or in anticipation of goods or services to be provided under this Grant shall be made by COMMERCE.

4. ALL WRITINGS CONTAINED HEREIN

This Grant contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Grant shall be deemed to exist or to bind any of the parties hereto.

5. AMENDMENTS

This Grant may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

6. AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, also referred to as the "ADA" 28 CFR Part 35

The Grantee must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

7. ASSIGNMENT

Neither this Grant, nor any claim arising under this Grant, shall be transferred or assigned by the Grantee without prior written consent of COMMERCE.

8. ATTORNEYS' FEES

Unless expressly permitted under another provision of the Grant, in the event of litigation or other action brought to enforce Grant terms, each party agrees to bear its own attorneys' fees and costs.

9. CONFIDENTIALITY/SAFEGUARDING OF INFORMATION

A. "Confidential Information" as used in this section includes:

- i. All material provided to the Grantee by COMMERCE that is designated as "confidential" by COMMERCE;
- ii. All material produced by the Grantee that is designated as "confidential" by COMMERCE; and
- iii. All Personal Information in the possession of the Grantee that may not be disclosed under state or federal law.

B. The Grantee shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The Grantee shall use Confidential Information solely for the purposes of this Grant and shall not use, share, transfer, sell or disclose any Confidential Information to any third party except with the prior written consent of COMMERCE or as may be required by law. The Grantee shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale or disclosure of Confidential Information or violation of any state or federal laws related thereto. Upon request, the Grantee shall provide COMMERCE with its policies and procedures on confidentiality. COMMERCE may require changes to such policies and procedures as they apply to this Grant whenever COMMERCE reasonably determines that changes are necessary to prevent unauthorized disclosures. The Grantee shall make the changes within the time period specified by COMMERCE. Upon request, the Grantee shall immediately return to COMMERCE any Confidential Information that COMMERCE reasonably determines has not been adequately protected by the Grantee against unauthorized disclosure.

C. Unauthorized Use or Disclosure. The Grantee shall notify COMMERCE within five (5) working days of any unauthorized use or disclosure of any confidential information, and shall take necessary steps to mitigate the harmful effects of such use or disclosure.

10. CONFLICT OF INTEREST

Grantee must maintain and comply with written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. Grantee must comply with the following minimum requirements:

- A.** No employee, officer, or agent may participate in the selection, award, or administration of a contract if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the Grantee may neither solicit nor accept gratuities, favors, or anything of monetary value from Grantees or parties to subcontracts and must comply with RCW 39.26.020. However, Grantee may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the Grantee.
- B.** If the Grantee has a parent, affiliate, or subsidiary organization that is not a state, local government, or federally recognized tribe, the Grantee must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the Grantee is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

11. COPYRIGHT

Unless otherwise provided, all Materials produced under this Grant shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by COMMERCE. COMMERCE shall be considered the author of such Materials. In the event the Materials are not considered "works for hire" under the U.S. Copyright laws, the Grantee hereby irrevocably assigns all right, title, and interest in all Materials, including all intellectual property rights, moral rights, and rights of publicity to COMMERCE effective from the moment of creation of such Materials.

"Materials" means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. "Ownership" includes the right to copyright, patent, register and the ability to transfer these rights.

For Materials that are delivered under the Grant, but that incorporate pre-existing materials not produced under the Grant, the Grantee hereby grants to COMMERCE a nonexclusive, royalty-free, irrevocable license (with rights to sublicense to others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Grantee warrants and represents that the Grantee has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to COMMERCE.

The Grantee shall exert all reasonable effort to advise COMMERCE, at the time of delivery of Materials furnished under this Grant, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Grant. The Grantee shall provide COMMERCE with prompt written notice of each notice or claim of infringement received by the Grantee with respect to any Materials delivered under this Grant. COMMERCE shall have the right to modify or remove any restrictive markings placed upon the Materials by the Grantee.

12. DISPUTES

Except as otherwise provided in this Grant, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing with the Director of COMMERCE, who may designate a neutral person to decide the dispute.

The request for a dispute hearing must:

- be in writing;
- state the disputed issues;
- state the relative positions of the parties;
- state the Grantee's name, address, and Grant number; and
- be mailed to the Director and the other party's (respondent's) Grant Representative within three (3) working days after the parties agree that they cannot resolve the dispute.

The respondent shall send a written answer to the requestor's statement to both the Director or the Director's designee and the requestor within five (5) working days.

The Director or designee shall review the written statements and reply in writing to both parties within ten (10) working days. The Director or designee may extend this period if necessary by notifying the parties.

The decision shall not be admissible in any succeeding judicial or quasi-judicial proceeding.

The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

Nothing in this Grant shall be construed to limit the parties' choice of a mutually acceptable alternate dispute resolution (ADR) method in addition to the dispute hearing procedure outlined above.

13. DUPLICATE PAYMENT

COMMERCE shall not pay the Grantee, if the Grantee has charged or will charge the State of Washington or any other party under any other Grant or agreement, for the same services or expenses.

14. GOVERNING LAW AND VENUE

This Grant shall be construed and interpreted in accordance with the laws of the state of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

15. INDEMNIFICATION

To the fullest extent permitted by law, the Grantee shall indemnify, defend, and hold harmless the state of Washington, COMMERCE, agencies of the state and all officials, agents and employees of the state, from and against all claims for injuries or death arising out of or resulting from the performance of the Grant. "Claim" as used in this Grant, means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorney's fees, attributable for bodily injury, sickness, disease, or death, or injury to or the destruction of tangible property including loss of use resulting therefrom.

The Grantee's obligation to indemnify, defend, and hold harmless includes any claim by Grantee's agents, employees, representatives, or any subgrantee or its employees.

The Grantee's obligation shall not include such claims that may be caused by the sole negligence of the State and its agencies, officials, agents, and employees. If the claims or damages are caused by or result from the concurrent negligence of (a) the State, its agents or employees and (b) the Grantee, its subcontractors, agents, or employees, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Grantee or its subgrantees, agents, or employees.

The Grantee waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless the state and its agencies, officers, agents or employees.

16. INDEPENDENT CAPACITY OF THE GRANTEE

The parties intend that an independent Grantee relationship will be created by this Grant. The Grantee and its employees or agents performing under this Grant are not employees or agents of the state of Washington or COMMERCE. The Grantee will not hold itself out as or claim to be an officer or employee of COMMERCE or of the state of Washington by reason hereof, nor will the Grantee make any claim of right, privilege or benefit which would accrue to such officer or employee under law. Conduct and control of the work will be solely with the Grantee.

17. INDUSTRIAL INSURANCE COVERAGE

The Grantee shall comply with all applicable provisions of Title 51 RCW, Industrial Insurance. If the Grantee fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, COMMERCE may collect from the Grantee the full amount payable to the Industrial Insurance Accident Fund. COMMERCE may deduct the amount owed by the Grantee to the accident fund from the amount payable to the Grantee by COMMERCE under this Grant, and transmit the deducted amount to the Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the Grantee.

18. LAWS

The Grantee shall comply with all applicable laws, ordinances, codes, regulations and policies of local, state, and federal governments, as now or hereafter amended.

19. LICENSING, ACCREDITATION AND REGISTRATION

The Grantee shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements or standards necessary for the performance of this Grant.

20. LIMITATION OF AUTHORITY

Only the Authorized Representative or the Authorized Representative's delegate by writing (delegation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Grant. Furthermore, any alteration, amendment, modification, or waiver of any clause or condition of this Grant is not effective or binding unless made in writing and signed by the Authorized Representative.

21. NONDISCRIMINATION

A. Nondiscrimination Requirement. During the performance of this Agreement, the GRANTEE, including any subcontractor, shall comply with all federal, state, and local nondiscrimination laws, regulations and policies, this shall include but not be limited to the following: GRANTEE, including any subcontractor, shall not discriminate on the bases enumerated at RCW 49.60.530(3). In addition, GRANTEE, including any subcontractor, shall give written notice of this nondiscrimination requirement to any labor organizations with which GRANTEE, or subcontractor, has a collective bargaining or other agreement.

The funds provided under this Agreement shall not be used to fund religious worship, exercise, or instruction. No person shall be required to participate in any religious worship, exercise, or instruction in order to have access to the facilities funded by this Agreement.

B. Obligation to Cooperate. GRANTEE, including any subcontractor, shall cooperate and comply with any Washington state agency investigation regarding any allegation that GRANTEE, including any subcontractor, has engaged in discrimination prohibited by this Agreement pursuant to RCW 49.60.530(3).

C. Default. Notwithstanding any provision to the contrary, COMMERCE may suspend GRANTEE, including any subcontractor, upon notice of a failure to participate and cooperate with any state agency investigation into alleged discrimination prohibited by this Contract, pursuant to RCW 49.60.530(3). Any such suspension will remain in place until COMMERCE receives notification that GRANTEE, including any subcontractor, is cooperating with the investigating state agency. In the event GRANTEE, or subcontractor, is determined to have engaged in discrimination identified at RCW 49.60.530(3), COMMERCE may terminate this Agreement in whole or in part, and GRANTEE, subcontractor, or both, may be referred for debarment as provided in RCW 39.26.200. GRANTEE or subcontractor may be given a reasonable time in which to cure this noncompliance, including implementing conditions consistent with any court-ordered injunctive relief or settlement agreement.

D. Remedies for Breach. Notwithstanding any provision to the contrary, in the event of Agreement termination or suspension for engaging in discrimination, GRANTEE, subcontractor, or both, shall be liable for contract damages as authorized by law including, but not limited to, any cost difference between the original Grant and the replacement or cover Grant and all administrative costs directly related to the replacement Grant, e.g., cost of the competitive bidding, mailing, advertising and staff time, which damages are distinct from any penalties imposed under Chapter 49.60, RCW. GRANTEE may also be required to repay grant funds pursuant to Section 25 (Recapture) of the General Terms & Conditions if the Agreement is terminated based on a violation of the nondiscrimination requirement. COMMERCE shall have the right to deduct from any monies due to GRANTEE or subcontractor, or that thereafter become due, an amount for damages GRANTEE or subcontractor will owe COMMERCE for default under this provision.

22. PAY EQUITY

The Grantee agrees to ensure that "similarly employed" individuals in its workforce are compensated as equals, consistent with the following:

- A.** Employees are "similarly employed" if the individuals work for the same employer, the performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed;
- B.** Grantee may allow differentials in compensation for its workers if the differentials are based in good faith and on any of the following:
 - i.** A seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide job-related factor or factors; or a bona fide regional difference in compensation levels.
 - ii.** A bona fide job-related factor or factors may include, but not be limited to, education, training, or experience that is: Consistent with business necessity; not based on or derived from a gender-based differential; and accounts for the entire differential.
 - iii.** A bona fide regional difference in compensation level must be: Consistent with business necessity; not based on or derived from a gender-based differential; and account for the entire differential.

This Grant may be terminated by the Department, if the Department or the Department of Enterprise Services determines that the Grantee is not in compliance with this provision.

23. POLITICAL ACTIVITIES

Political activity of Grantee's employees and officers are limited by the State Campaign Finances and Lobbying provisions of Chapter 42.17A RCW and the Federal Hatch Act, 5 USC 1501 - 1508.

No funds may be used for working for or against ballot measures or for or against the candidacy of any person for public office.

24. PUBLICITY

The Grantee agrees not to publish or use any advertising or publicity materials in which the state of Washington or COMMERCE's name is mentioned, or language used from which the connection with the state of Washington's or COMMERCE's name may reasonably be inferred or implied, without the prior written consent of COMMERCE.

25. RECAPTURE

In the event that the Grantee fails to perform this Grant in accordance with state laws, federal laws, and/or the provisions of this Grant, COMMERCE reserves the right to recapture funds in an amount

to compensate COMMERCE for the noncompliance in addition to any other remedies available at law or in equity.

Repayment by the Grantee of funds under this recapture provision shall occur within the time period specified by COMMERCE. In the alternative, COMMERCE may recapture such funds from payments due under this Grant.

26. RECORDS MAINTENANCE

The Grantee shall maintain books, records, documents, data and other evidence relating to this Grant and performance of the services described herein, including but not limited to accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Grant.

The Grantee shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the Grant, shall be subject at all reasonable times to inspection, review or audit by COMMERCE, personnel duly authorized by COMMERCE, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

27. REGISTRATION WITH DEPARTMENT OF REVENUE

If required by law, the Grantee shall complete registration with the Washington State Department of Revenue.

28. RIGHT OF INSPECTION

The Grantee shall provide right of access to its facilities to COMMERCE, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Grant.

29. SAVINGS

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Grant and prior to normal completion, COMMERCE may suspend or terminate the Grant under the "Termination for Convenience" clause, without the ten calendar day notice requirement. In lieu of termination, the Grant may be amended to reflect the new funding limitations and conditions.

30. SEVERABILITY

The provisions of this Grant are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Grant.

31. SITE SECURITY

While on COMMERCE premises, Grantee, its agents, employees, or subgrantees shall conform in all respects with physical, fire or other security policies or regulations.

32. SUBGRANTING/SUBCONTRACTING

The Grantee may only subgrant/subcontract work contemplated under this Grant if it obtains the prior written approval of COMMERCE.

If COMMERCE approves subgranting/subcontracting, the Grantee shall maintain written procedures related to subgranting, as well as copies of all subgrants/subcontract and records related to subgrants/subcontracts. For cause, COMMERCE in writing may: (a) require the Grantee to amend its subgranting/subcontracting procedures as they relate to this Grant; (b) prohibit the Grantee from

subgranting/subcontracting with a particular person or entity; or (c) require the Grantee to rescind or amend a subgrant/subcontract.

Every subgrant/subcontract shall bind the Subgrantee/Subcontractor to follow all applicable terms of this Grant. The Grantee is responsible to COMMERCE if the Subgrantee/Subcontractor fails to comply with any applicable term or condition of this Grant. The Grantee shall appropriately monitor the activities of the Subgrantee/Subcontractor to assure fiscal conditions of this Grant. In no event shall the existence of a subgrant/subcontract operate to release or reduce the liability of the Grantee to COMMERCE for any breach in the performance of the Grantee's duties.

Every subgrant/subcontract shall include a term that COMMERCE and the State of Washington are not liable for claims or damages arising from a Subgrantee/Subcontractor's performance of the subgrant/subcontract.

33. SURVIVAL

The terms, conditions, and warranties contained in this Grant that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Grant shall so survive.

34. TAXES

All payments accrued on account of payroll taxes, unemployment contributions, the Grantee's income or gross receipts, any other taxes, insurance or expenses for the Grantee or its staff shall be the sole responsibility of the Grantee.

35. TERMINATION FOR CAUSE

In the event COMMERCE determines the Grantee has failed to comply with the conditions of this Grant in a timely manner, COMMERCE has the right to suspend or terminate this Grant. Before suspending or terminating the Grant, COMMERCE shall notify the Grantee in writing of the need to take corrective action. If corrective action is not taken within 30 calendar days, the Grant may be terminated or suspended.

In the event of termination or suspension, the Grantee shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original Grant and the replacement or cover Grant and all administrative costs directly related to the replacement Grant, e.g., cost of the competitive bidding, mailing, advertising and staff time.

COMMERCE reserves the right to suspend all or part of the Grant, withhold further payments, or prohibit the Grantee from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the Grantee or a decision by COMMERCE to terminate the Grant. A termination shall be deemed a "Termination for Convenience" if it is determined that the Grantee: (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence.

The rights and remedies of COMMERCE provided in this Grant are not exclusive and are, in addition to any other rights and remedies, provided by law.

36. TERMINATION FOR CONVENIENCE

Except as otherwise provided in this Grant, COMMERCE may, by ten (10) business days' written notice, beginning on the second day after the mailing, terminate this Grant, in whole or in part. If this Grant is so terminated, COMMERCE shall be liable only for payment required under the terms of this Grant for services rendered or goods delivered prior to the effective date of termination.

37. TERMINATION PROCEDURES

Upon termination of this Grant, COMMERCE, in addition to any other rights provided in this Grant, may require the Grantee to deliver to COMMERCE any property specifically produced or acquired for the performance of such part of this Grant as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

COMMERCE shall pay to the Grantee the agreed upon price, if separately stated, for completed work and services accepted by COMMERCE, and the amount agreed upon by the Grantee and COMMERCE for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, (iii) other property or services that are accepted by COMMERCE, and (iv) the protection and preservation of property, unless the termination is for default, in which case the Authorized Representative shall determine the extent of the liability of COMMERCE. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this Grant. COMMERCE may withhold from any amounts due the Grantee such sum as the Authorized Representative determines to be necessary to protect COMMERCE against potential loss or liability.

The rights and remedies of COMMERCE provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Grant.

After receipt of a notice of termination, and except as otherwise directed by the Authorized Representative, the Grantee shall:

- A. Stop work under the Grant on the date, and to the extent specified, in the notice;
- B. Place no further orders or subgrants/subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the Grant that is not terminated;
- C. Assign to COMMERCE, in the manner, at the times, and to the extent directed by the Authorized Representative, all of the rights, title, and interest of the Grantee under the orders and subgrants/subcontracts so terminated, in which case COMMERCE has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subgrants/subcontracts;
- D. Settle all outstanding liabilities and all claims arising out of such termination of orders and subgrants/subcontracts, with the approval or ratification of the Authorized Representative to the extent the Authorized Representative may require, which approval or ratification shall be final for all the purposes of this clause;
- E. Transfer title to COMMERCE and deliver in the manner, at the times, and to the extent directed by the Authorized Representative any property which, if the Grant had been completed, would have been required to be furnished to COMMERCE;
- F. Complete performance of such part of the work as shall not have been terminated by the Authorized Representative; and
- G. Take such action as may be necessary, or as the Authorized Representative may direct, for the protection and preservation of the property related to this Grant, which is in the possession of the Grantee and in which COMMERCE has or may acquire an interest.

38. TREATMENT OF ASSETS

Title to all property furnished by COMMERCE shall remain in COMMERCE. Title to all property furnished by the Grantee, for the cost of which the Grantee is entitled to be reimbursed as a direct item of cost under this Grant, shall pass to and vest in COMMERCE upon delivery of such property by the Grantee. Title to other property, the cost of which is reimbursable to the Grantee under this Grant, shall pass to and vest in COMMERCE upon (i) issuance for use of such property in the performance of this Grant, or (ii) commencement of use of such property in the performance of this Grant, or (iii) reimbursement of the cost thereof by COMMERCE in whole or in part, whichever first occurs.

- A. Any property of COMMERCE furnished to the Grantee shall, unless otherwise provided herein or approved by COMMERCE, be used only for the performance of this Grant.
- B. The Grantee shall be responsible for any loss or damage to property of COMMERCE that results from the negligence of the Grantee or which results from the failure on the part of the

Grantee to maintain and administer that property in accordance with sound management practices.

- C. If any COMMERCE property is lost, destroyed or damaged, the Grantee shall immediately notify COMMERCE and shall take all reasonable steps to protect the property from further damage.
- D. The Grantee shall surrender to COMMERCE all property of COMMERCE prior to settlement upon completion, termination or cancellation of this Grant.
- E. All reference to the Grantee under this clause shall also include Grantee's employees, agents or Subgrantees/Subcontractors.

39. WAIVER

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Grant unless stated to be such in writing and signed by Authorized Representative of COMMERCE.

Attachment A: Scope of Work

Project Description:

Clallam County as Lead Applicant for the North Olympic Peninsula Recompete Coalition (NOPRC) has been selected as a finalist for the EDA Distressed Area Recompete Pilot Program. Our Phase II application will be due April 25, 2024. The SFFI funding will be used to support the economic research, grant writing, and capacity expansion for our underserved areas to participate in our application.

Research Including – Prime Age Employment Gap from WSU, DSHS and ESD.

Economic Impact Reports – ADU

Barge Economic Feasibility Analysis

Purchase of IMPLAN Software Subscription for Economic Studies

Professional Grant Writing & Technical Services

Technical Services for Capacity Building for Underserved Areas

Project Activities/Deliverables:

Progress Reports should be delivered every month with other coinciding deliverables. Progress reports should detail any updates on current work around the following:

- Research projects
- Grant planning process
- Grant application development
- Capacity building technical services. Outline groups technical services are provided to.

Final Report will be delivered on June 30, 2024. Final report should provide an in-depth wrap-up of the activities within the contract period.

Goal 1: Due March 31, 2024

Initiate Research Projects, Development & Grant Planning-Progress Report 1

- Provide research project outlines and plans.

Goal 2: April 30, 2024

Research, Development & Grant Writing, Application – Progress Report 2

- Provide completed application copy for Recompete Pilot Program

Goal 3: May 31, 2024

Updates from Research – Progress Report 3

Goal 4: June 30, 2024

Research Wrap-up – Final Progress Report

Attachment B: Budget

Total Award: \$500,000

This will be a deliverables based contract, *not* a line item reimbursement.

Please outline the budget below:

Date	Cost
March 31, 2024	\$ 250,000.00
April 30, 2024	\$ 125,000.00
May 31, 2024	\$ 75,000.00
June 30, 2024	\$ 50,000.00

Special Budget Provisions:

- A. The total amount of transfers of funds between line item invoice amounts within the categories shall not exceed ten (10) percent of the total contract. If the cumulative amount of these transfers exceeds or is expected to exceed ten (10) percent, the total budget shall be subject to justification and negotiation of a CONTRACT amendment by the CONTRACTOR and COMMERCE.
- B. A sum of no more than ten (10) percent of funds may be withheld until activities and final products defined in Attachment A – Scope of Work have been successfully completed by the CONTRACTOR and accepted fully by COMMERCE.

Budget Hearing/Meeting Date: 4/30/2024

- X ✓ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds
- **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.
- **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law
- **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase
- **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	00100.245 ✓	Budget Name	BOCC – Recompete Grant ✓
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BUDGET NUMBER XXXXX.XXX.	DEPT NAME	BARS NUMBER XXXXX.XX.XXXX	ACCOUNT DESCRIPTION	AMOUNT
00100.245 ✓	BOCC – Recompete Grant ✓	33404.20.6025 ✓	DOC - SFFI	500,000
Total				500,000

BUDGET NUMBER XXXXX.XXX.	DEPT NAME	BARS NUMBER XXXXX.XX.XXXX	ACCOUNT DESCRIPTION	AMOUNT
00100.245 ✓	BOCC – Recompete Grant	51420.41.0127 ✓	Contract Services	500,000
Total				500,000

REASON FOR BUDGET ACTION:

New Recompete Securing Federal Funding Initiative grant in the amount of \$500,000. SFFI funding will be used to support the economic research, grant writing, and capacity expansion for underserved areas to participate in application.

County Official Approval: 
(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)





AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

16
MAR 11 2024

2d

Department: BOCC

WORK SESSION ☒ Meeting Date: March 11, 2024

REGULAR AGENDA ☒ Meeting Date: March 12, 2024

Required originals approved and attached? ☐
Will be provided on:

Item summary:

- | | | |
|---|--|--------------------------------------|
| ☐ Call for Hearing | ☒ Contract/Agreement/MOU - Contract # 245.24.007 | |
| ☐ Resolution | ☐ Proclamation | ☐ Budget Item |
| ☐ Draft Ordinance | ☐ Final Ordinance | ☐ Other |

Documents exempt from public disclosure attached: ☐

Executive summary:

Request Approval of Strategy Development Grant award contract by US Department of Commerce/Economic Development Administration (EDA) – SUBAWARD to North Olympic Development Council (NODC).

Clallam County, as the Lead Applicant for North Olympic Peninsula Reconnect Coalition (NOPRC) applied for the Distressed Area Reconnect Pilot Program (Reconnect) Phase 1 approval and the Strategy Development Grant in October 2023.

December 2023, NOPRC and Clallam County were announced as a Finalist for the Reconnect Program and invited to compete in Phase 2 of the grant. Our Phase 1 plan was 1 of 22 selected from 235 nationwide applications, the largest applicant response to an EDA grant ever.

We were also awarded 1 of 24 Strategy Development Grants (SDG), from 339 applicants, to help our coalition with the further development of our Phase 2 projects. The SDG grant is for \$498,729. These funds are to cover the following activities:

- (1) PAEG Research - Hiring consultant Washington State University (WSU) to perform needed research on the PAEG population using data from Employment Security Dept (ESD) and Dept of Social & Health Services (DSHS);
- (2) Barrier Assessment & Development – Convene and coordinate multiple social services agencies to inventory resources available and barriers they deem need to be addressed. Develop guidance for how to effectively create navigator services to reduce barriers. Develop an PAEG outreach program;
- (3) Development of Workforce Training Program – Convene Tribal and Non-Tribal representatives from education and industry to prioritize training opportunities that meet

* Work Session Meeting - Submit 1 single sided/not stapled copy

** Regular Meeting – Submit 1 single sided/not stapled copy and originals (1 or 3 copies)

business demand. Conduct a study of proposed programs focused on analyzing type of jobs that projects create and whether these Good Jobs are appropriately accessible to people in the PAEG;

- (4) Economic Impact & Feasibility Analyst – Conduct economic analysis and feasibility studies including the direct, indirect and induced job growth associated with project in NOPRC's Recompete Plan;
- (5) Zoning Efforts – Update the Glen Cove Special Study from 1999 including Environmental Impact Statement. Planning work will include public outreach; and
- (6) Hiring Recompete Plan Coordinator ("RPC") and staffing – Recruit RPC to facilitate the coordination of Phase 2 grant application process for NOPRC. Funding will cover salary for RPC and support staff.

NODC will be providing the Prime Age Employment Gap (PAEG) barrier research need in Item #2 to develop our Recompete Plan's program to support PAEG's to overcome the barriers to employment and assist them into job training and other wrap-around services needed. They will be working with multiple trusted community members to assist them with outreach to targeted geographic/demographic communities.

It has taken a long time to receive our contract from EDA and the timeline to complete this task requires this contract to moving forward right away and therefore we are bringing this forward in back-to-back meetings.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐

No budget modification is needed. This item was budgeted previously.

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)

Staff recommendation is to approval of Subaward to NODC.

County Official signature & print name: Todd Mielke



Names of Relevant Departments/Employees/Stakeholders attending meeting:

Angi Klahn, Karen Affeld-NODC

Date submitted: March 6, 2024

* Work Session Meeting - Submit 1 single sided/not stapled copy

** Regular Meeting – Submit 1 single sided/not stapled copy and originals (1 or 3 copies)

RECOMPETE – STRATEGY DEVELOPMENT GRANT SUBRECIPIENT AGREEMENT

This Subrecipient Agreement (“Agreement”) is dated as of the _____ day of _____, 2024, by and between Clallam County, a Washington political subdivision ("County"), and North Olympic Development Council (Federal Tax ID 91-2157738, UEI # NFA4ZAMCDVY8), the Regional Economic Development District (“EDD”) for both Clallam and Jefferson Counties ("Subrecipient").

WHEREAS, the Economic Development Administration (“EDA”), U.S. Department of Commerce (“DOC”) has allocated to the County \$498,729.00 of federal grant funding from the Distressed Area Recompete Pilot Program (“Recompete”) Phase 1 Strategy Development Grant (“SDG”) as part of the authorized by the CHIPS and Science Act under ALN No. 11.040 (“SDG”) under Section 29 of the Stevenson-Wydler Technology Innovation Act of 1980 as amended (15 U.S.C. & 3722b) effective June 29, 2023. FAIN #ED24OIE0G0085, identified as Attachment A, Attachments A attached hereto and incorporated herein by this reference.

WHEREAS, the County as Lead Applicant for the North Olympic Peninsula Recompete Coalition (“NOPRC”) has been applied for Phase 1 Recompete Plan Approval. EDA has selected NOPRC as one of 22 finalists from Phase 1 to compete in the Phase 2 application for Recompete Plan implementation funding. Funding if awarded would invest up to \$50 million into the two-county region of Clallam and Jefferson County.

WHEREAS, the EDA authorizes the County to expend SDG Funds awarded to the County to assist in the planning and development of NOPRC’s Phase 2 application. The eligible expenditures purposed as outlined in the Scope of Work are as follows:

- (1) Prime Age Employment Gap (“PAEG”) Research - Hiring consultant Washington State University (WSU) to perform needed research on the PAEG population using data from Employment Security Dept (ESD) and Dept of Social & Health Services (DSHS);
- (2) Barrier Assessment & Development – Convene and coordinate multiple social services agencies to inventory resources available and barriers they deem need to be addressed. Develop guidance for how to effectively create navigator services to reduce barriers. Develop an PAEG outreach program;
- (3) Development of Workforce Training Program – Convene Tribal and Non-Tribal representatives from education and industry to prioritize training opportunities that meet business demand. Conduct a study of proposed programs focused on analyzing type of jobs that projects create and whether these Good Jobs are appropriately accessible to people in the PAEG;
- (4) Economic Impact & Feasibility Analyst – Conduct economic analysis and feasibility studies including the direct, indirect and induced job growth associated with project in NOPRC’s Recompete Plan;
- (5) Zoning Efforts – Update the Glen Cove Special Study from 1999 including Environmental Impact Statement. Planning work will include public outreach; and

- (6) Hiring Recompete Plan Coordinator (“RPC”) and staffing – Recruit RPC to facilitate the coordination of Phase 2 grant application process for NOPRC. Funding will cover salary for RPC and support staff.

WHEREAS, the Subrecipient, a member of the NOPRC, has been tasked with the research the barriers effecting PAEG in our area for Recompete Plan. The County and Subrecipient desire to enter into this Agreement so that the County may provide SDG Funds for appropriate and qualifying expenditures to the Subrecipient for research in support of NOPRC Phase 2 application and for other reimbursement costs as specified in Attachment B.

NOW, THEREFORE, in consideration of the foregoing recitals which are incorporated herein by reference, and the terms and conditions set forth below, the parties agree as follows:

1. Effective Date and Term. This Agreement shall commence when last executed by all parties and remain in effect until December 31, 2025, unless terminated by the County in writing.
2. SDG Funds. The County agrees to provide the Subrecipient a total sum not to exceed \$25,000 for the PAEG Barrier Research as specified based on eligibility criteria outlined in Attachment A and the Scope of Work provided in Attachment B.
3. Subrecipient’s Use of SDG Funds. The Subrecipient shall ensure that the SDG Funds requests are necessary Eligible Uses under the criteria set forth in Attachment A and described in detail in Attachment B as well as Federal Uniform Guidance.
4. Reimbursement Request & Reporting Requirements. To facilitate the release of SDG Funds by the County to the Subrecipient and the County’s compliance with reporting requirements for usage of SDG funding per Attachment A, the Subrecipient may submit one A-19 equivalent request schedule per month to the County on or before the 10th day following the end of each calendar month during the term of the Agreement, detailing the expenditures disbursed by the Subrecipient based on eligible criteria, outlined in Attachment B. The County shall then distribute SDG Funds, as requested by the Subrecipient. Such schedule may be modified with the prior approval of the County. Failure to provide any of the required documentation may result in the withholding and/or nonpayment of all or a portion of the request, and termination of the Agreement.
5. Termination. The County may terminate this Agreement, for convenience or otherwise and for no consideration or damages, upon prior notice to the Subrecipient.
6. Independent Contractor. Each party under the Agreement shall be for all purposes an Independent Contractor. Nothing contained herein will be deemed to create an association, a partnership, a joint venture, or a relationship of principal and agent, or employer and

employee between the parties. The Subrecipient shall not be, or be deemed to be, or act or purport to act, as an employee, agent, or representative of the County for any purpose.

7. Indemnification. The Subrecipient agrees to defend, indemnify and hold the County, its officers, officials, employees, agents and volunteers harmless from and against any and all claims, injuries, damages, losses or expenses including without limitation personal injury, bodily injury, sickness, disease, or death, or damage to or destruction of property, which are alleged or proven to be caused in whole or in part by an act or omission of the Subrecipient, its officers, directors, employees, and/or agents relating to the Subrecipient's performance or failure to perform under this Agreement. The section shall survive the expiration or termination of this Agreement.
8. Compliance with Laws, Guidelines. The Subrecipient shall comply with all federal, state, and local laws and all requirements (including debarment and other required certifications and audits) of the Uniform Administrative Requirements, Cost Principles and Auditor Requirements for Federal Awards as set forth in 2 C.F.R. part 200 and Attachment A.
9. Maintenance and Audit of Records. The Subrecipient shall maintain records, books, documents, and other materials relevant to its performance under this Agreement. These records shall be subject to inspection, review and audit by the County or its designee, the Washington State Auditor's Office and as required by the Uniform Guidance for five (5) years following termination of this Agreement. If it is determined during the course of the audit that the Subrecipient was reimbursed for unallowable costs under this Agreement, the Subrecipient agrees to promptly reimburse the County for such payments upon request.
10. Notices. Any notice desired or required to be given hereunder shall be in writing, and shall be deemed received three (3) days after deposit with the U.S. Postal Service, postage fully prepaid, certified mail, return receipt requested, and addressed to the party to which it is intended at its last known address, or to such other person or address as either party shall designate to the other from time to time in writing forwarded in like manner:

Subrecipient

North Olympic Development Council (NODC)
Attn: Karen Affeld, Executive Director
PO Box 2526
711 E Front St, Ste B
Port Angeles, WA 98362

Clallam County

Attn: RPC and Angi Klahn, BOCC Analyst
223 E 4th St, Suite 4
Port Angeles, WA 98362-3015

11. Improper Influence. Each party warrants that it did not and will not employ, retain, or contract with any person or entity on a contingent compensation basis for the purpose of

seeking, obtaining, maintaining, or extending this Agreement. Each party agrees, warrants, and represents that no gratuity whatsoever has been or will offered or conferred with a view towards obtaining, maintaining, or extending this Agreement.

12. Conflict of Interest. The elected and appointed officials and employees of the parties shall not have any personal interest, direct or indirect, which gives rise to a conflict of interest.
13. Time. Time is of the essence in this Agreement.
14. Survival. The provisions of this Agreement that by their sense and purpose should survive expiration or termination of the Agreement shall so survive. Those provisions include without limitation Indemnification and Maintenance and Audit of Records.
15. Amendment. No amendment or modification to the Agreement will be effective without the prior written consent of the authorized representatives of the parties.
16. Governing Law; Venue. The Agreement will be governed in all respects by the laws of the Washington State, both as to interpretation and performance, without regard to conflicts of law or choice of law provisions. Any action arising out of or in connection with the Agreement may be instituted and maintained only in a court of competent jurisdiction in Clallam County, Washington or as provided by RCW 36.01.050.
17. Non-Waiver. No failure on the part of the County to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise by the County of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedy available to the County at law or in equity.
18. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors.
19. Assignment. The Subrecipient shall not assign or transfer any of its interests in or obligations under this Agreement without the prior written consent of the County.
20. Entire Agreement. This Agreement constitutes the entire agreement between the County and the Subrecipient for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the parties with respect to this Agreement.
21. No Third Party Beneficiaries. Nothing herein shall or be deemed to create or confer any right, action, or benefit in, to, or on the part of any person or entity that is not a party to this Agreement. This provision shall not limit any obligation which either Party has to Treasury in connection with the use of SDG Funds, including the obligations to provide access to records and cooperate with audits as provided in this Agreement.

22. Severability. In the event that one or more provisions of this Agreement shall be determined to be invalid by any court of competent jurisdiction or agency having jurisdiction thereof, the remainder of the Agreement shall remain in full force and effect and the invalid provisions shall be deemed deleted.
23. Counterparts. This Agreement may be executed in one or more counterparts, any of which shall be deemed an original but all of which together shall constitute one and the same instrument.
24. Authorization. Each party signing below warrants to the other party, that they have the full power and authority to execute this Agreement on behalf of the party for whom they sign.

IN WITNESS WHEREOF, this Agreement is executed and shall become effective as of the last date signed below.

DATED this _____ day of _____, 2024.

SUBRECIPIENT

By: _____

Print Name: Karen Affeld

Its: Executive Director

DATED this _____ day of _____, 2024.

**BOARD OF COUNTY COMMISSIONERS
CLALLAM COUNTY, WASHINGTON**

MIKE FRENCH, Chair

RANDY JOHNSON, Commissioner

MARK OZIAS, Commissioner

ATTEST:

L. Gores, Clerk of the Board

APPROVED AS TO FORM by DPA Boughton

ATTACHMENT A

INTERAGENCY AGREEMENT BETWEEN
EDA AND CLALLAM COUNTY



Department of Commerce
Economic Development Administration

Notice of Award (NoA)
ED24OIE0G0085

RECIPIENT INFORMATION

1. Recipient Name(s)
Clallam County
223 E 4th St, Suite 4 Port Angeles, WA
98362-3000 US
2. Congressional District of Recipient
WA-06
3. Employer Identification Number (EIN)
916001298
4. UEI
JV6JJNELRBS5
5. Recipient POC
Angi Klahn
angi.klahn@clallamcountywa.gov
6. Authorized Official
Todd Mielke
todd.mielke@clallamcountywa.gov

FEDERAL AGENCY CONTACT INFORMATION

7. Grant Specialist
Michael Jones
mjones3@eda.gov
8. Program Officer
Asia King
aking2@eda.gov
9. Grant Officer
Scott Andes
sandes@eda.gov

FEDERAL AWARD INFORMATION

10. Award Number / FAIN
ED24OIE0G0085
11. Award Type
Grant
12. Period of performance Start Date & End Date
02/01/2024 - 01/31/2027
13. Federal Share of Cost
\$498,729
14. Recipient Share of Cost
\$0
15. Total Federal and Recipient Cost
\$498,729
16. Statutory Authority
Distressed Area Recompete Pilot Program (Recompete Pilot Program), as authorized by section 29 of the Stevenson-Wydler Technology Innovation Act of 1980, as amended (15 U.S.C. § 3722b)
17. NOFO/RFA #
EDA-RECOMPETEPHASE1-2023
18. Project Title
North Olympic Peninsula Recompete Plan
19. Assistance Listing Number and Name
11.040 - Distressed Area Recompete Pilot Program
20. Award Action Type
New Competing
21. Multiyear Award?
No
22. R&D Award?
No
23. Construction Award?
No
24. Grants Officer – Signature and Date
- *Scott Andes* 2/12/24
25. Recipient – Signature and Date
-

Approved as to form only by:
Bert Dee Boughton
Bert Dee Boughton
Civil Deputy Prosecuting Attorney
Clallam County

BY ACCEPTING THIS AWARD, THE RECIPIENT IS AFFIRMING THAT IT WILL COMPLY WITH ALL THE TERMS AND CONDITIONS OF THE AWARD. THE AWARD MUST BE ACCEPTED BY THE APPLICANT'S AUTHORIZED OFFICIAL.

RECIPIENT NAME: Clallam County
PROJECT TITLE: North Olympic Peninsula Recompete Plan
AWARD NUMBER: ED24OIE0G0085

This Notice of Award includes the following sections and incorporates all regulations, documents and authorities referenced therein.

- I. BUDGET INFORMATION
- II. STANDARD TERMS AND CONDITIONS
- III. SPECIFIC AWARD CONDITIONS
- IV. OTHER

Should there be a discrepancy among these documents, the Specific Award Conditions, including any references, shall control.

SECTION I – BUDGET INFORMATION

The following is the Authorized Budget for this award. Reference Section III – Specific Award Conditions for conditions related to the Authorized Budget.

Authorized Budget

Estimated Funding (\$)	Proposed	Approved
Federal Share (EDA Amount)	\$ 498,729.00	\$ 498,729.00
Non-Federal Matching Share	\$ 0.00	\$ 0.00
Total Project Costs	\$ 498,729.00	\$ 498,729.00

Non-Construction

Cost Classification	Proposed	Approved
Personnel	\$ 98,537.93	\$ 98,537.93
Fringe Benefit	\$ 34,488.28	\$ 34,488.28
Travel	\$ 2,620.00	\$ 2,620.00
Equipment	\$ 0.00	\$ 0.00
Supplies	\$ 2,800.00	\$ 2,800.00
Contractual	\$ 360,282.79	\$ 360,282.79
Construction	\$ 0.00	\$ 0.00
Other	\$ 0.00	\$ 0.00
Indirect Charges	\$ 0.00	\$ 0.00
Total Project Costs	\$ 498,729.00	\$ 498,729.00

SECTION II – STANDARD TERMS AND CONDITIONS

The following regulations and standard terms and conditions apply to this award:

- ☐ 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements, as Adopted Pursuant to 2 CFR § 1327.101 for Federal Awards
- ☐ Department of Commerce Financial Assistance Standard Terms and Conditions
- ☐ Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements
- ☐ 13 CFR Chapter III Economic Development Administration, Department of Commerce Regulations
- ☐ Other:

SECTION III – SPECIFIC AWARD CONDITIONS

The following Specific Award Conditions apply to this award:
See attached.

SECTION IV – OTHER

ATTACHMENT 1

Authorized Scope of Work

Recipient: Clallam County
Award Number: ED24OIE0G0085
Recompete Pilot Program – Strategy Development Grant

Executive Summary:

North Olympic Peninsula Recompete Coalition (NOPRC) will use the Strategy Development Funding to research the Prime Age Employment Gap (PAEG) in our two underserved and distressed counties to determine the barriers they face preventing their participation in the workforce and how they may be alleviated. The research will guide the design of an innovative and effective navigator and outreach program to bring people in the PAEG back into the workforce. This PAEG study will also tie into research being done through Peninsula College to design programs that meet both the low barrier needs of the PAEG and the current and future workforce training needs of industry employers. NOPRC will use funds to convene Tribal, industry, and workforce training representatives to guide the development of these programs. Funding will also be used to perform economic analysis and feasibility studies for the job creation projects in our Recompete Plan. These studies will seek to determine their direct, indirect, and induced job growth capabilities, their impact on the PAEG populations we are trying to reach with this program, and that jobs created will meet the criteria of “Good Jobs.”

Funding will also support the salary for the Recompete Plan Coordinator (RPC) position and support staff. The RPC will be an integral leadership position to manage, develop, and coordinate the multiple projects within our Recompete Plan.

Summary of Activities:

Activity Title	Short Description of Activity	Output(s) / Deliverable(s)	Responsible Organization(s) / Individual(s)	Approximate Start / End Date
PAEG research	Hiring consultant Washinton State University (WSU) to perform needed research on the PAEG population using data from Employment Security Dept (ESD) and Dept of Social & Health Services (DSHS).	Preliminary Findings Report to be used to design navigator and outreach program for Phase 2 application. Plan for continued monitoring to	Clallam County	2/1/2024 to 6/30/2024

		measure plan progress.		
Barrier Assessment, Development Navigator Program & Outreach	Convene and coordinate multiple social services agencies to inventory resources available and barriers they deem need to be addressed. Develop guidance for how to effectively create navigator services to reduce barriers. Develop an PAEG outreach program.	Comprehensive inventory of programs and resources available to use. Development of navigator program.	Clallam County, EDC Team Jefferson, Jefferson County	2/1/2024 to 6/30/2024
Development of Workforce Training Program	Convene Tribal and Non-Tribal representatives from education and industry to prioritize training opportunities that meet business demand. Conduct a study of proposed programs focused on analyzing types of jobs these projects create and whether these Good Jobs are appropriately accessible to people in the PAEG.	An actionable report to guide higher education institutions (Peninsula College and NW School of Wooden Boatbuilding) to customize their job training programs to support local economic development.	Peninsula College	2/1/2024 to 6/30/2024
Economic Impact & Feasibility Analyst.	Conduct economic analysis and feasibility studies including the direct, indirect, and induced job growth associated with projects in NOPRC's Recompete Plan.	Preliminary Economic Analysis Reports to guide programs to be included in Recompete Plan moving forward. Finalized report to follow on project moving forward.	Clallam County Economic Development Council	2/1/2024 to 5/31/2024
Zoning Efforts	Update the Glen Cove Special Study from 1999 including Environmental	Preliminary Updated Special Study Report for	Jefferson County	2/1/2024 to 6/30/2025

	Impact Statement. Planning work will include public outreach.	Glen Cove UGA boundary adjustment. Documentation of engagement results. Finalized report to follow to inform the Comprehensive Plan Periodic Update.		
Hiring Recompete Plan Coordinator and staffing	Recruit Recompete Plan Coordinator.	Successfully retaining qualified candidate.	Clallam County	2/1/2024 to 12/31/2024
Recompete Plan Development, Coordination and Management	Development overall Recompete Plan and projects, coordinate projects and manage the overall process for NOPRC. Funding will cover salary for RPC and support staff for grant/subaward management.	Strategically developed and coordinated Recompete Plan.	Clallam County	2/1/2024 to 12/31/2024

Lead Applicant Name:	CJallam County
Application ID ("EDA-APP# ..." from EDGE):	EDA-APP#00002863

Authorized Staffing Plan

Staffing Plan - Budget						Year 1	Year 2	Year 3	Checkpoint Does breakdown match your total? (Column G)
Name	Annual Salary/Rate	% of Annual Hours for project	Annual \$ from Award	Number of Years	Total Cost by Employee				
Recomplete Plan Coordinator - TBD	\$110,688	100%	\$110,688	0.75	\$83,016	\$83,016		\$0	\$ 83,016.00
BOCC Lead Analyst	\$84,358	20%	\$16,872	0.92	\$15,522	\$15,522		\$0	\$ 15,521.93
Employee 3	\$0	0%	\$0	0.00	\$0	\$0		\$0	\$ -
Employee 4	\$0	0%	\$0	0.00	\$0	\$0	\$0	\$0	\$ -
Employee 5	\$0	0%	\$0	0.00	\$0	\$0	\$0	\$0	\$ -
Employee 6	\$0	0%	\$0	0.00	\$0	\$0	\$0	\$0	\$ -
Total Personnel Costs					\$0	\$0	\$0	\$0	\$ -
Total Fringe Costs (Please Provide the Basis for Fringe Calculations)					\$98,538	\$ 98,537.93	\$ -	\$ -	\$ 98,537.93
See Attached Schedule A				35.00%	\$34,488	\$ 34,488.28	\$ -	\$ -	\$ -

Staffing Plan - Narrative		
Name	Title	Project Responsibilities
Employee 1 - TBD	Recomplete Plan Coordinator	The Recomplete Plan Coordinator will hold a pivotal role in our organization, tasked with facilitating an inclusive community process, strategically managing government contracts and coordination for the multiple projects being developed under the Recomplete Plan.
Employee 2 - Angi Klahn	BOCC Lead Analyst	Angi has 25+ years of accounting experience. She also has grant management, SEFA preparation, and subaward monitoring experience. She will handle the grant management, monitoring and fiscal responsibilities for the Strategy Development Grant.
Employee 3		
Employee 4		
Employee 5		
Employee 6		

SPECIFIC AWARD CONDITIONS
U.S. DEPARTMENT OF COMMERCE
Economic Development Administration (EDA)

NON-CONSTRUCTION PROJECTS: Distressed Area Recompete Pilot Program under
Section 29 of the Stevenson-Wydler Technology Innovation Act of 1980, as amended, 15 U.S.C.
§ 3722b.

Recipient: Clallam County
Award Number: ED24OIE0G0085
Project Name: North Olympic Peninsula Recompete Plan
Distressed Area Recompete Pilot Program (Recompete): Phase 1 Strategy Development
Grants

1. **SCOPE OF WORK:** This EDA Award supports the work described in the approved final scope of work, which is incorporated by reference into this Award as the *Authorized Scope of Work* (Attachment 1). All work on this project must be consistent with the *Authorized Scope of Work*, unless the Grants Officer has authorized a modification of the scope of work memorialized in writing through execution of an amendment to the Notice of Award.
2. **UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS:** Along with other controlling law, this Award is governed by the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) as set forth in 2 C.F.R. part 200.
3. **PROJECT CONTACT INFORMATION:** The Recipient agrees to notify EDA promptly of any changes to the Recipient's contact information as specified in the Notice of Award.
4. **ADDITIONAL INCLUDED DOCUMENTS (Non-construction):** In addition to the regulations, documents, or authorities incorporated by reference on the Notice of Award, the following additional documents are hereby incorporated by reference into this Award:
 - i. The Recipient's application, including any attachments, Project descriptions, schedules, and subsequently submitted supplemental documentation
 - ii. *Authorized Scope of Work* (Attachment 1)
 - iii. *Authorized Staffing Plan* (Attachment 2)

Should there be a discrepancy among these documents, these Specific Award Conditions shall control.

5. PROJECT DEVELOPMENT TIME SCHEDULE (B2S/STEM): The Recipient agrees to the following Project development time schedule:

- i. Return of executed Notice of Award (NoA) or Amendment due no later than (NLT) 30 calendar days after receipt of NoA/Amendment
- ii. Scheduling of Kick-Off Meeting must occur NLT 30 calendar days after receipt of NoA/Amendment
- iii. Finalization of Work Schedule must occur NLT than the date of the Kick-Off Meeting
- iv. Submission of Final Project Progress Report due NLT 120 calendar days from the Award End Date, i.e., the latest date set forth in the “period of performance” field on the NoA or as later memorialized through an Amendment
- v. Submission of Final Financial Documents (Form SF-425) due NLT 120 calendar days from the Award End Date.

The Recipient shall diligently pursue the development and implementation of the Project upon receipt of the Award so as to ensure completion within this time schedule. Moreover, the Recipient shall promptly notify EDA in writing of any event that could substantially delay meeting any of the milestones or deadlines for the Project as set forth above. The Recipient further acknowledges that failure to meet the development time schedule may result in EDA imposing remedies for noncompliance, including termination of the Award, in accordance with the regulations set forth at 2 C.F.R. §§ 200.339 through 200.343.

6. FINANCIAL DISBURSEMENT INSTRUCTIONS (B2S/STEM): EDA will make Award payments using the Department of the Treasury’s Automated Standard Application for Payments (ASAP) system. The Recipient is required to furnish documentation as required by ASAP including but not limited to Recipient and Requestor Identification Numbers. Complete information concerning the ASAP system may be obtained by visiting www.fms.treas.gov/asap.

In order to receive payments, the Recipient must submit Form SF-270 (Request for Advance or Reimbursement) for the applicable period electronically. The Project Officer will review and process the request.

Prior to the initial disbursement, the Recipient must complete Form SF-3881 (ACH Vendor/Miscellaneous Payment Enrollment Form). The form must be completed by the respective parties (EDA, Recipient’s Bank, and Recipient) at the start of the Award. EDA will provide instructions for submitting the form during the project kick-off meeting.

7. REPORT SCHEDULE: The Recipient agrees to report to EDA on the Project's performance and impacts as summarized as follows:

- i. During the Period of Performance:
 - a. Progress Reports and Financial Status Reports – Semiannually, for the periods ending March 31 and September 30.
 - b. Outputs Questionnaire (Form ED-916) – Semiannually, six months after the date the period of performance begins and every six months thereafter, or as otherwise directed by EDA.
 - c. Outcomes Questionnaire (Form ED-918) -- Annually, one year after the date the period of performance begins and annually thereafter for a total of five years, or as otherwise directed by EDA (note that this obligation may extend beyond award closeout).
- ii. At the Expiration of the Period of Performance but Before Award Closeout: Progress Reports and Financial Status Reports – One time, within 120 calendar days after the Award End Date.
- iii. After Award Closeout: Report on the Outcomes Questionnaire annually, until the end of the fifth year after the date the period of performance begins, or as otherwise directed by EDA.

Timely submission of all above-described reports is a condition of this award. Per 2 CFR § 200.344, the Recipient must submit, no later than 120 calendar days after the end of the period of performance, all financial, performance, and other reports as required by the terms and conditions of the award. If the Recipient fails to submit all required reports to EDA within one year of the period of performance end date, EDA will report the material failure to comply with the OMB-designated integrity and performance system (formerly FAPIIS) and/or pursue other enforcement actions per 2 CFR § 200.339.

8. PROJECT PROGRESS REPORTS: The Recipient agrees to provide the Project Officer with project progress reports, communicating the important activities and accomplishments of the project, on a semi-annual basis for the periods ending March 31 and September 30, or any portion thereof, for the entire project period. Reports are due no later than one month following the end of the semi-annual period.

Progress Reports must be submitted to EDA via EDA's Grants Management Portal in a concise, clear format that outlines the following information in three to six pages:

1. A clear, concise overview of the activities undertaken during the reporting period. For each activity, provide the name of the activity, the dates of the activity, a summary of the activity, and an explanation of outcomes the activity advances (e.g., preparing a competitive Phase 2 application, identifying other funding mechanisms to implement

Recompete strategy, building out a clear plan that increases prime age employment and per capita wages).

2. A description of anticipated activities for the next reporting period.
3. An outline of challenges that currently impact or could impact progress on the Project over the next reporting period and means of mitigating this risk. Please highlight any areas where EDA assistance is needed to support the project (e.g., connections to subject matter experts or other resources, amplifications of activities or impacts).
4. A description of at least one success story from the reporting period.
5. Any other key information that would be helpful to your EDA Project Officer.

9. FINAL PROJECT PROGRESS REPORT (B2S/STEM): The final Progress Report must be submitted to EDA no more than 120 calendar days after the Award End Date and these reports or any part of the information contained therein may be posted on EDA's website, used for promotional materials or policy reviews, or may be otherwise shared. Recipient must clearly identify any information that may constitute a trade secret or may be commercial or financial information that is confidential or privileged in these reports. There is no minimum or maximum page requirement for the **final Progress Report**; however, the final Progress Report should concisely yet completely communicate key Project information as follows:

- a. the specific regional need that the Project was designed to address and progress made during the period of performance and beyond that has mitigated or will mitigate that need and advance economic development;
- b. a high-level overview of the activities undertaken;
- c. details of lessons learned during the period of performance that may be of assistance to EDA or other communities undertaking similar efforts;
- d. the expected and actual economic benefits of the Project at the time that the Report is written; and
- e. any other key information from the period of performance.

10. FINANCIAL REPORTS: Financial Status Reports (SF-425) must be submitted to EDA on a semi-annual basis via EDA's Grants Management Portal for the reporting periods ending March 31 and September 30, or any portion thereof if applicable, for the period of performance set forth in the Notice of Award or as later memorialized through a mutually agreed-upon Amendment to the Award. Form SF-425 (and instructions for completing this form) is available at: <https://www.grants.gov/forms/post-award-reporting-forms.html>. Reports are due no later than 30 calendar days following the end of the reporting period.

11. FINAL FINANCIAL REPORT (Non-construction): A **final** Form SF-425 must be submitted to EDA no more than 120 calendar days after the Authorized Award End Date specified on the Notice of Award (or any subsequently executed Amendment to the Notice of

Award). Final Financial Reports should follow the instructions for submitting mid-term Financial Status Reports, but should also ensure that all fields accurately reflect the total outlays for the entire project period and that all matching funds and program income (if applicable) are fully reported. Determination of the **final grant rate and final balances owed to the government will be determined based on the information on the final Form SF-425, so it is imperative that it be submitted in a timely and accurate manner.**

12. PERFORMANCE MEASURES: The Recipient agrees to provide EDA with:

- (1) Form ED-916 (Outputs Questionnaire) on a semiannual basis, and
- (2) Form ED-918 (Outcomes Questionnaire) on an annual basis.

All Outputs Questionnaires and Outcomes Questionnaires should be submitted via a web-based information collection system to be provided by EDA

Outputs Questionnaires (Form ED-916) must be submitted to EDA on a semi-annual basis during the period of performance or as otherwise directed by EDA. The first Outputs Questionnaire must be submitted to EDA six months after the date the period of performance starts, as set forth in the Notice of Award or as later memorialized through an Amendment. The Outputs Questionnaire must be submitted to EDA every six months thereafter through the end of the Period Performance, or any portion thereof if applicable, or as otherwise directed by EDA.

Outcomes Questionnaires (Form ED-918) must be submitted to EDA on an annual basis for a total of five years after the date the period of performance starts, including after Award closeout. The first Outcomes Questionnaire must be submitted to EDA one year after the date the period of performance starts, as set forth in the Notice of Award or as later memorialized through an Amendment. The Outcomes Questionnaire must be submitted to EDA at the end of every year thereafter for a total of five years, or as otherwise directed by EDA.

Note that EDA may revise or replace the Outputs Questionnaire and/or the Outcomes Questionnaire at any time during or following the period of performance. The Recipient agrees to report on program performance measures and program outcomes in such form and at such intervals as may be prescribed by EDA in compliance with the Government Performance and Results Act (GPRA) of 1993 and the Government Performance and Results Modernization Act of 2010 (collectively, GPRA Reports). Recipient must collect sufficient data and retain sufficient documentation to enable Recipient to submit these required GPRA Reports. **Failure to submit the required GPRA Reports can adversely impact the ability of the Recipient to secure future funding from EDA.** Recipient must retain sufficient data and records to comply with the above reporting requirements at least through the end of the fifth year after the date the period of performance starts, or longer if necessary to comply with the above reporting requirements.

- 13. ALLOWABLE COSTS AND AUTHORIZED BUDGET:** Total allowable costs will be determined after the final financial documents are submitted in accordance with the applicable authorities specified on the Notice of Award, including the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 C.F.R. part 200, and the Authorized Budget. Except as otherwise expressly provided for within these Specific Award Conditions, the federal share of the allowable costs will be based on the Investment Rate for the Award, as established on the Notice of Award or any subsequent Amendment. In the event of an underrun in total allowable costs for this project, the federal share of allowable costs will be determined by the Investment Rate. The federal share of total allowable costs may not exceed the dollar amount specified on the original Award or any subsequent amendments.
- 14. FEDERAL SHARE:** The EDA participation in total eligible project costs will be limited to the lesser of the EDA grant amount or the EDA share of total allowable project costs (as stated on the Notice of Award or the most recent Amendment).
- 15. REFUNDS, INTEREST, OR UNUSED FUNDS:** If the Recipient needs to return money to EDA, it may use one of the following two methods:
- i. The first is the pay.gov website, which allows the Recipient to pay EDA online. The Recipient will have the option to make a one-time payment or to set up an account to make regular payments.
 - ii. The second is paper check conversion. All checks must be made payable to “Department of Commerce, Economic Development Administration” and include the award number and a description of no more than two words identifying the reason for the payment. A copy of the check should be provided to the EDA Project Officer. The check should be mailed to NOAA’s Accounting Office, which processes EDA’s accounting functions, at the following address:
NOAA OCFO
Attn: Finance Office, Travel Dept.
1315 East West Highway, SSMC3
Silver Spring, MD 20910

When funds are remitted to EDA by check, the check will be converted into an electronic funds transfer (EFT) by using the account information on the check to debit the payor’s account electronically. The debit from the payor’s account will usually occur within 24 hours. If the EFT cannot be completed because of insufficient funds, EDA will charge a one-time fee of \$25.00, which will be collected by EFT.

16. ADDITIONAL DOCUMENTATION REQUIRED FOR AWARD COMPLIANCE

(Tech Hubs): Recipient agrees to provide any additional documentation or information required by EDA to confirm compliance of this Award with applicable laws, regulations, and policies and to do so within reasonable deadlines set by EDA. In the event Recipient fails to provide the required documentation in a timely manner, EDA may exercise the remedies provided at 2 C.F.R. §§ 200.339–200.343, up to and including termination.

17. PROJECT AND PROGRAM EVALUATION: As part of the process of validating and monitoring the Award and the performance information provided by the Recipient, and as a general method of evaluating the Award and the Recompete Program, EDA reserves the right to conduct project and program evaluations through site visits and/or survey(s) during or after the period of performance. Such evaluations may be conducted by outside parties associated with EDA or by EDA staff. Recipient agrees to participate in the evaluation by answering the evaluator's questions and furnishing information as requested. Evaluators will maintain the confidentiality of business information as required and appropriate. Recipient agrees to provide data and client management system information to facilitate evaluations. For site visits, EDA will provide the Recipient at least two weeks of notice prior to a visit, unless exigent circumstances warrant otherwise. The site visit may include interviews with Recipient's staff or visits with Project clients.

18. USE OF INFORMATION: EDA reserves the right to use information contained in the Recipient's Application as well as all reports and performance data submitted by the Recipient to undertake an evaluation of the Program. The Recipient agrees to cooperate with such evaluations, including by sharing performance information that they have collected or will collect as part of their grant activities, including performance information for Project clients.

19. PROCUREMENT: The Recipient agrees that all procurement transactions shall be in accordance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 C.F.R. §§ 200.317–200.327. Any noncompetitive procurement requires prior approval from EDA.

20. SUBAWARDS (B2S/STEM/RLF): Certain award activities funded under this Award may be accomplished through a subaward by the Recipient to a Subrecipient. Prior EDA permission is needed to include, add, or change a subrecipient. Prior to the award of any subaward or subrecipient performing any work funded through this Award, the Recipient must provide documentation satisfactory to EDA that the proposed subrecipient(s) and any additional or successor subrecipient(s) are eligible to receive EDA assistance. EDA will provide written notice regarding whether the documentation is satisfactory to EDA. No change may be made to the identity of the subrecipient or the scope of the proposed

subaward without prior EDA approval. Subaward are not permitted without EDA prior approval.

Before a subrecipient undertakes any work to be funded through this Award, the Recipient shall enter into a written subaward agreement with the Subrecipient that meets the requirements of 2 C.F.R. § 200.332(a) and includes a requirement that the subrecipient comply with all of the terms and conditions of this Award, including but not limited to the Standard and Specific Award conditions and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. part 200). EDA may disallow any costs incurred by the subrecipient prior to executing the subaward agreement. The Recipient shall be responsible for monitoring the Subrecipient's performance under the subaward in accordance with the requirements of 2 C.F.R. § 200.332. The Recipient is also responsible for ensuring that any subrecipient of a subaward exceeding \$100,000 executes form CD-511, Certification Regarding Lobbying, and for retaining a copy of the executed certification. As required by form CD-511, subrecipients must report lobbying activities, if any, to the Recipient on Form SF-LLL. The Recipient is responsible for promptly providing EDA with a copy of any Form SF-LLL submitted by a subrecipient.

The Recipient is responsible for reporting the Federal Subaward Reporting System (FSRS) available at www.FSRS.gov on all subawards over \$30,000. Please see the OMB guidance published at 2 C.F.R. part 170, which can be accessed at <https://www.govinfo.gov/content/pkg/CFR-2022-title2-vol1/pdf/CFR-2022-title2-vol1-part170.pdf>. Appendix A of 2 C.F.R. part 170 is incorporated by reference into these Specific Award Condition.

- 21. NONRELOCATION (Non-Construction):** In signing this Award, the Recipient attests that EDA funding is not intended by the Recipient to assist efforts to induce the relocation of existing jobs within the U.S. that are located outside of its jurisdiction to within its jurisdiction in competition with other U.S. jurisdictions for those same jobs. In the event that EDA determines that its assistance was used for such purposes, EDA reserves the right to pursue appropriate enforcement actions in accord with 2 C.F.R. §§ 200.339 through 200.343 and the DOC STCs, including suspension of disbursements and termination of the Award which may include the establishment of a debt requiring the Recipient to reimburse EDA.
- 22. REAFFIRMATION OF APPLICATION:** Recipient acknowledges that Recipient's application for this Award may have been submitted to EDA and signed by Recipient, or by an authorized representative of Recipient, electronically without providing an original "wet" signature. In addition, the Recipient or an authorized representative of Recipient may have accepted the Award electronically, which includes drawing down any funds under this Award. Regardless of who submitted the Application to EDA or the means by which Recipient submitted the Application or accepted the Award, Recipient hereby reaffirms and states that:

- A. All data in the Application were true and correct when the Application was submitted and remain true and correct as of the date of this Award;
 - B. The Application was, as of the date of submission and the date of this Award, duly authorized as required by local law by the governing body of the Recipient; and
 - C. Recipient has read, understood, and will comply with all terms of this Award, including the Assurances and Certifications submitted with, or attached to, the Application and through the System for Award Management (SAM.gov).
- The Recipient agrees to immediately notify the EDA of any material changes to the Application within 30 calendar days of the date the Recipient becomes aware of such changes. For purposes of this provisions, the term "Application" includes all documentation and any information provided to EDA as part of, and in furtherance to, the request for funding, including submissions made in response to information requested by EDA after submission of the initial Application.

23. FREEDOM OF INFORMATION ACT (FOIA): EDA is responsible for meeting its Freedom of Information Act (FOIA) (5 U.S.C. § 552) responsibilities for its records. DOC regulations at 15 C.F.R. part 4 set forth the requirements and procedures that EDA must follow in order to make the requested material, information, and records publicly available. Unless prohibited by law and to the extent required under the FOIA, contents of applications and other information submitted by applicants and recipients may be released in response to a FOIA request. The Recipient should be aware that EDA may make certain application information publicly available. Accordingly, the Recipient should notify EDA if it believes any Application information to be confidential.

24. WASTE, FRAUD AND ABUSE: Consistent with 2 C.F.R. part 200, at EDA's direction, at any time(s) during the estimated useful life of the Project, Recipient's key personnel will take a training on preventing waste, fraud and abuse as provided by the Government. Key personnel include those responsible for managing the Recipient's finances and overseeing any contractors, sub-contractors or sub-grantees (for financial matters and/or general oversight related to this Project). EDA will provide instructions on when and how to take the training. Within 60 days of the date of Award, the Recipient shall provide to the Project Officer all Certificates of Completion for the Waste, Fraud, and Abuse training. In the event there are co-recipients of this Award, the obligations in the Specific Award Condition shall apply to all recipients whether or not designated in this Award as the Lead Recipient.

Further, Recipient will monitor award activities for common fraud schemes (hereinafter "Fraud Schemes"), such as but not limited to:

- false claims for materials and labor,
- bribes related to the acquisition of materials and labor,

- product substitution,
- mismarking or mislabeling on products and materials, and
- time and materials overcharging.

Should Recipient detect any Fraud Schemes or any other suspicious activity, Recipient will contact the EDA staff listed above and the Department of Commerce, Office of Inspector General, as indicated at <https://www.oig.doc.gov/Pages/Contact-Us.aspx>, as soon as possible.

25. USE OF EDA'S RECOMPETE LOGO: EDA has developed a logo for EDA programming under the Distressed Area Recompete Pilot Program ("Recompete Logo"). Recipient may use the Recompete Logo pursuant to the below terms and conditions for the following limited purposes:

- Press releases, social media posts, and websites that build awareness of this Award (note that some advertising and marketing activities are not allowable costs under federal awards as provided at 2 CFR 200.421); and
- Work products and deliverables developed under this Award (e.g., tools, publications, resource guides, brochures, PowerPoint presentations, technical assistance materials).
- Recipient may not use the Recompete Logo for other purposes, including lobbying or issue advocacy, endorsing a product or organization, or communications to elected officials or federal agencies. Recipient may not use the Recompete Logo in a negative or defamatory manner. Recipient must request and obtain EDA permission prior to certain uses of the Recompete Logo (see paragraph B, below).

A. Grant of License: EDA hereby grants to Recipient a non-exclusive, royalty-free right to use the Recompete Logo for the limited purposes described above (the "License"). Recipient agrees that: (1) the Recompete Logo will not be used in a way that would suggest that it is the property of Recipient or any other third party, and (2) Recipient will include the following notice in conjunction with its use of the Recompete Logo, as appropriate: "The Recompete Logo is a trademark of the Economic Development Administration, used with permission." This License does not grant Recipient the right to use any seal, emblem, logo, or other symbol of the U.S. Department of Commerce or EDA that is not the Recompete Logo.

B. Required Approvals for Certain Uses of the Recompete Logo: Before Recipient uses the Recompete Logo for press releases and related materials, Recipient shall send a sample of each print, product, design, or other work to show the proposed use to the EDA Recompete Public Affairs Specialist (whose contact information may be obtained from the Project Officer for this Award). Recipient shall not use the Recompete Logo for the above uses until receiving written approval (including via email) from EDA of the proposed use.

- C. Quality Control: EDA shall have the right, at all reasonable times, to inspect Recipient's goods, services, and promotional activities employing the Recompete Logo to ensure that such use is of proper quality and otherwise consistent with this License.
- D. Duration and Termination: The License shall terminate on the Award End Date. Recipient may request a renewal of the License for an additional term subject to the express written consent of EDA. Such consent shall be in the form of a properly executed agreement signed by authorized signatories of EDA and Recipient. Upon termination of the License, all rights of Recipient to use the Recompete Logo shall immediately terminate. EDA may terminate the License unilaterally and without cause at any time, including if EDA determines that Recipient's use of the Recompete Logo is inconsistent with the License.
- E. Validity and Ownership of Recompete Logo: Recipient acknowledges and agrees that EDA is the owner of all right, title, and interest in the Recompete Logo, and all such right, title, interest, and ownership shall remain with EDA. Recipient further acknowledges that Recipient shall not acquire any right, title, interest, or ownership in the Recompete Logo by virtue of the License or use other than the license granted hereunder and disclaims any such right, title, interest, or ownership. Recipient is prohibited from interfering with EDA's rights in the Recompete Logo, including challenging EDA's use, registration of, or application to register the Recompete Logo alone or in combination with other words or designs, as a U.S. or foreign trademark anywhere in the world. Recipient is further prohibited from attempting to register the Recompete Logo, any derivatives thereof, or any confusingly similar mark, whether or not registered by EDA, alone or in combination with other words or designs, as a U.S. or foreign trademark or as a part of a domain name.
- F. Assignments and Sub-Licenses: The License is not assignable, and any attempt by Recipient to assign any portion of the License shall be deemed a breach of the License and will result in immediate termination of the License. Recipient may subcontract, thereby engaging in a limited sublicensing arrangement as applicable, for manufacturing and distribution activities under the License; Recipient shall provide notice to EDA—and must receive prior approval from EDA—of any such subcontract prior to manufacturing and distribution activities.
- G. Governing Law: The License shall be interpreted and implemented in accordance with the Federal common law as interpreted by the U.S. District Court for the District of Columbia, without giving effect to any conflict of law principle that would result in the application of the substantive law of another jurisdiction.
- H. Indemnification: Recipient agrees to indemnify and hold EDA harmless from any and all claims, damages, and attorneys' fees arising from the use of the Recompete Logo by the Recipient and its operations, except to the extent that any such claims, damages, or attorneys' fees arose in connection with any act or failure to act by the U.S. Department of Commerce or any agency, department, or subdivision thereof.

- I. Obtaining the Recompete Logo: For an electronic version of the Recompete Logo, Recipient should contact the EDA Recompete Public Affairs Specialist (whose contact information may be obtained from the Project Officer for this Award).

- 26. STAFFING CHANGES:** The Authorized Staffing Plan sets forth Recipient staff primarily responsible for administering this Award. In the event of a change in the professional staff positions primarily funded with the EDA grant, Recipient shall provide the name of the individual selected to fill the position to the Project Officer and a copy of their resume within 30 business days of the selection.
- 27. CONFLICT OF INTEREST:** The Recipient must maintain a written and enforced conflict of interest policy. The policy should at a minimum address actual or potential personal (e.g., employees, agents, members of their immediate family) or organizational conflicts of interest in the performance or administration of the Award. Conflicts of interest may include, but are not limited to, any past, present or planned contractual, financial, or other relationships, obligations, commitments or responsibilities, which may bias the Recipient or affect the Recipient's ability to perform or administer the Award in an impartial and objective manner. The policy must include standards of conduct covering conflicts of interest and governing actions of Recipient employees engaged in the selection, award, or administration of contracts in accordance with 2 C.F.R. § 200.318(c). The Recipient shall ensure that all subrecipients and contractors under the Award: (1) have their own conflict of interest policy in place that meets the requirements of this Specific Award Condition; or (2) adopt the Recipient's conflict of interest policy. The Recipient's policy should provide procedures to disclose, mitigate, and resolve any such conflicts of interest. In accordance with 2 C.F.R. § 200.112, the Recipient must disclose in writing any potential or actual conflict of interest to EDA in a timely manner. EDA will evaluate the disclosure and inform the Recipient of any required remedial action beyond what the Recipient may have already implemented. Failure to comply with this condition, or the Recipient's own conflict of interest policy, may result in appropriate enforcement action pursuant to 2 C.F.R. §§ 200.339 through 200.343 and the DOC STCs, which are incorporated under the Award.

Fraud Awareness Training



U.S. ECONOMIC DEVELOPMENT ADMINISTRATION

EDA's grantees must successfully complete this training and submit the signed completion certificate(s) to the EDA Project Officer listed in the Specific Award Conditions within 60 days of grant award.

Failure to comply with this requirement may result in a finding of non-compliance with the terms and conditions of your award.



OVERVIEW



- Overview of EDA's Programs
- The Department of Commerce (DOC)
Office of Inspector General (OIG)
- Fraud in EDA Programs
- Additional Items
- Certificate

INTRODUCTION



Role of EDA: Facilitate the timely and effective delivery of Federal economic development assistance to support long-term community economic recovery planning and project implementation, redevelopment, and resiliency

INTRODUCTION



EDA's Programs

- EDA's Programs enable EDA to make awards that support a wide range of activities.
- Eligible applicants and project types for each program is set forth in the respective Notices of Funding Opportunity.
- You must read and understand the requirements applicable to the program under which your award is funded, including the applicable Notice of Funding Opportunity, Specific Award Conditions, and Standard Terms and Conditions.



The U.S. Department of Commerce (DOC) Office of Inspector General (OIG)

DOC – OFFICE OF INSPECTOR GENERAL



- Created by IG Act of 1978 to:
 - Combat fraud, waste, and abuse within the DOC
 - Conduct audits and investigations of DOC operations
 - Keep the DOC and Congress informed
- Mission
 - To improve the programs and operations of the Department of Commerce through independent and objective oversight

This includes oversight of EDA Assistance Programs

DOC – OFFICE OF INSPECTOR GENERAL



- Office of Audit and Evaluation
- Office of Investigations
 - Criminal
 - Civil
 - Administrative
 - Employee misconduct
 - Public corruption

WHISTLEBLOWER PROTECTIONS



Federal employees, applicants, and employees of federal contractors **and grantees** who make certain disclosures—to OIG or elsewhere—are protected under the law from suffering retaliation because of those disclosures.

Basic elements of whistleblower protection law: (1) you make a protected disclosure; (2) you are subject to certain retaliatory acts; and (3) there is a causal connection between your protected disclosure and the retaliatory act.

OIG receives, reviews, and where appropriate, investigates allegations of whistleblower reprisal.

Whistleblower complaints may be submitted to the OIG via the hotline:
<https://www.oig.doc.gov/Pages/Hotline.aspx#complainthotline>

Whistleblower complaints may also be submitted to the Office of Special Counsel via their website: <https://osc.gov/pages/file-complaint.aspx>

DOC-OIG Whistleblower Protection Coordinator contact information:

Email: wpo@oig.doc.gov

Phone: 202-482-1099

FRAUD IN EDA ASSISTANCE PROGRAMS



- **Fraud Defined**
- **Compliance Requirements**
 - Eligibility
 - Duplicate Funding
 - Matching Funds
 - Mandatory Reporting of Fraud
- **Consequences of Fraud**
- **Recommendations/Best Practices**

FRAUD IN EDA ASSISTANCE PROGRAMS



Although it can take many forms, fraud, at its core, is **deception** through the **misrepresentation** or **omission of material facts** for the purpose of **illegitimate gain**.

FRAUD IN EDA ASSISTANCE PROGRAMS



Examples of fraud within EDA Assistance Programs include, but are not limited to:

- Accepting federal funding in multiple assistance awards for the same work
- Misrepresentations regarding the eligibility of the project or recipient
- Misrepresentations or omissions about the recipient's facilities, ownership/control, or the work to be performed by the recipient
- Providing falsified letters of support
- Misrepresentations concerning the use of funds expended, work performed, results achieved, or compliance with program requirements under the award
- Inflated labor costs

FRAUD IN EDA ASSISTANCE PROGRAMS (CONTINUED)



- Misuse or conversion of assistance award funds (e.g. using funds for personal expenses)
- Theft of government owned property (18 U.S.C. § 666)
- Embezzlement (18 U.S.C. § 666)
- Fabrication or falsification of data, in applying for, carrying out, or reporting results from an assistance award
- Intentional noncompliance with applicable federal cost principles governing grants / cooperative agreements
- Undisclosed self-dealing, such as a sub-award to an entity in which an awardee, executive, or key employee (or family members of the aforementioned individuals) has a financial interest
- “Buying Expenses”, or reporting expenses incurred by another entity for work unrelated to the assistance award

COMPLIANCE REQUIREMENTS



RECIPIENTS MUST COMPLY WITH:

- 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- Department of Commerce Financial Assistance Standard Terms and Conditions
- EDA Standard Award Conditions for Construction Projects **or** EDA Revolving Loan Fund Standard Award Conditions (as applicable)
- Specific Award Conditions (unique to each award)

COMPLIANCE REQUIREMENTS



2 CFR § 200.339 – REMEDIES FOR NONCOMPLIANCE

If a non-Federal entity fails to comply with **the U.S. Constitution, Federal statutes, regulations or the terms and conditions of a Federal award**, the Federal awarding agency or pass-through entity may impose additional conditions; or, in certain circumstances, the Federal awarding agency or pass-through entity may take one or more of the following actions, as appropriate in the circumstances:

- Temporary withholding of cash payments pending correction of the deficiency by the non-Federal entity or more severe enforcement action by the Federal awarding agency or pass-through entity
- Disallowance of (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance
- Whole or partial suspension or termination of the Federal award
- Initiation of suspension or debarment proceedings (or in the case of a pass-through entity, recommend such a proceeding be initiated by a Federal awarding agency)
- Withholding of further Federal awards for the project or program
- Other remedies that may be legally available

COMPLIANCE REQUIREMENTS



Eligibility

Within their EDA Assistance Award Proposal, applicants make numerous certifications or recertifications as to their eligibility to receive a federal award, among other certifications.

Falsely certifying to any material fact or representation contained in a certification is fraud.

CASE EXAMPLE



Eligibility

Allegations Included:

- Nonprofit organization made false and misleading statements to obtain federal grant funding
- Failure to disclose conflicts of interest that were required to be disclosed

Outcome:

- Nonprofit agreed to pay \$528,575.82 to resolve allegations they violated the False Claims Act

Double-click
below for more
information

U.S. Department of Justice
U.S. Attorney's Office
Eastern District of Kentucky

FOR IMMEDIATE RELEASE
Wednesday, September 18, 2011

Nonprofit Organization and Its Management Company Agree to Pay Over \$500,000 to Resolve Allegations of Grant Fraud

LEXINGTON, Ky. – The National Association of State Chief Information Officers, Inc. (NASCIO) and American Management Resources, Inc. (AMRI) have agreed to pay the United States \$528,575.82 to resolve allegations that they violated the False Claims Act by making false and misleading statements in connection with obtaining grants from the Department of Justice's National Justice Information Sharing Initiative.

This civil settlement resolves allegations that NASCIO failed to disclose conflicts of interest related to its contract with AMRI that were required to be disclosed under the grant program's rules. The United States contends that this failure to disclose these conflicts of interest resulted in the DOJ approving grant funding that NASCIO would not have otherwise been awarded.

"This settlement sends a clear message that recipients of federally funded grants must strictly adhere to the regulations applicable to those grants and fully and fairly disclose the information called for under those grants," stated Robert M. Dancich, Jr., United States Attorney for the Eastern District of Kentucky. "Both NASCIO and AMRI have responsibility and explanatory obligations for the conduct noted by the United States, and we expect other grant recipients who do not follow the applicable regulations to do the same."

"This investigation demonstrates the DOJ-IG's commitment to ensure that taxpayer dollars are used appropriately, and that only authorized grant recipients who follow regulations and provide full disclosure to the government receive DOJ grant funds," stated William J. Marshall, Special Agent in Charge of the U.S. Department of Justice Office of the Inspector General's (DOJ-IG) Chicago Field Office.

This case was a result of an investigation by the DOJ-IG Chicago Field Office and the United States Attorney's Office for the Eastern District of Kentucky. Assistant United States Attorney Jennifer A. Williams handled the matter for the United States. The events noted by this agreement are allegations only, and there has been no determination of liability.

COMPLIANCE REQUIREMENTS



Duplication of Benefits is Prohibited

2 CFR § 200.1 – Improper Payment

Improper payment means any payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative, or other legally applicable requirements. This includes overpayments or underpayments to eligible recipients (including inappropriate denials of payment or service, any payment that does not account for credit for applicable discounts, payments that are for an incorrect amount, and **duplicate payments**). It also includes any payment that was made to an ineligible recipient or for an ineligible good or service, or payments for goods or services not received (except for such payments authorized by law).

Other Federal Awards with Similar Programmatic Activities

“The recipient must immediately provide written notification to the DOC Program Officer and the DOC Grants Officer if, subsequent to receipt of the DOC Award, other financial assistance is received to support or fund any portion of the scope of work incorporated into the DOC Award. DOC will not pay for costs that are funded by other sources.” *EDA Standard Terms and Conditions for Construction Projects, March 22, 2021*

CASE EXAMPLE



Duplication of Benefits

Double-click
below for more
information

Allegations Included:

- Not-for-profit owner applied for funding for similar services
- Owner converted the duplicate funding for his personal and business use

Outcome:

- Owner pleaded guilty to mail fraud and money laundering
- Sentenced to 24 months in prison
- Ordered to pay \$480,901 in restitution

U.S. Department of Justice
Central District of Illinois

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U.S. Attorney • Central District of Illinois • News
Department of Justice
U.S. Attorney's Office
Central District of Illinois

FOR IMMEDIATE RELEASE Friday, September 23, 2011

Chicago Businessman Sentenced to Two Years in Prison for Grant Fraud Scheme

Springfield, Ill. -- A Chicago businessman has been ordered to serve 24 months in prison for a fraud scheme that resulted in two state agencies awarding separate, but nearly identical, grants to his not-for-profit entity in September 2008. U.S. District Court Judge Sue E. Myersonoff sentenced George E. Smith, 68, and ordered that Smith pay restitution of nearly \$500,000 to the state. Judge Myersonoff ordered Smith to self-report as ordered by the Federal Bureau of Prisons to begin serving his prison sentence. Smith waived indictment and plea guilty in March 2010, to two counts of mail fraud and one count of money laundering.

In rendering today's sentence, Judge Myersonoff noted that Smith exploited his personal relationship with a former director of the Illinois Department of Children and Family Services (IDCFS) to obtain the grant in the amount of \$480,000 awarded by the agency on Sept. 2, 2008, under the Substance Abuse Program. On Sept. 8, 2008, the state Board of Examiners awarded Smith a not-for-profit session grant in the amount of \$342,000. According to the terms of the grants, which provided for similar services to be provided to the same target population in the Chicago area during fiscal year 2009. The populations served, services of referral, services to be provided, and the goals for each grant were remarkably identical. Neither IDCFS nor IDBE were aware of the issuance of an identical grant by the other state agency. Smith then converted the duplicate funding to his personal and business use.

Both grants were awarded to Detached Behavioral Cooperative Care, a not-for-profit entity owned and operated by Smith. In addition, Smith owned and operated two for-profit entities: Unwashed Solutions of Services, Inc., Management Planning Institute, Inc., and the Unwashed for Prisoners Child and Family Development. From 2005 through 2011, Smith, through both his not-for-profit and for-profit entities, received thousands of dollars in funding from agencies of the state of Illinois, including IDCFS, IDBE, and the Illinois Department of Human Services.

COMPLIANCE REQUIREMENTS



Matching Funds

- The non-Federal share of the approved project budget (aka the “matching share” or “local share”) must be borne by the recipient or provided to the recipient by a third party as a contribution for the purposes of and subject to the terms of the award.
- The applicant must document that the matching share **will**:
 - Be committed to the project for the period of performance
 - Be available as needed
 - Not be conditioned or encumbered in any way that may preclude its use consistent with the requirements of EDA investment assistance
- Applicants must submit, for each source of matching share, a commitment letter or equivalent document signed by an authorized representative of the organization providing the matching funds. *Additional documentation may be requested by EDA in order to substantiate the availability of the matching funds.*

CASE EXAMPLE



Matching Funds

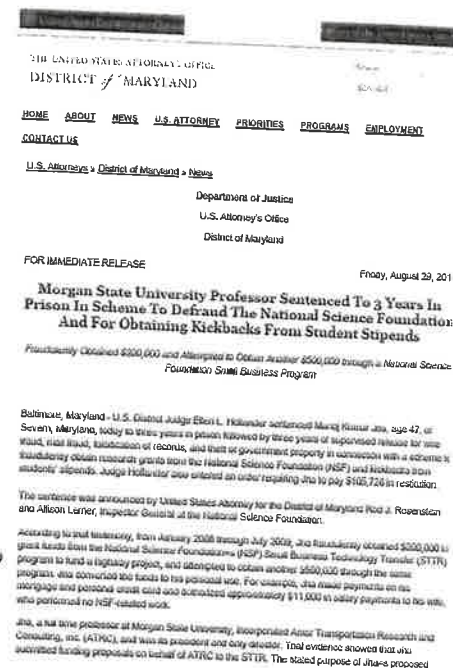
Allegations Included:

- Small business owner made several false statements and misrepresentations to obtain federal grant funding
- Owner misrepresented that he obtained a \$100,000 investment from a third party in order to qualify for federal matching funds
- Owner converted grant funds to personal use

Outcome:

- Owner convicted at trial for wire fraud, mail fraud, falsification of records, and theft of government property
- Sentenced to 36 months in prison
- Ordered to pay \$105,726 in restitution
- Owner debarred for 5 years

Double-click
below for more
information



COMPLIANCE REQUIREMENTS



Mandatory Disclosure of Fraud

2 CFR § 200.113 - Mandatory disclosures

The non-Federal entity or applicant for a Federal award **must disclose**, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.

Failure to disclose could result in the remedies detailed in 2 CFR § 200.339 (slide 16 of this presentation).

CONSEQUENCES OF COMMITTING FRAUD



Criminal Prosecution

Lying to obtain a grant, or lying about the work performed may violate several criminal laws:

- 18 U.S.C. § 1001, False Statements (up to 5 years in prison, forfeiture and \$250K fine)
- 18 U.S.C. § 641, Theft of Federal Property (up to 10 years in prison, forfeiture and \$250K fine)
- 18 U.S.C. § 1343, Wire Fraud (up to 20 years in prison, forfeiture and \$250K fine)
- 18 U.S.C. § 666, Theft or bribery concerning programs receiving Federal funds (up to 10 years in prison, forfeiture and \$250K fine)

Fines for organizations may be as high as \$500K

Criminal forfeiture = full amount of the grant; personal assets can be seized to satisfy forfeiture or fine

CONSEQUENCES OF COMMITTING FRAUD (CONTINUED)



Civil Prosecution

In addition to or in lieu of criminal prosecution

Civil False Claims Act, 31 U.S.C. §§ 3729-3733

- Liability includes up to treble damages (3x actual damages) and a civil penalty of up to \$23,607 for each false claim
- False claims liability may include payments received when the government relied upon false information in the award proposal, in a certification of current cost or pricing data, in a request for payment, or in progress reports
- Although the statute requires knowledge that the claim was false, knowledge includes “deliberate ignorance” or “reckless disregard of the truth”
- Whistleblowers can receive up to 30% of the recovery amount for reporting fraud via *qui tam* provisions of the False Claims Act

CONSEQUENCES OF COMMITTING FRAUD (CONTINUED)



Administrative Remedies

- Government can terminate contracts/grants tainted by fraud
- Government can suspend/debar the entity, owner, and/or employees
 - Results in prohibition from receiving any federal grants or contracts, or working as a sub-grantee on federal grants or a sub-contractor on federal contracts
 - Debarment is typically for three years, but can be for a longer period
- Administrative remedies are in addition to or in lieu of criminal and civil liability

RECOMMENDATIONS



The government retains the right to examine the status of an EDA Assistance award at any time.

Status checks include:

- Site visits
- Requests for records including financial documents and timesheets

Good recordkeeping will help ensure successful status checks and eliminate potential issues.

RECOMMENDATIONS



Good Records: Key to Protecting Yourself

Documentation

- Timesheets for hours worked by ALL involved employees
- All financial receipts, invoices and statements for expenses related to the project

Updates on the project status, including successes/failures

- Keep regular records at the business-level so you have all facts on hand if needed/requested by the government
- Documentation to support performance metrics

Records Retention Time Frames and other Requirements

- See 2 CFR § 200.334

IMPORTANT TO REMEMBER!



Record Retention and Access

200.334 Retention requirements for records.

Financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award must be retained for a period of three years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Federal awarding agency or pass-through entity in the case of a subrecipient. Federal awarding agencies and pass-through entities must not impose any other record retention requirements upon non-Federal entities. The only exceptions are the following:

- (a) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.
- (b) When the non-Federal entity is notified in writing by the Federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period.
- (c) Records for real property and equipment acquired with Federal funds must be retained for 3 years after final disposition.
- (d) When records are transferred to or maintained by the Federal awarding agency or pass-through entity, the 3-year retention requirement is not applicable to the non-Federal entity.
- (e) Records for program income transactions after the period of performance. In some cases recipients must report program income after the period of performance. Where there is such a requirement, the retention period for the records pertaining to the earning of the program income starts from the end of the non-Federal entity's fiscal year in which the program income is earned.
- (f) Indirect cost rate proposals and cost allocations plans. This paragraph applies to the following types of documents and their supporting records: Indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).
 - (1) **If submitted for negotiation.** If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the pass-through entity) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.
 - (2) **If not submitted for negotiation.** If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the pass-through entity) for negotiation purposes, then the 3-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

IMPORTANT TO REMEMBER!



If you are unsure about any of the requirements relating to the award of an EDA Assistance grant/cooperative agreement:

- Contact the appropriate EDA POC and provide all relevant facts
- Request written guidance from the EDA POC, and
- **Follow it!**

ADDITIONAL RESOURCES



13 CFR Chapter III – Economic Development Administration (Parts 300-315)
<https://www.ecfr.gov/current/title-13/chapter-III>

2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
<https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II>

Grant Fraud & Scams – Grants.gov
<https://www.grants.gov/learn-grants/grant-fraud.html>

Department of Commerce – Grants and Cooperative Agreement Manual
<https://www.commerce.gov/oam/files/grants-and-cooperative-agreements-grants-manual-april-20-2021>

REPORT FRAUD, WASTE, AND ABUSE



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CERTIFICATE OF TRAINING COMPLETION



- All EDA grantees must successfully complete this training and submit the signed completion certificate(s) to the EDA Project Officer listed in the Specific Award Conditions or via the EDGE website within 60 days of grant award.

Failure to comply with this requirement may result in a finding of non-compliance with the terms and conditions of your award.

CERTIFICATE OF TRAINING COMPLETION



The undersigned has fully and completely reviewed this training on behalf of the applicant/awardee, understands the information presented in this training, and has the authority to make this certification as the awardee. The undersigned has also read and understood the Notice of Funding Opportunity, Specific Award Conditions, and Standard Terms and Conditions applicable to this Award. The undersigned understands providing false or misleading information during any part of the proposal, award, or performance phase of an EDA assistance award may result in criminal, civil or administrative sanctions, including but not limited to: fines, restitution, and/or imprisonment under 18 U.S.C. § 1001; treble damages and civil penalties under the False Claims Act, 31 U.S.C. § 3729 et seq.; civil recovery of award funds; suspension and/or debarment from all federal procurement and non-procurement transactions, FAR Part 9.4 or 2 CFR Part 180; and other administrative remedies including termination of active EDA assistance awards.

Signature

Date

Name

Entity Name

Position Title

Per the training instructions, return signed either to the relevant EDA Project Officer or via the EDGE website, as applicable, within 60 days of grant award. A separate Certification is required for each Authorized Signer on the Award. This Certification must be signed by the same Individual(s) executing the Notice of Award.

EDA Award Number

Certificate One

CERTIFICATE OF TRAINING COMPLETION



The undersigned has fully and completely reviewed this training on behalf of the applicant/awardee, understands the information presented in this training, and has the authority to make this certification as the awardee. The undersigned has also read and understood the Notice of Funding Opportunity, Specific Award Conditions, and Standard Terms and Conditions applicable to this Award. The undersigned understands providing false or misleading information during any part of the proposal, award, or performance phase of an EDA assistance award may result in criminal, civil or administrative sanctions, including but not limited to: fines, restitution, and/or imprisonment under 18 U.S.C. § 1001; treble damages and civil penalties under the False Claims Act, 31 U.S.C. § 3729 et seq.; civil recovery of award funds; suspension and/or debarment from all federal procurement and non-procurement transactions, FAR Part 9.4 or 2 CFR Part 180; and other administrative remedies including termination of active EDA assistance awards.

Signature

Date

Name

Entity Name

Position Title

Per the training instructions, return signed either to the relevant EDA Project Officer or via the EDGE website, as applicable, within 60 days of grant award. A separate Certification is required for each Authorized Signer on the Award. This Certification must be signed by the same Individual(s) executing the Notice of Award.

EDA Award Number

Certificate Two

CERTIFICATE OF TRAINING COMPLETION



The undersigned has fully and completely reviewed this training on behalf of the applicant/awardee, understands the information presented in this training, and has the authority to make this certification as the awardee. The undersigned has also read and understood the Notice of Funding Opportunity, Specific Award Conditions, and Standard Terms and Conditions applicable to this Award. The undersigned understands providing false or misleading information during any part of the proposal, award, or performance phase of an EDA assistance award may result in criminal, civil or administrative sanctions, including but not limited to: fines, restitution, and/or imprisonment under 18 U.S.C. § 1001; treble damages and civil penalties under the False Claims Act, 31 U.S.C. § 3729 et seq.; civil recovery of award funds; suspension and/or debarment from all federal procurement and non-procurement transactions, FAR Part 9.4 or 2 CFR Part 180; and other administrative remedies including termination of active EDA assistance awards.

Signature

Date

Name

Entity Name

Position Title

Per the training instructions, return signed either to the relevant EDA Project Officer or via the EDGE website, as applicable, within 60 days of grant award. A separate Certification is required for each Authorized Signer on the Award. This Certification must be signed by the same Individual(s) executing the Notice of Award.

EDA Award Number

Certificate Three

DEPARTMENT OF COMMERCE
FINANCIAL ASSISTANCE
STANDARD TERMS AND CONDITIONS



12 November 2020

DEPARTMENT OF COMMERCE
FINANCIAL ASSISTANCE STANDARD TERMS AND CONDITIONS

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PREFACE

This document sets out the standard terms and conditions (ST&Cs) applicable to this U.S. Department of Commerce (DOC or Commerce) financial assistance award (hereinafter referred to as the DOC ST&Cs or Standard Terms). A non-Federal entity¹ receiving a DOC financial assistance award must, in addition to the assurances made as part of the application, comply and require each of its subrecipients, contractors, and subcontractors employed in the completion of the project to comply with all applicable statutes, regulations, executive orders (E.O.s), Office of Management and Budget (OMB) circulars, provisions of the OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (codified at 2 C.F.R. Part 200) (OMB Uniform Guidance), provisions of these Standard Terms, and any other terms and conditions incorporated into this DOC financial assistance award. In addition, unless otherwise provided by the terms and conditions of this DOC financial assistance award, Subparts A through E of 2 C.F.R. Part 200 and the Standard Terms are applicable to for-profit entities, foreign public entities and to foreign organizations that carry out a DOC financial assistance award.²

This award is subject to the laws and regulations of the United States. Any inconsistency or conflict in terms and conditions specified in the award will be resolved according to the following order of precedence: federal laws and regulations, applicable notices published in the *Federal Register*, E.O.s, OMB circulars, DOC ST&Cs, agency standard award conditions (if any), and specific award conditions. A specific award condition may amend or take precedence over a Standard Term on a case-by-case basis, when indicated by the specific award condition.

Some of the Standard Terms herein contain, by reference or substance, a summary of the pertinent statutes, regulations published in the *Federal Register* or Code of Federal Regulations (C.F.R.), E.O.s, OMB circulars, or the certifications and assurances provided by applicants through Standard Forms (e.g., SF-424s) or through DOC forms (e.g. Form CD-511). To the extent that it is a summary, such Standard Term provision is not in derogation of, or an amendment to, any such statute, regulation, E.O., OMB circular, certification, or assurance.

¹ Note that the OMB Uniform Guidance uses the term “non-Federal entity” to generally refer to an entity that carries out a Federal award as a recipient or subrecipient. Because some of the provisions of these DOC ST&Cs apply to recipients rather than subrecipients, or vice versa, for clarity, these DOC ST&Cs use the terms “non-Federal entity,” “recipient,” and “subrecipient” consistent with their meanings in the OMB Uniform Guidance. In addition, the OMB Uniform Guidance uses the term “pass-through entity” to refer to a non-Federal entity that makes a subaward. As defined at 2 C.F.R. § 200.1:

“Non-Federal entity” is “a state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient.”

“Recipient” is “an entity, usually but not limited to non-Federal entities, that receives a Federal award directly from a Federal awarding agency. The term recipient does not include subrecipients or individuals that are beneficiaries of the award.”

“Subrecipient” is “an entity, usually but not limited to non-Federal entities, that receives a subaward from a pass-through entity to carry out part of a Federal award; but does not include an individual that is a beneficiary of such award. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.”

“Pass-through entity” is “a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.”

² See 2 C.F.R. § 200.1 for the definitions of “foreign public entity” and “foreign organization.”

DOC commenced implementation of the Research Terms and Conditions (RT&Cs) for Federal awards effective October 1, 2017; the RT&Cs address and implement the Uniform Guidance issued by OMB. For awards designated on the Form CD-450 (Financial Assistance Award) as Research, both the DOC ST&Cs and the RT&Cs as implemented by DOC apply to the award. The RT&Cs as well as the DOC implementation statement, agency specific requirements, prior approval matrix, subaward requirements, and national policy requirements are posted on the National Science Foundation's website – <https://www.nsf.gov/awards/managing/rtc.jsp>. The DOC ST&Cs and the RT&Cs are generally intended to harmonize with each other; however, where the DOC ST&Cs and the RT&Cs differ in a Research award, the RT&Cs prevail, unless otherwise indicated in a specific award condition.

A. PROGRAMMATIC REQUIREMENTS

.01 Reporting Requirements

a. Recipients must submit all reports as required by DOC, electronically or, if unable to submit electronically, in hard copy, as outlined below and as may be supplemented by the terms and conditions of a specific DOC award.

b. Performance (Technical) Reports. Recipients must submit performance (technical) reports to the Program Officer. Performance (technical) reports should be submitted in the same frequency as the Form SF-425 (Federal Financial Report), unless otherwise directed by the Grants Officer.

1. Performance (technical) reports must contain the information prescribed in 2 C.F.R. § 200.329 (Monitoring and reporting program performance), unless otherwise specified in the award conditions.
2. As appropriate and in accordance with the format provided by the Program Officer (or other OMB-approved information collections, including the Research Program Performance Report [RPPR] as adopted by DOC for use in research awards), recipients are required to relate financial data to the performance accomplishments of this Federal award. When applicable, recipients must also provide cost information to demonstrate cost effective practices (e.g., through unit cost data). The recipient's performance will be measured in a way that will help DOC to improve program outcomes, share lessons learned, and spread the adoption of best or promising practices. As described in 2 C.F.R. § 200.211 (Information contained in a Federal award), DOC will identify the timing and scope of expected performance by the recipient as related to the outcomes intended to be achieved by the Federal program.
3. Recipients (or pass-through entities as applicable) must submit a final performance report within 120 calendar days after the expiration of the period of performance. The subrecipient is required to submit its final performance report to the pass-through entity within 90 calendar days unless an extension has been granted.

c. **Financial Reports.** In accordance with 2 C.F.R. § 200.328 (Financial reporting), the recipient must submit a Form SF-425 (Federal Financial Report) or any successor form on a semi-annual basis for the periods ending March 31 and September 30, or any portion thereof, unless otherwise specified in a specific award condition. Reports must be submitted to DOC as directed by the Grants Officer, in accordance with the award conditions and are due no later than 30 calendar days following the end of each reporting period. Recipients (or pass-through entities as applicable) must submit a final Form SF-425 within 120 calendar days after the expiration of the period of performance. The subrecipient is required to submit its financial report to the pass-through entity within 90 calendar days unless an extension has been granted. A recipient may submit a final financial report in lieu of an interim financial report due at the end of the period of performance (e.g., in lieu of submitting a financial report for the last semi-annual or other reporting under an award, a recipient may submit a final (cumulative) financial report covering the entire award period).

d. **Real Property, Tangible Personal Property and Intangible Property Reports and Requests for Dispositions.** Unless otherwise required by the terms and conditions of a DOC financial assistance award, where real property, tangible personal property or intangible property is acquired or improved (in the case of real property or tangible personal property), or produced or acquired (in the case of intangible property), pursuant to a DOC award, non-Federal entities are required to submit the following real property, tangible personal property and intangible property reports (as appropriate):

1. **Real Property Status Reports and Requests for Dispositions:** Non-Federal entities must submit reports using Form SF-429 (Real Property Status Report) or any successor form, including appropriate attachments thereto, at least annually disclosing the status of real property that is Federally-owned property or real property in which the Federal Government retains a Federal Interest, unless the Federal Interest in the real property extends 15 years or longer. In cases where the Federal Interest attached is for a period of 15 years or more, the DOC or pass-through entity, at its option, may require the non-Federal entity to report at various multi-year frequencies (e.g., every two years or every three years, not to exceed a five-year reporting period; or, the DOC or pass-through entity may require annual reporting for the first three years of a Federal award and thereafter require reporting every five years). In addition, DOC or a pass-through entity may require a non-Federal entity to submit Form SF-429, with appropriate attachments, relating to a non-Federal entity's request to acquire, improve or contribute real property under a DOC financial assistance award. Non-Federal entities wishing to dispose of real property acquired or improved, in whole or in part, pursuant to a DOC award must request disposition instructions, including the submission of Form SF-429, with appropriate attachments, from the Grants Officer in accordance with the requirements set forth in 2 C.F.R. § 200.311(c). *See also* the real property standards set forth in Section C. of these Standard Terms (Property Standards).

2. **Tangible Personal Property Status Reports and Requests for Dispositions:** DOC or a pass-through entity may also require a non-Federal entity to submit periodic reports using Form SF-428 (Tangible Personal Property Report) or any successor form, including appropriate attachments thereto, concerning tangible personal property that is Federally-owned or tangible personal property in which the Federal Government retains an interest. In

addition, DOC or a pass-through entity may require a non-Federal entity to submit Form SF-428 in connection with a non-Federal entity's request to dispose of tangible personal property acquired under a DOC financial assistance award. Non-Federal entities wishing to dispose of tangible personal property acquired or improved, in whole or in part, pursuant to a DOC award must request disposition instructions, including the submission of Form SF-428, with appropriate attachments, from the Grants Officer in accordance with the requirements set forth in 2 C.F.R. § 200.313(e). *See also* the tangible property standards set forth in Section C. of these Standard Terms (Property Standards).

3. Intangible Property Status Reports and Requests for Dispositions: The specific requirements governing the development, reporting, and disposition of rights to intangible property, including inventions and patents resulting from DOC awards, are set forth in 37 C.F.R. Part 401, which is hereby incorporated by reference into this award. Non-Federal entities are required to submit their disclosures, elections, and requests for waiver from any requirement for substantial U.S. manufacture, electronically using the Interagency Edison extramural invention reporting system (iEdison) at www.iedison.gov. Non-Federal entities may obtain a waiver of this electronic submission requirement by providing to the Grants Officer compelling reasons for allowing the submission of paper reports. When no longer needed for the originally authorized purpose, disposition of the intangible property must occur in accordance with the provisions in 2 C.F.R. § 200.313(e). *See also* the intangible property standards set forth in Section C. of these Standard Terms (Property Standards).

e. Subawards and Executive Compensation Reports. For reporting requirements on subawards and Executive Compensation, see paragraph G.05.o of these Standard Terms (The Federal Funding Accountability and Transparency Act (FFATA) (31 U.S.C. § 6101 note)).

f. Recipient Integrity and Performance Matters. For reporting requirements pertaining to integrity and performance matters, see paragraph G.05.p of these Standard Terms (Recipient Integrity and Performance Matters (Appendix XII to 2 C.F.R. Part 200)).

g. Research Performance Progress Reports. All research awards shall submit the Research Performance Progress Report (RPPR) in accordance with instructions set forth in the following link: [RPPR Instructions](#).

.02 Revisions of Program Plans

In accordance with 2 C.F.R. § 200.308 (Revision of budget and program plans) and 2 C.F.R. § 200.407 (Prior written approval (prior approval)), the recipient must obtain prior written approval from the DOC Grants Officer for certain proposed programmatic change requests, unless otherwise provided by the terms and conditions of a DOC award. Requests for prior approval for changes to program plans must be submitted to the Federal Program Officer (or electronically for awards administered through Grants Online). Requests requiring prior DOC approval are not effective unless and until approved in writing by the DOC Grants Officer.

.03 Other Federal Awards with Similar Programmatic Activities

The recipient must immediately provide written notification to the DOC Program Officer and the DOC Grants Officer if, subsequent to receipt of the DOC award, other financial assistance is received to support or fund any portion of the scope of work incorporated into the DOC award. DOC will not pay for costs that are funded by other sources.

.04 Prohibition against Assignment by a Non-Federal Entity

A non-Federal entity must not transfer, pledge, mortgage, assign, encumber or hypothecate a DOC financial assistance award or subaward, or any rights to, interests therein or claims arising thereunder, to any party or parties, including but not limited to banks, trust companies, other financing or financial institutions, or any other public or private organizations or individuals without the express prior written approval of the DOC Grants Officer or the pass-through entity (which, in turn, may need to obtain prior approval from the DOC Grants Officer).

.05 Disclaimer Provisions

a. The United States expressly disclaims all responsibility or liability to the non-Federal entity or third persons (including but not limited to contractors) for the actions of the non-Federal entity or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any subaward, contract, or subcontract under this award.

b. The acceptance of this award or any subaward by the non-Federal entity does not in any way constitute an agency relationship between the United States and the non-Federal entity or the non-Federal entity's contractors or subcontractors.

.06 Unsatisfactory Performance or Non-Compliance with Award Provisions

a. Failure to perform the work in accordance with the terms of the award and maintain satisfactory performance as determined by DOC may result in the imposition of additional award conditions pursuant to 2 C.F.R. § 200.208 (Specific conditions) or other appropriate enforcement action as specified in 2 C.F.R. § 200.339 (Remedies for noncompliance).

b. Failure to comply with the provisions of an award will be considered grounds for appropriate enforcement action pursuant to 2 C.F.R. § 200.339 (Remedies for noncompliance), including but not limited to: the imposition of additional award conditions in accordance with 2 C.F.R. § 200.208 (Specific conditions); temporarily withholding award payments pending the correction of the deficiency; changing the payment method to reimbursement only; the disallowance of award costs and the establishment of an accounts receivable; wholly or partially suspending or terminating an award; initiating suspension or debarment proceedings in accordance with 2 C.F.R. Parts 180 and 1326; and such other remedies as may be legally available.

c. 2 C.F.R. §§ 200.340 (Termination) through 200.343 (Effects of suspension and termination) apply to an award that is terminated prior to the end of the period of performance

due to the non-federal entity's material failure to comply with the award terms and conditions. In addition, the failure to comply with the provisions of a DOC award may adversely impact the availability of funding under other active DOC or Federal awards and may also have a negative impact on a non-Federal entity's eligibility for future DOC or Federal awards.

B. FINANCIAL REQUIREMENTS

.01 Financial Management

a. In accordance with 2 C.F.R. § 200.302(a) (Financial Management), each State must expend and account for the Federal award in accordance with State laws and procedures for expending and accounting for the State's own funds. In addition, the State's and any other non-Federal entity's financial management systems, including records documenting compliance with Federal statutes, regulations, and the terms and conditions of the Federal award, must be sufficient to permit the preparation of reports required by general and program-specific terms and conditions; and the tracing of funds to a level of expenditures adequate to establish that such funds have been used in accordance with Federal statutes, regulations, and the terms and conditions applicable to the Federal award. *See also* 2 C.F.R. § 200.450 (Lobbying) for additional management requirements to verify that Federal funds are not used for unallowable lobbying costs.

b. The financial management system of each non-Federal entity must provide all information required by 2 C.F.R. § 200.302(b). *See also* 2 C.F.R. §§ 200.334 (Retention requirements for records); 200.335 (Requests for transfer of records); 200.336 (Methods for collection, transmission and storage of information); 200.337 (Access to records); and 200.338 (Restrictions on public access to records).

.02 Award Payments

a. Consistent with 2 C.F.R. § 200.305(a) (Federal payment), for States, payments are governed by Treasury-State Cash Management Improvement Act (CMIA) agreements and default procedures codified at 31 C.F.R. Part 205 (Rules and Procedures for Efficient Federal-State Funds Transfers) and Treasury Financial Manual Volume I, 4A-2000 (Overall Disbursing Rules for All Federal Agencies).

b. Consistent with 2 C.F.R. § 200.305(b), for non-Federal entities other than States, payment methods must minimize the amount of time elapsing between the transfer of funds from the U.S. Treasury or the pass-through entity and the disbursement by the non-Federal entity.

1. The Grants Officer determines the appropriate method of payment and, unless otherwise stated in a specific award condition, the advance method of payment must be authorized. Advances must be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the non-Federal entity in carrying out the purpose of the approved program or project. Unless otherwise provided by the terms and conditions of a DOC award, non-Federal entities must time advance payment requests so that Federal funds are on hand for a maximum of 30 calendar days before being disbursed by the

non-Federal entity for allowable award costs.

2. If a non-Federal entity demonstrates an unwillingness or inability to establish procedures that will minimize the time elapsing between the transfer of funds and disbursement by the non-Federal entity or if a non-Federal entity otherwise fails to continue to qualify for the advance method of payment, the Grants Officer or the pass-through entity may change the method of payment to reimbursement only.

c. Unless otherwise provided for in the award terms, payments from DOC to recipients under this award will be made using the Department of Treasury's Automated Standard Application for Payment (ASAP) system. Under the ASAP system, payments are made through preauthorized electronic funds transfers directly to the recipient's bank account, in accordance with the requirements of the Debt Collection Improvement Act of 1996. To receive payments under ASAP, recipients are required to enroll with the Department of Treasury, Financial Management Service, Regional Financial Centers, which allows them to use the on-line and Voice Response System (VRS) method of withdrawing funds from their ASAP established accounts. The following information will be required to make withdrawals under ASAP:

1. ASAP account number – the Federal award identification number found on the cover sheet of the award;

2. Agency Location Code (ALC); and

3. Region Code.

d. Recipients enrolled in the ASAP system do not need to submit a Form SF-270 (Request for Advance or Reimbursement) for payments relating to their award. Awards paid under the ASAP system will contain a specific award condition, clause, or provision describing enrollment requirements and any controls or withdrawal limits set in the ASAP system.

e. When the Form SF-270 or successor form is used to request payment, the recipient must submit the request no more than monthly, and advances must be approved for periods to cover only expenses reasonably anticipated over the next 30 calendar days. Prior to receiving payments via the Form SF-270, the recipient must complete and submit to the Grants Officer the Form SF-3881 (ACH Vendor Miscellaneous Payment Enrollment Form) or successor form along with the initial Form SF-270. Form SF-3881 enrollment must be completed before the first award payment can be made via a Form SF-270 request.

f. The Federal award identification number must be included on all payment-related correspondence, information, and forms.

g. Non-Federal entities receiving advance award payments must adhere to the depository requirements set forth in 2 C.F.R. §§ 200.305(b)(7) through (b)(11). Interest amounts up to \$500 per non-Federal entity's fiscal year may be retained by the non-Federal entity for administrative expenses.

.03 Federal and Non-Federal Sharing

a. Awards that include Federal and non-Federal sharing incorporate a budget consisting of shared allowable costs. If actual allowable costs are less than the total approved budget, the Federal and non-Federal cost shares must be calculated by applying the approved Federal and non-Federal cost share ratios to actual allowable costs. If actual allowable costs exceed the total approved budget, the Federal share must not exceed the total Federal dollar amount authorized by the award.

b. The non-Federal share, whether in cash or third-party in-kind contributions, is to be paid out at the same general rate as the Federal share. Exceptions to this requirement may be granted by the Grants Officer based on sufficient documentation demonstrating previously determined plans for, or later commitment of, cash or third-party in-kind contributions. In any case, the recipient must meet its cost share commitment as set forth in the terms and conditions of the award; failure to do so may result in the assignment of specific award conditions or other further action as specified in Standard Term A.06 (Unsatisfactory Performance or Non-Compliance with Award Provisions). The non-Federal entity must create and maintain sufficient records justifying all non-Federal sharing requirements to facilitate questions and audits; see Section D of these Standard Terms (Audits), for audit requirements. See 2 C.F.R. § 200.306 for additional requirements regarding cost sharing.

.04 Budget Changes and Transfer of Funds among Categories

a. Recipients are required to report deviations from the approved award budget and request prior written approval from DOC in accordance with 2 C.F.R. § 200.308 (Revision of budget and program plans) and 2 C.F.R. § 200.407 (Prior written approval (prior approval)). Requests for such budget changes must be submitted to the Grants Officer (or electronically for awards serviced through Grants Online) who will notify the recipient of the final determination in writing. Requests requiring prior DOC approval do not become effective unless and until approved in writing by the DOC Grants Officer.

b. In accordance with 2 C.F.R. § 200.308(f), transfers of funds by the recipient among direct cost categories are permitted for awards in which the Federal share of the project is equal to or less than the simplified acquisition threshold. For awards in which the Federal share of the project exceeds the simplified acquisition threshold, transfers of funds among direct cost categories must be approved in writing by the Grants Officer when the cumulative amount of such direct costs transfers exceeds 10 percent of the total budget as last approved by the Grants Officer. The 10 percent threshold applies to the total Federal and non-Federal funds authorized by the Grants Officer at the time of the transfer request. This is the accumulated amount of Federal funding obligated to date by the Grants Officer along with any non-Federal share. The same requirements apply to the cumulative amount of transfer of funds among programs, functions, and activities. This transfer authority does not authorize the recipient to create new budget categories within an approved budget without Grants Officer approval. Any transfer that causes any Federal appropriation, or part thereof, to be used for an unauthorized purpose is not and will not be permitted. In addition, this provision does not prohibit the recipient from requesting Grants Officer approval for revisions to the budget. See 2 C.F.R. § 200.308 (Revision

of budget and program plans) (as applicable) for specific requirements concerning budget revisions and transfer of funds between budget categories.

.05 Program Income

Unless otherwise indicated in the award terms, program income may be used for any required cost sharing or added to the project budget, consistent with 2 C.F.R. § 200.307 (Program income).

.06 Indirect or Facilities and Administrative Costs

- a. Indirect costs (or facilities and administration costs (F&A)) for major institutions of higher education and major nonprofit organizations can generally be defined as costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved. Indirect costs will not be allowable charges against an award unless permitted under the award and specifically included as a line item in the award's approved budget.
- b. Unrecovered indirect costs, including unrecovered indirect costs on cost sharing or matching, may be included as part of cost sharing or matching as allowed under 2 C.F.R. § 200.306(c) (Cost sharing or matching) or the terms and conditions of a DOC award.
- c. Cognizant Agency for Indirect (F&A) Costs. OMB established the cognizant agency concept, under which a single agency represents all others in dealing with non-Federal entities in common areas. The cognizant agency for indirect costs reviews and approves non-Federal entities' indirect cost rates. In accordance with Appendices III – VII to 2 C.F.R. Part 200 the cognizant agency for indirect costs reviews and approves non-Federal entities' indirect cost rates. With respect to for-profit organizations, the term cognizant Federal agency generally is defined as the agency that provides the largest dollar amount of negotiated contracts, including options. See 48 C.F.R. § 42.003. If the only Federal funds received by a commercial organization are DOC award funds, then DOC becomes the cognizant Federal agency for indirect cost negotiations.

1. General Review Procedures Where DOC is the Cognizant Agency.

- i. Within 90 calendar days of the award start date, the recipient must submit to the Grants Officer any documentation (indirect cost proposal, cost allocation plan, etc.) necessary to allow DOC to perform the indirect cost rate proposal review. Below are two sources available for guidance on how to put an indirect cost plan together:
 - (A) Department of Labor: <https://www.dol.gov/oasam/boc/dcd/np-comm-guide.htm>
or
 - (B) Department of the Interior: <https://www.doi.gov/ibc/services/finance/indirect-Cost-Services/>.
- ii. The recipient may use the rate proposed in the indirect cost plan as a provisional rate until the DOC provides a response to the submitted plan.

- iii. The recipient is required to annually submit indirect cost proposals no later than six months after the recipient's fiscal year end, except as otherwise provided by 2 C.F.R. § 200.414(g).
2. When DOC is not the oversight or cognizant Federal agency, the recipient must provide the Grants Officer with a copy of a negotiated rate agreement or a copy of the transmittal letter submitted to the cognizant or oversight Federal agency requesting a negotiated rate agreement within 30 calendar days of receipt of a negotiated rate agreement or submission of a negotiated rate proposal.
3. If the recipient is proposing indirect costs as part of a project budget, but is not required to have a negotiated rate agreement pursuant to 2 C.F.R. Part 200, Appendix VII, Paragraph D.1.b (*i.e.*, a governmental department or agency that receives \$35 million or less in direct Federal funding), the recipient may be required to provide the Grants Officer with a copy of its Certificate of Indirect Costs as referenced in 2 C.F.R. Part 200, Appendix VII, Paragraph D.3. or such other documentation, acceptable in form and substance to the Grants Officer, sufficient to confirm that proposed indirect costs are calculated and supported by documentation in accordance with 2 C.F.R. Part 200, Appendix VII. In cases where the DOC is the recipient's cognizant Federal agency, the DOC reserves the right, pursuant to 2 C.F.R. Part 200, Appendix VII, Paragraph D.1.b, to require the recipient to submit its indirect cost rate proposal for review by DOC.
- d. If the recipient fails to submit required documentation to DOC within 90 calendar days of the award start date, the Grants Officer may amend the award to preclude the recovery of any indirect costs under the award. If the DOC, oversight, or cognizant Federal agency determines there is a finding of good and sufficient cause to excuse the recipient's delay in submitting the documentation, an extension of the 90-day due date may be approved by the Grants Officer.
- e. The maximum dollar amount of allocable indirect costs for which DOC will reimburse the recipient is the lesser of:
1. The line item amount for the Federal share of indirect costs contained in the approved award budget, including all budget revisions approved in writing by the Grants Officer; or
 2. The Federal share of the total indirect costs allocable to the award based on the indirect cost rate approved by the cognizant agency for indirect costs and applicable to the period in which the cost was incurred, in accordance with 2 C.F.R. 200 Appendix III, C.7, provided that the rate is approved on or before the award end date.
- f. In accordance with 2 CFR § 200.414(c)(3), DOC set forth policies, procedures, and general decision-making criteria for deviations from negotiated indirect cost rates. These policies and procedures are applicable to all Federal financial assistance programs awarded and administered by DOC bureaus as Federal awarding agencies and may be found at http://www.osec.doc.gov/oam/grants_management/policy/documents/FAM%202015-02.pdf.

g. In accordance with 2 CFR § 200.414(g), any non-Federal entity that has a negotiated indirect cost rate may apply to the entity's cognizant agency for indirect costs for a one-time extension of a currently negotiated indirect cost rate for a period of up to four years, reducing the frequency of rate calculations and negotiations between an institution and its cognizant agency.

h. In accordance with 2 CFR § 200.414(f), any non-Federal entity that does not have a current negotiated (including provisional) rate, except for those non-Federal entities described in paragraph D.1.b of Appendix VII to 2 CFR Part 200, may elect to charge a de minimis rate of 10 percent of modified total direct costs. No documentation is required to justify the 10 percent de minimis indirect cost rate.

.07 Incurring Costs or Obligating Federal Funds Before and After the Period of Performance

a. In accordance with 2 C.F.R. § 200.309 (Modifications to Period of Performance) and the terms and conditions of a DOC award, a non-Federal entity may charge to the Federal award only allowable costs incurred during the period of performance, which is established in the award document. As defined at 2 C.F.R. § 200.1, the "period of performance" means the total estimated time interval between the start of an initial Federal award and the planned end date, which may include one or more funded portions, or budget periods. Identification of the Period of Performance in the Federal award per § 200.211(b)(5) does not commit the awarding agency to fund the award beyond the currently approved budget period." The period of performance may sometimes be referred to as the project period or award period. This Standard Term is subject to exceptions for allowable costs pertaining to: (i) pre-award costs (*see* 2 C.F.R. § 200.458); (ii) publication and printing costs (*see* 2 C.F.R. § 200.461); and administrative costs incurred relating to the close-out of an award (*see* 2 C.F.R. § 200.344).

b. Reasonable, necessary, allowable and allocable administrative award closeout costs are authorized for a period of up to 120 calendar days following the end of the period of performance. For this purpose, award closeout costs are those strictly associated with close-out activities and are typically limited to the preparation of final progress, financial, and required project audit reports, unless otherwise approved in writing by the Grants Officer. A non-Federal entity may request an extension of the 120-day closeout period, as provided in 2 C.F.R. § 200.344 (Closeout).

c. Unless authorized by a specific award condition, any extension of the period of performance may only be authorized by the Grants Officer in writing. This is not a delegable authority. Verbal or written assurances of funding from anyone other than the Grants Officer does not constitute authority to obligate funds for programmatic activities beyond the end of the period of performance.

d. The DOC has no obligation to provide any additional prospective funding. Any amendment of the award to increase funding and to extend the period of performance is at the sole discretion of DOC.

.08 Tax Refunds

The non-Federal entity shall contact the Grants Officer immediately upon receipt of the refund of any taxes, including but not limited to Federal Insurance Contributions Act (FICA) taxes, Federal Unemployment Tax Act (FUTA) taxes, or Value Added Taxes (VAT) that were allowed as charges to a DOC award, regardless of whether such refunds are received by the non-Federal entity during or after the period of performance. The Grants Officer will provide written disposition instructions to the non-Federal entity, which may include the refunded taxes being credited to the award as either a cost reduction or a cash refund, or may allow the non-Federal entity to use such refunds for approved activities and costs under a DOC award. *See* 2 C.F.R. § 200.470 (Taxes (including Value Added Tax)).

.09 Internal Controls

Each recipient must comply with standards for internal controls described at 2 C.F.R. § 200.303 (Internal controls). The “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States referenced in § 200.303 are available online at <http://www.gao.gov/assets/80/76455.pdf> and the “Internal Control Integrated Framework” issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) is available online at [Internal Control Guidance](#).

C. PROPERTY STANDARDS

.01 Standards

Each non-Federal entity must comply with the Property Standards set forth in 2 C.F.R. §§ 200.310 (Insurance coverage) through 200.316 (Property trust relationship).

.02 Real and Personal Property

a. In accordance with 2 C.F.R. § 200.316 (Property trust relationship), real property, equipment, and other personal property acquired or improved with a Federal award must be held in trust by the non-Federal entity as trustee for the beneficiaries of the project or program under which the property was acquired or improved. This trust relationship exists throughout the duration of the property’s estimated useful life, as determined by the Grants Officer in consultation with the Program Office, during which time the Federal Government retains an undivided, equitable reversionary interest in the property (Federal Interest). During the duration of the Federal Interest, the non-Federal entity must comply with all use and disposition requirements and restrictions as set forth in 2 C.F.R. §§ 200.310 (Insurance coverage) through 200.316 (Property trust relationship), as applicable, and in the terms and conditions of the Federal award.

b. The Grants Officer may require a non-Federal entity to execute and to record (as applicable) a statement of interest, financing statement (form UCC-1), lien, mortgage or other public notice of record to indicate that real or personal property acquired or improved in whole or in part with Federal funds is subject to the Federal Interest, and that certain use and disposition

requirements apply to the property. The statement of interest, financing statement (Form UCC 1), lien, mortgage or other public notice must be acceptable in form and substance to the DOC and must be placed on record in accordance with applicable State and local law, with continuances re-filed as appropriate. In such cases, the Grants Officer may further require the non-Federal entity to provide the DOC with a written statement from a licensed attorney in the jurisdiction where the property is located, certifying that the Federal Interest has been protected, as required under the award and in accordance with applicable State and local law. The attorney's statement, along with a copy of the instrument reflecting the recordation of the Federal Interest, must be returned to the Grants Officer. Without releasing or excusing the non-Federal entity from these obligations, the non-Federal entity, by execution of the financial assistance award or by expending Federal financial assistance funds (in the case of a subrecipient), authorizes the Grants Officer and/or program office to file such notices and continuations as it determines to be necessary or convenient to disclose and protect the Federal Interest in the property. The Grants Officer may elect not to release any or a portion of the Federal award funds until the non-Federal entity has complied with this provision and any other applicable award terms or conditions, unless other arrangements satisfactory to the Grants Officer are made.

.03 Intellectual Property Rights

a. General. The rights to any work or other intangible property produced or acquired under a Federal award are determined by 2 C.F.R. § 200.315 (Intangible property). The non-Federal entity owns any work produced or purchased under a Federal award subject to the DOC's royalty-free, nonexclusive, and irrevocable right to obtain, reproduce, publish, or otherwise use the work or authorize others to receive, reproduce, publish, or otherwise use the work for Government purposes.

b. Inventions. Unless otherwise provided by law, the rights to any invention made by a non-Federal entity under a DOC financial assistance award are determined by the Bayh-Dole Act, Pub. L. No. 96-517, as amended, and as codified in 35 U.S.C. § 200 *et seq.*, and modified by E.O. 12591 (52 FR 13414), as amended by E.O. 12618 (52 FR 48661). 35 U.S.C. § 201(h) defines "small business firm" as "a small business concern as defined at section 2 of Public Law 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration." Section 1(b)(4) of E.O. 12591 extended the Bayh-Dole Act to non-Federal entities "regardless of size" to the extent permitted by law. The specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from Federal awards are described in more detail in 37 C.F.R. Part 401, which implements 35 U.S.C. 202 through 204 and includes standard patent rights clauses in 37 C.F.R. § 401.14, which is hereby incorporated by reference into this award.

The Bayh-Dole regulations set forth in 37 C.F.R. parts 401 and 404 were amended by 83 FR 15954, with an effective date of May 14, 2018 (Amended Bayh-Dole Regulations). The Amended Bayh-Dole Regulations apply to all new financial assistance awards issued on or after May 14, 2018. The Amended Bayh-Dole Regulations do not apply to financial assistance awards issued prior to May 14, 2018, including amendments made to such awards, unless an award amendment includes a specific condition incorporating the Amended Bayh-Dole Regulations into the terms and conditions of the subject award.

1. Ownership. A non-Federal entity may have rights to inventions in accordance with 37 C.F.R. Part 401. These requirements are technical in nature and non-Federal entities are encouraged to consult with their Intellectual Property counsel to ensure the proper interpretation of and adherence to the ownership rules. Unresolved questions pertaining to a non-Federal entities' ownership rights may further be addressed to the Grants Officer.

2. Responsibilities - iEdison. The non-Federal entity must comply with all the requirements of the standard patent rights clause and 37 C.F.R. Part 401, including the standard patent rights clause in 37 C.F.R. § 401.14. Non-Federal entities are required to submit their disclosures, elections, and requests for waiver from any requirement for substantial U.S. manufacture, electronically using the Interagency Edison extramural invention reporting system (iEdison) at www.iedison.gov. Non-Federal entities may obtain a waiver of this electronic submission requirement by providing the Grants Officer with compelling reasons for allowing the submission of paper reports.

c. Patent Notification Procedures. Pursuant to E.O. 12889 (58 FR 69681), the DOC is required to notify the owner of any valid patent covering technology whenever the DOC or a non-Federal entity, without making a patent search, knows (or has demonstrable reasonable grounds to know) that technology covered by a valid United States patent has been or will be used without a license from the owner. To ensure proper notification, if the non-Federal entity uses or has used patented technology under this award without a license or permission from the owner, the non-Federal entity must notify the Grants Officer.

This notice does not constitute authorization or consent by the Government to any copyright or patent infringement occurring under the award.

d. A non-Federal entity may copyright any work produced under a Federal award, subject to the DOC's royalty-free, nonexclusive, and irrevocable right to obtain, reproduce, publish, or otherwise use the work, or authorize others to do so for Government purposes. Works jointly authored by DOC and non-Federal entity employees may be copyrighted, but only the part of such works authored by the non-Federal entity is protectable in the United States because, under 17 U.S.C. § 105, copyright protection is not available within the United States for any work of the United States Government. On occasion and as permitted under 17 U.S.C. § 105, DOC may require the non-Federal entity to transfer to DOC a copyright in a particular work for Government purposes or when DOC is undertaking primary dissemination of the work.

e. Freedom of Information Act (FOIA). In response to a FOIA request for research data relating to published research findings (as defined by 2 C.F.R. § 200.315(e)(2)) produced under a Federal award that were used by the Federal government in developing an agency action that has the force and effect of law, the DOC will request, and the non-Federal entity must provide, within a reasonable time, the research data so that they can be made available to the public through the procedures established under the FOIA.

D. AUDITS

Under the Inspector General Act of 1978, as amended, 5 U.S.C. App. 3, §§ 1 *et seq.*, an audit of the award may be conducted at any time. The Inspector General of the DOC, or any of his or her duly authorized representatives, must have the right to access any pertinent books, documents, papers, and records of the non-Federal entity, whether written, printed, recorded, produced, or reproduced by any electronic, mechanical, magnetic, or other process or medium, to make audits, inspections, excerpts, transcripts, or other examinations as authorized by law. This right also includes timely and reasonable access to the non-Federal entity's personnel for interview and discussion related to such documents. *See* 2 C.F.R. § 200.337 (Access to records). When the DOC Office of Inspector General (OIG) requires a program audit on a DOC award, the OIG will usually make the arrangements to audit the award, whether the audit is performed by OIG personnel, an independent accountant under contract with DOC, or any other Federal, State, or local audit entity.

.01 Organization-Wide, Program-Specific, and Project Audits

a. A recipient must, within 90 days of the end of its fiscal year, notify the Grants Officer of the amount of Federal awards, including all DOC and non-DOC awards, that the recipient expended during its fiscal year.

b. Recipients that are subject to the provisions of Subpart F of 2 C.F.R. Part 200 and that expend \$750,000 or more in a year in Federal awards during their fiscal year must have an audit conducted for that year in accordance with the requirements contained in Subpart F of 2 C.F.R. Part 200. Within the earlier of 30 calendar days after receipt of the auditor's report(s), or nine months after the end of the audit period, unless a different period is specified in a program-specific audit guide, a copy of the audit must be submitted electronically to the Federal Audit Clearinghouse (FAC) through the FAC's Internet Data Entry System (IDES) (<https://harvester.census.gov/facides/>). In accordance with 2 C.F.R. § 200.425 (Audit services), the recipient may include a line item in the budget for the allowable costs associated with the audit, which is subject to the approval of the Grants Officer.

c. Unless otherwise specified in the terms and conditions of the award, entities that are not subject to Subpart F of 2 C.F.R. Part 200 (e.g., for-profit entities, foreign public entities and foreign organizations) and that expend \$750,000 or more in DOC funds during their fiscal year (including both as a recipient and a subrecipient) must submit to the Grants Officer either: (i) a financial related audit of each DOC award or subaward in accordance with Generally Accepted Government Auditing Standards (GAGAS); or (ii) a project specific audit for each award or subaward in accordance with the requirements contained in 2 C.F.R. § 200.507. Within the earlier of 30 calendar days after receipt of the auditor's report(s), or nine months after the end of the audit period, unless a different period is specified in a program-specific audit guide, a copy of the audit must be submitted to the Grants Officer. In accordance with 2 C.F.R. § 200.425, the recipient may include a line item in the budget for the allowable costs associated with the audit, which is subject to the approval of the Grants Officer. Entities that are not subject to Subpart F of 2 C.F.R. Part 200 and that expend less than \$750,000 in DOC funds in a given fiscal year are

not required to submit an audit(s) for that year, but must make their award-related records available to DOC or other designated officials for review and audit.

d. Recipients are responsible for compliance with the above audit requirements and for informing the Grants Officer of the status of their audit, including when the relevant audit has been completed and submitted in accordance with the requirements of this section. Failure to provide audit reports within the timeframes specified above may result in appropriate enforcement action, up to and including termination of the award, and may jeopardize eligibility for receiving future DOC awards.

e. In accordance with 2 C.F.R. § 200.332(d)(3), pass-through entities are responsible for issuing a management decision for applicable audit findings pertaining only to the Federal award provided by the pass-through entity to a subrecipient.

.02 Audit Resolution Process

a. An audit of the award may result in the disallowance of costs incurred by the recipient and the establishment of a debt (account receivable) due to DOC. For this reason, the recipient should take seriously its responsibility to respond to all audit findings and recommendations with adequate explanations and supporting evidence whenever audit results are disputed.

b. A recipient whose award is audited has the following opportunities to dispute the proposed disallowance of costs and the establishment of a debt:

1. The recipient has 30 calendar days from the date of the transmittal of the draft audit report to submit written comments and documentary evidence.
2. The recipient has 30 calendar days from the date of the transmittal of the final audit report to submit written comments and documentary evidence.
3. The DOC will review the documentary evidence submitted by the recipient and will notify the recipient of the results in an *Audit Resolution Determination Letter*. The recipient has 30 calendar days from the date of receipt of the *Audit Resolution Determination Letter* to submit a written appeal, unless this deadline is extended in writing by the DOC. The appeal is the last opportunity for the recipient to submit written comments and documentary evidence to the DOC to dispute the validity of the audit resolution determination.
4. An appeal of the Audit Resolution Determination does not prevent the establishment of the audit-related debt nor does it prevent the accrual of applicable interest, penalties and administrative fees on the debt in accordance with 15 C.F.R. Part 19. If the Audit Resolution Determination is overruled or modified on appeal, appropriate corrective action will be taken retroactively.
5. The DOC will review the recipient's appeal and notify the recipient of the results in an *Appeal Determination Letter*. After the opportunity to appeal has expired or after the appeal determination has been rendered, DOC will not accept any further documentary evidence from the recipient. No other administrative appeals are available in DOC.

E. DEBTS

.01 Payment of Debts Owed to the Federal Government

a. The non-Federal entity must promptly pay any debts determined to be owed to the Federal Government. Any funds paid to a non-Federal entity in excess of the amount to which the non-Federal entity is finally determined to be entitled under the terms of the Federal award constitute a debt to the Federal government. In accordance with 2 C.F.R. § 200.346 (Collection of amounts due), if not paid within 90 calendar days after demand, DOC may reduce a debt owed to the Federal Government by:

1. Making an administrative offset against other requests for reimbursement;
2. Withholding advance payments otherwise due to the non-Federal entity; or
3. Taking any other action permitted by Federal statute.

The foregoing does not waive any claim on a debt that DOC may have against another entity, and all rights and remedies to pursue other parties are preserved.

b. DOC debt collection procedures are set out in 15 C.F.R. Part 19. In accordance with 2 C.F.R. § 200.346 (Collection of amounts due) and 31 U.S.C. § 3717, failure to pay a debt owed to the Federal Government must result in the assessment of interest, penalties and administrative costs in accordance with the provisions of 31 U.S.C. § 3717 and 31 C.F.R. § 901.9. Commerce entities will transfer any Commerce debt that is delinquent for more than 120 calendar days to the U.S. Department of the Treasury's Financial Management Service for debt collection services, a process known as cross-servicing, pursuant to 31 U.S.C. § 3711(g), 31 C.F.R. § 285.12, and 15 C.F.R. § 19.9. DOC may also take further action as specified in DOC ST&C A.06 (Unsatisfactory Performance or Non-Compliance with Award Provisions). Funds for payment of a debt must not come from other Federally-sponsored programs, and the DOC may conduct on-site visits, audits, and other reviews to verify that other Federal funds have not been used to pay a debt.

.02 Late Payment Charges

a. Interest will be assessed on the delinquent debt in accordance with section 11 of the Debt Collection Act of 1982, as amended (31 U.S.C. § 3717(a)). The minimum annual interest rate to be assessed is the U.S. Department of the Treasury's Current Value of Funds Rate (CVFR). The CVFR is available online at https://www.fiscal.treasury.gov/fsreports/rpt/cvfr/cvfr_home.htm and also published by the Department of the Treasury in the *Federal Register* (<http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR>) and in the *Treasury Financial Manual Bulletin*. The assessed rate must remain fixed for the duration of the indebtedness.

b. Penalties will accrue at a rate of not more than six percent per year or such other higher rate as authorized by law.

c. Administrative charges, i.e., the costs of processing and handling a delinquent debt, will be determined by the Commerce entity collecting the debt, as directed by the Office of the Chief Financial Officer and Assistant Secretary for Administration.

.03 Barring Delinquent Federal Debtors from Obtaining Federal Loans or Loan Insurance Guarantees

Pursuant to 31 U.S.C. § 3720B and 31 C.F.R. § 901.6, unless waived by DOC, the DOC is not permitted to extend financial assistance in the form of a loan, loan guarantee, or loan insurance to any person delinquent on a nontax debt owed to a Federal agency. This prohibition does not apply to disaster loans.

.04 Effect of Judgment Lien on Eligibility for Federal Grants, Loans, or Programs

Pursuant to 28 U.S.C. § 3201(e), unless waived by the DOC, a debtor who has a judgment lien against the debtor's property for a debt to the United States is not eligible to receive any grant or loan that is made, insured, guaranteed, or financed directly or indirectly by the United States or to receive funds directly from the Federal Government in any program, except funds to which the debtor is entitled as beneficiary, until the judgment is paid in full or otherwise satisfied.

F. CONFLICT OF INTEREST, CODE OF CONDUCT AND OTHER REQUIREMENTS PERTAINING TO DOC FINANCIAL ASSISTANCE AWARDS, INCLUDING SUBAWARD AND PROCUREMENT ACTIONS

.01 Conflict of Interest and Code of Conduct

a. DOC Conflict of Interest Policy. In accordance with 2 C.F.R. § 200.112 (Conflict of interest), the non-Federal entity must disclose in writing any potential conflict of interest to the DOC or pass-through entity. In addition, a non-Federal entity will establish and maintain written standards of conduct that include safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain in the administration of an award. It is the DOC's policy to maintain the highest standards of conduct and to prevent real or apparent conflicts of interest in connection with DOC financial assistance awards.

b. A conflict of interest generally exists when an interested party participates in a matter that has a direct and predictable effect on the interested party's personal or financial interests. A financial interest may include employment, stock ownership, a creditor or debtor relationship, or prospective employment with the organization selected or to be selected for a subaward. A conflict also may exist where there is an appearance that an interested party's objectivity in performing his or her responsibilities under the project is impaired. For example, an appearance of impairment of objectivity may result from an organizational conflict where, because of other activities or relationships with other persons or entities, an interested party is unable to render

impartial assistance, services or advice to the recipient, a participant in the project or to the Federal Government. Additionally, a conflict of interest may result from non-financial gain to an interested party, such as benefit to reputation or prestige in a professional field. For purposes of the DOC Conflict of Interest Policy, an interested party includes, but is not necessarily limited to, any officer, employee or member of the board of directors or other governing board of a non-Federal entity, including any other parties that advise, approve, recommend, or otherwise participate in the business decisions of the recipient, such as agents, advisors, consultants, attorneys, accountants or shareholders. This also includes immediate family and other persons directly connected to the interested party by law or through a business arrangement.

c. Procurement-related conflict of interest. In accordance with 2 C.F.R. § 200.318 (General procurement standards), non-Federal entities must maintain written standards of conduct covering conflicts of interest and governing the performance of their employees engaged in the selection, award and administration of contracts. *See* paragraph F.04 of these Standard Terms (Requirements for Procurements).

.02 Nonprocurement Debarment and Suspension

Non-Federal entities must comply with the provisions of 2 C.F.R. Part 1326 (Nonprocurement Debarment and Suspension), which generally prohibit entities that have been debarred, suspended, or voluntarily excluded from participating in Federal nonprocurement transactions either through primary or lower tier covered transactions, and which set forth the responsibilities of recipients of Federal financial assistance regarding transactions with other persons, including subrecipients and contractors.

.03 Requirements for Subawards

a. The recipient or pass-through entity must require all subrecipients, including lower tier subrecipients, to comply with the terms and conditions of a DOC financial assistance award, including applicable provisions of the OMB Uniform Guidance (2 C.F.R. Part 200), and all associated Terms and Conditions set forth herein. *See* 2 C.F.R. § 200.101(b)(2) (Applicability to different types of Federal awards), which describes the applicability of 2 C.F.R. Part 200 to various types of Federal awards and §§ 200.331-333 (Subrecipient monitoring and management).

b. The recipient or pass through entity may have more restrictive policies for the RTC *waived* prior approvals (no-cost extensions, re-budgeting, etc.) for their subaward recipients. Such restrictive policies must be addressed in their subaward agreements and in accordance with §200.331.

.04 Requirements for Procurements

a. States. Pursuant to 2 C.F.R. § 200.317 (Procurements by states), when procuring property and services under this Federal award, a State must follow the same policies and procedures it uses for procurements from its non-Federal funds. The State must comply with 2 C.F.R. §§ 200.321 (Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms), 200.322 (Domestic preferences for procurements), and

200.323 (Procurement of recovered materials), and ensure that every purchase order or other contract includes any clauses required by 2 C.F.R. § 200.327 (Contract provisions).

b. Other Non-Federal Entities. All other non-Federal entities, including subrecipients of a State, must follow the procurement standards in 2 C.F.R. §§ 200.318 (General procurement standards) through 200.327 (Contract provisions) which include the requirement that non-Federal entities maintain written standards of conduct covering conflicts of interest and governing the performance of their employees engaged in the selection, award, and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest.

.05 Whistleblower Protections

This award is subject to the whistleblower protections afforded by 41 U.S.C. § 4712 (Enhancement of contractor protection from reprisal for disclosure of certain information), which generally provide that an employee or contractor (including subcontractors and personal services contractors) of a non-Federal entity may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body information that the employee reasonably believes is evidence of gross mismanagement of a Federal award, subaward, or a contract under a Federal award or subaward, a gross waste of Federal funds, an abuse of authority relating to a Federal award or subaward or contract under a Federal award or subaward, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal award, subaward, or contract under a Federal award or subaward. These persons or bodies include:

- a. A Member of Congress or a representative of a committee of Congress.
- b. An Inspector General.
- c. The Government Accountability Office.
- d. A Federal employee responsible for contract or grant oversight or management at the relevant agency.
- e. An authorized official of the Department of Justice or other law enforcement agency.
- f. A court or grand jury.
- g. A management official or other employee of the contractor, subcontractor, or grantee who has the responsibility to investigate, discover, or address misconduct.

Non-Federal entities and contractors under Federal awards and subawards must inform their employees in writing of the rights and remedies provided under 41 U.S.C. § 4712, in the predominant native language of the workforce.

.06 Small Businesses, Minority Business Enterprises and Women's Business Enterprises

In accordance with 2 C.F.R. § 200.321 (Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms), the recipient must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. DOC encourages non-Federal entities to use small

businesses, minority business enterprises and women's business enterprises in contracts under financial assistance awards. The Minority Business Development Agency within the DOC will assist non-Federal entities in matching qualified minority business enterprises with contract opportunities. For further information visit MBDA's website at <http://www.mbda.gov>. If you do not have access to the Internet, you may contact MBDA via telephone or mail:

U.S. Department of Commerce
Minority Business Development Agency
Herbert C. Hoover Building
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230
(202) 482-0101

G. NATIONAL POLICY REQUIREMENTS

.01 United States Laws and Regulations

This award is subject to the laws and regulations of the United States. The recipient must comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

.02 Non-Discrimination Requirements

No person in the United States may, on the ground of race, color, national origin, handicap, age, religion, or sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under, any program or activity receiving Federal financial assistance. The recipient agrees to comply with the non-discrimination requirements below:

a. Statutory Provisions

1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d *et seq.*) and DOC implementing regulations published at 15 C.F.R. Part 8 prohibiting discrimination on the grounds of race, color, or national origin under programs or activities receiving Federal financial assistance;
2. Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681 *et seq.*) prohibiting discrimination on the basis of sex under Federally assisted education programs or activities;
3. The Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 *et seq.*) prohibiting discrimination on the basis of disability under programs, activities, and services provided or made available by State and local governments or instrumentalities or agencies thereto, as well as public or private entities that provide public transportation;
4. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), and DOC implementing regulations published at 15 C.F.R. Part 8b prohibiting discrimination on the

basis of handicap under any program or activity receiving or benefiting from Federal assistance.

For purposes of complying with the accessibility standards set forth in 15 C.F.R. § 8b.18(c), non-federal entities must adhere to the regulations, published by the U.S. Department of Justice, implementing Title II of the Americans with Disabilities Act (ADA) (28 C.F.R. part 35; 75 FR 56164, as amended by 76 FR 13285) and Title III of the ADA (28 C.F.R. part 36; 75 FR 56164, as amended by 76 FR 13286). The revised regulations adopted new enforceable accessibility standards called the “2010 ADA Standards for Accessible Design” (2010 Standards), which replace and supersede the former Uniform Federal Accessibility Standards for new construction and alteration projects;

5. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 *et seq.*), and DOC implementing regulations published at 15 C.F.R. Part 20 prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance; and

6. Any other applicable non-discrimination law(s).

b. Other Provisions

1. Parts II and III of E.O. 11246 (Equal Employment Opportunity, 30 FR 12319),³ which requires Federally assisted construction contracts to include the nondiscrimination provisions of §§ 202 and 203 of E.O. 11246 and Department of Labor regulations implementing E.O. 11246 (41 C.F.R. § 60-1.4(b)).

2. E.O. 13166 (65 FR 50121, Improving Access to Services for Persons with Limited English Proficiency), requiring Federal agencies to examine the services provided, identify any need for services to those with limited English proficiency (LEP), and develop and implement a system to provide those services so LEP persons can have meaningful access to them. The DOC issued policy guidance on March 24, 2003 (68 FR 14180) to articulate the Title VI prohibition against national origin discrimination affecting LEP persons and to help ensure that non-Federal entities provide meaningful access to their LEP applicants and beneficiaries.

3. In accordance with E.O. 13798 and Office of Management and Budget, M-20-09 – Guidance Regarding Federal Grants, states or other public grantees may not condition sub-awards of Federal grant money in a manner that would disadvantage grant applicants based on their religious character.

³ As amended by E.O. 11375(32 FR 14303), E.O. 11478 (34 FR 12985), E.O. 12086 (43 FR 46501), E.O. 12107 (44 FR 1055), E.O. 13279 (F67 FR 77141), E.O. 13665 (79 FR 20749), and E.O. 13672 (79 FR 42971).

c. Title VII Exemption for Religious Organizations

Generally, Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e *et seq.*, provides that it is an unlawful employment practice for an employer to discharge any individual or otherwise to discriminate against an individual with respect to compensation, terms, conditions, or privileges of employment because of such individual's race, color, religion, sex, or national origin. However, Title VII, 42 U.S.C. § 2000e-1(a), expressly exempts from the prohibition against discrimination based on religion, "a religious corporation, association, educational institution, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities."

.03 LOBBYING RESTRICTIONS

a. Statutory Provisions

Non-Federal entities must comply with 2 C.F.R. § 200.450 (Lobbying), which incorporates the provisions of 31 U.S.C. § 1352; and OMB guidance and notices on lobbying restrictions. In addition, non-Federal entities must comply with the DOC regulations published at 15 C.F.R. Part 28, which implement the New Restrictions on Lobbying. These provisions prohibit the use of Federal funds for lobbying the executive or legislative branches of the Federal Government in connection with the award and require the disclosure of the use of non-Federal funds for lobbying. Lobbying includes attempting to improperly influence, meaning any influence that induces or tends to induce a Federal employee or officer to give consideration or to act regarding a Federal award or regulatory matter on any basis other than the merits of the matter, either directly or indirectly. Costs incurred to improperly influence are unallowable. *See* 2 C.F.R. § 200.450(b) and (c).

b. Disclosure of Lobbying Activities

Any recipient that receives more than \$100,000 in Federal funding and conducts lobbying with non-federal funds relating to a covered Federal action must submit a completed Form SF-LLL (Disclosure of Lobbying Activities). The Form SF-LLL must be submitted within 30 calendar days following the end of the calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed. The recipient must submit any required SF-LLL forms, including those received from subrecipients, contractors, and subcontractors, to the Grants Officer.

.04 Environmental Requirements

Environmental impacts must be considered by Federal decision makers in their decisions whether or not to approve: (1) a proposal for Federal assistance; (2) the proposal with mitigation; or (3) a different proposal having less adverse environmental impacts. Federal environmental laws require that the funding agency initiate an early planning process that considers potential impacts that projects funded with Federal assistance may have on the environment. Each non-Federal entity must comply with all environmental standards, to include those prescribed under

the following statutes and E.O.s and must identify to the awarding agency any impact the award may have on the environment. In some cases, award funds can be withheld by the Grants Officer under a specific award condition requiring the non-Federal entity to submit additional environmental compliance information sufficient to enable the DOC to make an assessment on any impacts that a project may have on the environment.

a. The National Environmental Policy Act (42 U.S.C. §§ 4321 *et seq.*)

The National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) implementing regulations (40 C.F.R. Parts 1500 through 1508) require that an environmental analysis be completed for all major Federal actions to determine whether they have significant impacts on the environment. NEPA applies to the actions of Federal agencies and may include a Federal agency's decision to fund non-Federal projects under grants and cooperative agreements when the award activities remain subject to Federal authority and control. Non-Federal entities are required to identify to the awarding agency any direct, indirect or cumulative impact an award will have on the quality of the human environment and assist the agency in complying with NEPA. Non-Federal entities may also be requested to assist DOC in drafting an environmental assessment or environmental impact statement if DOC determines such documentation is required, but DOC remains responsible for the sufficiency and approval of the final documentation. Until the appropriate NEPA documentation is complete and in the event that any additional information is required during the period of performance to assess project environmental impacts, funds can be withheld by the Grants Officer under a specific award condition requiring the non-Federal entity to submit the appropriate environmental information and NEPA documentation sufficient to enable DOC to make an assessment on any impacts that a project may have on the environment.

b. The National Historic Preservation Act (16 U.S.C. §§ 470 *et seq.*)

Section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. § 470f) and the Advisory Council on Historic Preservation (ACHP) implementing regulations (36 C.F.R. Part 800) require that Federal agencies take into account the effects of their undertakings on historic properties and, when appropriate, provide the ACHP with a reasonable opportunity to comment. Historic properties include but are not necessarily limited to districts, buildings, structures, sites and objects. In this connection, archeological resources and sites that may be of traditional religious and cultural importance to Federally-recognized Indian Tribes, Alaskan Native Villages and Native Hawaiian Organizations may be considered historic properties. Non-Federal entities are required to identify to the awarding agency any effects the award may have on properties included on or eligible for inclusion on the National Register of Historic Places. Non-Federal entities may also be requested to assist DOC in consulting with State or Tribal Historic Preservation Officers, ACHPs or other applicable interested parties necessary to identify, assess, and resolve adverse effects to historic properties. Until such time as the appropriate NHPA consultations and documentation are complete and in the event that any additional information is required during the period of performance in order to assess project impacts on historic properties, funds can be withheld by the Grants Officer under a specific award condition requiring the non-Federal entity to

submit any information sufficient to enable DOC to make the requisite assessment under the NHPA.

Additionally, non-Federal entities are required to assist the DOC in assuring compliance with the Archeological and Historic Preservation Act of 1974 (54 U.S.C. § 312502 *et seq.*, formerly 16 U.S.C. § 469a-1 *et seq.*); Executive Order 11593 (Protection and Enhancement of the Cultural Environment, May 13, 1971); Executive Order 13006 (Locating Federal Facilities on Historic Properties in Our Nation's Central Cities, May 21, 1996); and Executive Order 13007 (Indian Sacred Sites, May 24, 1996).

c. Executive Order 11988 (Floodplain Management) and Executive Order 11990 (Protection of Wetlands)

Non-Federal entities must identify proposed actions in Federally defined floodplains and wetlands to enable DOC to decide whether there is an alternative to minimize any potential harm.

d. Clean Air Act (42 U.S.C. §§ 7401 *et seq.*), Federal Water Pollution Control Act (33 U.S.C. §§ 1251 *et seq.*) (Clean Water Act), and Executive Order 11738 ("Providing for administration of the Clean Air Act and the Federal Water Pollution Control Act with respect to Federal contracts, grants or loans")

Non-Federal entities must comply with the provisions of the Clean Air Act (42 U.S.C. §§ 7401 *et seq.*), Clean Water Act (33 U.S.C. §§ 1251 *et seq.*), and E.O. 11738 (38 FR 25161), and must not use a facility on the Excluded Parties List (EPL) (located on the System for Award Management (SAM) website, SAM.gov) in performing any award that is nonexempt under 2 C.F.R. § 1532, and must notify the Program Officer in writing if it intends to use a facility that is on the EPL or knows that the facility has been recommended to be placed on the EPL.

e. The Flood Disaster Protection Act (42 U.S.C. §§ 4002 *et seq.*)

Flood insurance, when available, is required for Federally assisted construction or acquisition in flood-prone areas. Per 2 C.F.R. § 200.447(a), the cost of required flood insurance is an allowable expense, if it is reflected in the approved project budget.

f. The Endangered Species Act (16 U.S.C. §§ 1531 *et seq.*)

Non-Federal entities must identify any impact or activities that may involve a threatened or endangered species. Federal agencies have the responsibility to ensure that no adverse effects to a protected species or habitat occur from actions under Federal assistance awards and conduct the reviews required under the Endangered Species Act, as applicable.

g. The Coastal Zone Management Act (16 U.S.C. §§ 1451 *et seq.*)

Funded projects must be consistent with a coastal State's approved management program for the coastal zone.

h. The Coastal Barriers Resources Act (16 U.S.C. §§ 3501 *et seq.*)

Only in certain circumstances can Federal funding be provided for actions within a Coastal Barrier System.

i. The Wild and Scenic Rivers Act (16 U.S.C. §§ 1271 *et seq.*)

This Act applies to awards that may affect existing or proposed components of the National Wild and Scenic Rivers system.

j. The Safe Drinking Water Act of 1974, as amended, (42 U.S.C. §§ 300f *et seq.*)

This Act precludes Federal assistance for any project that the EPA determines may contaminate a sole source aquifer which threatens public health.

k. The Resource Conservation and Recovery Act (42 U.S.C. §§ 6901 *et seq.*)

This Act regulates the generation, transportation, treatment, and disposal of hazardous wastes, and provides that non-Federal entities give preference in their procurement programs to the purchase of recycled products pursuant to EPA guidelines.

l. The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, commonly known as Superfund) (42 U.S.C. §§ 9601 *et seq.*) and the Community Environmental Response Facilitation Act (42 U.S.C. § 9601 note *et seq.*)

These requirements address responsibilities related to hazardous substance releases, threatened releases and environmental cleanup. There are also reporting and community involvement requirements designed to ensure disclosure of the release or disposal of regulated substances and cleanup of hazards to state and local emergency responders.

m. Executive Order 12898 ("Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations")

Federal agencies are required to identify and address the disproportionately high and adverse human health or environmental effects of Federal programs, policies, and activities on low income and minority populations.

n. The Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1801 *et seq.*)

Non-Federal entities must identify to DOC any effects the award may have on essential fish habitat (EFH). Federal agencies which fund, permit, or carry out activities that may adversely impact EFH are required to consult with the National Marine Fisheries Service (NMFS) regarding the potential effects of their actions and respond in writing to NMFS recommendations. These recommendations may include measures to avoid, minimize, mitigate, or otherwise offset adverse effects on EFH. In addition, NMFS is required to comment on any state agency activities that would impact EFH. Provided the specifications outlined in the regulations are met, EFH consultations will be incorporated into interagency

procedures previously established under NEPA, the ESA, Clean Water Act, Fish and Wildlife Coordination Act, or other applicable statutes.

o. Clean Water Act (CWA) Section 404 (33 U.S.C. § 1344)

CWA Section 404 regulates the discharge of dredged or fill material into waters of the United States, including wetlands. Activities in waters of the United States regulated under this program include fill for development, water resource projects (such as levees and some coastal restoration activities), and infrastructure development (such as highways and airports). CWA Section 404 requires a permit from the U.S. Army Corps of Engineers before dredged or fill material may be discharged into waters of the United States, unless the activity is exempt from Section 404 regulation (e.g., certain farming and forestry activities).

p. Rivers and Harbors Act (33 U.S.C. § 407)

A permit may be required from the U.S. Army Corps of Engineers if the proposed activity involves any work in, over or under navigable waters of the United States. Recipients must identify any work (including structures) that will occur in, over or under navigable waters of the United States and obtain the appropriate permit, if applicable.

q. The Migratory Bird Treaty Act (16 U.S.C. §§ 703-712), Bald and Golden Eagle Protection Act (16 U.S.C. § 668 *et seq.*), and Executive Order 13186 (Responsibilities of Federal Agencies to Protect Migratory Birds, January 10, 2001)

Many prohibitions and limitations apply to projects that adversely impact migratory birds and bald and golden eagles. Executive Order 13186 directs Federal agencies to enter a Memorandum of Understanding with the U.S. Fish and Wildlife Service to promote conservation of migratory bird populations when a Federal action will have a measurable negative impact on migratory birds.

r. Executive Order 13112 (Invasive Species, February 3, 1999)

Federal agencies must identify actions that may affect the status of invasive species and use relevant programs and authorities to: (i) prevent the introduction of invasive species; (ii) detect and respond rapidly to and control populations of such species in a cost-effective and environmentally sound manner; (iii) monitor invasive species populations accurately and reliably; (iv) provide for restoration of native species and habitat conditions in ecosystems that have been invaded; (v) conduct research on invasive species and develop technologies to prevent introduction and provide for environmentally sound control of invasive species; and (vi) promote public education on invasive species and the means to address them. In addition, an agency may not authorize, fund, or carry out actions that it believes are likely to cause or promote the introduction or spread of invasive species in the United States or elsewhere.

s. Fish and Wildlife Coordination Act (16 U.S.C. § 661 *et seq.*)

During the planning of water resource development projects, agencies are required to give fish and wildlife resources equal consideration with other values. Additionally, the U.S.

Fish and Wildlife Service and fish and wildlife agencies of states must be consulted whenever waters of any stream or other body of water are “proposed or authorized, permitted or licensed to be impounded, diverted... or otherwise controlled or modified” by any agency under a Federal permit or license.

.05 OTHER NATIONAL POLICY REQUIREMENTS

a. Buy-American Preferences

Strengthening Buy-American Preferences for Infrastructure Projects. Recipients of covered programs (as defined in Executive Order 13858, 31 January 2019, and 2 C.F.R. §200.322 (Domestic preferences for procurements)) are hereby notified that they are encouraged to use, to the greatest extent practicable, iron and aluminum as well as steel, cement, and other manufactured products produced in the United States in every contract, subcontract, purchase order, or subaward that is chargeable under this Award.

b. Criminal and Prohibited Activities

1. The Program Fraud Civil Remedies Act (31 U.S.C. § 3801 *et seq.*), provides for the imposition of civil penalties against persons who make false, fictitious, or fraudulent claims to the Federal Government for money (including money representing grants, loans, or other benefits).
2. The False Claims Amendments Act of 1986 and the False Statements Accountability Act of 1996 (18 U.S.C. §§ 287 and 1001, respectively), provide that whoever makes or presents any false, fictitious, or fraudulent statement, representation, or claim against the United States must be subject to imprisonment of not more than five years and must be subject to a fine in the amount provided by 18 U.S.C. § 287.
3. The Civil False Claims Act (31 U.S.C. §§ 3729 - 3733), provides that suits can be brought by the government, or a person on behalf of the government, for false claims made under Federal assistance programs.
4. The Copeland Anti-Kickback Act (18 U.S.C. § 874), prohibits a person or organization engaged in a Federally supported project from enticing an employee working on the project from giving up a part of his compensation under an employment contract. The Copeland Anti-Kickback Act also applies to contractors and subcontractors pursuant to 40 U.S.C. § 3145.
5. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 *et seq.*) and implementing regulations issued at 15 C.F.R. Part 11, which provides for fair and equitable treatment of displaced persons or persons whose property is acquired as a result of Federal or Federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

6. The Hatch Act (5 U.S.C. §§ 1501-1508 and 7321-7326), which limits the political activities of employees or officers of state or local governments whose principal employment activities are funded in whole or in part with Federal funds.

7. To ensure compliance with Federal law pertaining to financial assistance awards, an authorized representative of a non-Federal entity may be required to periodically provide certain certifications to the DOC regarding Federal felony and Federal criminal tax convictions, unpaid federal tax assessments, delinquent Federal tax returns and such other certifications that may be required by Federal law.

c. Drug-Free Workplace

The non-Federal entity must comply with the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. § 8102) and DOC implementing regulations published at 2 C.F.R. Part 1329 (Requirements for Drug-Free Workplace (Financial Assistance)), which require that the non-Federal entity take certain actions to provide a drug-free workplace.

d. Foreign Travel

1. Each non-Federal entity must comply with the provisions of the Fly America Act (49 U.S.C. § 40118). The implementing regulations of the Fly America Act are found at 41 C.F.R. §§ 301-10.131 through 301-10.143.

2. The Fly America Act requires that Federal travelers and others performing U.S. Government-financed air travel must use U.S. flag air carriers, to the extent that service by such carriers is available. Foreign air carriers may be used only in specific instances, such as when a U.S. flag air carrier is unavailable or use of U.S. flag air carrier service will not accomplish the agency's mission.

3. One exception to the requirement to fly U.S. flag carriers is transportation provided under a bilateral or multilateral air transport agreement, to which the United States Government and the government of a foreign country are parties, and which the Department of Transportation has determined meets the requirements of the Fly America Act pursuant to 49 U.S.C. § 40118(b). The United States Government has entered into bilateral/multilateral "Open Skies Agreements" (U.S. Government Procured Transportation) that allow federal funded transportation services for travel and cargo movements to use foreign air carriers under certain circumstances. There are multiple "Open Skies Agreements" currently in effect. For more information about the current bilateral and multilateral agreements, visit the GSA [website](#). Information on the Open Skies agreements (U.S. Government Procured Transportation) and other specific country agreements may be accessed via the Department of State's [website](#).

4. If a foreign air carrier is anticipated to be used for any portion of travel under a DOC financial assistance award, the non-Federal entity must receive prior approval from the Grants Officer. When requesting such approval, the non-Federal entity must provide a justification in accordance with guidance provided by 41 C.F.R. § 301-10.142, which requires the non-Federal entity to provide the Grants Officer with the following: name; dates

of travel; origin and destination of travel; detailed itinerary of travel; name of the air carrier and flight number for each leg of the trip; and a statement explaining why the non-Federal entity meets one of the exceptions to the regulations. If the use of a foreign air carrier is pursuant to a bilateral agreement, the non-Federal entity must provide the Grants Officer with a copy of the agreement or a citation to the official agreement available on the GSA website. The Grants Officer must make the final determination and notify the non-Federal entity in writing (which may be done through the recipient in the case of subrecipient travel). Failure to adhere to the provisions of the Fly America Act will result in the non-Federal entity not being reimbursed for any transportation costs for which any non-Federal entity improperly used a foreign air carrier.

Note: When using code-sharing flights (two or more airlines having flight numbers assigned to the same flight) involving U.S. flag carriers and non-U.S. flag carriers, the airline symbol and flight number of the U.S. flag carrier must be used on the ticket to qualify as a U.S. flag carrier (e.g. "*Delta Airlines Flight XXXX, operated by KLM*"). Conversely, if the ticket shows "*[Foreign Air Carrier] XXX, operated by Delta,*" that travel is using a foreign air carrier and is subject to the Fly America Act and must receive prior approval from the Grants Officer as outlined in paragraph G.05.d.4.

e. Increasing Seat Belt Use in the United States

Pursuant to E.O. 13043 (62 FR 19217), non-Federal entities should encourage employees and contractors to enforce on-the-job seat belt policies and programs when operating company-owned, rented, or personally owned vehicles.

f. Federal Employee Expenses and Subawards or Contracts Issued to Federal Employees or Agencies

1. Use of award funds (Federal or non-Federal) or the non-Federal entity's provision of in-kind goods or services for the purposes of transportation, travel, or any other expenses for any Federal employee may raise appropriation augmentation issues. In addition, DOC policy may prohibit the acceptance of gifts, including travel payments for federal employees, from non-Federal entities regardless of the source. Therefore, before award funds may be used by Federal employees, non-Federal entities must submit requests for approval of such action to the Federal Program Officer who must review and make a recommendation to the Grants Officer. The Grants Officer will notify the non-Federal entity in writing (generally through the recipient) of the final determination.

2. A non-Federal entity or its contractor may not issue a subaward, contract or subcontract of any part of a DOC award to any agency or employee of DOC or to other Federal employee, department, agency, or instrumentality, without the advance prior written approval of the DOC Grants Officer.

g. Minority Serving Institutions Initiative

Pursuant to E.O.s 13555 (White House Initiative on Educational Excellence for Hispanics) (75 FR 65417), 13592 (Improving American Indian and Alaska Native

Educational Opportunities and Strengthening Tribal Colleges and Universities) (76 FR 76603), and 13779 (White House Initiative to Promote Excellence and Innovation at Historically Black Colleges and Universities) (82 FR 12499), DOC is strongly committed to broadening the participation of minority serving institutions (MSIs) in its financial assistance programs. DOC's goals include achieving full participation of MSIs to advance the development of human potential, strengthen the Nation's capacity to provide high-quality education, and increase opportunities for MSIs to participate in and benefit from Federal financial assistance programs. DOC encourages all applicants and non-Federal entities to include meaningful participation of MSIs. Institutions eligible to be considered MSIs are listed on the Department of Education website.

h. Research Misconduct

The DOC adopts, and applies to financial assistance awards for research, the Federal Policy on Research Misconduct (Federal Policy) issued by the Executive Office of the President's Office of Science and Technology Policy on December 6, 2000 (65 FR 76260). As provided for in the Federal Policy, research misconduct refers to the fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. Research misconduct does not include honest errors or differences of opinion. Non-Federal entities that conduct extramural research funded by DOC must foster an atmosphere conducive to the responsible conduct of sponsored research by safeguarding against and resolving allegations of research misconduct. Non-Federal entities also have the primary responsibility to prevent, detect, and investigate allegations of research misconduct and, for this purpose, may rely on their internal policies and procedures, as appropriate, to do so. Non-Federal entities must notify the Grants Officer of any allegation that meets the definition of research misconduct and detail the entity's inquiry to determine whether there is sufficient evidence to proceed with an investigation, as well as the results of any investigation. The DOC may take appropriate administrative or enforcement action at any time under the award, up to and including award termination and possible suspension or debarment, and referral to the Commerce OIG, the U.S. Department of Justice, or other appropriate investigative body.

i. Research Involving Human Subjects

1. All proposed research involving human subjects must be conducted in accordance with 15 C.F.R. Part 27 (Protection of Human Subjects). No research involving human subjects is permitted under this award unless expressly authorized by specific award condition, or otherwise in writing by the Grants Officer.
2. Federal policy defines a human subject as a living individual about whom an investigator (whether professional or student) conducting research (1) Obtains information or biospecimens through intervention or interaction with the individual, and uses, studies, or analyzes the information or biospecimens; or (2) Obtains, uses, studies, analyzes, or generates identifiable private information or identifiable biospecimens. Research means a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge.

3. DOC regulations at 15 C.F.R. Part 27 require that non-Federal entities maintain appropriate policies and procedures for the protection of human subjects. In the event it becomes evident that human subjects may be involved in this project, the non-Federal entity (generally through the recipient) must submit appropriate documentation to the Federal Program Officer for approval by the appropriate DOC officials. As applicable, this documentation must include:

- i. Documentation establishing approval of an activity in the project by an Institutional Review Board (IRB) under a Federal wide Assurance issued by Department of Health and Human Services or other Federal agency guidelines (*see also* 15 C.F.R. § 27.103);
- ii. Documentation to support an exemption for an activity in the project under 15 C.F.R. § 27.104(d);
- iii. Documentation of IRB approval of any modification to a prior approved protocol or to an informed consent form;
- iv. Documentation of an IRB approval of continuing review approved prior to the expiration date of the previous IRB determination; and
- v. Documentation of any reportable events, such as serious adverse events, unanticipated problems resulting in risk to subjects or others, and instances of noncompliance.

4. No work involving human subjects may be undertaken, conducted, or costs incurred and/or charged for human subjects research, until the appropriate documentation is approved in writing by the Grants Officer. In accordance with 15 C.F.R. § 27.118, if research involving human subjects is proposed after an award is made, the non-Federal entity must contact the Federal Program Officer and provide required documentation. Notwithstanding this prohibition, work may be initiated or costs incurred and/or charged to the project for protocol or instrument development related to human subjects research.

j. Care and Use of Live Vertebrate Animals

Non-Federal entities must comply with the Laboratory Animal Welfare Act of 1966, as amended, (Pub. L. No. 89-544, 7 U.S.C. §§ 2131 *et seq.*) (animal acquisition, transport, care, handling, and use in projects), and implementing regulations (9 C.F.R. Parts 1, 2, and 3); the Endangered Species Act (16 U.S.C. §§ 1531 *et seq.*); Marine Mammal Protection Act (16 U.S.C. §§ 1361 *et seq.*) (taking possession, transport, purchase, sale, export or import of wildlife and plants); the Nonindigenous Aquatic Nuisance Prevention and Control Act (16 U.S.C. §§ 4701 *et seq.*) (ensure preventive measures are taken or that probable harm of using species is minimal if there is an escape or release); and all other applicable statutes pertaining to the care, handling, and treatment of warm-blooded animals held for research, teaching, or other activities supported by Federal financial assistance. No research involving vertebrate animals is permitted under any DOC financial assistance award unless authorized by the Grants Officer.

k. Management and Access to Data and Publications

1. In General. The recipient acknowledges and understands that information and data contained in applications for financial assistance, as well as information and data contained in financial, performance and other reports submitted by recipients, may be used by the DOC in conducting reviews and evaluations of its financial assistance programs. For this purpose, recipient information and data may be accessed, reviewed and evaluated by DOC employees, other Federal employees, Federal agents and contractors, and/or by non-Federal personnel, all of who enter into appropriate or are otherwise subject to confidentiality and nondisclosure agreements covering the use of such information. Recipients are expected to support program reviews and evaluations by submitting required financial and performance information and data in an accurate and timely manner, and by cooperating with DOC and external program evaluators. In accordance with 2 C.F.R. § 200.303(e), recipients are reminded that they must take reasonable measures to safeguard protected personally identifiable information and other confidential or sensitive personal or business information created or obtained relating to a DOC financial assistance award.

2. Scientific Data. Non-Federal entities must comply with the data management and access to data requirements established by the DOC funding agency as set forth in the applicable Notice of Funding Opportunity and/or in Specific Award Conditions.

3. Publications, Videos, and Acknowledgment of Sponsorship.

i. Publication of results or findings in appropriate professional journals and production of video or other media is encouraged as an important method of recording, reporting and otherwise disseminating information and expanding public access to federally-funded projects (e.g., scientific research). Non-Federal entities must comply with the data management and access to data requirements established by the DOC funding agency as set forth in the applicable Notice of Funding Opportunity and/or in Specific Award Conditions.

ii. Non-Federal entities may be required to submit a copy of any publication materials, including but not limited to print, recorded, or Internet materials, to the funding agency.

iii. When releasing information related to a funded project, non-Federal entities must include a statement that the project or effort undertaken was or is sponsored by DOC and must also include the applicable financial assistance award number.

iv. Non-Federal entities are responsible for assuring that every publication of material based on, developed under, or otherwise produced pursuant to a DOC financial assistance award contains the following disclaimer or other disclaimer approved by the Grants Officer:

This [report/video/etc.] was prepared by [recipient name] using Federal funds under award [number] from [name of operating unit], U.S. Department of Commerce. The statements, findings, conclusions, and recommendations are those of the author(s) and do

not necessarily reflect the views of the [name of operating unit] or the U.S. Department of Commerce.

l. Homeland Security Presidential Directive

If the performance of this DOC financial assistance award requires non-Federal entity personnel to have routine access to Federally-controlled facilities and/or Federally-controlled information systems (for purpose of this term “routine access” is defined as more than 180 calendar days), such personnel must undergo the personal identity verification credential process. In the case of foreign nationals, the DOC will conduct a check with U.S. Citizenship and Immigration Services’ (USCIS) Verification Division, a component of the Department of Homeland Security (DHS), to ensure the individual is in a lawful immigration status and that he or she is eligible for employment within the United States. Any items or services delivered under a financial assistance award must comply with DOC personal identity verification procedures that implement Homeland Security Presidential Directive 12 (Policy for a Common Identification Standard for Federal Employees and Contractors), Federal Information Processing Standard (FIPS) PUB 201, and OMB Memorandum M-05-24. The recipient must ensure that its subrecipients and contractors (at all tiers) performing work under this award comply with the requirements contained in this term. The Grants Officer may delay final payment under an award if the subrecipient or contractor fails to comply with the requirements listed in the term below. The recipient must insert the following term in all subawards and contracts when the subaward recipient or contractor is required to have routine physical access to a Federally-controlled facility or routine access to a Federally-controlled information system:

The subrecipient or contractor must comply with DOC personal identity verification procedures identified in the subaward or contract that implement Homeland Security Presidential Directive 12 (HSPD-12), Office of Management and Budget (OMB) Guidance M-05-24, as amended, and Federal Information Processing Standards Publication (FIPS PUB) Number 201, as amended, for all employees under this subaward or contract who require routine physical access to a Federally-controlled facility or routine access to a Federally-controlled information system.

The subrecipient or contractor must account for all forms of Government-provided identification issued to the subrecipient or contractor employees in connection with performance under this subaward or contract. The subrecipient or contractor must return such identification to the issuing agency at the earliest of any of the following, unless otherwise determined by DOC: (1) When no longer needed for subaward or contract performance; (2) Upon completion of the subrecipient or contractor employee's employment; (3) Upon subaward or contract completion or termination.

m. Compliance with Department of Commerce Bureau of Industry and Security Export Administration Regulations

1. This clause applies to the extent that this financial assistance award encompasses activities that involve export-controlled items.

2. In performing this financial assistance award, a non-Federal entity may participate in activities involving items subject to export control (export-controlled items) under the Export Administration Regulations (EAR). The non-Federal entity is responsible for compliance with all applicable laws and regulations regarding export-controlled items, including the EAR's deemed exports and re-exports provisions. The non-Federal entity must establish and maintain effective export compliance procedures at DOC and non-DOC facilities, including facilities located abroad, throughout performance of the financial assistance award. At a minimum, these export compliance procedures must include adequate restrictions on export-controlled items, to guard against any unauthorized exports, including in the form of releases or transfers to foreign nationals. Such releases or transfers may occur through visual inspection, including technology transmitted electronically, and oral or written communications.

3. Definitions

- i. Export-controlled items. Items (commodities, software, or technology), that are subject to the EAR (15 C.F.R. §§ 730-774), implemented by the DOC's Bureau of Industry and Security. These are generally known as "dual-use" items, items with a military and commercial application. The export (shipment, transmission, or release/transfer) of export-controlled items may require a license from DOC.
 - ii. Deemed Export/Re-export. The EAR defines a deemed export as a release or transfer of export-controlled items (specifically, technology or source code) to a foreign person (foreign national) in the U.S. Such release is "deemed" to be an export to the foreign person's most recent country of citizenship or permanent residency (*see* 15 C.F.R. § 734.13(a)(2) & (b)). A release may take the form of visual inspection or oral or written exchange of information. *See* 15 C.F.R. § 734.15(a). If such a release or transfer is made abroad to a foreign person of a country other than the country where the release occurs, it is considered a deemed re-export to the foreign person's most recent country of citizenship or permanent residency. *See* 15 C.F.R. § 734.14(a)(2). Licenses from DOC may be required for deemed exports or re-exports. An act causing the release of export-controlled items to a foreign person (e.g., providing or using an access key or code) may require authorization from DOC to the same extent that an export or re-export of such items to the foreign person would. *See* 15 C.F.R. § 734.15(b).
4. The non-Federal entity must secure all export-controlled items that it possesses or that comes into its possession in performance of this financial assistance award, to ensure that the export of such items, including in the form of release or transfer to foreign persons, is prevented, or licensed, as required by applicable Federal laws, E.O.s, and/or regulations, including the EAR.
5. As applicable, non-Federal entity personnel and associates at DOC sites will be informed of any procedures to identify and protect export-controlled items from unauthorized export.

6. To the extent the non-Federal entity wishes to release or transfer export-controlled items to foreign persons, the non-Federal entity will be responsible for obtaining any necessary licenses, including licenses required under the EAR for deemed exports or deemed re-exports. Failure to obtain any export licenses required under the EAR may subject the non-Federal entity to administrative or criminal enforcement. See 15 C.F.R. part 764.
 7. Nothing in the terms of this financial assistance award is intended to change, supersede, or waive the requirements of applicable Federal laws, E.O.s or regulations.
 8. Compliance with this term will not satisfy any legal obligations the non-Federal entity may have regarding items that may be subject to export controls administered by other agencies such as the Department of State, which has jurisdiction over exports and re-exports of defense articles and services subject to the International Traffic in Arms Regulations (ITAR) (22 C.F.R. §§ 120-130), including the release of defense articles to foreign persons in the United States and abroad.
 9. The non-Federal entity must include the provisions contained in this term in all lower tier transactions (subawards, contracts, and subcontracts) under this financial assistance award that may involve research or other activities that implicate export-controlled items.
- n. The Trafficking Victims Protection Act of 2000 (22 U.S.C. § 7104(g)), as amended, and the implementing regulations at 2 C.F.R. Part 175**

The Trafficking Victims Protection Act of 2000 authorizes termination of financial assistance provided to a private entity, without penalty to the Federal Government, if any non-Federal entity engages in certain activities related to trafficking in persons. The DOC hereby incorporates the following award term required by 2 C.F.R. § 175.15(b):

Trafficking in persons.

a. Provisions applicable to a recipient that is a private entity.

1. You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not—

- i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;***
- ii. Procure a commercial sex act during the period of time that the award is in effect; or***
- iii. Use forced labor in the performance of the award or subawards under the award.***

2. *We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity —*

- i. *Is determined to have violated a prohibition in paragraph a.1 of this award term; or*
- ii. *Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either— (A) Associated with performance under this award; or (B) Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 C.F.R. Part 180 (OMB Guidelines to Agencies on Governmentwide Debarment and Suspension – Nonprocurement), as implemented by DOC at 2 C.F.R. Part 1326 (Nonprocurement Debarment and Suspension).*

b. Provision applicable to a recipient other than a private entity. *We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—*

1. *Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or*

2. *Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either—*

- i. *Associated with performance under this award; or*
- ii. *Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 C.F.R. Part 180 (OMB Guidelines to Agencies on Governmentwide Debarment and Suspension – Nonprocurement), as implemented by DOC at 2 C.F.R. Part 1326, (Nonprocurement Debarment and Suspension).*

c. Provisions applicable to any recipient.

1. *You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.*

2. *Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:*

- i. *Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and*
- ii. *Is in addition to all other remedies for noncompliance that are available to us under this award.*

3. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

d. Definitions. For purposes of this award term:

1. "Employee" means either:

i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or

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

2. "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

3. "Private entity":

i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 C.F.R. § 175.25;

ii. Includes: (A) A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 C.F.R. § 175.25(b); and (B) A for-profit organization.

4. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. § 7102).

o. The Federal Funding Accountability and Transparency Act (FFATA) (31 U.S.C. § 6101 note)

1. **Reporting Subawards and Executive Compensation.** Under FFATA, recipients of financial assistance awards of \$30,000 or more are required to report periodically on executive compensation and subawards, as described in the following term from 2 C.F.R. Part 170, Appendix A, which is incorporated into this award:

Reporting Subawards and Executive Compensation

a. Reporting of first-tier subawards.

1. *Applicability.* Unless you are exempt as provided in paragraph d. of this award term, you must report each action that equals or exceeds \$30,000 in Federal funds for a subaward

to a non-Federal entity or Federal agency (see definitions in paragraph e. of this award term).

2. *Where and when to report.*

i. *You must report each obligating action described in paragraph a.1. of this award term to <http://www.fsrs.gov>.*

ii. *For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)*

3. *What to report. You must report the information about each obligating action that the submission instructions posted at <http://www.fsrs.gov> specify.*

b. *Reporting Total Compensation of Recipient Executives for non-Federal entities.*

1. *Applicability and what to report. You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—*

i. *the total Federal funding authorized to date under this Federal award equals or exceeds \$30,000 as defined in 2 C.F.R. § 170.320;*

ii. *in the preceding fiscal year, you received—*

(A) *80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. § 170.320 (and subawards), and*

(B) *\$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. § 170.320 (and subawards); and,*

iii. *The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. § 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/excomp.htm>.)*

2. *Where and when to report. You must report executive total compensation described in paragraph b.1. of this award term:*

i. *As part of your registration profile found at the System for Award Management (SAM) website located at <https://www.sam.gov>.*

- ii. By the end of the month following the month in which this award is made, and annually thereafter.

c. Reporting of Total Compensation of Subrecipient Executives.

1. *Applicability and what to report.* Unless you are exempt as provided in paragraph d. of this award term, for each first-tier non-Federal entity subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if—

- i. in the subrecipient's preceding fiscal year, the subrecipient received—

- (A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. § 170.320 (and subawards) and,

- (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and

- ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

See also 2 C.F.R. § 200.300(b).

2. *Where and when to report.* You must report subrecipient executive total compensation described in paragraph c.1. of this award term:

- i. To the recipient.

- ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

d. **Exemptions.** If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report: i. Subawards, and ii. The total compensation of the five most highly compensated executives of any subrecipient.

*e. **Definitions.** For purposes of this award term:*

- 1. **Federal Agency** means a Federal agency as defined at 5 U.S.C. 551(1) and further clarified by 5 U.S.C. 552(f).*
- 2. **Non-Federal entity** means all of the following, as defined in 2 C.F.R. Part 25:*
 - i. A Governmental organization, which is a State, local government, or Indian tribe;*
 - ii. A foreign public entity;*
 - iii. A domestic or foreign nonprofit organization; and,*
 - iv. A domestic or foreign for-profit organization.*
- 3. **Executive** means officers, managing partners, or any other employees in management positions.*
- 4. **Subaward:***
 - i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.*
 - ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see 2 C.F.R § 200.331).*
 - iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.*
- 5. **Subrecipient** means a non-Federal entity or Federal agency that:*
 - i. Receives a subaward from you (the recipient) under this award; and*
 - ii. Is accountable to you for the use of the Federal funds provided by the subaward.*
- 6. **Total compensation** means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 C.F.R. § 229.402(c)(2)):*
 - i. Salary and bonus.*
 - ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.*

- iii. *Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.*
- iv. *Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.*
- v. *Above-market earnings on deferred compensation which is not tax-qualified.*
- vi. *Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.*

2. **System for Award Management (SAM) and Universal Identifier Requirements** -- as described in 2 C.F.R. Part 25, Appendix A, which is incorporated into this award:

System for Award Management (SAM) and Universal Identifier Requirements

a. ***Requirement for System for Award Management.*** *Unless you are exempted from this requirement under 2 C.F.R. § 25.110, you as the recipient must maintain current information in the SAM. This includes information on your immediate and highest level owner and subsidiaries, as well as on all of your predecessors that have been awarded a Federal contract or Federal financial assistance within the last three years, if applicable, until you submit the final financial report required under this Federal award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another Federal award term.*

b. ***Requirement for Unique Entity Identifier.*** *If you are authorized to make subawards under this Federal award, you:*

- 1. *Must notify potential subrecipients that no entity (see definition in paragraph c of this award term) may receive a subaward from you until the entity has provided its Unique Entity Identifier to you.*
- 2. *May not make a subaward to an entity unless the entity has provided its Unique Entity Identifier to you. Subrecipients are not required to obtain an active SAM registration, but must obtain a Unique Entity Identifier.*

c. ***Definitions for purposes of this term:***

1. *SAM means the Federal repository into which a recipient must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the SAM Internet site (currently at <https://www.SAM.gov>).*

2. *Unique Entity Identifier means the identifier assigned by SAM to uniquely identify business entities.*

3. *Entity includes non-Federal entities as defined at 2 C.F.R. § 200.1 and also includes all of the following, for purposes of this part:*

- i. A foreign organization;*
- ii. A foreign public entity;*
- iii. A domestic for-profit organization; and*
- iv. A Federal agency.*

4. *Subaward has the meaning given in 2 C.F.R § 200.1.*

5. *Subrecipient has the meaning given in 2 C.F.R § 200.1.*

See also 2 C.F.R. § 200.300(b).

p. Recipient Integrity and Performance Matters (Appendix XII to 2 C.F.R. Part 200)

Reporting of Matters Related to Recipient Integrity and Performance

1. **General Reporting Requirement.** If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this Federal award, then you as the recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

2. **Proceedings About Which You Must Report.** Submit the information required about each proceeding that:

- i.** Is relating to the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;
- ii.** Reached its final disposition during the most recent five-year period; and

iii. Is one of the following:

(A) A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;

(B) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;

(C) An administrative proceeding, as defined in paragraph 5 of this award term and condition, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damages in excess of \$100,000; or

(D) Any other criminal, civil, or administrative proceeding if:

I. It could have led to an outcome described in paragraph 2.c.(1), (2), or (3) of this award term and condition;

II. It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and

III. The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

3. Reporting Procedures. Enter in the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition. You do not need to submit the information a second time under assistance awards that you received if you already provided the information through SAM because you were required to do so under Federal procurement contracts that you were awarded.

4. Reporting Frequency. During any period when you are subject to the requirement in paragraph 1 of this award term and condition, you must report proceedings information through SAM for the most recent five-year period, either to report new information about any proceeding(s) that you have not reported previously or affirm that there is no new information to report. Recipients that have Federal contract, grant, and cooperative agreement awards with a cumulative total value greater than \$10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

5. Definitions. For purposes of this award term and condition:

i. Administrative proceeding means a non-judicial process that is adjudicatory in nature to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.

ii. Conviction, for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.

iii. Total value of currently active grants, cooperative agreements, and procurement contracts includes:

(A) Only the Federal share of the funding under any Federal award with a recipient cost share or match; and

(B) The value of all expected funding increments under a Federal award and options, even if not yet exercised.

q. **Never Contract with the Enemy (2 C.F.R Part 183; 2 C.F.R. § 200.215)**

Under 2 C.F.R. § 200.215 (Never contract with the enemy) Federal awarding agencies and recipients are subject to the regulations implementing Never Contract with the Enemy in 2 C.F.R. Part 183. These regulations affect covered contracts, grants and cooperative agreements that are expected to exceed \$50,000 within the period of performance, are performed outside the United States and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.

1. **Applicability.** This term applies only to recipients of covered grants or cooperative agreements, as defined in 2 C.F.R. § 183.35 Definitions.

2. **Requirements.** As applicable, recipients must fulfill the requirements as described in the following terms from 2 C.F.R. Part 183, Appendix A, which is incorporated into this award:

a. Term 1. Prohibition on Providing Funds to the Enemy.

1. The recipient must—

- i. Exercise due diligence to ensure that none of the funds, including supplies and services, received under this grant or cooperative agreement are provided directly or indirectly (including through subawards or contracts) to a person or entity who is actively opposing the United States or coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities, which must be completed through 2 CFR Part 180.300 prior to issuing a subaward or contract and;*
- ii. Terminate or void in whole or in part any subaward or contract with a person or entity listed in SAM as a prohibited or restricted source pursuant to subtitle E of Title VIII of the NDAA for FY 2015, unless the Federal awarding agency provides written approval to continue the subaward or contract.*

2. *The recipient may include the substance of this clause, including this paragraph (1), in subawards under this grant or cooperative agreement that have an estimated value over \$50,000 and will be performed outside the United States, including its outlying areas.*

3. *The Federal awarding agency has the authority to terminate or void this grant or cooperative agreement, in whole or in part, if the Federal awarding agency becomes aware that the recipient failed to exercise due diligence as required by paragraph (1) of this clause or if the Federal awarding agency becomes aware that any funds received under this grant or cooperative agreement have been provided directly or indirectly to a person or entity who is actively opposing coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities*

b. Term 2. Additional Access to Recipient Records.

1. *In addition to any other existing examination-of-records authority, the Federal Government is authorized to examine any records of the recipient and its subawards or contracts to the extent necessary to ensure that funds, including supplies and services, available under this grant or cooperative agreement are not provided, directly or indirectly, to a person or entity that is actively opposing United States or coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities, except for awards awarded by the Department of Defense on or before Dec 19, 2017 that will be performed in the United States Central Command (USCENTCOM) theater of operations*

2. *The substance of this clause, including this paragraph (2), is required to be included in subawards or contracts under this grant or cooperative agreement that have an estimated value over \$50,000 and will be performed outside the United States, including its outlying areas.*

r. Prohibition on certain telecommunications and video surveillance services or equipment (Public Law 115-232, section 889; 2 C.F.R. § 200.216)

(a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

- (1) Procure or obtain,
- (2) Extend or renew a contract to procure or obtain, or
- (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

- (i). For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
- (ii). Telecommunications or video surveillance services provided by such entities or using such equipment.
- (iii). Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(b) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

(c) See Public Law 115-232, section 889 for additional information.

(d) See also §200.471.

s. Federal Financial Assistance Planning During a Funding Hiatus or Government Shutdown

This term sets forth initial guidance that will be implemented for Federal assistance awards in the event of a lapse in appropriations, or a government shutdown. The Grants Officer may issue further guidance prior to an anticipated shutdown.

1. Unless there is an actual rescission of funds for specific grant or cooperative agreement obligations, non-Federal entities under Federal financial assistance awards for which funds have been obligated generally will be able to continue to perform and incur allowable expenses under the award during a funding hiatus. Non-Federal entities are advised that ongoing activities by Federal employees involved in grant or cooperative agreement administration (including payment processing) or similar operational and administrative work cannot continue when there is a funding lapse. Therefore, there may be delays, including payment processing delays, in the event of a shutdown.

2. All award actions will be delayed during a government shutdown; if it appears that a non-Federal entity's performance under a grant or cooperative agreement will require agency involvement, direction, or clearance during the period of a possible government shutdown, the Program Officer or Grants Officer, as appropriate, may attempt to provide such involvement, direction, or clearance prior to the shutdown or advise non-Federal entities that such involvement, direction, or clearance will not be forthcoming during the shutdown. Accordingly, non-Federal entities whose ability to withdraw funds is subject to prior agency approval, which in general are non-Federal entities that have been designated high risk, non-Federal entities under construction awards, or are otherwise limited to reimbursements or subject to agency review, will be able to draw funds down from the relevant Automatic Standard Application for Payment (ASAP) account only if agency approval is given and coded into ASAP prior to any government shutdown or closure. This limitation may not be lifted during a government shutdown. Non-Federal entities should plan to work with the Grants Officer to request prior approvals in advance of a shutdown wherever possible. Non-Federal entities whose authority to draw down award funds is restricted may decide to suspend work until the government reopens.

3. The ASAP system should remain operational during a government shutdown. Non-Federal entities that do not require any Grants Officer or agency approval to draw down advance funds from their ASAP accounts should be able to do so during a shutdown. The 30-day limitation on the drawdown of advance funds will still apply notwithstanding a government shutdown (see section B.02.b.1 of these terms).

ATTACHMENT B

SCOPE OF WORK

GOAL: Learn from PAEG members about their workforce experience, what they want in a job and what barriers keep them out of the workforce. Document this anecdotal information and analyze for common themes that can be combined with data analysis to guide barrier removal, workforce, and job creation strategies.

Activities:

- Work with barrier removal committee to develop a list of open-ended questions designed to get PAEG members to share their work experience, aspirations, and barriers.
- Contract with several trusted community members to assist in outreach to CBOs, churches, and individuals in targeted geographic/demographic communities. Contracts will be under the micro-purchase limit to avoid need for RFPs and get this going very quickly.
- Hold meetings in Brinnon/Quilcene, with BIPOC community, with Tribes, in Forks, etc. Document responses during meetings and interviews. Lauren and Karen to plan/facilitate/document meetings with assistance from trusted community members.
- Produce a report.

Timeline:

Identify and contract with 2-4 trusted community members for outreach soon after contract executed. Initial meetings would likely be 1 to 2 weeks later. Produce a report no later than the 4/3 meeting and likely by 3/28 so that there would be time for review ahead of that meeting.

Funding needed:

\$25,000 for staff time, subcontracts, travel



17
MAR 11 2024
22

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

Department: BOCC

WORK SESSION ☒ **Meeting Date:** March 11, 2024

REGULAR AGENDA ☒ **Meeting Date:** March 12, 2024

Required originals approved and attached? ☐
Will be provided on:

Item summary:

- | | | |
|---|--|--------------------------------------|
| ☐ Call for Hearing | ☒ Contract/Agreement/MOU - Contract # 245-24-002 | |
| ☐ Resolution | ☐ Proclamation | ☐ Budget Item |
| ☐ Draft Ordinance | ☐ Final Ordinance | ☐ Other |

Documents exempt from public disclosure attached: ☐

Executive summary:

Request Approval of Strategy Development Grant award contract by US Department of Commerce/Economic Development Administration (EDA) – SUBAWARD to Social and Economic Sciences Research Center (SESRC) at Washington State University (WSU)

REVISED PER SESRC/WSU request revising some of the legal language in the contract. These changes have been approved by the DPA.

Clallam County, as the Lead Applicant for North Olympic Peninsula Recomplete Coalition (NOPRC) applied for the Distressed Area Recompete Pilot Program (Recompete) Phase 1 approval and the Strategy Development Grant in October 2023.

December 2023, NOPRC and Clallam County were announced as a Finalist for the Recompete Program and invited to compete in Phase 2 of the grant. Our Phase 1 plan was 1 of 22 selected from 235 nationwide applications, the largest applicant response to an EDA grant ever.

We were also awarded 1 of 24 Strategy Development Grants (SDG), from 339 applicants, to help our coalition with the further development of our Phase 2 projects. The SDG grant is for \$498,729. These funds are to cover the following activities:

- (1) Prime Age Employment Gap (PAEG) Research - Hiring consultant Washington State University (WSU) to perform needed research on the PAEG population using data from Employment Security Dept (ESD) and Dept of Social & Health Services (DSHS);
- (2) Barrier Assessment & Development – Convene and coordinate multiple social services agencies to inventory resources available and barriers they deem need to be addressed.

* Work Session Meeting - Submit 1 single sided/not stapled copy
** Regular Meeting – Submit 1 single sided/not stapled copy and originals (1 or 3 copies)

- Develop guidance for how to effectively create navigator services to reduce barriers. Develop an PAEG outreach program;
- (3) Development of Workforce Training Program – Convene Tribal and Non-Tribal representatives from education and industry to prioritize training opportunities that meet business demand. Conduct a study of proposed programs focused on analyzing type of jobs that projects create and whether these Good Jobs are appropriately accessible to people in the PAEG;
 - (4) Economic Impact & Feasibility Analyst – Conduct economic analysis and feasibility studies including the direct, indirect and induced job growth associated with project in NOPRC's Recompete Plan;
 - (5) Zoning Efforts – Update the Glen Cove Special Study from 1999 including Environmental Impact Statement. Planning work will include public outreach; and
 - (6) Hiring Recompete Plan Coordinator ("RPC") and staffing – Recruit RPC to facilitate the coordination of Phase 2 grant application process for NOPRC. Funding will cover salary for RPC and support staff.

WSU will be providing the PAEG Research and data sharing with ESD/DSHS in Item 1.

It has taken a long time to receive our contract from EDA and the timeline to complete this task requires this contract to move forward right away and therefore we are bringing it forward in back-to-back meeting.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐

Budget supplemental will be brought to the BOCC for approval at prior date.

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)

Staff recommendation is to approve the SESRC/WSU subaward for the Strategy Development Grant.

County Official signature & print name: Todd Mielke 

Names of Relevant Departments/Employees/Stakeholders attending meeting:

Angi Klahn, Dee Boughton, NOPRC Task Force, WSU

Date submitted: March 6, 2024

* Work Session Meeting - Submit 1 single sided/not stapled copy

** Regular Meeting – Submit 1 single sided/not stapled copy and originals (1 or 3 copies)

**RECOMPETE – STRATEGY DEVELOPMENT GRANT
SUBRECIPIENT AGREEMENT**

This Subrecipient Agreement (“Agreement”) is dated as of the _____ day of _____, 2024, by and between Clallam County, a Washington political subdivision ("County"), and Washington State University, Social & Economic Sciences Research Center (“SESRC”) (Federal Tax ID 91-6001108, UEI #XRJSGX384TD6), an institution of higher education and an agency of the state of Washington ("Subrecipient").

WHEREAS, the Economic Development Administration (“EDA”), U.S. Department of Commerce (“DOC”) has allocated to the County \$498,729.00 of federal grant funding from the Distressed Area Recompete Pilot Program (“Recompete”) Phase 1 Strategy Development Grant (“SDG”) as part of the authorized by the CHIPS and Science Act under ALN No. 11.040 (“SDG”) under Section 29 of the Stevenson-Wydler Technology Innovation Act of 1980 as amended (15 U.S.C. & 3722b) effective June 29, 2023. FAIN #ED24OIE0G0085, identified as Attachment A,. Attachments A attached hereto and incorporated herein by this reference.

WHEREAS, the County as Lead Applicant for the North Olympic Peninsula Recompete Coalition (“NOPRC”) has been applied for Phase 1 Recompete Plan Approval. EDA has selected NOPRC as one of 22 finalists from Phase 1 to compete in the Phase 2 application for Recompete Plan implementation funding. Funding if awarded would invest up to \$50 million into the two-county region of Clallam and Jefferson County.

WHEREAS, the EDA authorizes the County to expend SDG Funds awarded to the County to assist in the planning and development of NOPRC’s Phase 2 application. The eligible expenditures purposed as outlined in the Scope of Work are as follows:

- (1) Barrier Assessment & Development – Hiring consultant to perform needed research on the Prime Age Employment Gap (“PAEG”) population’s barriers to employment and outreach strategies to inform design of the Recompete Plan Program;
- (2) PAEG research – Hiring consultants Washington State University (WSU) to perform needed research on the PAEG population using data from Employment Security Department (ESD) and Department of Social and Health Services (DSHS);
- (3) Development of Workforce Training Program – Convene Tribal and Non-Tribal representatives from education and industry to prioritize training opportunities that meet business demand. Conduct a study of proposed programs focused on analyzing type of jobs that projects create and whether these Good Jobs are appropriately accessible to people in the PAEG;
- (4) Economic Impact & Feasibility Analyst – Conduct economic analysis and feasibility studies including the direct, indirect and induced job growth associated with project in NOPRC’s Recompete Plan;
- (5) Zoning Efforts – Update the Glen Cove Special Study from 1999 including Environmental Impact Statement. Planning work will include public outreach; and

- (6) Hiring Recompete Plan Coordinator (“RPC”) and staffing – Recruit RPC to facilitate the coordination of Phase 2 grant application process for NOPRC. Funding will cover salary for RPC and support staff.

WHEREAS, the Subrecipient has been tasked by NOPRC with the PAEG research. The County and Subrecipient desire to enter into this Agreement so that the County may provide SDG Funds for appropriate and qualifying expenditures to the Subrecipient for PAEG research using data sets from ESD and DSHS in support of NOPRC Phase 2 application and for other reimbursement costs as specified in Attachment B.

NOW, THEREFORE, in consideration of the foregoing recitals which are incorporated herein by reference, and the terms and conditions set forth below, the parties agree as follows:

1. Effective Date and Term. This Agreement shall commence when last executed by all parties and remain in effect until April 30, 2024, unless terminated by the County in writing.
2. SDG Funds. The County agrees to provide the Subrecipient a total sum not to exceed \$26,757 for the Prime Age Employment Gap (PAEG) research using ESD and DSHS data sets as specified based on eligibility criteria outlined in Attachment A (“Service Agreement”) and the Scope of Work provided in Attachment B.
3. Subrecipient’s Use of SDG Funds. The Subrecipient shall ensure that the SDG Funds requests are necessary Eligible Uses under one of the following cost categories:
4. Reimbursement Request & Reporting Requirements. To facilitate the release of SDG Funds by the County to the Subrecipient and the County’s compliance with reporting requirements for usage of SDG funding per Attachment A, the Subrecipient may submit one A-19, SF270, or equivalent submission request schedule per month to the County on or before the 20th day following the end of each calendar month during the term of the Agreement, detailing the expenditures disbursed by the Subrecipient based on eligible criteria, outlined in Attachment B. The County shall then distribute SDG Funds, as requested by the Subrecipient. Such schedule may be modified with the prior approval of the County. Failure to provide any of the required documentation may result in the withholding and/or nonpayment of all or a portion of the request, and termination of the Agreement.
5. The parties understand and agree that this agreement is dependent upon Recompete grant funding paid to Clallam County and further agree that Clallam County shall have no financial obligations under this agreement in the event that the above grant funding is not received by Clallam County, or in the event that such grant funding is terminated by

grantor that Clallam County shall not be responsible for payment for work performed by the subrecipient after such termination.

6. Independent Contractor. Each party under the Agreement shall be for all purposes an Independent Contractor. Nothing contained herein will be deemed to create an association, a partnership, a joint venture, or a relationship of principal and agent, or employer and employee between the parties. The Subrecipient shall not be, or be deemed to be, or act or purport to act, as an employee, agent, or representative of the County for any purpose.
7. Compliance with Laws, Guidelines. The Subrecipient shall comply with all federal, state, and local laws and all requirements (including debarment and other required certifications and audits) of the Uniform Administrative Requirements, Cost Principles and Auditor Requirements for Federal Awards as set forth in 2 C.F.R. part 200 and Attachment A.
8. Maintenance and Audit of Records. The Subrecipient shall maintain records, books, documents, and other materials relevant to its performance under this Agreement. These records shall be subject to inspection, review and audit by the County or its designee, the Washington State Auditor's Office and as required by the Uniform Guidance for five (5) years following termination of this Agreement. If it is determined during the course of the audit that the Subrecipient was reimbursed for unallowable costs under this Agreement, the Subrecipient agrees to promptly reimburse the County for such payments upon request.
9. Notices. Any notice desired or required to be given hereunder shall be in writing, and shall be deemed received three (3) days after deposit with the U.S. Postal Service, postage fully prepaid, certified mail, return receipt requested, and addressed to the party to which it is intended at its last known address, or to such other person or address as either party shall designate to the other from time to time in writing forwarded in like manner:

Subrecipient

Washington State University
Office of Research Support and Operations
Attn: Dan Nordquist, Associate Vice President
PO Box 641060
Pullman, WA 99164-1060
orso@wsu.edu
509-335-9661

Clallam County

Attn: RPC and Angi Klahn, BOCC Analyst
223 E 4th St, Suite 4
Port Angeles, WA 98362-3015

10. Improper Influence. Each party warrants that it did not and will not employ, retain, or contract with any person or entity on a contingent compensation basis for the purpose of seeking, obtaining, maintaining, or extending this Agreement. Each party agrees, warrants,

and represents that no gratuity whatsoever has been or will offered or conferred with a view towards obtaining, maintaining, or extending this Agreement.

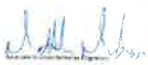
11. Conflict of Interest. The elected and appointed officials and employees of the parties shall not have any personal interest, direct or indirect, which gives rise to a conflict of interest.
12. Time. Time is of the essence in this Agreement.
13. Survival. The provisions of this Agreement that by their sense and purpose should survive expiration or termination of the Agreement shall so survive. Those provisions include without limitation Indemnification and Maintenance and Audit of Records.
14. Amendment. No amendment or modification to the Agreement will be effective without the prior written consent of the authorized representatives of the parties.
15. Governing Law; Venue. The Agreement will be governed in all respects by the laws of the Washington State, both as to interpretation and performance, without regard to conflicts of law or choice of law provisions. Any action arising out of or in connection with the Agreement may be instituted and maintained only in a court of competent jurisdiction in Clallam County, Washington or as provided by RCW 36.01.050.
17. Non-Waiver. No failure on the part of the County to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise by the County of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedy available to the County at law or in equity.
18. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors.
19. Assignment. The Subrecipient shall not assign or transfer any of its interests in or obligations under this Agreement without the prior written consent of the County.
20. Entire Agreement. This Agreement constitutes the entire agreement between the County and the Subrecipient for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the parties with respect to this Agreement.
21. No Third Party Beneficiaries. Nothing herein shall or be deemed to create or confer any right, action, or benefit in, to, or on the part of any person or entity that is not a party to this Agreement. This provision shall not limit any obligation which either Party has to Treasury in connection with the use of SDG Funds, including the obligations to provide access to records and cooperate with audits as provided in this Agreement.

22. Severability. In the event that one or more provisions of this Agreement shall be determined to be invalid by any court of competent jurisdiction or agency having jurisdiction thereof, the remainder of the Agreement shall remain in full force and effect and the invalid provisions shall be deemed deleted.
23. Counterparts. This Agreement may be executed in one or more counterparts, any of which shall be deemed an original but all of which together shall constitute one and the same instrument.
24. Authorization. Each party signing below warrants to the other party, that they have the full power and authority to execute this Agreement on behalf of the party for whom they sign.

IN WITNESS WHEREOF, this Agreement is executed and shall become effective as of the last date signed below.

DATED this ____ day of _____, 2024.

SUBRECIPIENT

By:  Digitally signed by
Matthew Michener
Date: 2024.03.06
12:22:30 -08'00'

Print Name: Matt Michener

Its: Associate Director

DATED this 6 day of March, 2024.

**BOARD OF COUNTY COMMISSIONERS
CLALLAM COUNTY, WASHINGTON**

MIKE FRENCH, Chair

RANDY JOHNSON, Commissioner

MARK OZIAS, Commissioner

ATTEST:

L. Gores, Clerk of the Board

APPROVED AS TO FORM by DPA Boughton

ATTACHMENT A
INTERAGENCY GRANT AGREEMENT BETWEEN
EDA AND CLALLAM COUNTY



Department of Commerce
Economic Development Administration

Notice of Award (NoA)
ED24OIE0G0085

RECIPIENT INFORMATION

1. Recipient Name(s)

Clallam County
223 E 4th St, Suite 4 Port Angeles, WA
98362-3000 US

2. Congressional District of Recipient
WA-06

3. Employer Identification Number (EIN)
916001298

4. UEI
JV6JJNELRBS5

5. Recipient POC
Angi Klahn
angi.klahn@clallamcountywa.gov

6. Authorized Official
Todd Mielke
todd.mielke@clallamcountywa.gov

FEDERAL AGENCY CONTACT INFORMATION

7. Grant Specialist
Michael Jones
mjones3@eda.gov

8. Program Officer
Asia King
aking2@eda.gov

9. Grant Officer
Scott Andes
sandes@eda.gov

FEDERAL AWARD INFORMATION

10. Award Number / FAIN
ED24OIE0G0085

11. Award Type
Grant

12. Period of performance Start Date & End Date
02/01/2024 - 01/31/2027

13. Federal Share of Cost
\$498,729

14. Recipient Share of Cost
\$0

15. Total Federal and Recipient Cost
\$498,729

16. Statutory Authority
Distressed Area Recompete Pilot Program (Recompete Pilot Program), as authorized by section 29 of the Stevenson-Wydler Technology Innovation Act of 1980, as amended (15 U.S.C. § 3722b)

17. NOFO/RFA #
EDA-RECOMPETE PHASE1-2023

18. Project Title
North Olympic Peninsula Recompete Plan

19. Assistance Listing Number and Name
11.040 - Distressed Area Recompete Pilot Program

20. Award Action Type
New Competing

21. Multiyear Award?
No

22. R&D Award?
No

23. Construction Award?
No

24. Grants Officer – Signature and Date
- *Scott Andes* 2/12/24

25. Recipient – Signature and Date

Approved as to form only by:
Bert Dee Boughton
Bert Dee Boughton
Civil Deputy Prosecuting Attorney
Clallam County

BY ACCEPTING THIS AWARD, THE RECIPIENT IS AFFIRMING THAT IT WILL COMPLY WITH ALL THE TERMS AND CONDITIONS OF THE AWARD. THE AWARD MUST BE ACCEPTED BY THE APPLICANT'S AUTHORIZED OFFICIAL.

RECIPIENT NAME: Clallam County

PROJECT TITLE: North Olympic Peninsula Recompete Plan

AWARD NUMBER: ED24OIE0G0085

This Notice of Award includes the following sections and incorporates all regulations, documents and authorities referenced therein.

- I. BUDGET INFORMATION
- II. STANDARD TERMS AND CONDITIONS
- III. SPECIFIC AWARD CONDITIONS
- IV. OTHER

Should there be a discrepancy among these documents, the Specific Award Conditions, including any references, shall control.

SECTION I – BUDGET INFORMATION

The following is the Authorized Budget for this award. Reference Section III – Specific Award Conditions for conditions related to the Authorized Budget.

Authorized Budget

Estimated Funding (\$)	Proposed	Approved
Federal Share (EDA Amount)	\$ 498,729.00	\$ 498,729.00
Non-Federal Matching Share	\$ 0.00	\$ 0.00
Total Project Costs	\$ 498,729.00	\$ 498,729.00

Non-Construction

Cost Classification	Proposed	Approved
Personnel	\$ 98,537.93	\$ 98,537.93
Fringe Benefit	\$ 34,488.28	\$ 34,488.28
Travel	\$ 2,620.00	\$ 2,620.00
Equipment	\$ 0.00	\$ 0.00
Supplies	\$ 2,800.00	\$ 2,800.00
Contractual	\$ 360,282.79	\$ 360,282.79
Construction	\$ 0.00	\$ 0.00
Other	\$ 0.00	\$ 0.00
Indirect Charges	\$ 0.00	\$ 0.00
Total Project Costs	\$ 498,729.00	\$ 498,729.00

SECTION II – STANDARD TERMS AND CONDITIONS

The following regulations and standard terms and conditions apply to this award:

- ☐ 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements, as Adopted Pursuant to 2 CFR § 1327.101 for Federal Awards
- ☐ Department of Commerce Financial Assistance Standard Terms and Conditions
- ☐ Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements
- ☐ 13 CFR Chapter III Economic Development Administration, Department of Commerce Regulations
- ☐ Other:

SECTION III – SPECIFIC AWARD CONDITIONS

The following Specific Award Conditions apply to this award:
See attached.

SECTION IV – OTHER

ATTACHMENT 1

Authorized Scope of Work

Recipient: Clallam County
Award Number: ED24OIE0G0085
Recompete Pilot Program – Strategy Development Grant

Executive Summary:

North Olympic Peninsula Recompete Coalition (NOPRC) will use the Strategy Development Funding to research the Prime Age Employment Gap (PAEG) in our two underserved and distressed counties to determine the barriers they face preventing their participation in the workforce and how they may be alleviated. The research will guide the design of an innovative and effective navigator and outreach program to bring people in the PAEG back into the workforce. This PAEG study will also tie into research being done through Peninsula College to design programs that meet both the low barrier needs of the PAEG and the current and future workforce training needs of industry employers. NOPRC will use funds to convene Tribal, industry, and workforce training representatives to guide the development of these programs. Funding will also be used to perform economic analysis and feasibility studies for the job creation projects in our Recompete Plan. These studies will seek to determine their direct, indirect, and induced job growth capabilities, their impact on the PAEG populations we are trying to reach with this program, and that jobs created will meet the criteria of “Good Jobs.”

Funding will also support the salary for the Recompete Plan Coordinator (RPC) position and support staff. The RPC will be an integral leadership position to manage, develop, and coordinate the multiple projects within our Recompete Plan.

Summary of Activities:

Activity Title	Short Description of Activity	Output(s) / Deliverable(s)	Responsible Organization(s) / Individual(s)	Approximate Start / End Date
PAEG research	Hiring consultant Washinton State University (WSU) to perform needed research on the PAEG population using data from Employment Security Dept (ESD) and Dept of Social & Health Services (DSHS).	Preliminary Findings Report to be used to design navigator and outreach program for Phase 2 application. Plan for continued monitoring to	Clallam County	2/1/2024 to 6/30/2024

		measure plan progress.		
Barrier Assessment, Development Navigator Program & Outreach	Convene and coordinate multiple social services agencies to inventory resources available and barriers they deem need to be addressed. Develop guidance for how to effectively create navigator services to reduce barriers. Develop an PAEG outreach program.	Comprehensive inventory of programs and resources available to use. Development of navigator program.	Clallam County, EDC Team Jefferson, Jefferson County	2/1/2024 to 6/30/2024
Development of Workforce Training Program	Convene Tribal and Non-Tribal representatives from education and industry to prioritize training opportunities that meet business demand. Conduct a study of proposed programs focused on analyzing types of jobs these projects create and whether these Good Jobs are appropriately accessible to people in the PAEG.	An actionable report to guide higher education institutions (Peninsula College and NW School of Wooden Boatbuilding) to customize their job training programs to support local economic development.	Peninsula College	2/1/2024 to 6/30/2024
Economic Impact & Feasibility Analyst.	Conduct economic analysis and feasibility studies including the direct, indirect, and induced job growth associated with projects in NOPRC's Recompete Plan.	Preliminary Economic Analysis Reports to guide programs to be included in Recompete Plan moving forward. Finalized report to follow on project moving forward.	Clallam County Economic Development Council	2/1/2024 to 5/31/2024
Zoning Efforts	Update the Glen Cove Special Study from 1999 including Environmental	Preliminary Updated Special Study Report for	Jefferson County	2/1/2024 to 6/30/2025

	Impact Statement. Planning work will include public outreach.	Glen Cove UGA boundary adjustment. Documentation of engagement results. Finalized report to follow to inform the Comprehensive Plan Periodic Update.		
Hiring Recompete Plan Coordinator and staffing	Recruit Recompete Plan Coordinator.	Successfully retaining qualified candidate.	Clallam County	2/1/2024 to 12/31/2024
Recompete Plan Development, Coordination and Management	Development overall Recompete Plan and projects, coordinate projects and manage the overall process for NOPRC. Funding will cover salary for RPC and support staff for grant/subaward management.	Strategically developed and coordinated Recompete Plan.	Clallam County	2/1/2024 to 12/31/2024

Lead Applicant Name:	Clallam County
Application ID ("EDA-APP# ..." from EDGE):	EDA-APP#00002863

Authorized Staffing Plan

Staffing Plan - Budget						Year 1	Year 2	Year 3	Checkpoint Does breakdown match your total? (Column G)
Name	Annual Salary/Rate	% of Annual Hours for project	Annual \$ from Award	Number of Years	Total Cost by Employee				
Recomplete Plan Coordinator - TBD	\$110,688	100%	\$110,688	0.75	\$83,016	\$83,016		\$0	\$ 83,016.00
BOCC Lead Analyst	\$84,358	20%	\$16,872	0.92	\$15,522	\$15,522		\$0	\$ 15,521.93
Employee 3	\$0	0%	\$0	0.00	\$0	\$0	\$0	\$0	\$ -
Employee 4	\$0	0%	\$0	0.00	\$0	\$0	\$0	\$0	\$ -
Employee 5	\$0	0%	\$0	0.00	\$0	\$0	\$0	\$0	\$ -
Employee 6	\$0	0%	\$0	0.00	\$0	\$0	\$0	\$0	\$ -
Total Personnel Costs					\$0	\$0	\$0	\$0	\$ -
Total Fringe Costs (Please Provide the Basis for Fringe Calculations)					\$98,538	\$ 98,537.93	\$ -	\$ -	\$ 98,537.93
See Attached Schedule A				35.00%	\$34,488	\$ 34,488.28	\$ -	\$ -	\$ -

Staffing Plan - Narrative		
Name	Title	Project Responsibilities
Employee 1 - TBD	Recomplete Plan Coordinator	The Recomplete Plan Coordinator will hold a pivotal role in our organization, tasked with facilitating an inclusive community process, strategically managing government contracts and coordination for the multiple projects being developed under the Recomplete Plan.
Employee 2 - Angi Klahn	BOCC Lead Analyst	Angi has 25+ years of accounting experience. She also has grant management, SEFA preparation, and subaward monitoring experience. She will handle the grant management, monitoring and fiscal responsibilities for the Strategy Development Grant.
Employee 3		
Employee 4		
Employee 5		
Employee 6		

SPECIFIC AWARD CONDITIONS
U.S. DEPARTMENT OF COMMERCE
Economic Development Administration (EDA)

NON-CONSTRUCTION PROJECTS: Distressed Area Recompete Pilot Program under
Section 29 of the Stevenson-Wydler Technology Innovation Act of 1980, as amended, 15 U.S.C.
§ 3722b.

Recipient: Clallam County

Award Number: ED24OIE0G0085

Project Name: North Olympic Peninsula Recompete Plan

Distressed Area Recompete Pilot Program (Recompete): Phase 1 Strategy Development
Grants

1. **SCOPE OF WORK:** This EDA Award supports the work described in the approved final scope of work, which is incorporated by reference into this Award as the *Authorized Scope of Work* (Attachment 1). All work on this project must be consistent with the *Authorized Scope of Work*, unless the Grants Officer has authorized a modification of the scope of work memorialized in writing through execution of an amendment to the Notice of Award.
2. **UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS:** Along with other controlling law, this Award is governed by the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) as set forth in 2 C.F.R. part 200.
3. **PROJECT CONTACT INFORMATION:** The Recipient agrees to notify EDA promptly of any changes to the Recipient's contact information as specified in the Notice of Award.
4. **ADDITIONAL INCLUDED DOCUMENTS (Non-construction):** In addition to the regulations, documents, or authorities incorporated by reference on the Notice of Award, the following additional documents are hereby incorporated by reference into this Award:
 - i. The Recipient's application, including any attachments, Project descriptions, schedules, and subsequently submitted supplemental documentation
 - ii. *Authorized Scope of Work* (Attachment 1)
 - iii. *Authorized Staffing Plan* (Attachment 2)

Should there be a discrepancy among these documents, these Specific Award Conditions shall control.

5. PROJECT DEVELOPMENT TIME SCHEDULE (B2S/STEM): The Recipient agrees to the following Project development time schedule:

- i. Return of executed Notice of Award (NoA) or Amendment due no later than (NLT) 30 calendar days after receipt of NoA/Amendment
- ii. Scheduling of Kick-Off Meeting must occur NLT 30 calendar days after receipt of NoA/Amendment
- iii. Finalization of Work Schedule must occur NLT than the date of the Kick-Off Meeting
- iv. Submission of Final Project Progress Report due NLT 120 calendar days from the Award End Date, i.e., the latest date set forth in the "period of performance" field on the NoA or as later memorialized through an Amendment
- v. Submission of Final Financial Documents (Form SF-425) due NLT 120 calendar days from the Award End Date.

The Recipient shall diligently pursue the development and implementation of the Project upon receipt of the Award so as to ensure completion within this time schedule. Moreover, the Recipient shall promptly notify EDA in writing of any event that could substantially delay meeting any of the milestones or deadlines for the Project as set forth above. The Recipient further acknowledges that failure to meet the development time schedule may result in EDA imposing remedies for noncompliance, including termination of the Award, in accordance with the regulations set forth at 2 C.F.R. §§ 200.339 through 200.343.

6. FINANCIAL DISBURSEMENT INSTRUCTIONS (B2S/STEM): EDA will make Award payments using the Department of the Treasury's Automated Standard Application for Payments (ASAP) system. The Recipient is required to furnish documentation as required by ASAP including but not limited to Recipient and Requestor Identification Numbers. Complete information concerning the ASAP system may be obtained by visiting www.fns.treas.gov/asap.

In order to receive payments, the Recipient must submit Form SF-270 (Request for Advance or Reimbursement) for the applicable period electronically. The Project Officer will review and process the request.

Prior to the initial disbursement, the Recipient must complete Form SF-3881 (ACH Vendor/Miscellaneous Payment Enrollment Form). The form must be completed by the respective parties (EDA, Recipient's Bank, and Recipient) at the start of the Award. EDA will provide instructions for submitting the form during the project kick-off meeting.

7. REPORT SCHEDULE: The Recipient agrees to report to EDA on the Project's performance and impacts as summarized as follows:

- i. During the Period of Performance:
 - a. Progress Reports and Financial Status Reports – Semiannually, for the periods ending March 31 and September 30.
 - b. Outputs Questionnaire (Form ED-916) – Semiannually, six months after the date the period of performance begins and every six months thereafter, or as otherwise directed by EDA.
 - c. Outcomes Questionnaire (Form ED-918) -- Annually, one year after the date the period of performance begins and annually thereafter for a total of five years, or as otherwise directed by EDA (note that this obligation may extend beyond award closeout).
- ii. At the Expiration of the Period of Performance but Before Award Closeout: Progress Reports and Financial Status Reports – One time, within 120 calendar days after the Award End Date.
- iii. After Award Closeout: Report on the Outcomes Questionnaire annually, until the end of the fifth year after the date the period of performance begins, or as otherwise directed by EDA.

Timely submission of all above-described reports is a condition of this award. Per 2 CFR § 200.344, the Recipient must submit, no later than 120 calendar days after the end of the period of performance, all financial, performance, and other reports as required by the terms and conditions of the award. If the Recipient fails to submit all required reports to EDA within one year of the period of performance end date, EDA will report the material failure to comply with the OMB-designated integrity and performance system (formerly FAPIIS) and/or pursue other enforcement actions per 2 CFR § 200.339.

8. PROJECT PROGRESS REPORTS: The Recipient agrees to provide the Project Officer with project progress reports, communicating the important activities and accomplishments of the project, on a semi-annual basis for the periods ending March 31 and September 30, or any portion thereof, for the entire project period. Reports are due no later than one month following the end of the semi-annual period.

Progress Reports must be submitted to EDA via EDA's Grants Management Portal in a concise, clear format that outlines the following information in three to six pages:

1. A clear, concise overview of the activities undertaken during the reporting period. For each activity, provide the name of the activity, the dates of the activity, a summary of the activity, and an explanation of outcomes the activity advances (e.g., preparing a competitive Phase 2 application, identifying other funding mechanisms to implement

Recompete strategy, building out a clear plan that increases prime age employment and per capita wages).

2. A description of anticipated activities for the next reporting period.
3. An outline of challenges that currently impact or could impact progress on the Project over the next reporting period and means of mitigating this risk. Please highlight any areas where EDA assistance is needed to support the project (e.g., connections to subject matter experts or other resources, amplifications of activities or impacts).
4. A description of at least one success story from the reporting period.
5. Any other key information that would be helpful to your EDA Project Officer.

9. FINAL PROJECT PROGRESS REPORT (B2S/STEM): The final Progress Report must be submitted to EDA no more than 120 calendar days after the Award End Date and these reports or any part of the information contained therein may be posted on EDA's website, used for promotional materials or policy reviews, or may be otherwise shared. Recipient must clearly identify any information that may constitute a trade secret or may be commercial or financial information that is confidential or privileged in these reports. There is no minimum or maximum page requirement for the **final Progress Report**; however, the final Progress Report should concisely yet completely communicate key Project information as follows:

- a. the specific regional need that the Project was designed to address and progress made during the period of performance and beyond that has mitigated or will mitigate that need and advance economic development;
- b. a high-level overview of the activities undertaken;
- c. details of lessons learned during the period of performance that may be of assistance to EDA or other communities undertaking similar efforts;
- d. the expected and actual economic benefits of the Project at the time that the Report is written; and
- e. any other key information from the period of performance.

10. FINANCIAL REPORTS: Financial Status Reports (SF-425) must be submitted to EDA on a semi-annual basis via EDA's Grants Management Portal for the reporting periods ending March 31 and September 30, or any portion thereof if applicable, for the period of performance set forth in the Notice of Award or as later memorialized through a mutually agreed-upon Amendment to the Award. Form SF-425 (and instructions for completing this form) is available at: <https://www.grants.gov/forms/post-award-reporting-forms.html>. Reports are due no later than 30 calendar days following the end of the reporting period.

11. FINAL FINANCIAL REPORT (Non-construction): A **final** Form SF-425 must be submitted to EDA no more than 120 calendar days after the Authorized Award End Date specified on the Notice of Award (or any subsequently executed Amendment to the Notice of

Award). Final Financial Reports should follow the instructions for submitting mid-term Financial Status Reports, but should also ensure that all fields accurately reflect the total outlays for the entire project period and that all matching funds and program income (if applicable) are fully reported. Determination of the **final grant rate and final balances owed to the government will be determined based on the information on the final Form SF-425, so it is imperative that it be submitted in a timely and accurate manner.**

12. PERFORMANCE MEASURES: The Recipient agrees to provide EDA with:

- (1) Form ED-916 (Outputs Questionnaire) on a semiannual basis, and
- (2) Form ED-918 (Outcomes Questionnaire) on an annual basis.

All Outputs Questionnaires and Outcomes Questionnaires should be submitted via a web-based information collection system to be provided by EDA

Outputs Questionnaires (Form ED-916) must be submitted to EDA on a semi-annual basis during the period of performance or as otherwise directed by EDA. The first Outputs Questionnaire must be submitted to EDA six months after the date the period of performance starts, as set forth in the Notice of Award or as later memorialized through an Amendment. The Outputs Questionnaire must be submitted to EDA every six months thereafter through the end of the Period Performance, or any portion thereof if applicable, or as otherwise directed by EDA.

Outcomes Questionnaires (Form ED-918) must be submitted to EDA on an annual basis for a total of five years after the date the period of performance starts, including after Award closeout. The first Outcomes Questionnaire must be submitted to EDA one year after the date the period of performance starts, as set forth in the Notice of Award or as later memorialized through an Amendment. The Outcomes Questionnaire must be submitted to EDA at the end of every year thereafter for a total of five years, or as otherwise directed by EDA.

Note that EDA may revise or replace the Outputs Questionnaire and/or the Outcomes Questionnaire at any time during or following the period of performance. The Recipient agrees to report on program performance measures and program outcomes in such form and at such intervals as may be prescribed by EDA in compliance with the Government Performance and Results Act (GPRA) of 1993 and the Government Performance and Results Modernization Act of 2010 (collectively, GPRA Reports). Recipient must collect sufficient data and retain sufficient documentation to enable Recipient to submit these required GPRA Reports. **Failure to submit the required GPRA Reports can adversely impact the ability of the Recipient to secure future funding from EDA.** Recipient must retain sufficient data and records to comply with the above reporting requirements at least through the end of the fifth year after the date the period of performance starts, or longer if necessary to comply with the above reporting requirements.

- 13. ALLOWABLE COSTS AND AUTHORIZED BUDGET:** Total allowable costs will be determined after the final financial documents are submitted in accordance with the applicable authorities specified on the Notice of Award, including the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 C.F.R. part 200, and the Authorized Budget. Except as otherwise expressly provided for within these Specific Award Conditions, the federal share of the allowable costs will be based on the Investment Rate for the Award, as established on the Notice of Award or any subsequent Amendment. In the event of an underrun in total allowable costs for this project, the federal share of allowable costs will be determined by the Investment Rate. The federal share of total allowable costs may not exceed the dollar amount specified on the original Award or any subsequent amendments.
- 14. FEDERAL SHARE:** The EDA participation in total eligible project costs will be limited to the lesser of the EDA grant amount or the EDA share of total allowable project costs (as stated on the Notice of Award or the most recent Amendment).
- 15. REFUNDS, INTEREST, OR UNUSED FUNDS:** If the Recipient needs to return money to EDA, it may use one of the following two methods:
- i. The first is the pay.gov website, which allows the Recipient to pay EDA online. The Recipient will have the option to make a one-time payment or to set up an account to make regular payments.
 - ii. The second is paper check conversion. All checks must be made payable to “Department of Commerce, Economic Development Administration” and include the award number and a description of no more than two words identifying the reason for the payment. A copy of the check should be provided to the EDA Project Officer. The check should be mailed to NOAA’s Accounting Office, which processes EDA’s accounting functions, at the following address:
NOAA OCFO
Attn: Finance Office, Travel Dept.
1315 East West Highway, SSMC3
Silver Spring, MD 20910

When funds are remitted to EDA by check, the check will be converted into an electronic funds transfer (EFT) by using the account information on the check to debit the payor’s account electronically. The debit from the payor’s account will usually occur within 24 hours. If the EFT cannot be completed because of insufficient funds, EDA will charge a one-time fee of \$25.00, which will be collected by EFT.

- 16. ADDITIONAL DOCUMENTATION REQUIRED FOR AWARD COMPLIANCE (Tech Hubs):** Recipient agrees to provide any additional documentation or information required by EDA to confirm compliance of this Award with applicable laws, regulations, and policies and to do so within reasonable deadlines set by EDA. In the event Recipient fails to provide the required documentation in a timely manner, EDA may exercise the remedies provided at 2 C.F.R. §§ 200.339–200.343, up to and including termination.
- 17. PROJECT AND PROGRAM EVALUATION:** As part of the process of validating and monitoring the Award and the performance information provided by the Recipient, and as a general method of evaluating the Award and the Recompete Program, EDA reserves the right to conduct project and program evaluations through site visits and/or survey(s) during or after the period of performance. Such evaluations may be conducted by outside parties associated with EDA or by EDA staff. Recipient agrees to participate in the evaluation by answering the evaluator's questions and furnishing information as requested. Evaluators will maintain the confidentiality of business information as required and appropriate. Recipient agrees to provide data and client management system information to facilitate evaluations. For site visits, EDA will provide the Recipient at least two weeks of notice prior to a visit, unless exigent circumstances warrant otherwise. The site visit may include interviews with Recipient's staff or visits with Project clients.
- 18. USE OF INFORMATION:** EDA reserves the right to use information contained in the Recipient's Application as well as all reports and performance data submitted by the Recipient to undertake an evaluation of the Program. The Recipient agrees to cooperate with such evaluations, including by sharing performance information that they have collected or will collect as part of their grant activities, including performance information for Project clients.
- 19. PROCUREMENT:** The Recipient agrees that all procurement transactions shall be in accordance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 C.F.R. §§ 200.317–200.327. Any noncompetitive procurement requires prior approval from EDA.
- 20. SUBAWARDS (B2S/STEM/RLF):** Certain award activities funded under this Award may be accomplished through a subaward by the Recipient to a Subrecipient. Prior EDA permission is needed to include, add, or change a subrecipient. Prior to the award of any subaward or subrecipient performing any work funded through this Award, the Recipient must provide documentation satisfactory to EDA that the proposed subrecipient(s) and any additional or successor subrecipient(s) are eligible to receive EDA assistance. EDA will provide written notice regarding whether the documentation is satisfactory to EDA. No change may be made to the identity of the subrecipient or the scope of the proposed

subaward without prior EDA approval. Subawards are not permitted without EDA prior approval.

Before a subrecipient undertakes any work to be funded through this Award, the Recipient shall enter into a written subaward agreement with the Subrecipient that meets the requirements of 2 C.F.R. § 200.332(a) and includes a requirement that the subrecipient comply with all of the terms and conditions of this Award, including but not limited to the Standard and Specific Award conditions and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. part 200). EDA may disallow any costs incurred by the subrecipient prior to executing the subaward agreement. The Recipient shall be responsible for monitoring the Subrecipient's performance under the subaward in accordance with the requirements of 2 C.F.R. § 200.332. The Recipient is also responsible for ensuring that any subrecipient of a subaward exceeding \$100,000 executes form CD-511, Certification Regarding Lobbying, and for retaining a copy of the executed certification. As required by form CD-511, subrecipients must report lobbying activities, if any, to the Recipient on Form SF-LLL. The Recipient is responsible for promptly providing EDA with a copy of any Form SF-LLL submitted by a subrecipient.

The Recipient is responsible for reporting the Federal Subaward Reporting System (FSRS) available at www.FSRS.gov on all subawards over \$30,000. Please see the OMB guidance published at 2 C.F.R. part 170, which can be accessed at <https://www.govinfo.gov/content/pkg/CFR-2022-title2-vol1/pdf/CFR-2022-title2-vol1-part170.pdf>. Appendix A of 2 C.F.R. part 170 is incorporated by reference into these Specific Award Conditions.

- 21. NONRELOCATION (Non-Construction):** In signing this Award, the Recipient attests that EDA funding is not intended by the Recipient to assist efforts to induce the relocation of existing jobs within the U.S. that are located outside of its jurisdiction to within its jurisdiction in competition with other U.S. jurisdictions for those same jobs. In the event that EDA determines that its assistance was used for such purposes, EDA reserves the right to pursue appropriate enforcement actions in accord with 2 C.F.R. §§ 200.339 through 200.343 and the DOC STCs, including suspension of disbursements and termination of the Award which may include the establishment of a debt requiring the Recipient to reimburse EDA.
- 22. REAFFIRMATION OF APPLICATION:** Recipient acknowledges that Recipient's application for this Award may have been submitted to EDA and signed by Recipient, or by an authorized representative of Recipient, electronically without providing an original "wet" signature. In addition, the Recipient or an authorized representative of Recipient may have accepted the Award electronically, which includes drawing down any funds under this Award. Regardless of who submitted the Application to EDA or the means by which Recipient submitted the Application or accepted the Award, Recipient hereby reaffirms and states that:

- A. All data in the Application were true and correct when the Application was submitted and remain true and correct as of the date of this Award;
- B. The Application was, as of the date of submission and the date of this Award, duly authorized as required by local law by the governing body of the Recipient; and
- C. Recipient has read, understood, and will comply with all terms of this Award, including the Assurances and Certifications submitted with, or attached to, the Application and through the System for Award Management (SAM.gov).

The Recipient agrees to immediately notify the EDA of any material changes to the Application within 30 calendar days of the date the Recipient becomes aware of such changes. For purposes of this provisions, the term "Application" includes all documentation and any information provided to EDA as part of, and in furtherance to, the request for funding, including submissions made in response to information requested by EDA after submission of the initial Application.

23. FREEDOM OF INFORMATION ACT (FOIA): EDA is responsible for meeting its Freedom of Information Act (FOIA) (5 U.S.C. § 552) responsibilities for its records. DOC regulations at 15 C.F.R. part 4 set forth the requirements and procedures that EDA must follow in order to make the requested material, information, and records publicly available. Unless prohibited by law and to the extent required under the FOIA, contents of applications and other information submitted by applicants and recipients may be released in response to a FOIA request. The Recipient should be aware that EDA may make certain application information publicly available. Accordingly, the Recipient should notify EDA if it believes any Application information to be confidential.

24. WASTE, FRAUD AND ABUSE: Consistent with 2 C.F.R. part 200, at EDA's direction, at any time(s) during the estimated useful life of the Project, Recipient's key personnel will take a training on preventing waste, fraud and abuse as provided by the Government. Key personnel include those responsible for managing the Recipient's finances and overseeing any contractors, sub-contractors or sub-grantees (for financial matters and/or general oversight related to this Project). EDA will provide instructions on when and how to take the training. Within 60 days of the date of Award, the Recipient shall provide to the Project Officer all Certificates of Completion for the Waste, Fraud, and Abuse training. In the event there are co-recipients of this Award, the obligations in the Specific Award Condition shall apply to all recipients whether or not designated in this Award as the Lead Recipient.

Further, Recipient will monitor award activities for common fraud schemes (hereinafter "Fraud Schemes"), such as but not limited to:

- false claims for materials and labor,
- bribes related to the acquisition of materials and labor,

- product substitution,
- mismarking or mislabeling on products and materials, and
- time and materials overcharging.

Should Recipient detect any Fraud Schemes or any other suspicious activity, Recipient will contact the EDA staff listed above and the Department of Commerce, Office of Inspector General, as indicated at <https://www.oig.doc.gov/Pages/Contact-Us.aspx>, as soon as possible.

25. USE OF EDA'S RECOMPETE LOGO: EDA has developed a logo for EDA programming under the Distressed Area Recompete Pilot Program ("Recompete Logo"). Recipient may use the Recompete Logo pursuant to the below terms and conditions for the following limited purposes:

- Press releases, social media posts, and websites that build awareness of this Award (note that some advertising and marketing activities are not allowable costs under federal awards as provided at 2 CFR 200.421); and
- Work products and deliverables developed under this Award (e.g., tools, publications, resource guides, brochures, PowerPoint presentations, technical assistance materials).
- Recipient may not use the Recompete Logo for other purposes, including lobbying or issue advocacy, endorsing a product or organization, or communications to elected officials or federal agencies. Recipient may not use the Recompete Logo in a negative or defamatory manner. Recipient must request and obtain EDA permission prior to certain uses of the Recompete Logo (see paragraph B, below).

A. Grant of License: EDA hereby grants to Recipient a non-exclusive, royalty-free right to use the Recompete Logo for the limited purposes described above (the "License"). Recipient agrees that: (1) the Recompete Logo will not be used in a way that would suggest that it is the property of Recipient or any other third party, and (2) Recipient will include the following notice in conjunction with its use of the Recompete Logo, as appropriate: "The Recompete Logo is a trademark of the Economic Development Administration, used with permission." This License does not grant Recipient the right to use any seal, emblem, logo, or other symbol of the U.S. Department of Commerce or EDA that is not the Recompete Logo.

B. Required Approvals for Certain Uses of the Recompete Logo: Before Recipient uses the Recompete Logo for press releases and related materials, Recipient shall send a sample of each print, product, design, or other work to show the proposed use to the EDA Recompete Public Affairs Specialist (whose contact information may be obtained from the Project Officer for this Award). Recipient shall not use the Recompete Logo for the above uses until receiving written approval (including via email) from EDA of the proposed use.

- C. Quality Control: EDA shall have the right, at all reasonable times, to inspect Recipient's goods, services, and promotional activities employing the Recompete Logo to ensure that such use is of proper quality and otherwise consistent with this License.
- D. Duration and Termination: The License shall terminate on the Award End Date. Recipient may request a renewal of the License for an additional term subject to the express written consent of EDA. Such consent shall be in the form of a properly executed agreement signed by authorized signatories of EDA and Recipient. Upon termination of the License, all rights of Recipient to use the Recompete Logo shall immediately terminate. EDA may terminate the License unilaterally and without cause at any time, including if EDA determines that Recipient's use of the Recompete Logo is inconsistent with the License.
- E. Validity and Ownership of Recompete Logo: Recipient acknowledges and agrees that EDA is the owner of all right, title, and interest in the Recompete Logo, and all such right, title, interest, and ownership shall remain with EDA. Recipient further acknowledges that Recipient shall not acquire any right, title, interest, or ownership in the Recompete Logo by virtue of the License or use other than the license granted hereunder and disclaims any such right, title, interest, or ownership. Recipient is prohibited from interfering with EDA's rights in the Recompete Logo, including challenging EDA's use, registration of, or application to register the Recompete Logo alone or in combination with other words or designs, as a U.S. or foreign trademark anywhere in the world. Recipient is further prohibited from attempting to register the Recompete Logo, any derivatives thereof, or any confusingly similar mark, whether or not registered by EDA, alone or in combination with other words or designs, as a U.S. or foreign trademark or as a part of a domain name.
- F. Assignments and Sub-Licenses: The License is not assignable, and any attempt by Recipient to assign any portion of the License shall be deemed a breach of the License and will result in immediate termination of the License. Recipient may subcontract, thereby engaging in a limited sublicensing arrangement as applicable, for manufacturing and distribution activities under the License; Recipient shall provide notice to EDA—and must receive prior approval from EDA—of any such subcontract prior to manufacturing and distribution activities.
- G. Governing Law: The License shall be interpreted and implemented in accordance with the Federal common law as interpreted by the U.S. District Court for the District of Columbia, without giving effect to any conflict of law principle that would result in the application of the substantive law of another jurisdiction.
- H. Indemnification: Recipient agrees to indemnify and hold EDA harmless from any and all claims, damages, and attorneys' fees arising from the use of the Recompete Logo by the Recipient and its operations, except to the extent that any such claims, damages, or attorneys' fees arose in connection with any act or failure to act by the U.S. Department of Commerce or any agency, department, or subdivision thereof.

- I. Obtaining the Recompete Logo: For an electronic version of the Recompete Logo, Recipient should contact the EDA Recompete Public Affairs Specialist (whose contact information may be obtained from the Project Officer for this Award).

26. STAFFING CHANGES: The Authorized Staffing Plan sets forth Recipient staff primarily responsible for administering this Award. In the event of a change in the professional staff positions primarily funded with the EDA grant, Recipient shall provide the name of the individual selected to fill the position to the Project Officer and a copy of their resume within 30 business days of the selection.

27. CONFLICT OF INTEREST: The Recipient must maintain a written and enforced conflict of interest policy. The policy should at a minimum address actual or potential personal (e.g., employees, agents, members of their immediate family) or organizational conflicts of interest in the performance or administration of the Award. Conflicts of interest may include, but are not limited to, any past, present or planned contractual, financial, or other relationships, obligations, commitments or responsibilities, which may bias the Recipient or affect the Recipient's ability to perform or administer the Award in an impartial and objective manner. The policy must include standards of conduct covering conflicts of interest and governing actions of Recipient employees engaged in the selection, award, or administration of contracts in accordance with 2 C.F.R. § 200.318(c). The Recipient shall ensure that all subrecipients and contractors under the Award: (1) have their own conflict of interest policy in place that meets the requirements of this Specific Award Condition; or (2) adopt the Recipient's conflict of interest policy. The Recipient's policy should provide procedures to disclose, mitigate, and resolve any such conflicts of interest. In accordance with 2 C.F.R. § 200.112, the Recipient must disclose in writing any potential or actual conflict of interest to EDA in a timely manner. EDA will evaluate the disclosure and inform the Recipient of any required remedial action beyond what the Recipient may have already implemented. Failure to comply with this condition, or the Recipient's own conflict of interest policy, may result in appropriate enforcement action pursuant to 2 C.F.R. §§ 200.339 through 200.343 and the DOC STCs, which are incorporated under the Award.



Fraud Awareness Training



U.S. ECONOMIC DEVELOPMENT ADMINISTRATION

EDA's grantees must successfully complete this training and submit the signed completion certificate(s) to the EDA Project Officer listed in the Specific Award Conditions within 60 days of grant award.

Failure to comply with this requirement may result in a finding of non-compliance with the terms and conditions of your award.



OVERVIEW



- Overview of EDA's Programs
- The Department of Commerce (DOC)
Office of Inspector General (OIG)
- Fraud in EDA Programs
- Additional Items
- Certificate

INTRODUCTION



Role of EDA: Facilitate the timely and effective delivery of Federal economic development assistance to support long-term community economic recovery planning and project implementation, redevelopment, and resiliency

INTRODUCTION



EDA's Programs

- EDA's Programs enable EDA to make awards that support a wide range of activities.
- Eligible applicants and project types for each program is set forth in the respective Notices of Funding Opportunity.
- You must read and understand the requirements applicable to the program under which your award is funded, including the applicable Notice of Funding Opportunity, Specific Award Conditions, and Standard Terms and Conditions.



The U.S. Department of Commerce (DOC) Office of Inspector General (OIG)

DOC – OFFICE OF INSPECTOR GENERAL



- Created by IG Act of 1978 to:
 - Combat fraud, waste, and abuse within the DOC
 - Conduct audits and investigations of DOC operations
 - Keep the DOC and Congress informed
- Mission
 - To improve the programs and operations of the Department of Commerce through independent and objective oversight

This includes oversight of EDA Assistance Programs

DOC – OFFICE OF INSPECTOR GENERAL



- Office of Audit and Evaluation
- Office of Investigations
 - Criminal
 - Civil
 - Administrative
 - Employee misconduct
 - Public corruption

WHISTLEBLOWER PROTECTIONS



Federal employees, applicants, and employees of federal contractors **and grantees** who make certain disclosures—to OIG or elsewhere—are protected under the law from suffering retaliation because of those disclosures.

Basic elements of whistleblower protection law: (1) you make a protected disclosure; (2) you are subject to certain retaliatory acts; and (3) there is a causal connection between your protected disclosure and the retaliatory act.

OIG receives, reviews, and where appropriate, investigates allegations of whistleblower reprisal.

Whistleblower complaints may be submitted to the OIG via the hotline:
<https://www.oig.doc.gov/Pages/Hotline.aspx#complainthotline>

Whistleblower complaints may also be submitted to the Office of Special Counsel via their website: <https://osc.gov/pages/file-complaint.aspx>

DOC-OIG Whistleblower Protection Coordinator contact information:

Email: wpo@oig.doc.gov

Phone: 202-482-1099

FRAUD IN EDA ASSISTANCE PROGRAMS



- **Fraud Defined**
- **Compliance Requirements**
 - Eligibility
 - Duplicate Funding
 - Matching Funds
 - Mandatory Reporting of Fraud
- **Consequences of Fraud**
- **Recommendations/Best Practices**

FRAUD IN EDA ASSISTANCE PROGRAMS



Although it can take many forms, fraud, at its core, is **deception** through the **misrepresentation** or **omission of material facts** for the purpose of **illegitimate gain**.

FRAUD IN EDA ASSISTANCE PROGRAMS



Examples of fraud within EDA Assistance Programs include, but are not limited to:

- Accepting federal funding in multiple assistance awards for the same work
- Misrepresentations regarding the eligibility of the project or recipient
- Misrepresentations or omissions about the recipient's facilities, ownership/control, or the work to be performed by the recipient
- Providing falsified letters of support
- Misrepresentations concerning the use of funds expended, work performed, results achieved, or compliance with program requirements under the award
- Inflated labor costs

FRAUD IN EDA ASSISTANCE PROGRAMS (CONTINUED)



- Misuse or conversion of assistance award funds (e.g. using funds for personal expenses)
- Theft of government owned property (18 U.S.C. § 666)
- Embezzlement (18 U.S.C. § 666)
- Fabrication or falsification of data, in applying for, carrying out, or reporting results from an assistance award
- Intentional noncompliance with applicable federal cost principles governing grants / cooperative agreements
- Undisclosed self-dealing, such as a sub-award to an entity in which an awardee, executive, or key employee (or family members of the aforementioned individuals) has a financial interest
- "Buying Expenses", or reporting expenses incurred by another entity for work unrelated to the assistance award

COMPLIANCE REQUIREMENTS



RECIPIENTS MUST COMPLY WITH:

- 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- Department of Commerce Financial Assistance Standard Terms and Conditions
- EDA Standard Award Conditions for Construction Projects or EDA Revolving Loan Fund Standard Award Conditions (as applicable)
- Specific Award Conditions (unique to each award)

COMPLIANCE REQUIREMENTS



2 CFR § 200.339 – REMEDIES FOR NONCOMPLIANCE

If a non-Federal entity fails to comply with **the U.S. Constitution, Federal statutes, regulations or the terms and conditions of a Federal award**, the Federal awarding agency or pass-through entity may impose additional conditions; or, in certain circumstances, the Federal awarding agency or pass-through entity may take one or more of the following actions, as appropriate in the circumstances:

- Temporary withholding of cash payments pending correction of the deficiency by the non-Federal entity or more severe enforcement action by the Federal awarding agency or pass-through entity
- Disallowance of (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance
- Whole or partial suspension or termination of the Federal award
- Initiation of suspension or debarment proceedings (or in the case of a pass-through entity, recommend such a proceeding be initiated by a Federal awarding agency)
- Withholding of further Federal awards for the project or program
- Other remedies that may be legally available

COMPLIANCE REQUIREMENTS



Eligibility

Within their EDA Assistance Award Proposal, applicants make numerous certifications or recertifications as to their eligibility to receive a federal award, among other certifications.

Falsely certifying to any material fact or representation contained in a certification is fraud.

CASE EXAMPLE



Eligibility

Double-click
below for more
information

Allegations Included:

- Nonprofit organization made false and misleading statements to obtain federal grant funding
- Failure to disclose conflicts of interest that were required to be disclosed

Outcome:

- Nonprofit agreed to pay \$528,575.82 to resolve allegations they violated the False Claims Act

United States Department of Justice

THE UNITED STATES ATTORNEY'S OFFICE
EASTERN DISTRICT OF KENTUCKY

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FOR IMMEDIATE RELEASE

Wednesday, September 10, 2014

**Nonprofit Organization and Its Management Company Agree
Pay Over \$500,000 to Resolve Allegations of Grant Fraud**

LEXINGTON, Ky. – The National Association of State Chief Information Officers, Inc. (NASCIO) and
Acquisition Management Resources, Inc. (AMRI) have agreed to pay the United States \$528,575.82 to
resolve allegations that they violated the False Claims Act by making false and misleading statements
concerning their obtaining grants from the Department of Justice's Federal Justice Information System
Initiative.

This civil settlement resolves allegations that NASCIO failed to disclose conflicts of interest related to
contract with AMRI that were required to be disclosed under the grant program's rules. The United States
considers that the failure to disclose these conflicts of interest resulted in the DOJ approving grant
funding that NASCIO would not have otherwise been awarded.

"This settlement sends a clear message that recipients of federally funded grants must strictly adhere
the regulations applicable to those grants and fully and fairly disclose the information called for under
those grants," stated Ronald M. Duncan, Jr., United States Attorney for the Eastern District of Kentucky.
"Both NASCIO and AMRI have responsibility and unapologetically acknowledge the damages caused by the
United States, and we expect other grant recipients who do not follow the applicable regulations will do
the same."

"This investigation demonstrates the DOJ-OIG's commitment to ensure that tax payer dollars are used
appropriately, and that only authorized grant recipients who follow regulations and provide full disclosure
to the government receive DOJ grant funds," stated William A. Hancock, Special Agent in Charge of the
U.S. Department of Justice Office of the Inspector General's (DOJ-OIG) Chicago Field Office.

This case was a result of an investigation by the DOJ-OIG Chicago Field Office and the United States
Attorney's Office for the Eastern District of Kentucky. Assistant United States Attorney
William Hancock filed this matter for the United States. The matter settled by this agreement and litigation
ended, and there has been no determination of liability.

COMPLIANCE REQUIREMENTS



Duplication of Benefits is Prohibited

2 CFR § 200.1 – Improper Payment

Improper payment means any payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative, or other legally applicable requirements. This includes overpayments or underpayments to eligible recipients (including inappropriate denials of payment or service, any payment that does not account for credit for applicable discounts, payments that are for an incorrect amount, and **duplicate payments**). It also includes any payment that was made to an ineligible recipient or for an ineligible good or service, or payments for goods or services not received (except for such payments authorized by law).

Other Federal Awards with Similar Programmatic Activities

“The recipient must immediately provide written notification to the DOC Program Officer and the DOC Grants Officer if, subsequent to receipt of the DOC Award, other financial assistance is received to support or fund any portion of the scope of work incorporated into the DOC Award. DOC will not pay for costs that are funded by other sources.” *EDA Standard Terms and Conditions for Construction Projects, March 22, 2021*

CASE EXAMPLE



Duplication of Benefits

Double-click
below for more
information

Allegations Included:

- Not-for-profit owner applied for funding for similar services
- Owner converted the duplicate funding for his personal and business use

Outcome:

- Owner pleaded guilty to mail fraud and money laundering
- Sentenced to 24 months in prison
- Ordered to pay \$480,901 in restitution

U.S. Department of Justice
Office of the Inspector General

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Department of Justice
U.S. Attorney's Office
Central District of Illinois

FOR IMMEDIATE RELEASE

Friday, September 23, 2011

Chicago Businessman Sentenced to Two Years in Prison for Grant Fraud Scheme

Springfield, Ill. -- A Chicago businessman has been ordered to serve 24 months in prison for a fraud scheme that resulted in two state agencies awarding separate, but nearly identical, grants to his non-profit entity in September 2008. U.S. District Court Judge Sue E. Myroniuk sentenced George E. Smith, 66, and ordered that Smith pay restitution of nearly \$500,000 to the state. Judge Myroniuk allowed Smith to call report as ordered by the Federal Bureau of Prisons to begin serving his prison sentence. Smith waived extradition and pled guilty in March 2010, to two counts of mail fraud and one count of money laundering.

In rendering today's sentence, Judge Myroniuk ruled that Smith exploited his personal relationship with a former director of the Illinois Department of Children and Family Services related to a grant in the amount of \$450,000 awarded by the agency on Sept. 2, 2008, under the Sheltering at Risk Program. On Sept. 11, 2008, the Illinois Board of Education awarded Smith a not-for-profit grant in the amount of \$442,000. According to the terms of the grants, both provided for similar services to the provision of at-risk population in the Chicago area during fiscal year 2008. The populations served, services rendered, services to be provided, and the goals for each grant were essentially identical. Neither OCFR nor ISBE were aware of the provision of an identical grant by the other state agency. Smith then converted the duplicate funding to his personal and business use.

Both grants were awarded to Diversified Behavioral Comprehensive Care, a not-for-profit entity owned and operated by Smith. In addition, Smith owned and operated three for-profit entities, Diversified Behavioral Services, Inc., Management Planning Institute, Inc., and the Institute for Positive Child and Family Development. From 2005 through 2011, Smith, through both his not-for-profit and for-profit entities, received millions of dollars in funding from agencies of the state of Illinois, including OCFR, ISBE, and the Illinois Department of Human Services.

COMPLIANCE REQUIREMENTS



Matching Funds

- The non-Federal share of the approved project budget (aka the “matching share” or “local share”) must be borne by the recipient or provided to the recipient by a third party as a contribution for the purposes of and subject to the terms of the award.
- The applicant must document that the matching share **will**:
 - Be committed to the project for the period of performance
 - Be available as needed
 - Not be conditioned or encumbered in any way that may preclude its use consistent with the requirements of EDA investment assistance
- Applicants must submit, for each source of matching share, a commitment letter or equivalent document signed by an authorized representative of the organization providing the matching funds. *Additional documentation may be requested by EDA in order to substantiate the availability of the matching funds.*

CASE EXAMPLE



Matching Funds

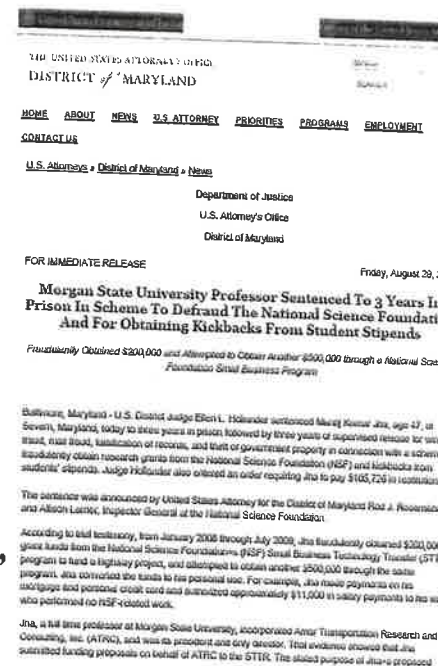
Allegations Included:

- Small business owner made several false statements and misrepresentations to obtain federal grant funding
- Owner misrepresented that he obtained a \$100,000 investment from a third party in order to qualify for federal matching funds
- Owner converted grant funds to personal use

Outcome:

- Owner convicted at trial for wire fraud, mail fraud, falsification of records, and theft of government property
- Sentenced to 36 months in prison
- Ordered to pay \$105,726 in restitution
- Owner debarred for 5 years

Double-click
below for more
information



COMPLIANCE REQUIREMENTS



Mandatory Disclosure of Fraud

2 CFR § 200.113 - Mandatory disclosures

The non-Federal entity or applicant for a Federal award **must disclose**, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.

Failure to disclose could result in the remedies detailed in 2 CFR § 200.339 (slide 16 of this presentation).

CONSEQUENCES OF COMMITTING FRAUD



Criminal Prosecution

Lying to obtain a grant, or lying about the work performed may violate several criminal laws:

- 18 U.S.C. § 1001, False Statements (up to 5 years in prison, forfeiture and \$250K fine)
- 18 U.S.C. § 641, Theft of Federal Property (up to 10 years in prison, forfeiture and \$250K fine)
- 18 U.S.C. § 1343, Wire Fraud (up to 20 years in prison, forfeiture and \$250K fine)
- 18 U.S.C. § 666, Theft or bribery concerning programs receiving Federal funds (up to 10 years in prison, forfeiture and \$250K fine)

Fines for organizations may be as high as \$500K

Criminal forfeiture = full amount of the grant; personal assets can be seized to satisfy forfeiture or fine

CONSEQUENCES OF COMMITTING FRAUD (CONTINUED)



Civil Prosecution

In addition to or in lieu of criminal prosecution

Civil False Claims Act, 31 U.S.C. §§ 3729-3733

- Liability includes up to treble damages (3x actual damages) and a civil penalty of up to \$23,607 for each false claim
- False claims liability may include payments received when the government relied upon false information in the award proposal, in a certification of current cost or pricing data, in a request for payment, or in progress reports
- Although the statute requires knowledge that the claim was false, knowledge includes “deliberate ignorance” or “reckless disregard of the truth”
- Whistleblowers can receive up to 30% of the recovery amount for reporting fraud via *qui tam* provisions of the False Claims Act

CONSEQUENCES OF COMMITTING FRAUD (CONTINUED)



Administrative Remedies

- Government can terminate contracts/grants tainted by fraud
- Government can suspend/debar the entity, owner, and/or employees
 - Results in prohibition from receiving any federal grants or contracts, or working as a sub-grantee on federal grants or a sub-contractor on federal contracts
 - Debarment is typically for three years, but can be for a longer period
- Administrative remedies are in addition to or in lieu of criminal and civil liability

RECOMMENDATIONS



The government retains the right to examine the status of an EDA Assistance award at any time.

Status checks include:

- Site visits
- Requests for records including financial documents and timesheets

Good recordkeeping will help ensure successful status checks and eliminate potential issues.

RECOMMENDATIONS



Good Records: Key to Protecting Yourself

Documentation

- Timesheets for hours worked by ALL involved employees
- All financial receipts, invoices and statements for expenses related to the project

Updates on the project status, including successes/failures

- Keep regular records at the business-level so you have all facts on hand if needed/requested by the government
- Documentation to support performance metrics

Records Retention Time Frames and other Requirements

- See 2 CFR § 200.334

IMPORTANT TO REMEMBER!



Record Retention and Access

200.334 Retention requirements for records.

Financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award must be retained for a period of three years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Federal awarding agency or pass-through entity in the case of a subrecipient. Federal awarding agencies and pass-through entities must not impose any other record retention requirements upon non-Federal entities. The only exceptions are the following:

- (a) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.
- (b) When the non-Federal entity is notified in writing by the Federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period.
- (c) Records for real property and equipment acquired with Federal funds must be retained for 3 years after final disposition.
- (d) When records are transferred to or maintained by the Federal awarding agency or pass-through entity, the 3-year retention requirement is not applicable to the non-Federal entity.
- (e) Records for program income transactions after the period of performance. In some cases recipients must report program income after the period of performance. Where there is such a requirement, the retention period for the records pertaining to the earning of the program income starts from the end of the non-Federal entity's fiscal year in which the program income is earned.
- (f) Indirect cost rate proposals and cost allocations plans. This paragraph applies to the following types of documents and their supporting records: Indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).
 - (1) **If submitted for negotiation.** If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the pass-through entity) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.
 - (2) **If not submitted for negotiation.** If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the pass-through entity) for negotiation purposes, then the 3-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

IMPORTANT TO REMEMBER!



If you are unsure about any of the requirements relating to the award of an EDA Assistance grant/cooperative agreement:

- Contact the appropriate EDA POC and provide all relevant facts
- Request written guidance from the EDA POC, and
- **Follow it!**

ADDITIONAL RESOURCES



13 CFR Chapter III – Economic Development Administration (Parts 300-315)
<https://www.ecfr.gov/current/title-13/chapter-III>

2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
<https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II>

Grant Fraud & Scams – Grants.gov
<https://www.grants.gov/learn-grants/grant-fraud.html>

Department of Commerce – Grants and Cooperative Agreement Manual
<https://www.commerce.gov/oam/files/grants-and-cooperative-agreements-grants-manual-april-20-2021>

REPORT FRAUD, WASTE, AND ABUSE



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CERTIFICATE OF TRAINING COMPLETION



- All EDA grantees must successfully complete this training and submit the signed completion certificate(s) to the EDA Project Officer listed in the Specific Award Conditions or via the EDGE website within 60 days of grant award.

Failure to comply with this requirement may result in a finding of non-compliance with the terms and conditions of your award.

CERTIFICATE OF TRAINING COMPLETION



The undersigned has fully and completely reviewed this training on behalf of the applicant/awardee, understands the information presented in this training, and has the authority to make this certification as the awardee. The undersigned has also read and understood the Notice of Funding Opportunity, Specific Award Conditions, and Standard Terms and Conditions applicable to this Award. The undersigned understands providing false or misleading information during any part of the proposal, award, or performance phase of an EDA assistance award may result in criminal, civil or administrative sanctions, including but not limited to: fines, restitution, and/or imprisonment under 18 U.S.C. § 1001; treble damages and civil penalties under the False Claims Act, 31 U.S.C. § 3729 et seq.; civil recovery of award funds; suspension and/or debarment from all federal procurement and non-procurement transactions, FAR Part 9.4 or 2 CFR Part 180; and other administrative remedies including termination of active EDA assistance awards.

Signature

Date

Name

Entity Name

Position Title

Per the training instructions, return signed either to the relevant EDA Project Officer or via the EDGE website, as applicable, within 60 days of grant award. A separate Certification is required for each Authorized Signer on the Award. This Certification must be signed by the same Individual(s) executing the Notice of Award.

EDA Award Number

Certificate One

CERTIFICATE OF TRAINING COMPLETION



The undersigned has fully and completely reviewed this training on behalf of the applicant/awardee, understands the information presented in this training, and has the authority to make this certification as the awardee. The undersigned has also read and understood the Notice of Funding Opportunity, Specific Award Conditions, and Standard Terms and Conditions applicable to this Award. The undersigned understands providing false or misleading information during any part of the proposal, award, or performance phase of an EDA assistance award may result in criminal, civil or administrative sanctions, including but not limited to: fines, restitution, and/or imprisonment under 18 U.S.C. § 1001; treble damages and civil penalties under the False Claims Act, 31 U.S.C. § 3729 et seq.; civil recovery of award funds; suspension and/or debarment from all federal procurement and non-procurement transactions, FAR Part 9.4 or 2 CFR Part 180; and other administrative remedies including termination of active EDA assistance awards.

Signature

Date

Name

Entity Name

Position Title

Per the training instructions, return signed either to the relevant EDA Project Officer or via the EDGE website, as applicable, within 60 days of grant award. A separate Certification is required for each Authorized Signer on the Award. This Certification must be signed by the same Individual(s) executing the Notice of Award.

EDA Award Number

Certificate Two

CERTIFICATE OF TRAINING COMPLETION



The undersigned has fully and completely reviewed this training on behalf of the applicant/awardee, understands the information presented in this training, and has the authority to make this certification as the awardee. The undersigned has also read and understood the Notice of Funding Opportunity, Specific Award Conditions, and Standard Terms and Conditions applicable to this Award. The undersigned understands providing false or misleading information during any part of the proposal, award, or performance phase of an EDA assistance award may result in criminal, civil or administrative sanctions, including but not limited to: fines, restitution, and/or imprisonment under 18 U.S.C. § 1001; treble damages and civil penalties under the False Claims Act, 31 U.S.C. § 3729 et seq.; civil recovery of award funds; suspension and/or debarment from all federal procurement and non-procurement transactions, FAR Part 9.4 or 2 CFR Part 180; and other administrative remedies including termination of active EDA assistance awards.

Signature

Date

Name

Entity Name

Position Title

Per the training instructions, return signed either to the relevant EDA Project Officer or via the EDGE website, as applicable, within 60 days of grant award. A separate Certification is required for each Authorized Signer on the Award. This Certification must be signed by the same Individual(s) executing the Notice of Award.

EDA Award Number

Certificate Three

DEPARTMENT OF COMMERCE
FINANCIAL ASSISTANCE
STANDARD TERMS AND CONDITIONS



12 November 2020

**DEPARTMENT OF COMMERCE
FINANCIAL ASSISTANCE STANDARD TERMS AND CONDITIONS**

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PREFACE

This document sets out the standard terms and conditions (ST&Cs) applicable to this U.S. Department of Commerce (DOC or Commerce) financial assistance award (hereinafter referred to as the DOC ST&Cs or Standard Terms). A non-Federal entity¹ receiving a DOC financial assistance award must, in addition to the assurances made as part of the application, comply and require each of its subrecipients, contractors, and subcontractors employed in the completion of the project to comply with all applicable statutes, regulations, executive orders (E.O.s), Office of Management and Budget (OMB) circulars, provisions of the OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (codified at 2 C.F.R. Part 200) (OMB Uniform Guidance), provisions of these Standard Terms, and any other terms and conditions incorporated into this DOC financial assistance award. In addition, unless otherwise provided by the terms and conditions of this DOC financial assistance award, Subparts A through E of 2 C.F.R. Part 200 and the Standard Terms are applicable to for-profit entities, foreign public entities and to foreign organizations that carry out a DOC financial assistance award.²

This award is subject to the laws and regulations of the United States. Any inconsistency or conflict in terms and conditions specified in the award will be resolved according to the following order of precedence: federal laws and regulations, applicable notices published in the *Federal Register*, E.O.s, OMB circulars, DOC ST&Cs, agency standard award conditions (if any), and specific award conditions. A specific award condition may amend or take precedence over a Standard Term on a case-by-case basis, when indicated by the specific award condition.

Some of the Standard Terms herein contain, by reference or substance, a summary of the pertinent statutes, regulations published in the *Federal Register* or Code of Federal Regulations (C.F.R.), E.O.s, OMB circulars, or the certifications and assurances provided by applicants through Standard Forms (e.g., SF-424s) or through DOC forms (e.g. Form CD-511). To the extent that it is a summary, such Standard Term provision is not in derogation of, or an amendment to, any such statute, regulation, E.O., OMB circular, certification, or assurance.

¹ Note that the OMB Uniform Guidance uses the term “non-Federal entity” to generally refer to an entity that carries out a Federal award as a recipient or subrecipient. Because some of the provisions of these DOC ST&Cs apply to recipients rather than subrecipients, or vice versa, for clarity, these DOC ST&Cs use the terms “non-Federal entity,” “recipient,” and “subrecipient” consistent with their meanings in the OMB Uniform Guidance. In addition, the OMB Uniform Guidance uses the term “pass-through entity” to refer to a non-Federal entity that makes a subaward. As defined at 2 C.F.R. § 200.1:

“Non-Federal entity” is “a state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient.”

“Recipient” is “an entity, usually but not limited to non-Federal entities, that receives a Federal award directly from a Federal awarding agency. The term recipient does not include subrecipients or individuals that are beneficiaries of the award.”

“Subrecipient” is “an entity, usually but not limited to non-Federal entities, that receives a subaward from a pass-through entity to carry out part of a Federal award; but does not include an individual that is a beneficiary of such award. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.”

“Pass-through entity” is “a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.”

² See 2 C.F.R. § 200.1 for the definitions of “foreign public entity” and “foreign organization.”

DOC commenced implementation of the Research Terms and Conditions (RT&Cs) for Federal awards effective October 1, 2017; the RT&Cs address and implement the Uniform Guidance issued by OMB. For awards designated on the Form CD-450 (Financial Assistance Award) as Research, both the DOC ST&Cs and the RT&Cs as implemented by DOC apply to the award. The RT&Cs as well as the DOC implementation statement, agency specific requirements, prior approval matrix, subaward requirements, and national policy requirements are posted on the National Science Foundation's website – <https://www.nsf.gov/awards/managing/rtc.jsp>. The DOC ST&Cs and the RT&Cs are generally intended to harmonize with each other; however, where the DOC ST&Cs and the RT&Cs differ in a Research award, the RT&Cs prevail, unless otherwise indicated in a specific award condition.

A. PROGRAMMATIC REQUIREMENTS

.01 Reporting Requirements

a. Recipients must submit all reports as required by DOC, electronically or, if unable to submit electronically, in hard copy, as outlined below and as may be supplemented by the terms and conditions of a specific DOC award.

b. Performance (Technical) Reports. Recipients must submit performance (technical) reports to the Program Officer. Performance (technical) reports should be submitted in the same frequency as the Form SF-425 (Federal Financial Report), unless otherwise directed by the Grants Officer.

1. Performance (technical) reports must contain the information prescribed in 2 C.F.R. § 200.329 (Monitoring and reporting program performance), unless otherwise specified in the award conditions.
2. As appropriate and in accordance with the format provided by the Program Officer (or other OMB-approved information collections, including the Research Program Performance Report [RPPR] as adopted by DOC for use in research awards), recipients are required to relate financial data to the performance accomplishments of this Federal award. When applicable, recipients must also provide cost information to demonstrate cost effective practices (e.g., through unit cost data). The recipient's performance will be measured in a way that will help DOC to improve program outcomes, share lessons learned, and spread the adoption of best or promising practices. As described in 2 C.F.R. § 200.211 (Information contained in a Federal award), DOC will identify the timing and scope of expected performance by the recipient as related to the outcomes intended to be achieved by the Federal program.
3. Recipients (or pass-through entities as applicable) must submit a final performance report within 120 calendar days after the expiration of the period of performance. The subrecipient is required to submit its final performance report to the pass-through entity within 90 calendar days unless an extension has been granted.

c. Financial Reports. In accordance with 2 C.F.R. § 200.328 (Financial reporting), the recipient must submit a Form SF-425 (Federal Financial Report) or any successor form on a semi-annual basis for the periods ending March 31 and September 30, or any portion thereof, unless otherwise specified in a specific award condition. Reports must be submitted to DOC as directed by the Grants Officer, in accordance with the award conditions and are due no later than 30 calendar days following the end of each reporting period. Recipients (or pass-through entities as applicable) must submit a final Form SF-425 within 120 calendar days after the expiration of the period of performance. The subrecipient is required to submit its financial report to the pass-through entity within 90 calendar days unless an extension has been granted. A recipient may submit a final financial report in lieu of an interim financial report due at the end of the period of performance (e.g., in lieu of submitting a financial report for the last semi-annual or other reporting under an award, a recipient may submit a final (cumulative) financial report covering the entire award period).

d. Real Property, Tangible Personal Property and Intangible Property Reports and Requests for Dispositions. Unless otherwise required by the terms and conditions of a DOC financial assistance award, where real property, tangible personal property or intangible property is acquired or improved (in the case of real property or tangible personal property), or produced or acquired (in the case of intangible property), pursuant to a DOC award, non-Federal entities are required to submit the following real property, tangible personal property and intangible property reports (as appropriate):

1. Real Property Status Reports and Requests for Dispositions: Non-Federal entities must submit reports using Form SF-429 (Real Property Status Report) or any successor form, including appropriate attachments thereto, at least annually disclosing the status of real property that is Federally-owned property or real property in which the Federal Government retains a Federal Interest, unless the Federal Interest in the real property extends 15 years or longer. In cases where the Federal Interest attached is for a period of 15 years or more, the DOC or pass-through entity, at its option, may require the non-Federal entity to report at various multi-year frequencies (e.g., every two years or every three years, not to exceed a five-year reporting period; or, the DOC or pass-through entity may require annual reporting for the first three years of a Federal award and thereafter require reporting every five years). In addition, DOC or a pass-through entity may require a non-Federal entity to submit Form SF-429, with appropriate attachments, relating to a non-Federal entity's request to acquire, improve or contribute real property under a DOC financial assistance award. Non-Federal entities wishing to dispose of real property acquired or improved, in whole or in part, pursuant to a DOC award must request disposition instructions, including the submission of Form SF-429, with appropriate attachments, from the Grants Officer in accordance with the requirements set forth in 2 C.F.R. § 200.311(c). *See also* the real property standards set forth in Section C. of these Standard Terms (Property Standards).

2. Tangible Personal Property Status Reports and Requests for Dispositions: DOC or a pass-through entity may also require a non-Federal entity to submit periodic reports using Form SF-428 (Tangible Personal Property Report) or any successor form, including appropriate attachments thereto, concerning tangible personal property that is Federally-owned or tangible personal property in which the Federal Government retains an interest. In

addition, DOC or a pass-through entity may require a non-Federal entity to submit Form SF-428 in connection with a non-Federal entity's request to dispose of tangible personal property acquired under a DOC financial assistance award. Non-Federal entities wishing to dispose of tangible personal property acquired or improved, in whole or in part, pursuant to a DOC award must request disposition instructions, including the submission of Form SF-428, with appropriate attachments, from the Grants Officer in accordance with the requirements set forth in 2 C.F.R. § 200.313(e). *See also* the tangible property standards set forth in Section C. of these Standard Terms (Property Standards).

3. **Intangible Property Status Reports and Requests for Dispositions:** The specific requirements governing the development, reporting, and disposition of rights to intangible property, including inventions and patents resulting from DOC awards, are set forth in 37 C.F.R. Part 401, which is hereby incorporated by reference into this award. Non-Federal entities are required to submit their disclosures, elections, and requests for waiver from any requirement for substantial U.S. manufacture, electronically using the Interagency Edison extramural invention reporting system (iEdison) at www.iedison.gov. Non-Federal entities may obtain a waiver of this electronic submission requirement by providing to the Grants Officer compelling reasons for allowing the submission of paper reports. When no longer needed for the originally authorized purpose, disposition of the intangible property must occur in accordance with the provisions in 2 C.F.R. § 200.313(e). *See also* the intangible property standards set forth in Section C. of these Standard Terms (Property Standards).

e. **Subawards and Executive Compensation Reports.** For reporting requirements on subawards and Executive Compensation, see paragraph G.05.o of these Standard Terms (The Federal Funding Accountability and Transparency Act (FFATA) (31 U.S.C. § 6101 note)).

f. **Recipient Integrity and Performance Matters.** For reporting requirements pertaining to integrity and performance matters, see paragraph G.05.p of these Standard Terms (Recipient Integrity and Performance Matters (Appendix XII to 2 C.F.R. Part 200)).

g. **Research Performance Progress Reports.** All research awards shall submit the Research Performance Progress Report (RPPR) in accordance with instructions set forth in the following link: [RPPR Instructions](#).

.02 Revisions of Program Plans

In accordance with 2 C.F.R. § 200.308 (Revision of budget and program plans) and 2 C.F.R. § 200.407 (Prior written approval (prior approval)), the recipient must obtain prior written approval from the DOC Grants Officer for certain proposed programmatic change requests, unless otherwise provided by the terms and conditions of a DOC award. Requests for prior approval for changes to program plans must be submitted to the Federal Program Officer (or electronically for awards administered through Grants Online). Requests requiring prior DOC approval are not effective unless and until approved in writing by the DOC Grants Officer.

.03 Other Federal Awards with Similar Programmatic Activities

The recipient must immediately provide written notification to the DOC Program Officer and the DOC Grants Officer if, subsequent to receipt of the DOC award, other financial assistance is received to support or fund any portion of the scope of work incorporated into the DOC award. DOC will not pay for costs that are funded by other sources.

.04 Prohibition against Assignment by a Non-Federal Entity

A non-Federal entity must not transfer, pledge, mortgage, assign, encumber or hypothecate a DOC financial assistance award or subaward, or any rights to, interests therein or claims arising thereunder, to any party or parties, including but not limited to banks, trust companies, other financing or financial institutions, or any other public or private organizations or individuals without the express prior written approval of the DOC Grants Officer or the pass-through entity (which, in turn, may need to obtain prior approval from the DOC Grants Officer).

.05 Disclaimer Provisions

a. The United States expressly disclaims all responsibility or liability to the non-Federal entity or third persons (including but not limited to contractors) for the actions of the non-Federal entity or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any subaward, contract, or subcontract under this award.

b. The acceptance of this award or any subaward by the non-Federal entity does not in any way constitute an agency relationship between the United States and the non-Federal entity or the non-Federal entity's contractors or subcontractors.

.06 Unsatisfactory Performance or Non-Compliance with Award Provisions

a. Failure to perform the work in accordance with the terms of the award and maintain satisfactory performance as determined by DOC may result in the imposition of additional award conditions pursuant to 2 C.F.R. § 200.208 (Specific conditions) or other appropriate enforcement action as specified in 2 C.F.R. § 200.339 (Remedies for noncompliance).

b. Failure to comply with the provisions of an award will be considered grounds for appropriate enforcement action pursuant to 2 C.F.R. § 200.339 (Remedies for noncompliance), including but not limited to: the imposition of additional award conditions in accordance with 2 C.F.R. § 200.208 (Specific conditions); temporarily withholding award payments pending the correction of the deficiency; changing the payment method to reimbursement only; the disallowance of award costs and the establishment of an accounts receivable; wholly or partially suspending or terminating an award; initiating suspension or debarment proceedings in accordance with 2 C.F.R. Parts 180 and 1326; and such other remedies as may be legally available.

c. 2 C.F.R. §§ 200.340 (Termination) through 200.343 (Effects of suspension and termination) apply to an award that is terminated prior to the end of the period of performance

due to the non-federal entity's material failure to comply with the award terms and conditions. In addition, the failure to comply with the provisions of a DOC award may adversely impact the availability of funding under other active DOC or Federal awards and may also have a negative impact on a non-Federal entity's eligibility for future DOC or Federal awards.

B. FINANCIAL REQUIREMENTS

.01 Financial Management

a. In accordance with 2 C.F.R. § 200.302(a) (Financial Management), each State must expend and account for the Federal award in accordance with State laws and procedures for expending and accounting for the State's own funds. In addition, the State's and any other non-Federal entity's financial management systems, including records documenting compliance with Federal statutes, regulations, and the terms and conditions of the Federal award, must be sufficient to permit the preparation of reports required by general and program-specific terms and conditions; and the tracing of funds to a level of expenditures adequate to establish that such funds have been used in accordance with Federal statutes, regulations, and the terms and conditions applicable to the Federal award. *See also* 2 C.F.R. § 200.450 (Lobbying) for additional management requirements to verify that Federal funds are not used for unallowable lobbying costs.

b. The financial management system of each non-Federal entity must provide all information required by 2 C.F.R. § 200.302(b). *See also* 2 C.F.R. §§ 200.334 (Retention requirements for records); 200.335 (Requests for transfer of records); 200.336 (Methods for collection, transmission and storage of information); 200.337 (Access to records); and 200.338 (Restrictions on public access to records).

.02 Award Payments

a. Consistent with 2 C.F.R. § 200.305(a) (Federal payment), for States, payments are governed by Treasury-State Cash Management Improvement Act (CMIA) agreements and default procedures codified at 31 C.F.R. Part 205 (Rules and Procedures for Efficient Federal-State Funds Transfers) and Treasury Financial Manual Volume I, 4A-2000 (Overall Disbursing Rules for All Federal Agencies).

b. Consistent with 2 C.F.R. § 200.305(b), for non-Federal entities other than States, payment methods must minimize the amount of time elapsing between the transfer of funds from the U.S. Treasury or the pass-through entity and the disbursement by the non-Federal entity.

1. The Grants Officer determines the appropriate method of payment and, unless otherwise stated in a specific award condition, the advance method of payment must be authorized. Advances must be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the non-Federal entity in carrying out the purpose of the approved program or project. Unless otherwise provided by the terms and conditions of a DOC award, non-Federal entities must time advance payment requests so that Federal funds are on hand for a maximum of 30 calendar days before being disbursed by the

non-Federal entity for allowable award costs.

2. If a non-Federal entity demonstrates an unwillingness or inability to establish procedures that will minimize the time elapsing between the transfer of funds and disbursement by the non-Federal entity or if a non-Federal entity otherwise fails to continue to qualify for the advance method of payment, the Grants Officer or the pass-through entity may change the method of payment to reimbursement only.

c. Unless otherwise provided for in the award terms, payments from DOC to recipients under this award will be made using the Department of Treasury's Automated Standard Application for Payment (ASAP) system. Under the ASAP system, payments are made through preauthorized electronic funds transfers directly to the recipient's bank account, in accordance with the requirements of the Debt Collection Improvement Act of 1996. To receive payments under ASAP, recipients are required to enroll with the Department of Treasury, Financial Management Service, Regional Financial Centers, which allows them to use the on-line and Voice Response System (VRS) method of withdrawing funds from their ASAP established accounts. The following information will be required to make withdrawals under ASAP:

1. ASAP account number – the Federal award identification number found on the cover sheet of the award;
2. Agency Location Code (ALC); and
3. Region Code.

d. Recipients enrolled in the ASAP system do not need to submit a Form SF-270 (Request for Advance or Reimbursement) for payments relating to their award. Awards paid under the ASAP system will contain a specific award condition, clause, or provision describing enrollment requirements and any controls or withdrawal limits set in the ASAP system.

e. When the Form SF-270 or successor form is used to request payment, the recipient must submit the request no more than monthly, and advances must be approved for periods to cover only expenses reasonably anticipated over the next 30 calendar days. Prior to receiving payments via the Form SF-270, the recipient must complete and submit to the Grants Officer the Form SF-3881 (ACH Vendor Miscellaneous Payment Enrollment Form) or successor form along with the initial Form SF-270. Form SF-3881 enrollment must be completed before the first award payment can be made via a Form SF-270 request.

f. The Federal award identification number must be included on all payment-related correspondence, information, and forms.

g. Non-Federal entities receiving advance award payments must adhere to the depository requirements set forth in 2 C.F.R. §§ 200.305(b)(7) through (b)(11). Interest amounts up to \$500 per non-Federal entity's fiscal year may be retained by the non-Federal entity for administrative expenses.

.03 Federal and Non-Federal Sharing

a. Awards that include Federal and non-Federal sharing incorporate a budget consisting of shared allowable costs. If actual allowable costs are less than the total approved budget, the Federal and non-Federal cost shares must be calculated by applying the approved Federal and non-Federal cost share ratios to actual allowable costs. If actual allowable costs exceed the total approved budget, the Federal share must not exceed the total Federal dollar amount authorized by the award.

b. The non-Federal share, whether in cash or third-party in-kind contributions, is to be paid out at the same general rate as the Federal share. Exceptions to this requirement may be granted by the Grants Officer based on sufficient documentation demonstrating previously determined plans for, or later commitment of, cash or third-party in-kind contributions. In any case, the recipient must meet its cost share commitment as set forth in the terms and conditions of the award; failure to do so may result in the assignment of specific award conditions or other further action as specified in Standard Term A.06 (Unsatisfactory Performance or Non-Compliance with Award Provisions). The non-Federal entity must create and maintain sufficient records justifying all non-Federal sharing requirements to facilitate questions and audits; see Section D of these Standard Terms (Audits), for audit requirements. *See* 2 C.F.R. § 200.306 for additional requirements regarding cost sharing.

.04 Budget Changes and Transfer of Funds among Categories

a. Recipients are required to report deviations from the approved award budget and request prior written approval from DOC in accordance with 2 C.F.R. § 200.308 (Revision of budget and program plans) and 2 C.F.R. § 200.407 (Prior written approval (prior approval)). Requests for such budget changes must be submitted to the Grants Officer (or electronically for awards serviced through Grants Online) who will notify the recipient of the final determination in writing. Requests requiring prior DOC approval do not become effective unless and until approved in writing by the DOC Grants Officer.

b. In accordance with 2 C.F.R. § 200.308(f), transfers of funds by the recipient among direct cost categories are permitted for awards in which the Federal share of the project is equal to or less than the simplified acquisition threshold. For awards in which the Federal share of the project exceeds the simplified acquisition threshold, transfers of funds among direct cost categories must be approved in writing by the Grants Officer when the cumulative amount of such direct costs transfers exceeds 10 percent of the total budget as last approved by the Grants Officer. The 10 percent threshold applies to the total Federal and non-Federal funds authorized by the Grants Officer at the time of the transfer request. This is the accumulated amount of Federal funding obligated to date by the Grants Officer along with any non-Federal share. The same requirements apply to the cumulative amount of transfer of funds among programs, functions, and activities. This transfer authority does not authorize the recipient to create new budget categories within an approved budget without Grants Officer approval. Any transfer that causes any Federal appropriation, or part thereof, to be used for an unauthorized purpose is not and will not be permitted. In addition, this provision does not prohibit the recipient from requesting Grants Officer approval for revisions to the budget. *See* 2 C.F.R. § 200.308 (Revision

of budget and program plans) (as applicable) for specific requirements concerning budget revisions and transfer of funds between budget categories.

.05 Program Income

Unless otherwise indicated in the award terms, program income may be used for any required cost sharing or added to the project budget, consistent with 2 C.F.R. § 200.307 (Program income).

.06 Indirect or Facilities and Administrative Costs

a. Indirect costs (or facilities and administration costs (F&A)) for major institutions of higher education and major nonprofit organizations can generally be defined as costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved. Indirect costs will not be allowable charges against an award unless permitted under the award and specifically included as a line item in the award's approved budget.

b. Unrecovered indirect costs, including unrecovered indirect costs on cost sharing or matching, may be included as part of cost sharing or matching as allowed under 2 C.F.R. § 200.306(c) (Cost sharing or matching) or the terms and conditions of a DOC award.

c. Cognizant Agency for Indirect (F&A) Costs. OMB established the cognizant agency concept, under which a single agency represents all others in dealing with non-Federal entities in common areas. The cognizant agency for indirect costs reviews and approves non-Federal entities' indirect cost rates. In accordance with Appendices III – VII to 2 C.F.R. Part 200 the cognizant agency for indirect costs reviews and approves non-Federal entities' indirect cost rates. With respect to for-profit organizations, the term cognizant Federal agency generally is defined as the agency that provides the largest dollar amount of negotiated contracts, including options. See 48 C.F.R. § 42.003. If the only Federal funds received by a commercial organization are DOC award funds, then DOC becomes the cognizant Federal agency for indirect cost negotiations.

1. General Review Procedures Where DOC is the Cognizant Agency.

i. Within 90 calendar days of the award start date, the recipient must submit to the Grants Officer any documentation (indirect cost proposal, cost allocation plan, etc.) necessary to allow DOC to perform the indirect cost rate proposal review. Below are two sources available for guidance on how to put an indirect cost plan together:

(A) Department of Labor: <https://www.dol.gov/oasam/boc/dcd/np-comm-guide.htm>
or

(B) Department of the Interior: <https://www.doi.gov/ibc/services/finance/indirect-Cost-Services/>.

ii. The recipient may use the rate proposed in the indirect cost plan as a provisional rate until the DOC provides a response to the submitted plan.

- iii. The recipient is required to annually submit indirect cost proposals no later than six months after the recipient's fiscal year end, except as otherwise provided by 2 C.F.R. § 200.414(g).
2. When DOC is not the oversight or cognizant Federal agency, the recipient must provide the Grants Officer with a copy of a negotiated rate agreement or a copy of the transmittal letter submitted to the cognizant or oversight Federal agency requesting a negotiated rate agreement within 30 calendar days of receipt of a negotiated rate agreement or submission of a negotiated rate proposal.
3. If the recipient is proposing indirect costs as part of a project budget, but is not required to have a negotiated rate agreement pursuant to 2 C.F.R. Part 200, Appendix VII, Paragraph D.1.b (*i.e.*, a governmental department or agency that receives \$35 million or less in direct Federal funding), the recipient may be required to provide the Grants Officer with a copy of its Certificate of Indirect Costs as referenced in 2 C.F.R. Part 200, Appendix VII, Paragraph D.3. or such other documentation, acceptable in form and substance to the Grants Officer, sufficient to confirm that proposed indirect costs are calculated and supported by documentation in accordance with 2 C.F.R. Part 200, Appendix VII. In cases where the DOC is the recipient's cognizant Federal agency, the DOC reserves the right, pursuant to 2 C.F.R. Part 200, Appendix VII, Paragraph D.1.b, to require the recipient to submit its indirect cost rate proposal for review by DOC.
- d. If the recipient fails to submit required documentation to DOC within 90 calendar days of the award start date, the Grants Officer may amend the award to preclude the recovery of any indirect costs under the award. If the DOC, oversight, or cognizant Federal agency determines there is a finding of good and sufficient cause to excuse the recipient's delay in submitting the documentation, an extension of the 90-day due date may be approved by the Grants Officer.
- e. The maximum dollar amount of allocable indirect costs for which DOC will reimburse the recipient is the lesser of:
1. The line item amount for the Federal share of indirect costs contained in the approved award budget, including all budget revisions approved in writing by the Grants Officer; or
 2. The Federal share of the total indirect costs allocable to the award based on the indirect cost rate approved by the cognizant agency for indirect costs and applicable to the period in which the cost was incurred, in accordance with 2 C.F.R 200 Appendix III, C.7, provided that the rate is approved on or before the award end date.
- f. In accordance with 2 CFR § 200.414(c)(3), DOC set forth policies, procedures, and general decision-making criteria for deviations from negotiated indirect cost rates. These policies and procedures are applicable to all Federal financial assistance programs awarded and administered by DOC bureaus as Federal awarding agencies and may be found at http://www.osec.doc.gov/oam/grants_management/policy/documents/FAM%202015-02.pdf.

g. In accordance with 2 CFR § 200.414(g), any non-Federal entity that has a negotiated indirect cost rate may apply to the entity's cognizant agency for indirect costs for a one-time extension of a currently negotiated indirect cost rate for a period of up to four years, reducing the frequency of rate calculations and negotiations between an institution and its cognizant agency.

h. In accordance with 2 CFR § 200.414(f), any non-Federal entity that does not have a current negotiated (including provisional) rate, except for those non-Federal entities described in paragraph D.1.b of Appendix VII to 2 CFR Part 200, may elect to charge a de minimis rate of 10 percent of modified total direct costs. No documentation is required to justify the 10 percent de minimis indirect cost rate.

.07 Incurring Costs or Obligating Federal Funds Before and After the Period of Performance

a. In accordance with 2 C.F.R. § 200.309 (Modifications to Period of Performance) and the terms and conditions of a DOC award, a non-Federal entity may charge to the Federal award only allowable costs incurred during the period of performance, which is established in the award document. As defined at 2 C.F.R. § 200.1, the "period of performance" means the total estimated time interval between the start of an initial Federal award and the planned end date, which may include one or more funded portions, or budget periods. Identification of the Period of Performance in the Federal award per § 200.211(b)(5) does not commit the awarding agency to fund the award beyond the currently approved budget period." The period of performance may sometimes be referred to as the project period or award period. This Standard Term is subject to exceptions for allowable costs pertaining to: (i) pre-award costs (*see* 2 C.F.R. § 200.458); (ii) publication and printing costs (*see* 2 C.F.R. § 200.461); and administrative costs incurred relating to the close-out of an award (*see* 2 C.F.R. § 200.344).

b. Reasonable, necessary, allowable and allocable administrative award closeout costs are authorized for a period of up to 120 calendar days following the end of the period of performance. For this purpose, award closeout costs are those strictly associated with close-out activities and are typically limited to the preparation of final progress, financial, and required project audit reports, unless otherwise approved in writing by the Grants Officer. A non-Federal entity may request an extension of the 120-day closeout period, as provided in 2 C.F.R. § 200.344 (Closeout).

c. Unless authorized by a specific award condition, any extension of the period of performance may only be authorized by the Grants Officer in writing. This is not a delegable authority. Verbal or written assurances of funding from anyone other than the Grants Officer does not constitute authority to obligate funds for programmatic activities beyond the end of the period of performance.

d. The DOC has no obligation to provide any additional prospective funding. Any amendment of the award to increase funding and to extend the period of performance is at the sole discretion of DOC.

.08 Tax Refunds

The non-Federal entity shall contact the Grants Officer immediately upon receipt of the refund of any taxes, including but not limited to Federal Insurance Contributions Act (FICA) taxes, Federal Unemployment Tax Act (FUTA) taxes, or Value Added Taxes (VAT) that were allowed as charges to a DOC award, regardless of whether such refunds are received by the non-Federal entity during or after the period of performance. The Grants Officer will provide written disposition instructions to the non-Federal entity, which may include the refunded taxes being credited to the award as either a cost reduction or a cash refund, or may allow the non-Federal entity to use such refunds for approved activities and costs under a DOC award. *See* 2 C.F.R. § 200.470 (Taxes (including Value Added Tax)).

.09 Internal Controls

Each recipient must comply with standards for internal controls described at 2 C.F.R. § 200.303 (Internal controls). The “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States referenced in § 200.303 are available online at <http://www.gao.gov/assets/80/76455.pdf> and the “Internal Control Integrated Framework” issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) is available online at [Internal Control Guidance](#).

C. PROPERTY STANDARDS

.01 Standards

Each non-Federal entity must comply with the Property Standards set forth in 2 C.F.R. §§ 200.310 (Insurance coverage) through 200.316 (Property trust relationship).

.02 Real and Personal Property

a. In accordance with 2 C.F.R. § 200.316 (Property trust relationship), real property, equipment, and other personal property acquired or improved with a Federal award must be held in trust by the non-Federal entity as trustee for the beneficiaries of the project or program under which the property was acquired or improved. This trust relationship exists throughout the duration of the property’s estimated useful life, as determined by the Grants Officer in consultation with the Program Office, during which time the Federal Government retains an undivided, equitable reversionary interest in the property (Federal Interest). During the duration of the Federal Interest, the non-Federal entity must comply with all use and disposition requirements and restrictions as set forth in 2 C.F.R. §§ 200.310 (Insurance coverage) through 200.316 (Property trust relationship), as applicable, and in the terms and conditions of the Federal award.

b. The Grants Officer may require a non-Federal entity to execute and to record (as applicable) a statement of interest, financing statement (form UCC-1), lien, mortgage or other public notice of record to indicate that real or personal property acquired or improved in whole or in part with Federal funds is subject to the Federal Interest, and that certain use and disposition

requirements apply to the property. The statement of interest, financing statement (Form UCC 1), lien, mortgage or other public notice must be acceptable in form and substance to the DOC and must be placed on record in accordance with applicable State and local law, with continuances re-filed as appropriate. In such cases, the Grants Officer may further require the non-Federal entity to provide the DOC with a written statement from a licensed attorney in the jurisdiction where the property is located, certifying that the Federal Interest has been protected, as required under the award and in accordance with applicable State and local law. The attorney's statement, along with a copy of the instrument reflecting the recordation of the Federal Interest, must be returned to the Grants Officer. Without releasing or excusing the non-Federal entity from these obligations, the non-Federal entity, by execution of the financial assistance award or by expending Federal financial assistance funds (in the case of a subrecipient), authorizes the Grants Officer and/or program office to file such notices and continuations as it determines to be necessary or convenient to disclose and protect the Federal Interest in the property. The Grants Officer may elect not to release any or a portion of the Federal award funds until the non-Federal entity has complied with this provision and any other applicable award terms or conditions, unless other arrangements satisfactory to the Grants Officer are made.

.03 Intellectual Property Rights

a. General. The rights to any work or other intangible property produced or acquired under a Federal award are determined by 2 C.F.R. § 200.315 (Intangible property). The non-Federal entity owns any work produced or purchased under a Federal award subject to the DOC's royalty-free, nonexclusive, and irrevocable right to obtain, reproduce, publish, or otherwise use the work or authorize others to receive, reproduce, publish, or otherwise use the work for Government purposes.

b. Inventions. Unless otherwise provided by law, the rights to any invention made by a non-Federal entity under a DOC financial assistance award are determined by the Bayh-Dole Act, Pub. L. No. 96-517, as amended, and as codified in 35 U.S.C. § 200 *et seq.*, and modified by E.O. 12591 (52 FR 13414), as amended by E.O. 12618 (52 FR 48661). 35 U.S.C. § 201(h) defines "small business firm" as "a small business concern as defined at section 2 of Public Law 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration." Section 1(b)(4) of E.O. 12591 extended the Bayh-Dole Act to non-Federal entities "regardless of size" to the extent permitted by law. The specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from Federal awards are described in more detail in 37 C.F.R. Part 401, which implements 35 U.S.C. 202 through 204 and includes standard patent rights clauses in 37 C.F.R. § 401.14, which is hereby incorporated by reference into this award.

The Bayh-Dole regulations set forth in 37 C.F.R. parts 401 and 404 were amended by 83 FR 15954, with an effective date of May 14, 2018 (Amended Bayh-Dole Regulations). The Amended Bayh-Dole Regulations apply to all new financial assistance awards issued on or after May 14, 2018. The Amended Bayh-Dole Regulations do not apply to financial assistance awards issued prior to May 14, 2018, including amendments made to such awards, unless an award amendment includes a specific condition incorporating the Amended Bayh-Dole Regulations into the terms and conditions of the subject award.

1. **Ownership.** A non-Federal entity may have rights to inventions in accordance with 37 C.F.R. Part 401. These requirements are technical in nature and non-Federal entities are encouraged to consult with their Intellectual Property counsel to ensure the proper interpretation of and adherence to the ownership rules. Unresolved questions pertaining to a non-Federal entities' ownership rights may further be addressed to the Grants Officer.

2. **Responsibilities - iEdison.** The non-Federal entity must comply with all the requirements of the standard patent rights clause and 37 C.F.R. Part 401, including the standard patent rights clause in 37 C.F.R. § 401.14. Non-Federal entities are required to submit their disclosures, elections, and requests for waiver from any requirement for substantial U.S. manufacture, electronically using the Interagency Edison extramural invention reporting system (iEdison) at www.iedison.gov. Non-Federal entities may obtain a waiver of this electronic submission requirement by providing the Grants Officer with compelling reasons for allowing the submission of paper reports.

c. **Patent Notification Procedures.** Pursuant to E.O. 12889 (58 FR 69681), the DOC is required to notify the owner of any valid patent covering technology whenever the DOC or a non-Federal entity, without making a patent search, knows (or has demonstrable reasonable grounds to know) that technology covered by a valid United States patent has been or will be used without a license from the owner. To ensure proper notification, if the non-Federal entity uses or has used patented technology under this award without a license or permission from the owner, the non-Federal entity must notify the Grants Officer.

This notice does not constitute authorization or consent by the Government to any copyright or patent infringement occurring under the award.

d. A non-Federal entity may copyright any work produced under a Federal award, subject to the DOC's royalty-free, nonexclusive, and irrevocable right to obtain, reproduce, publish, or otherwise use the work, or authorize others to do so for Government purposes. Works jointly authored by DOC and non-Federal entity employees may be copyrighted, but only the part of such works authored by the non-Federal entity is protectable in the United States because, under 17 U.S.C. § 105, copyright protection is not available within the United States for any work of the United States Government. On occasion and as permitted under 17 U.S.C. § 105, DOC may require the non-Federal entity to transfer to DOC a copyright in a particular work for Government purposes or when DOC is undertaking primary dissemination of the work.

e. **Freedom of Information Act (FOIA).** In response to a FOIA request for research data relating to published research findings (as defined by 2 C.F.R. § 200.315(e)(2)) produced under a Federal award that were used by the Federal government in developing an agency action that has the force and effect of law, the DOC will request, and the non-Federal entity must provide, within a reasonable time, the research data so that they can be made available to the public through the procedures established under the FOIA.

D. AUDITS

Under the Inspector General Act of 1978, as amended, 5 U.S.C. App. 3, §§ 1 *et seq.*, an audit of the award may be conducted at any time. The Inspector General of the DOC, or any of his or her duly authorized representatives, must have the right to access any pertinent books, documents, papers, and records of the non-Federal entity, whether written, printed, recorded, produced, or reproduced by any electronic, mechanical, magnetic, or other process or medium, to make audits, inspections, excerpts, transcripts, or other examinations as authorized by law. This right also includes timely and reasonable access to the non-Federal entity's personnel for interview and discussion related to such documents. *See* 2 C.F.R. § 200.337 (Access to records). When the DOC Office of Inspector General (OIG) requires a program audit on a DOC award, the OIG will usually make the arrangements to audit the award, whether the audit is performed by OIG personnel, an independent accountant under contract with DOC, or any other Federal, State, or local audit entity.

.01 Organization-Wide, Program-Specific, and Project Audits

a. A recipient must, within 90 days of the end of its fiscal year, notify the Grants Officer of the amount of Federal awards, including all DOC and non-DOC awards, that the recipient expended during its fiscal year.

b. Recipients that are subject to the provisions of Subpart F of 2 C.F.R. Part 200 and that expend \$750,000 or more in a year in Federal awards during their fiscal year must have an audit conducted for that year in accordance with the requirements contained in Subpart F of 2 C.F.R. Part 200. Within the earlier of 30 calendar days after receipt of the auditor's report(s), or nine months after the end of the audit period, unless a different period is specified in a program-specific audit guide, a copy of the audit must be submitted electronically to the Federal Audit Clearinghouse (FAC) through the FAC's Internet Data Entry System (IDES) (<https://harvester.census.gov/facides/>). In accordance with 2 C.F.R. § 200.425 (Audit services), the recipient may include a line item in the budget for the allowable costs associated with the audit, which is subject to the approval of the Grants Officer.

c. Unless otherwise specified in the terms and conditions of the award, entities that are not subject to Subpart F of 2 C.F.R. Part 200 (e.g., for-profit entities, foreign public entities and foreign organizations) and that expend \$750,000 or more in DOC funds during their fiscal year (including both as a recipient and a subrecipient) must submit to the Grants Officer either: (i) a financial related audit of each DOC award or subaward in accordance with Generally Accepted Government Auditing Standards (GAGAS); or (ii) a project specific audit for each award or subaward in accordance with the requirements contained in 2 C.F.R. § 200.507. Within the earlier of 30 calendar days after receipt of the auditor's report(s), or nine months after the end of the audit period, unless a different period is specified in a program-specific audit guide, a copy of the audit must be submitted to the Grants Officer. In accordance with 2 C.F.R. § 200.425, the recipient may include a line item in the budget for the allowable costs associated with the audit, which is subject to the approval of the Grants Officer. Entities that are not subject to Subpart F of 2 C.F.R. Part 200 and that expend less than \$750,000 in DOC funds in a given fiscal year are

not required to submit an audit(s) for that year, but must make their award-related records available to DOC or other designated officials for review and audit.

d. Recipients are responsible for compliance with the above audit requirements and for informing the Grants Officer of the status of their audit, including when the relevant audit has been completed and submitted in accordance with the requirements of this section. Failure to provide audit reports within the timeframes specified above may result in appropriate enforcement action, up to and including termination of the award, and may jeopardize eligibility for receiving future DOC awards.

e. In accordance with 2 C.F.R. § 200.332(d)(3), pass-through entities are responsible for issuing a management decision for applicable audit findings pertaining only to the Federal award provided by the pass-through entity to a subrecipient.

.02 Audit Resolution Process

a. An audit of the award may result in the disallowance of costs incurred by the recipient and the establishment of a debt (account receivable) due to DOC. For this reason, the recipient should take seriously its responsibility to respond to all audit findings and recommendations with adequate explanations and supporting evidence whenever audit results are disputed.

b. A recipient whose award is audited has the following opportunities to dispute the proposed disallowance of costs and the establishment of a debt:

1. The recipient has 30 calendar days from the date of the transmittal of the draft audit report to submit written comments and documentary evidence.
2. The recipient has 30 calendar days from the date of the transmittal of the final audit report to submit written comments and documentary evidence.
3. The DOC will review the documentary evidence submitted by the recipient and will notify the recipient of the results in an *Audit Resolution Determination Letter*. The recipient has 30 calendar days from the date of receipt of the *Audit Resolution Determination Letter* to submit a written appeal, unless this deadline is extended in writing by the DOC. The appeal is the last opportunity for the recipient to submit written comments and documentary evidence to the DOC to dispute the validity of the audit resolution determination.
4. An appeal of the Audit Resolution Determination does not prevent the establishment of the audit-related debt nor does it prevent the accrual of applicable interest, penalties and administrative fees on the debt in accordance with 15 C.F.R. Part 19. If the Audit Resolution Determination is overruled or modified on appeal, appropriate corrective action will be taken retroactively.
5. The DOC will review the recipient's appeal and notify the recipient of the results in an *Appeal Determination Letter*. After the opportunity to appeal has expired or after the appeal determination has been rendered, DOC will not accept any further documentary evidence from the recipient. No other administrative appeals are available in DOC.

E. DEBTS

.01 Payment of Debts Owed to the Federal Government

a. The non-Federal entity must promptly pay any debts determined to be owed to the Federal Government. Any funds paid to a non-Federal entity in excess of the amount to which the non-Federal entity is finally determined to be entitled under the terms of the Federal award constitute a debt to the Federal government. In accordance with 2 C.F.R. § 200.346 (Collection of amounts due), if not paid within 90 calendar days after demand, DOC may reduce a debt owed to the Federal Government by:

1. Making an administrative offset against other requests for reimbursement;
2. Withholding advance payments otherwise due to the non-Federal entity; or
3. Taking any other action permitted by Federal statute.

The foregoing does not waive any claim on a debt that DOC may have against another entity, and all rights and remedies to pursue other parties are preserved.

b. DOC debt collection procedures are set out in 15 C.F.R. Part 19. In accordance with 2 C.F.R. § 200.346 (Collection of amounts due) and 31 U.S.C. § 3717, failure to pay a debt owed to the Federal Government must result in the assessment of interest, penalties and administrative costs in accordance with the provisions of 31 U.S.C. § 3717 and 31 C.F.R. § 901.9. Commerce entities will transfer any Commerce debt that is delinquent for more than 120 calendar days to the U.S. Department of the Treasury's Financial Management Service for debt collection services, a process known as cross-servicing, pursuant to 31 U.S.C. § 3711(g), 31 C.F.R. § 285.12, and 15 C.F.R. § 19.9. DOC may also take further action as specified in DOC ST&C A.06 (Unsatisfactory Performance or Non-Compliance with Award Provisions). Funds for payment of a debt must not come from other Federally-sponsored programs, and the DOC may conduct on-site visits, audits, and other reviews to verify that other Federal funds have not been used to pay a debt.

.02 Late Payment Charges

a. Interest will be assessed on the delinquent debt in accordance with section 11 of the Debt Collection Act of 1982, as amended (31 U.S.C. § 3717(a)). The minimum annual interest rate to be assessed is the U.S. Department of the Treasury's Current Value of Funds Rate (CVFR). The CVFR is available online at https://www.fiscal.treasury.gov/fsreports/rpt/cvfr/cvfr_home.htm and also published by the Department of the Treasury in the *Federal Register* (<http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR>) and in the *Treasury Financial Manual Bulletin*. The assessed rate must remain fixed for the duration of the indebtedness.

b. Penalties will accrue at a rate of not more than six percent per year or such other higher rate as authorized by law.

c. Administrative charges, i.e., the costs of processing and handling a delinquent debt, will be determined by the Commerce entity collecting the debt, as directed by the Office of the Chief Financial Officer and Assistant Secretary for Administration.

.03 Barring Delinquent Federal Debtors from Obtaining Federal Loans or Loan Insurance Guarantees

Pursuant to 31 U.S.C. § 3720B and 31 C.F.R. § 901.6, unless waived by DOC, the DOC is not permitted to extend financial assistance in the form of a loan, loan guarantee, or loan insurance to any person delinquent on a nontax debt owed to a Federal agency. This prohibition does not apply to disaster loans.

.04 Effect of Judgment Lien on Eligibility for Federal Grants, Loans, or Programs

Pursuant to 28 U.S.C. § 3201(e), unless waived by the DOC, a debtor who has a judgment lien against the debtor's property for a debt to the United States is not eligible to receive any grant or loan that is made, insured, guaranteed, or financed directly or indirectly by the United States or to receive funds directly from the Federal Government in any program, except funds to which the debtor is entitled as beneficiary, until the judgment is paid in full or otherwise satisfied.

F. CONFLICT OF INTEREST, CODE OF CONDUCT AND OTHER REQUIREMENTS PERTAINING TO DOC FINANCIAL ASSISTANCE AWARDS, INCLUDING SUBAWARD AND PROCUREMENT ACTIONS

.01 Conflict of Interest and Code of Conduct

a. DOC Conflict of Interest Policy. In accordance with 2 C.F.R. § 200.112 (Conflict of interest), the non-Federal entity must disclose in writing any potential conflict of interest to the DOC or pass-through entity. In addition, a non-Federal entity will establish and maintain written standards of conduct that include safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain in the administration of an award. It is the DOC's policy to maintain the highest standards of conduct and to prevent real or apparent conflicts of interest in connection with DOC financial assistance awards.

b. A conflict of interest generally exists when an interested party participates in a matter that has a direct and predictable effect on the interested party's personal or financial interests. A financial interest may include employment, stock ownership, a creditor or debtor relationship, or prospective employment with the organization selected or to be selected for a subaward. A conflict also may exist where there is an appearance that an interested party's objectivity in performing his or her responsibilities under the project is impaired. For example, an appearance of impairment of objectivity may result from an organizational conflict where, because of other activities or relationships with other persons or entities, an interested party is unable to render

impartial assistance, services or advice to the recipient, a participant in the project or to the Federal Government. Additionally, a conflict of interest may result from non-financial gain to an interested party, such as benefit to reputation or prestige in a professional field. For purposes of the DOC Conflict of Interest Policy, an interested party includes, but is not necessarily limited to, any officer, employee or member of the board of directors or other governing board of a non-Federal entity, including any other parties that advise, approve, recommend, or otherwise participate in the business decisions of the recipient, such as agents, advisors, consultants, attorneys, accountants or shareholders. This also includes immediate family and other persons directly connected to the interested party by law or through a business arrangement.

c. Procurement-related conflict of interest. In accordance with 2 C.F.R. § 200.318 (General procurement standards), non-Federal entities must maintain written standards of conduct covering conflicts of interest and governing the performance of their employees engaged in the selection, award and administration of contracts. *See* paragraph F.04 of these Standard Terms (Requirements for Procurements).

.02 Nonprocurement Debarment and Suspension

Non-Federal entities must comply with the provisions of 2 C.F.R. Part 1326 (Nonprocurement Debarment and Suspension), which generally prohibit entities that have been debarred, suspended, or voluntarily excluded from participating in Federal nonprocurement transactions either through primary or lower tier covered transactions, and which set forth the responsibilities of recipients of Federal financial assistance regarding transactions with other persons, including subrecipients and contractors.

.03 Requirements for Subawards

a. The recipient or pass-through entity must require all subrecipients, including lower tier subrecipients, to comply with the terms and conditions of a DOC financial assistance award, including applicable provisions of the OMB Uniform Guidance (2 C.F.R. Part 200), and all associated Terms and Conditions set forth herein. *See* 2 C.F.R. § 200.101(b)(2) (Applicability to different types of Federal awards), which describes the applicability of 2 C.F.R. Part 200 to various types of Federal awards and §§ 200.331-333 (Subrecipient monitoring and management).

b. The recipient or pass through entity may have more restrictive policies for the RTC *waived* prior approvals (no-cost extensions, re-budgeting, etc.) for their subaward recipients. Such restrictive policies must be addressed in their subaward agreements and in accordance with §200.331.

.04 Requirements for Procurements

a. States. Pursuant to 2 C.F.R. § 200.317 (Procurements by states), when procuring property and services under this Federal award, a State must follow the same policies and procedures it uses for procurements from its non-Federal funds. The State must comply with 2 C.F.R. §§ 200.321 (Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms), 200.322 (Domestic preferences for procurements), and

200.323 (Procurement of recovered materials), and ensure that every purchase order or other contract includes any clauses required by 2 C.F.R. § 200.327 (Contract provisions).

b. **Other Non-Federal Entities.** All other non-Federal entities, including subrecipients of a State, must follow the procurement standards in 2 C.F.R. §§ 200.318 (General procurement standards) through 200.327 (Contract provisions) which include the requirement that non-Federal entities maintain written standards of conduct covering conflicts of interest and governing the performance of their employees engaged in the selection, award, and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest.

.05 Whistleblower Protections

This award is subject to the whistleblower protections afforded by 41 U.S.C. § 4712 (Enhancement of contractor protection from reprisal for disclosure of certain information), which generally provide that an employee or contractor (including subcontractors and personal services contractors) of a non-Federal entity may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body information that the employee reasonably believes is evidence of gross mismanagement of a Federal award, subaward, or a contract under a Federal award or subaward, a gross waste of Federal funds, an abuse of authority relating to a Federal award or subaward or contract under a Federal award or subaward, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal award, subaward, or contract under a Federal award or subaward. These persons or bodies include:

- a. A Member of Congress or a representative of a committee of Congress.
- b. An Inspector General.
- c. The Government Accountability Office.
- d. A Federal employee responsible for contract or grant oversight or management at the relevant agency.
- e. An authorized official of the Department of Justice or other law enforcement agency.
- f. A court or grand jury.
- g. A management official or other employee of the contractor, subcontractor, or grantee who has the responsibility to investigate, discover, or address misconduct.

Non-Federal entities and contractors under Federal awards and subawards must inform their employees in writing of the rights and remedies provided under 41 U.S.C. § 4712, in the predominant native language of the workforce.

.06 Small Businesses, Minority Business Enterprises and Women's Business Enterprises

In accordance with 2 C.F.R. § 200.321 (Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms), the recipient must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. DOC encourages non-Federal entities to use small

businesses, minority business enterprises and women's business enterprises in contracts under financial assistance awards. The Minority Business Development Agency within the DOC will assist non-Federal entities in matching qualified minority business enterprises with contract opportunities. For further information visit MBDA's website at <http://www.mbda.gov>. If you do not have access to the Internet, you may contact MBDA via telephone or mail:

U.S. Department of Commerce
Minority Business Development Agency
Herbert C. Hoover Building
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230
(202) 482-0101

G. NATIONAL POLICY REQUIREMENTS

.01 United States Laws and Regulations

This award is subject to the laws and regulations of the United States. The recipient must comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

.02 Non-Discrimination Requirements

No person in the United States may, on the ground of race, color, national origin, handicap, age, religion, or sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under, any program or activity receiving Federal financial assistance. The recipient agrees to comply with the non-discrimination requirements below:

a. Statutory Provisions

1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d *et seq.*) and DOC implementing regulations published at 15 C.F.R. Part 8 prohibiting discrimination on the grounds of race, color, or national origin under programs or activities receiving Federal financial assistance;
2. Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681 *et seq.*) prohibiting discrimination on the basis of sex under Federally assisted education programs or activities;
3. The Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 *et seq.*) prohibiting discrimination on the basis of disability under programs, activities, and services provided or made available by State and local governments or instrumentalities or agencies thereto, as well as public or private entities that provide public transportation;
4. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), and DOC implementing regulations published at 15 C.F.R. Part 8b prohibiting discrimination on the

basis of handicap under any program or activity receiving or benefiting from Federal assistance.

For purposes of complying with the accessibility standards set forth in 15 C.F.R. § 8b.18(c), non-federal entities must adhere to the regulations, published by the U.S. Department of Justice, implementing Title II of the Americans with Disabilities Act (ADA) (28 C.F.R. part 35; 75 FR 56164, as amended by 76 FR 13285) and Title III of the ADA (28 C.F.R. part 36; 75 FR 56164, as amended by 76 FR 13286). The revised regulations adopted new enforceable accessibility standards called the “2010 ADA Standards for Accessible Design” (2010 Standards), which replace and supersede the former Uniform Federal Accessibility Standards for new construction and alteration projects;

5. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 *et seq.*), and DOC implementing regulations published at 15 C.F.R. Part 20 prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance; and

6. Any other applicable non-discrimination law(s).

b. Other Provisions

1. Parts II and III of E.O. 11246 (Equal Employment Opportunity, 30 FR 12319),³ which requires Federally assisted construction contracts to include the nondiscrimination provisions of §§ 202 and 203 of E.O. 11246 and Department of Labor regulations implementing E.O. 11246 (41 C.F.R. § 60-1.4(b)).

2. E.O. 13166 (65 FR 50121, Improving Access to Services for Persons with Limited English Proficiency), requiring Federal agencies to examine the services provided, identify any need for services to those with limited English proficiency (LEP), and develop and implement a system to provide those services so LEP persons can have meaningful access to them. The DOC issued policy guidance on March 24, 2003 (68 FR 14180) to articulate the Title VI prohibition against national origin discrimination affecting LEP persons and to help ensure that non-Federal entities provide meaningful access to their LEP applicants and beneficiaries.

3. In accordance with E.O. 13798 and Office of Management and Budget, M-20-09 – Guidance Regarding Federal Grants, states or other public grantees may not condition sub-awards of Federal grant money in a manner that would disadvantage grant applicants based on their religious character.

³ As amended by E.O. 11375(32 FR 14303), E.O. 11478 (34 FR 12985), E.O. 12086 (43 FR 46501), E.O. 12107 (44 FR 1055), E.O. 13279 (F67 FR 77141), E.O. 13665 (79 FR 20749), and E.O. 13672 (79 FR 42971).

c. Title VII Exemption for Religious Organizations

Generally, Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e *et seq.*, provides that it is an unlawful employment practice for an employer to discharge any individual or otherwise to discriminate against an individual with respect to compensation, terms, conditions, or privileges of employment because of such individual's race, color, religion, sex, or national origin. However, Title VII, 42 U.S.C. § 2000e-1(a), expressly exempts from the prohibition against discrimination based on religion, "a religious corporation, association, educational institution, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities."

.03 LOBBYING RESTRICTIONS

a. Statutory Provisions

Non-Federal entities must comply with 2 C.F.R. § 200.450 (Lobbying), which incorporates the provisions of 31 U.S.C. § 1352; and OMB guidance and notices on lobbying restrictions. In addition, non-Federal entities must comply with the DOC regulations published at 15 C.F.R. Part 28, which implement the New Restrictions on Lobbying. These provisions prohibit the use of Federal funds for lobbying the executive or legislative branches of the Federal Government in connection with the award and require the disclosure of the use of non-Federal funds for lobbying. Lobbying includes attempting to improperly influence, meaning any influence that induces or tends to induce a Federal employee or officer to give consideration or to act regarding a Federal award or regulatory matter on any basis other than the merits of the matter, either directly or indirectly. Costs incurred to improperly influence are unallowable. *See* 2 C.F.R. § 200.450(b) and (c).

b. Disclosure of Lobbying Activities

Any recipient that receives more than \$100,000 in Federal funding and conducts lobbying with non-federal funds relating to a covered Federal action must submit a completed Form SF-LLL (Disclosure of Lobbying Activities). The Form SF-LLL must be submitted within 30 calendar days following the end of the calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed. The recipient must submit any required SF-LLL forms, including those received from subrecipients, contractors, and subcontractors, to the Grants Officer.

.04 Environmental Requirements

Environmental impacts must be considered by Federal decision makers in their decisions whether or not to approve: (1) a proposal for Federal assistance; (2) the proposal with mitigation; or (3) a different proposal having less adverse environmental impacts. Federal environmental laws require that the funding agency initiate an early planning process that considers potential impacts that projects funded with Federal assistance may have on the environment. Each non-Federal entity must comply with all environmental standards, to include those prescribed under

the following statutes and E.O.s and must identify to the awarding agency any impact the award may have on the environment. In some cases, award funds can be withheld by the Grants Officer under a specific award condition requiring the non-Federal entity to submit additional environmental compliance information sufficient to enable the DOC to make an assessment on any impacts that a project may have on the environment.

a. The National Environmental Policy Act (42 U.S.C. §§ 4321 *et seq.*)

The National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) implementing regulations (40 C.F.R. Parts 1500 through 1508) require that an environmental analysis be completed for all major Federal actions to determine whether they have significant impacts on the environment. NEPA applies to the actions of Federal agencies and may include a Federal agency's decision to fund non-Federal projects under grants and cooperative agreements when the award activities remain subject to Federal authority and control. Non-Federal entities are required to identify to the awarding agency any direct, indirect or cumulative impact an award will have on the quality of the human environment and assist the agency in complying with NEPA. Non-Federal entities may also be requested to assist DOC in drafting an environmental assessment or environmental impact statement if DOC determines such documentation is required, but DOC remains responsible for the sufficiency and approval of the final documentation. Until the appropriate NEPA documentation is complete and in the event that any additional information is required during the period of performance to assess project environmental impacts, funds can be withheld by the Grants Officer under a specific award condition requiring the non-Federal entity to submit the appropriate environmental information and NEPA documentation sufficient to enable DOC to make an assessment on any impacts that a project may have on the environment.

b. The National Historic Preservation Act (16 U.S.C. §§ 470 *et seq.*)

Section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. § 470f) and the Advisory Council on Historic Preservation (ACHP) implementing regulations (36 C.F.R. Part 800) require that Federal agencies take into account the effects of their undertakings on historic properties and, when appropriate, provide the ACHP with a reasonable opportunity to comment. Historic properties include but are not necessarily limited to districts, buildings, structures, sites and objects. In this connection, archeological resources and sites that may be of traditional religious and cultural importance to Federally-recognized Indian Tribes, Alaskan Native Villages and Native Hawaiian Organizations may be considered historic properties. Non-Federal entities are required to identify to the awarding agency any effects the award may have on properties included on or eligible for inclusion on the National Register of Historic Places. Non-Federal entities may also be requested to assist DOC in consulting with State or Tribal Historic Preservation Officers, ACHPs or other applicable interested parties necessary to identify, assess, and resolve adverse effects to historic properties. Until such time as the appropriate NHPA consultations and documentation are complete and in the event that any additional information is required during the period of performance in order to assess project impacts on historic properties, funds can be withheld by the Grants Officer under a specific award condition requiring the non-Federal entity to

submit any information sufficient to enable DOC to make the requisite assessment under the NHPA.

Additionally, non-Federal entities are required to assist the DOC in assuring compliance with the Archeological and Historic Preservation Act of 1974 (54 U.S.C. § 312502 *et seq.*, formerly 16 U.S.C. § 469a-1 *et seq.*); Executive Order 11593 (Protection and Enhancement of the Cultural Environment, May 13, 1971); Executive Order 13006 (Locating Federal Facilities on Historic Properties in Our Nation's Central Cities, May 21, 1996); and Executive Order 13007 (Indian Sacred Sites, May 24, 1996).

c. Executive Order 11988 (Floodplain Management) and Executive Order 11990 (Protection of Wetlands)

Non-Federal entities must identify proposed actions in Federally defined floodplains and wetlands to enable DOC to decide whether there is an alternative to minimize any potential harm.

d. Clean Air Act (42 U.S.C. §§ 7401 *et seq.*), Federal Water Pollution Control Act (33 U.S.C. §§ 1251 *et seq.*) (Clean Water Act), and Executive Order 11738 ("Providing for administration of the Clean Air Act and the Federal Water Pollution Control Act with respect to Federal contracts, grants or loans")

Non-Federal entities must comply with the provisions of the Clean Air Act (42 U.S.C. §§ 7401 *et seq.*), Clean Water Act (33 U.S.C. §§ 1251 *et seq.*), and E.O. 11738 (38 FR 25161), and must not use a facility on the Excluded Parties List (EPL) (located on the System for Award Management (SAM) website, SAM.gov) in performing any award that is nonexempt under 2 C.F.R. § 1532, and must notify the Program Officer in writing if it intends to use a facility that is on the EPL or knows that the facility has been recommended to be placed on the EPL.

e. The Flood Disaster Protection Act (42 U.S.C. §§ 4002 *et seq.*)

Flood insurance, when available, is required for Federally assisted construction or acquisition in flood-prone areas. Per 2 C.F.R. § 200.447(a), the cost of required flood insurance is an allowable expense, if it is reflected in the approved project budget.

f. The Endangered Species Act (16 U.S.C. §§ 1531 *et seq.*)

Non-Federal entities must identify any impact or activities that may involve a threatened or endangered species. Federal agencies have the responsibility to ensure that no adverse effects to a protected species or habitat occur from actions under Federal assistance awards and conduct the reviews required under the Endangered Species Act, as applicable.

g. The Coastal Zone Management Act (16 U.S.C. §§ 1451 *et seq.*)

Funded projects must be consistent with a coastal State's approved management program for the coastal zone.

h. The Coastal Barriers Resources Act (16 U.S.C. §§ 3501 *et seq.*)

Only in certain circumstances can Federal funding be provided for actions within a Coastal Barrier System.

i. The Wild and Scenic Rivers Act (16 U.S.C. §§ 1271 *et seq.*)

This Act applies to awards that may affect existing or proposed components of the National Wild and Scenic Rivers system.

j. The Safe Drinking Water Act of 1974, as amended, (42 U.S.C. §§ 300f *et seq.*)

This Act precludes Federal assistance for any project that the EPA determines may contaminate a sole source aquifer which threatens public health.

k. The Resource Conservation and Recovery Act (42 U.S.C. §§ 6901 *et seq.*)

This Act regulates the generation, transportation, treatment, and disposal of hazardous wastes, and provides that non-Federal entities give preference in their procurement programs to the purchase of recycled products pursuant to EPA guidelines.

l. The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, commonly known as Superfund) (42 U.S.C. §§ 9601 *et seq.*) and the Community Environmental Response Facilitation Act (42 U.S.C. § 9601 note *et seq.*)

These requirements address responsibilities related to hazardous substance releases, threatened releases and environmental cleanup. There are also reporting and community involvement requirements designed to ensure disclosure of the release or disposal of regulated substances and cleanup of hazards to state and local emergency responders.

m. Executive Order 12898 ("Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations")

Federal agencies are required to identify and address the disproportionately high and adverse human health or environmental effects of Federal programs, policies, and activities on low income and minority populations.

n. The Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1801 *et seq.*)

Non-Federal entities must identify to DOC any effects the award may have on essential fish habitat (EFH). Federal agencies which fund, permit, or carry out activities that may adversely impact EFH are required to consult with the National Marine Fisheries Service (NMFS) regarding the potential effects of their actions and respond in writing to NMFS recommendations. These recommendations may include measures to avoid, minimize, mitigate, or otherwise offset adverse effects on EFH. In addition, NMFS is required to comment on any state agency activities that would impact EFH. Provided the specifications outlined in the regulations are met, EFH consultations will be incorporated into interagency

procedures previously established under NEPA, the ESA, Clean Water Act, Fish and Wildlife Coordination Act, or other applicable statutes.

o. Clean Water Act (CWA) Section 404 (33 U.S.C. § 1344)

CWA Section 404 regulates the discharge of dredged or fill material into waters of the United States, including wetlands. Activities in waters of the United States regulated under this program include fill for development, water resource projects (such as levees and some coastal restoration activities), and infrastructure development (such as highways and airports). CWA Section 404 requires a permit from the U.S. Army Corps of Engineers before dredged or fill material may be discharged into waters of the United States, unless the activity is exempt from Section 404 regulation (e.g., certain farming and forestry activities).

p. Rivers and Harbors Act (33 U.S.C. § 407)

A permit may be required from the U.S. Army Corps of Engineers if the proposed activity involves any work in, over or under navigable waters of the United States. Recipients must identify any work (including structures) that will occur in, over or under navigable waters of the United States and obtain the appropriate permit, if applicable.

q. The Migratory Bird Treaty Act (16 U.S.C. §§ 703-712), Bald and Golden Eagle Protection Act (16 U.S.C. § 668 *et seq.*), and Executive Order 13186 (Responsibilities of Federal Agencies to Protect Migratory Birds, January 10, 2001)

Many prohibitions and limitations apply to projects that adversely impact migratory birds and bald and golden eagles. Executive Order 13186 directs Federal agencies to enter a Memorandum of Understanding with the U.S. Fish and Wildlife Service to promote conservation of migratory bird populations when a Federal action will have a measurable negative impact on migratory birds.

r. Executive Order 13112 (Invasive Species, February 3, 1999)

Federal agencies must identify actions that may affect the status of invasive species and use relevant programs and authorities to: (i) prevent the introduction of invasive species; (ii) detect and respond rapidly to and control populations of such species in a cost-effective and environmentally sound manner; (iii) monitor invasive species populations accurately and reliably; (iv) provide for restoration of native species and habitat conditions in ecosystems that have been invaded; (v) conduct research on invasive species and develop technologies to prevent introduction and provide for environmentally sound control of invasive species; and (vi) promote public education on invasive species and the means to address them. In addition, an agency may not authorize, fund, or carry out actions that it believes are likely to cause or promote the introduction or spread of invasive species in the United States or elsewhere.

s. Fish and Wildlife Coordination Act (16 U.S.C. § 661 *et seq.*)

During the planning of water resource development projects, agencies are required to give fish and wildlife resources equal consideration with other values. Additionally, the U.S.

Fish and Wildlife Service and fish and wildlife agencies of states must be consulted whenever waters of any stream or other body of water are “proposed or authorized, permitted or licensed to be impounded, diverted... or otherwise controlled or modified” by any agency under a Federal permit or license.

.05 OTHER NATIONAL POLICY REQUIREMENTS

a. Buy-American Preferences

Strengthening Buy-American Preferences for Infrastructure Projects. Recipients of covered programs (as defined in Executive Order 13858, 31 January 2019, and 2 C.F.R. §200.322 (Domestic preferences for procurements)) are hereby notified that they are encouraged to use, to the greatest extent practicable, iron and aluminum as well as steel, cement, and other manufactured products produced in the United States in every contract, subcontract, purchase order, or subaward that is chargeable under this Award.

b. Criminal and Prohibited Activities

1. The Program Fraud Civil Remedies Act (31 U.S.C. § 3801 *et seq.*), provides for the imposition of civil penalties against persons who make false, fictitious, or fraudulent claims to the Federal Government for money (including money representing grants, loans, or other benefits).
2. The False Claims Amendments Act of 1986 and the False Statements Accountability Act of 1996 (18 U.S.C. §§ 287 and 1001, respectively), provide that whoever makes or presents any false, fictitious, or fraudulent statement, representation, or claim against the United States must be subject to imprisonment of not more than five years and must be subject to a fine in the amount provided by 18 U.S.C. § 287.
3. The Civil False Claims Act (31 U.S.C. §§ 3729 - 3733), provides that suits can be brought by the government, or a person on behalf of the government, for false claims made under Federal assistance programs.
4. The Copeland Anti-Kickback Act (18 U.S.C. § 874), prohibits a person or organization engaged in a Federally supported project from enticing an employee working on the project from giving up a part of his compensation under an employment contract. The Copeland Anti-Kickback Act also applies to contractors and subcontractors pursuant to 40 U.S.C. § 3145.
5. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 *et seq.*) and implementing regulations issued at 15 C.F.R. Part 11, which provides for fair and equitable treatment of displaced persons or persons whose property is acquired as a result of Federal or Federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

6. The Hatch Act (5 U.S.C. §§ 1501-1508 and 7321-7326), which limits the political activities of employees or officers of state or local governments whose principal employment activities are funded in whole or in part with Federal funds.

7. To ensure compliance with Federal law pertaining to financial assistance awards, an authorized representative of a non-Federal entity may be required to periodically provide certain certifications to the DOC regarding Federal felony and Federal criminal tax convictions, unpaid federal tax assessments, delinquent Federal tax returns and such other certifications that may be required by Federal law.

c. Drug-Free Workplace

The non-Federal entity must comply with the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. § 8102) and DOC implementing regulations published at 2 C.F.R. Part 1329 (Requirements for Drug-Free Workplace (Financial Assistance)), which require that the non-Federal entity take certain actions to provide a drug-free workplace.

d. Foreign Travel

1. Each non-Federal entity must comply with the provisions of the Fly America Act (49 U.S.C. § 40118). The implementing regulations of the Fly America Act are found at 41 C.F.R. §§ 301-10.131 through 301-10.143.

2. The Fly America Act requires that Federal travelers and others performing U.S. Government-financed air travel must use U.S. flag air carriers, to the extent that service by such carriers is available. Foreign air carriers may be used only in specific instances, such as when a U.S. flag air carrier is unavailable or use of U.S. flag air carrier service will not accomplish the agency's mission.

3. One exception to the requirement to fly U.S. flag carriers is transportation provided under a bilateral or multilateral air transport agreement, to which the United States Government and the government of a foreign country are parties, and which the Department of Transportation has determined meets the requirements of the Fly America Act pursuant to 49 U.S.C. § 40118(b). The United States Government has entered into bilateral/multilateral "Open Skies Agreements" (U.S. Government Procured Transportation) that allow federal funded transportation services for travel and cargo movements to use foreign air carriers under certain circumstances. There are multiple "Open Skies Agreements" currently in effect. For more information about the current bilateral and multilateral agreements, visit the GSA [website](#). Information on the Open Skies agreements (U.S. Government Procured Transportation) and other specific country agreements may be accessed via the Department of State's [website](#).

4. If a foreign air carrier is anticipated to be used for any portion of travel under a DOC financial assistance award, the non-Federal entity must receive prior approval from the Grants Officer. When requesting such approval, the non-Federal entity must provide a justification in accordance with guidance provided by 41 C.F.R. § 301-10.142, which requires the non-Federal entity to provide the Grants Officer with the following: name; dates

of travel; origin and destination of travel; detailed itinerary of travel; name of the air carrier and flight number for each leg of the trip; and a statement explaining why the non-Federal entity meets one of the exceptions to the regulations. If the use of a foreign air carrier is pursuant to a bilateral agreement, the non-Federal entity must provide the Grants Officer with a copy of the agreement or a citation to the official agreement available on the GSA website. The Grants Officer must make the final determination and notify the non-Federal entity in writing (which may be done through the recipient in the case of subrecipient travel). Failure to adhere to the provisions of the Fly America Act will result in the non-Federal entity not being reimbursed for any transportation costs for which any non-Federal entity improperly used a foreign air carrier.

Note: When using code-sharing flights (two or more airlines having flight numbers assigned to the same flight) involving U.S. flag carriers and non-U.S. flag carriers, the airline symbol and flight number of the U.S. flag carrier must be used on the ticket to qualify as a U.S. flag carrier (e.g. "*Delta Airlines Flight XXXX, operated by KLM*"). Conversely, if the ticket shows "[*Foreign Air Carrier*] XXX, operated by Delta," that travel is using a foreign air carrier and is subject to the Fly America Act and must receive prior approval from the Grants Officer as outlined in paragraph G.05.d.4.

e. Increasing Seat Belt Use in the United States

Pursuant to E.O. 13043 (62 FR 19217), non-Federal entities should encourage employees and contractors to enforce on-the-job seat belt policies and programs when operating company-owned, rented, or personally owned vehicles.

f. Federal Employee Expenses and Subawards or Contracts Issued to Federal Employees or Agencies

1. Use of award funds (Federal or non-Federal) or the non-Federal entity's provision of in-kind goods or services for the purposes of transportation, travel, or any other expenses for any Federal employee may raise appropriation augmentation issues. In addition, DOC policy may prohibit the acceptance of gifts, including travel payments for federal employees, from non-Federal entities regardless of the source. Therefore, before award funds may be used by Federal employees, non-Federal entities must submit requests for approval of such action to the Federal Program Officer who must review and make a recommendation to the Grants Officer. The Grants Officer will notify the non-Federal entity in writing (generally through the recipient) of the final determination.

2. A non-Federal entity or its contractor may not issue a subaward, contract or subcontract of any part of a DOC award to any agency or employee of DOC or to other Federal employee, department, agency, or instrumentality, without the advance prior written approval of the DOC Grants Officer.

g. Minority Serving Institutions Initiative

Pursuant to E.O.s 13555 (White House Initiative on Educational Excellence for Hispanics) (75 FR 65417), 13592 (Improving American Indian and Alaska Native

Educational Opportunities and Strengthening Tribal Colleges and Universities) (76 FR 76603), and 13779 (White House Initiative to Promote Excellence and Innovation at Historically Black Colleges and Universities) (82 FR 12499), DOC is strongly committed to broadening the participation of minority serving institutions (MSIs) in its financial assistance programs. DOC's goals include achieving full participation of MSIs to advance the development of human potential, strengthen the Nation's capacity to provide high-quality education, and increase opportunities for MSIs to participate in and benefit from Federal financial assistance programs. DOC encourages all applicants and non-Federal entities to include meaningful participation of MSIs. Institutions eligible to be considered MSIs are listed on the Department of Education website.

h. Research Misconduct

The DOC adopts, and applies to financial assistance awards for research, the Federal Policy on Research Misconduct (Federal Policy) issued by the Executive Office of the President's Office of Science and Technology Policy on December 6, 2000 (65 FR 76260). As provided for in the Federal Policy, research misconduct refers to the fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. Research misconduct does not include honest errors or differences of opinion. Non-Federal entities that conduct extramural research funded by DOC must foster an atmosphere conducive to the responsible conduct of sponsored research by safeguarding against and resolving allegations of research misconduct. Non-Federal entities also have the primary responsibility to prevent, detect, and investigate allegations of research misconduct and, for this purpose, may rely on their internal policies and procedures, as appropriate, to do so. Non-Federal entities must notify the Grants Officer of any allegation that meets the definition of research misconduct and detail the entity's inquiry to determine whether there is sufficient evidence to proceed with an investigation, as well as the results of any investigation. The DOC may take appropriate administrative or enforcement action at any time under the award, up to and including award termination and possible suspension or debarment, and referral to the Commerce OIG, the U.S. Department of Justice, or other appropriate investigative body.

i. Research Involving Human Subjects

1. All proposed research involving human subjects must be conducted in accordance with 15 C.F.R. Part 27 (Protection of Human Subjects). No research involving human subjects is permitted under this award unless expressly authorized by specific award condition, or otherwise in writing by the Grants Officer.
2. Federal policy defines a human subject as a living individual about whom an investigator (whether professional or student) conducting research (1) Obtains information or biospecimens through intervention or interaction with the individual, and uses, studies, or analyzes the information or biospecimens; or (2) Obtains, uses, studies, analyzes, or generates identifiable private information or identifiable biospecimens. Research means a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge.

3. DOC regulations at 15 C.F.R. Part 27 require that non-Federal entities maintain appropriate policies and procedures for the protection of human subjects. In the event it becomes evident that human subjects may be involved in this project, the non-Federal entity (generally through the recipient) must submit appropriate documentation to the Federal Program Officer for approval by the appropriate DOC officials. As applicable, this documentation must include:

- i. Documentation establishing approval of an activity in the project by an Institutional Review Board (IRB) under a Federal wide Assurance issued by Department of Health and Human Services or other Federal agency guidelines (*see also* 15 C.F.R. § 27.103);
- ii. Documentation to support an exemption for an activity in the project under 15 C.F.R. § 27.104(d);
- iii. Documentation of IRB approval of any modification to a prior approved protocol or to an informed consent form;
- iv. Documentation of an IRB approval of continuing review approved prior to the expiration date of the previous IRB determination; and
- v. Documentation of any reportable events, such as serious adverse events, unanticipated problems resulting in risk to subjects or others, and instances of noncompliance.

4. No work involving human subjects may be undertaken, conducted, or costs incurred and/or charged for human subjects research, until the appropriate documentation is approved in writing by the Grants Officer. In accordance with 15 C.F.R. § 27.118, if research involving human subjects is proposed after an award is made, the non-Federal entity must contact the Federal Program Officer and provide required documentation. Notwithstanding this prohibition, work may be initiated or costs incurred and/or charged to the project for protocol or instrument development related to human subjects research.

j. Care and Use of Live Vertebrate Animals

Non-Federal entities must comply with the Laboratory Animal Welfare Act of 1966, as amended, (Pub. L. No. 89-544, 7 U.S.C. §§ 2131 *et seq.*) (animal acquisition, transport, care, handling, and use in projects), and implementing regulations (9 C.F.R. Parts 1, 2, and 3); the Endangered Species Act (16 U.S.C. §§ 1531 *et seq.*); Marine Mammal Protection Act (16 U.S.C. §§ 1361 *et seq.*) (taking possession, transport, purchase, sale, export or import of wildlife and plants); the Nonindigenous Aquatic Nuisance Prevention and Control Act (16 U.S.C. §§ 4701 *et seq.*) (ensure preventive measures are taken or that probable harm of using species is minimal if there is an escape or release); and all other applicable statutes pertaining to the care, handling, and treatment of warm-blooded animals held for research, teaching, or other activities supported by Federal financial assistance. No research involving vertebrate animals is permitted under any DOC financial assistance award unless authorized by the Grants Officer.

k. Management and Access to Data and Publications

1. In General. The recipient acknowledges and understands that information and data contained in applications for financial assistance, as well as information and data contained in financial, performance and other reports submitted by recipients, may be used by the DOC in conducting reviews and evaluations of its financial assistance programs. For this purpose, recipient information and data may be accessed, reviewed and evaluated by DOC employees, other Federal employees, Federal agents and contractors, and/or by non-Federal personnel, all of who enter into appropriate or are otherwise subject to confidentiality and nondisclosure agreements covering the use of such information. Recipients are expected to support program reviews and evaluations by submitting required financial and performance information and data in an accurate and timely manner, and by cooperating with DOC and external program evaluators. In accordance with 2 C.F.R. § 200.303(e), recipients are reminded that they must take reasonable measures to safeguard protected personally identifiable information and other confidential or sensitive personal or business information created or obtained relating to a DOC financial assistance award.
2. Scientific Data. Non-Federal entities must comply with the data management and access to data requirements established by the DOC funding agency as set forth in the applicable Notice of Funding Opportunity and/or in Specific Award Conditions.
3. Publications, Videos, and Acknowledgment of Sponsorship.
 - i. Publication of results or findings in appropriate professional journals and production of video or other media is encouraged as an important method of recording, reporting and otherwise disseminating information and expanding public access to federally-funded projects (e.g., scientific research). Non-Federal entities must comply with the data management and access to data requirements established by the DOC funding agency as set forth in the applicable Notice of Funding Opportunity and/or in Specific Award Conditions.
 - ii. Non-Federal entities may be required to submit a copy of any publication materials, including but not limited to print, recorded, or Internet materials, to the funding agency.
 - iii. When releasing information related to a funded project, non-Federal entities must include a statement that the project or effort undertaken was or is sponsored by DOC and must also include the applicable financial assistance award number.
 - iv. Non-Federal entities are responsible for assuring that every publication of material based on, developed under, or otherwise produced pursuant to a DOC financial assistance award contains the following disclaimer or other disclaimer approved by the Grants Officer:

This [report/video/etc.] was prepared by [recipient name] using Federal funds under award [number] from [name of operating unit], U.S. Department of Commerce. The statements, findings, conclusions, and recommendations are those of the author(s) and do

not necessarily reflect the views of the [name of operating unit] or the U.S. Department of Commerce.

l. Homeland Security Presidential Directive

If the performance of this DOC financial assistance award requires non-Federal entity personnel to have routine access to Federally-controlled facilities and/or Federally-controlled information systems (for purpose of this term “routine access” is defined as more than 180 calendar days), such personnel must undergo the personal identity verification credential process. In the case of foreign nationals, the DOC will conduct a check with U.S. Citizenship and Immigration Services’ (USCIS) Verification Division, a component of the Department of Homeland Security (DHS), to ensure the individual is in a lawful immigration status and that he or she is eligible for employment within the United States. Any items or services delivered under a financial assistance award must comply with DOC personal identity verification procedures that implement Homeland Security Presidential Directive 12 (Policy for a Common Identification Standard for Federal Employees and Contractors), Federal Information Processing Standard (FIPS) PUB 201, and OMB Memorandum M-05-24. The recipient must ensure that its subrecipients and contractors (at all tiers) performing work under this award comply with the requirements contained in this term. The Grants Officer may delay final payment under an award if the subrecipient or contractor fails to comply with the requirements listed in the term below. The recipient must insert the following term in all subawards and contracts when the subaward recipient or contractor is required to have routine physical access to a Federally-controlled facility or routine access to a Federally-controlled information system:

The subrecipient or contractor must comply with DOC personal identity verification procedures identified in the subaward or contract that implement Homeland Security Presidential Directive 12 (HSPD-12), Office of Management and Budget (OMB) Guidance M-05-24, as amended, and Federal Information Processing Standards Publication (FIPS PUB) Number 201, as amended, for all employees under this subaward or contract who require routine physical access to a Federally-controlled facility or routine access to a Federally-controlled information system.

The subrecipient or contractor must account for all forms of Government-provided identification issued to the subrecipient or contractor employees in connection with performance under this subaward or contract. The subrecipient or contractor must return such identification to the issuing agency at the earliest of any of the following, unless otherwise determined by DOC: (1) When no longer needed for subaward or contract performance; (2) Upon completion of the subrecipient or contractor employee’s employment; (3) Upon subaward or contract completion or termination.

m. Compliance with Department of Commerce Bureau of Industry and Security Export Administration Regulations

1. This clause applies to the extent that this financial assistance award encompasses activities that involve export-controlled items.

2. In performing this financial assistance award, a non-Federal entity may participate in activities involving items subject to export control (export-controlled items) under the Export Administration Regulations (EAR). The non-Federal entity is responsible for compliance with all applicable laws and regulations regarding export-controlled items, including the EAR's deemed exports and re-exports provisions. The non-Federal entity must establish and maintain effective export compliance procedures at DOC and non-DOC facilities, including facilities located abroad, throughout performance of the financial assistance award. At a minimum, these export compliance procedures must include adequate restrictions on export-controlled items, to guard against any unauthorized exports, including in the form of releases or transfers to foreign nationals. Such releases or transfers may occur through visual inspection, including technology transmitted electronically, and oral or written communications.

3. Definitions

- i. Export-controlled items. Items (commodities, software, or technology), that are subject to the EAR (15 C.F.R. §§ 730-774), implemented by the DOC's Bureau of Industry and Security. These are generally known as "dual-use" items, items with a military and commercial application. The export (shipment, transmission, or release/transfer) of export-controlled items may require a license from DOC.
 - ii. Deemed Export/Re-export. The EAR defines a deemed export as a release or transfer of export-controlled items (specifically, technology or source code) to a foreign person (foreign national) in the U.S. Such release is "deemed" to be an export to the foreign person's most recent country of citizenship or permanent residency (*see* 15 C.F.R. § 734.13(a)(2) & (b)). A release may take the form of visual inspection or oral or written exchange of information. *See* 15 C.F.R. § 734.15(a). If such a release or transfer is made abroad to a foreign person of a country other than the country where the release occurs, it is considered a deemed re-export to the foreign person's most recent country of citizenship or permanent residency. *See* 15 C.F.R. § 734.14(a)(2). Licenses from DOC may be required for deemed exports or re-exports. An act causing the release of export-controlled items to a foreign person (e.g., providing or using an access key or code) may require authorization from DOC to the same extent that an export or re-export of such items to the foreign person would. *See* 15 C.F.R. § 734.15(b).
4. The non-Federal entity must secure all export-controlled items that it possesses or that comes into its possession in performance of this financial assistance award, to ensure that the export of such items, including in the form of release or transfer to foreign persons, is prevented, or licensed, as required by applicable Federal laws, E.O.s, and/or regulations, including the EAR.
5. As applicable, non-Federal entity personnel and associates at DOC sites will be informed of any procedures to identify and protect export-controlled items from unauthorized export.

6. To the extent the non-Federal entity wishes to release or transfer export-controlled items to foreign persons, the non-Federal entity will be responsible for obtaining any necessary licenses, including licenses required under the EAR for deemed exports or deemed re-exports. Failure to obtain any export licenses required under the EAR may subject the non-Federal entity to administrative or criminal enforcement. See 15 C.F.R. part 764.
7. Nothing in the terms of this financial assistance award is intended to change, supersede, or waive the requirements of applicable Federal laws, E.O.s or regulations.
8. Compliance with this term will not satisfy any legal obligations the non-Federal entity may have regarding items that may be subject to export controls administered by other agencies such as the Department of State, which has jurisdiction over exports and re-exports of defense articles and services subject to the International Traffic in Arms Regulations (ITAR) (22 C.F.R. §§ 120-130), including the release of defense articles to foreign persons in the United States and abroad.
9. The non-Federal entity must include the provisions contained in this term in all lower tier transactions (subawards, contracts, and subcontracts) under this financial assistance award that may involve research or other activities that implicate export-controlled items.

n. The Trafficking Victims Protection Act of 2000 (22 U.S.C. § 7104(g)), as amended, and the implementing regulations at 2 C.F.R. Part 175

The Trafficking Victims Protection Act of 2000 authorizes termination of financial assistance provided to a private entity, without penalty to the Federal Government, if any non-Federal entity engages in certain activities related to trafficking in persons. The DOC hereby incorporates the following award term required by 2 C.F.R. § 175.15(b):

Trafficking in persons.

a. Provisions applicable to a recipient that is a private entity.

1. You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not—

- i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;***
- ii. Procure a commercial sex act during the period of time that the award is in effect; or***
- iii. Use forced labor in the performance of the award or subawards under the award.***

2. *We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity —*

- i. *Is determined to have violated a prohibition in paragraph a.1 of this award term; or*
- ii. *Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either— (A) Associated with performance under this award; or (B) Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 C.F.R. Part 180 (OMB Guidelines to Agencies on Governmentwide Debarment and Suspension – Nonprocurement), as implemented by DOC at 2 C.F.R. Part 1326 (Nonprocurement Debarment and Suspension).*

b. Provision applicable to a recipient other than a private entity. *We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—*

- 1. *Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or*
- 2. *Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either—*

- i. *Associated with performance under this award; or*
- ii. *Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 C.F.R. Part 180 (OMB Guidelines to Agencies on Governmentwide Debarment and Suspension – Nonprocurement), as implemented by DOC at 2 C.F.R. Part 1326, (Nonprocurement Debarment and Suspension).*

c. Provisions applicable to any recipient.

1. *You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.*

2. *Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:*

- i. *Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and*
- ii. *Is in addition to all other remedies for noncompliance that are available to us under this award.*

3. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

d. Definitions. For purposes of this award term:

1. "Employee" means either:

i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or

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

2. "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

3. "Private entity":

i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 C.F.R. § 175.25;

ii. Includes: (A) A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 C.F.R. § 175.25(b); and (B) A for-profit organization.

4. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. § 7102).

o. The Federal Funding Accountability and Transparency Act (FFATA) (31 U.S.C. § 6101 note)

1. **Reporting Subawards and Executive Compensation.** Under FFATA, recipients of financial assistance awards of \$30,000 or more are required to report periodically on executive compensation and subawards, as described in the following term from 2 C.F.R. Part 170, Appendix A, which is incorporated into this award:

Reporting Subawards and Executive Compensation

a. Reporting of first-tier subawards.

1. **Applicability.** Unless you are exempt as provided in paragraph d. of this award term, you must report each action that equals or exceeds \$30,000 in Federal funds for a subaward

to a non-Federal entity or Federal agency (see definitions in paragraph e. of this award term).

2. Where and when to report.

i. You must report each obligating action described in paragraph a.1. of this award term to <http://www.fsrs.gov>.

ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)

3. What to report. You must report the information about each obligating action that the submission instructions posted at <http://www.fsrs.gov> specify.

b. Reporting Total Compensation of Recipient Executives for non-Federal entities.

1. Applicability and what to report. You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—

i. the total Federal funding authorized to date under this Federal award equals or exceeds \$30,000 as defined in 2 C.F.R. § 170.320;

ii. in the preceding fiscal year, you received—

(A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. § 170.320 (and subawards), and

(B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. § 170.320 (and subawards); and,

iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. § 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

2. Where and when to report. You must report executive total compensation described in paragraph b.1. of this award term:

i. As part of your registration profile found at the System for Award Management (SAM) website located at <https://www.sam.gov>.

ii. By the end of the month following the month in which this award is made, and annually thereafter.

c. Reporting of Total Compensation of Subrecipient Executives.

1. *Applicability and what to report.* Unless you are exempt as provided in paragraph d. of this award term, for each first-tier non-Federal entity subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if—

i. in the subrecipient's preceding fiscal year, the subrecipient received—

(A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. § 170.320 (and subawards) and,

(B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and

ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

See also 2 C.F.R. § 200.300(b).

2. *Where and when to report.* You must report subrecipient executive total compensation described in paragraph c.1. of this award term:

i. To the recipient.

ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

d. **Exemptions.** If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report: i. Subawards, and ii. The total compensation of the five most highly compensated executives of any subrecipient.

e. Definitions. For purposes of this award term:

- 1. Federal Agency means a Federal agency as defined at 5 U.S.C. 551(1) and further clarified by 5 U.S.C. 552(f).*
- 2. Non-Federal entity means all of the following, as defined in 2 C.F.R. Part 25:*
 - i. A Governmental organization, which is a State, local government, or Indian tribe;*
 - ii. A foreign public entity;*
 - iii. A domestic or foreign nonprofit organization; and,*
 - iv. A domestic or foreign for-profit organization.*
- 3. Executive means officers, managing partners, or any other employees in management positions.*
- 4. Subaward:*
 - i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.*
 - ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see 2 C.F.R § 200.331).*
 - iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.*
- 5. Subrecipient means a non-Federal entity or Federal agency that:*
 - i. Receives a subaward from you (the recipient) under this award; and*
 - ii. Is accountable to you for the use of the Federal funds provided by the subaward.*
- 6. Total compensation means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 C.F.R. § 229.402(c)(2)):*
 - i. Salary and bonus.*
 - ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.*

- iii. *Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.*
- iv. *Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.*
- v. *Above-market earnings on deferred compensation which is not tax-qualified.*
- vi. *Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.*

2. **System for Award Management (SAM) and Universal Identifier Requirements** -- as described in 2 C.F.R. Part 25, Appendix A, which is incorporated into this award:

System for Award Management (SAM) and Universal Identifier Requirements

a. ***Requirement for System for Award Management.*** Unless you are exempted from this requirement under 2 C.F.R. § 25.110, you as the recipient must maintain current information in the SAM. This includes information on your immediate and highest level owner and subsidiaries, as well as on all of your predecessors that have been awarded a Federal contract or Federal financial assistance within the last three years, if applicable, until you submit the final financial report required under this Federal award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another Federal award term.

b. ***Requirement for Unique Entity Identifier.*** If you are authorized to make subawards under this Federal award, you:

- 1. *Must notify potential subrecipients that no entity (see definition in paragraph c of this award term) may receive a subaward from you until the entity has provided its Unique Entity Identifier to you.*
- 2. *May not make a subaward to an entity unless the entity has provided its Unique Entity Identifier to you. Subrecipients are not required to obtain an active SAM registration, but must obtain a Unique Entity Identifier.*

c. ***Definitions for purposes of this term:***

- 1. *SAM means the Federal repository into which a recipient must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the SAM Internet site (currently at <https://www.SAM.gov>).*

2. *Unique Entity Identifier means the identifier assigned by SAM to uniquely identify business entities.*

3. *Entity includes non-Federal entities as defined at 2 C.F.R. § 200.1 and also includes all of the following, for purposes of this part:*

- i. A foreign organization;*
- ii. A foreign public entity;*
- iii. A domestic for-profit organization; and*
- iv. A Federal agency.*

4. *Subaward has the meaning given in 2 C.F.R § 200.1.*

5. *Subrecipient has the meaning given in 2 C.F.R § 200.1.*

See also 2 C.F.R. § 200.300(b).

p. Recipient Integrity and Performance Matters (Appendix XII to 2 C.F.R. Part 200)

Reporting of Matters Related to Recipient Integrity and Performance

1. **General Reporting Requirement.** If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this Federal award, then you as the recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

2. **Proceedings About Which You Must Report.** Submit the information required about each proceeding that:

- i. Is relating to the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;*
- ii. Reached its final disposition during the most recent five-year period; and*

iii. Is one of the following:

- (A) A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;
- (B) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
- (C) An administrative proceeding, as defined in paragraph 5 of this award term and condition, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damages in excess of \$100,000; or
- (D) Any other criminal, civil, or administrative proceeding if:
 - I. It could have led to an outcome described in paragraph 2.c.(1), (2), or (3) of this award term and condition;
 - II. It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and
 - III. The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

3. Reporting Procedures. Enter in the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition. You do not need to submit the information a second time under assistance awards that you received if you already provided the information through SAM because you were required to do so under Federal procurement contracts that you were awarded.

4. Reporting Frequency. During any period when you are subject to the requirement in paragraph 1 of this award term and condition, you must report proceedings information through SAM for the most recent five-year period, either to report new information about any proceeding(s) that you have not reported previously or affirm that there is no new information to report. Recipients that have Federal contract, grant, and cooperative agreement awards with a cumulative total value greater than \$10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

5. Definitions. For purposes of this award term and condition:

- i. Administrative proceeding means a non-judicial process that is adjudicatory in nature to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.

- ii. Conviction, for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.
- iii. Total value of currently active grants, cooperative agreements, and procurement contracts includes:
 - (A) Only the Federal share of the funding under any Federal award with a recipient cost share or match; and
 - (B) The value of all expected funding increments under a Federal award and options, even if not yet exercised.

q. **Never Contract with the Enemy** (2 C.F.R Part 183; 2 C.F.R. § 200.215)

Under 2 C.F.R. § 200.215 (Never contract with the enemy) Federal awarding agencies and recipients are subject to the regulations implementing Never Contract with the Enemy in 2 C.F.R. Part 183. These regulations affect covered contracts, grants and cooperative agreements that are expected to exceed \$50,000 within the period of performance, are performed outside the United States and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.

1. **Applicability.** This term applies only to recipients of covered grants or cooperative agreements, as defined in 2 C.F.R. § 183.35 Definitions.
2. **Requirements.** As applicable, recipients must fulfill the requirements as described in the following terms from 2 C.F.R. Part 183, Appendix A, which is incorporated into this award:

a. Term 1. Prohibition on Providing Funds to the Enemy.

1. *The recipient must—*
 - i. *Exercise due diligence to ensure that none of the funds, including supplies and services, received under this grant or cooperative agreement are provided directly or indirectly (including through subawards or contracts) to a person or entity who is actively opposing the United States or coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities, which must be completed through 2 CFR Part 180.300 prior to issuing a subaward or contract and;*
 - ii. *Terminate or void in whole or in part any subaward or contract with a person or entity listed in SAM as a prohibited or restricted source pursuant to subtitle E of Title VIII of the NDAA for FY 2015, unless the Federal awarding agency provides written approval to continue the subaward or contract.*

2. *The recipient may include the substance of this clause, including this paragraph (1), in subawards under this grant or cooperative agreement that have an estimated value over \$50,000 and will be performed outside the United States, including its outlying areas.*

3. *The Federal awarding agency has the authority to terminate or void this grant or cooperative agreement, in whole or in part, if the Federal awarding agency becomes aware that the recipient failed to exercise due diligence as required by paragraph (1) of this clause or if the Federal awarding agency becomes aware that any funds received under this grant or cooperative agreement have been provided directly or indirectly to a person or entity who is actively opposing coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities*

b. Term 2. Additional Access to Recipient Records.

1. *In addition to any other existing examination-of-records authority, the Federal Government is authorized to examine any records of the recipient and its subawards or contracts to the extent necessary to ensure that funds, including supplies and services, available under this grant or cooperative agreement are not provided, directly or indirectly, to a person or entity that is actively opposing United States or coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities, except for awards awarded by the Department of Defense on or before Dec 19, 2017 that will be performed in the United States Central Command (USCENTCOM) theater of operations*

2. *The substance of this clause, including this paragraph (2), is required to be included in subawards or contracts under this grant or cooperative agreement that have an estimated value over \$50,000 and will be performed outside the United States, including its outlying areas.*

r. Prohibition on certain telecommunications and video surveillance services or equipment (Public Law 115-232, section 889; 2 C.F.R. § 200.216)

(a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

- (1) Procure or obtain,
- (2) Extend or renew a contract to procure or obtain, or
- (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

- (i). For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
- (ii). Telecommunications or video surveillance services provided by such entities or using such equipment.
- (iii). Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(b) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

(c) See Public Law 115-232, section 889 for additional information.

(d) See also §200.471.

s. Federal Financial Assistance Planning During a Funding Hiatus or Government Shutdown

This term sets forth initial guidance that will be implemented for Federal assistance awards in the event of a lapse in appropriations, or a government shutdown. The Grants Officer may issue further guidance prior to an anticipated shutdown.

1. Unless there is an actual rescission of funds for specific grant or cooperative agreement obligations, non-Federal entities under Federal financial assistance awards for which funds have been obligated generally will be able to continue to perform and incur allowable expenses under the award during a funding hiatus. Non-Federal entities are advised that ongoing activities by Federal employees involved in grant or cooperative agreement administration (including payment processing) or similar operational and administrative work cannot continue when there is a funding lapse. Therefore, there may be delays, including payment processing delays, in the event of a shutdown.

2. All award actions will be delayed during a government shutdown; if it appears that a non-Federal entity's performance under a grant or cooperative agreement will require agency involvement, direction, or clearance during the period of a possible government shutdown, the Program Officer or Grants Officer, as appropriate, may attempt to provide such involvement, direction, or clearance prior to the shutdown or advise non-Federal entities that such involvement, direction, or clearance will not be forthcoming during the shutdown. Accordingly, non-Federal entities whose ability to withdraw funds is subject to prior agency approval, which in general are non-Federal entities that have been designated high risk, non-Federal entities under construction awards, or are otherwise limited to reimbursements or subject to agency review, will be able to draw funds down from the relevant Automatic Standard Application for Payment (ASAP) account only if agency approval is given and coded into ASAP prior to any government shutdown or closure. This limitation may not be lifted during a government shutdown. Non-Federal entities should plan to work with the Grants Officer to request prior approvals in advance of a shutdown wherever possible. Non-Federal entities whose authority to draw down award funds is restricted may decide to suspend work until the government reopens.

3. The ASAP system should remain operational during a government shutdown. Non-Federal entities that do not require any Grants Officer or agency approval to draw down advance funds from their ASAP accounts should be able to do so during a shutdown. The 30-day limitation on the drawdown of advance funds will still apply notwithstanding a government shutdown (see section B.02.b.1 of these terms).

ATTACHMENT B
SERVICE AGREEMENT & SCOPE OF WORK



Social and Economic Sciences Research Center

January 9, 2024

ATTACHMENT B

TO: Angi Klahn
Lead Analyst – Clallam County Commissioners' Office
223 E 4th St, Suite 4, Port Angeles WA 98362
Phone: 360.417.2235
angi.klahn@clallamcountywa.gov

FROM: Lena Le, Ph.D.
Social & Economic Sciences Research Center
Washington State University
PO Box 644014, Wilson-Short Hall # 133
Pullman, WA 99164-4014
509-335-1511/Fax 509-335-4688
<http://www.sesrc.wsu.edu>

Subject: SESRC Scope of Work for assisting North Olympic Peninsula Recompete Coalition with data analysis to develop Phase 2 proposal of Recompete Grant

Background

The objective of the Recompete program is to reduce persistent poverty, a primary cause of which is the result of a labor force participation rate below the national average. The support legislation was written by Representative Kilmer, 6th District of Washington, who continues to take an active interest in the outcome. The North Olympic Peninsula Recompete Coalition was awarded a Strategic Development Grant and invited to participate in Phase 2, one of 22 regions and the only one in Washington.

Critical to a successful application is a careful analysis of barriers that prevent people for successfully participating in the labor force. That analysis can inform directed intervention programs, workforce training opportunities, and long-term economic development. Each element of the proposed strategy should be carefully monitored, assessed, and modified from "learning by doing." Essential to success in these regards is access to appropriate data. Two important sources are Employment Security Department and the Department of Social and Human Services data sets.

The North Olympic Peninsula Recompete Coalition is requesting the SESRC to assist with compiling data from various sources in an effort to provide information about people ages 25 to 54, who have recently exited the labor force. The congregated dataset may include information about work history (sector employed, length of employment, income, etc.), demographic information (age, race, gender, education, family structure, etc.), and geographic location of residency with a special focus on the North Olympic Peninsula regions (Clallam and Jefferson counties).

Collaborative partners

North Olympic Peninsula Recompete Coalition (NOPRC)
Clallam Economic Development Council
Social & Economic Sciences Research Center (SESRC) at Washington State University
Employment Security Department (ESD)



Department of Social and Human Services (Port Angeles)

SESRC Tasks

- 1- The SESRC is acting as a coordinator to pull information from different sources such as ESD and DSHS to facilitate analysis and understanding of barriers to labor force participation in Clallam and Jefferson counties. Specific information that will assist with Recompete Phase 2 include:
 - Construction of an ESD data set containing data fields including industry, occupation, income, length of employment, etc., for those out of work or who have exhausted benefits. The data should contain individual values without identification numbers, and be organized using geographic indicators, ideally CENSUS tract, otherwise zip code.
 - Construction of a DSHS data set containing fields including work history, benefits received, income, etc. The data should contain individual values without identification numbers, and be organized using geographic indicators, ideally CENSUS tract, otherwise zip code.
 - The data sets should be constructed so that in the future they can be merged for more detailed analysis, especially with regard to individuals exiting the labor force.
 - Explore and examine other available data sources that may help further strengthen NOPRC's Phase 2 application such as WTB or other agencies.
- 2- The SESRC shall enter a data share agreement with appropriate agencies and shall act as an information depository. Currently, the SESRC is using a content collaboration platform with multi-factor authentication (MFA) to securely transfer information among related parties. Depending upon terms and conditions of data share agreements, we may utilize the SESRC's platform or other required system such as secured file transfer (SFT) by WaTech.
- 3- Assist NOPRC with phase 2 proposal as needed.

Estimated costs

ITEM	COST
Salary and wages	\$12,523
Fringe benefit	\$4,355
WS IRB fee	\$2000
Research supplies (phone, postage, etc.)	\$796
Total direct costs	\$19,674
WSU indirect costs	\$7,083
Total	\$26,757

Estimated period of performance is February 01st to June 30th, 2024. We will notify the Sponsor in advance if the amount may exceed the estimated total. Additional works can be accommodated via amendments that specified the tasks.



18
MAR 11 2024

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

Department: BOCC

WORK SESSION ☒ **Meeting Date:** 3-11-24

REGULAR AGENDA ☐ **Meeting Date:**

Required originals approved and attached? ☐
Will be provided on:

Item summary:

- | | |
|---|--|
| ☐ Call for Hearing | ☐ Contract/Agreement/MOU - Contract # |
| ☐ Resolution | ☐ Proclamation ☐ Budget Item |
| ☐ Draft Ordinance | ☐ Final Ordinance ☐ Other |

Documents exempt from public disclosure attached: ☐

Executive summary:

Presentation on Climate Change and Implications of Forest Management on Streamflow – Oliver Grah.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐
None.

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
Presentation.

County Official signature & print name: Loni Gores Loni Gores, Clerk

Name of Employee/Stakeholder attending meeting: Board of Commissioners, Oliver Grah – Watershed Scientist/Climate Change Scientist

Relevant Departments: Board of Commissioners

Date submitted:

* Work Session Meeting - Submit 1 single sided/not stapled copy

** Regular Meeting – Submit 1 single sided/not stapled copy and originals (1 or 3 copies)

Oliver Grah Presentation Abstract to Clallam County BOCC, March 11, 2024

Streamflow is a function of weather, climate, topography, surficial geology, soils, and vegetation cover of a given watershed. Since the late 1800s, the effect of watershed vegetation cover on streamflow has been intensively investigated. Studies have shown that forest harvest influences streamflow timing and magnitude. The removal of forest cover over portions of a watershed has been shown to increase **annual water yield** from a watershed, which may be beneficial to water supply, particularly if there is a storage reservoir to capture and hold water for release during dry periods. However, the effect of vegetation manipulation on the **timing of runoff** is not as well studied. As part of the Nooksack Indian Tribe's climate resilience project, we tested the assumption that forest harvest in the Nooksack River watershed has an influence on the timing of streamflow through contemporary computer simulations. We found that forest harvest compliant with WA Forest Practices Act could reduce late summer and early fall stream flows under existing forest conditions by as much as 31 percent from natural conditions; and reduce streamflow by 55 percent from natural conditions if all harvestable trees were cut per WA FPA requirements. Although the State recognizes these relationships, nothing has been accomplished in the regulatory realm in regard to addressing these potential streamflow reductions. Voluntary actions are needed by the forest industries to address these streamflow reductions.

Forestry and Streamflow

Prepared by:

Oliver Grah

Retired Watershed Scientist/Climate Change Scientist

March 2024

Background:

Streamflow is a function of weather, climate, topography, surficial geology, soils, and vegetation cover of a given watershed. Since the late 1800s, the effect of watershed vegetation cover on streamflow has been intensively investigated (Burt et al. 2015). Studies have shown that forest harvest influences streamflow timing and magnitude. The removal of forest cover over portions of a watershed has been shown to increase annual water yield from a watershed, which may be beneficial to water supply, particularly if there is a storage reservoir to capture and hold water for release during dry periods. However, the effect of vegetation manipulation on the timing of runoff is not as well studied. In the Pacific Northwest, streamflows are generally lowest between August and September, when most snow has previously melted, there is little rainfall, and temperatures are the highest. These summer low flows coincide with greatest demand for out-of-stream water uses (e.g., agriculture, industrial, commercial, residential, etc.) and instream uses (e.g., riparian maintenance, fish habitat, fish survival, etc.). As such, there is an important knowledge gap on the influence forestry and other vegetation cover land uses have on the timing and quantity of streamflow.

Recent research has highlighted the influence of forest harvest on late-summer streamflows. Perry and Jones (2016), Burt et al. (2015), and more recently Segura et al. (2020) found that streams flowing from watersheds covered by young (< 60 years old) regenerating stands had up to a 50% reduction in late summer streamflows compared to adjacent watersheds covered by mature, old growth stands dominated by Douglas-fir on the western slope of the central Cascades and Coast Range of Oregon. Furthermore, reductions in late summer streamflows caused by forest harvest were found to persist for 50 or more years without evidence of recovery to pre-harvest flows. This difference in streamflow was attributed to differences in transpiration rates of young regenerating forests compared to older mature and old growth stands consistent with Moore et al. (2004) results. Younger regenerating trees have higher transpiration rates than mature and older stands. This interpretation is based on research completed by Moore et. al. (2004), which found that such transpiration rates can be three times greater in young regenerating stands compared to mature and old growth stands.

There are no comparable studies in central Oregon to the Nooksack River watershed. As such, there is a major knowledge gap on the influence of current forest management in the watershed on late summer streamflows. Applying the Oregon research findings to the upper Nooksack River watershed suggests that the extensive clear-cut forest harvest could result in a substantial reduction in late summer streamflow as compared to a more natural condition. Because the cited research was conducted on the west slope of the Oregon Cascades, it is uncertain if the same influences of forest harvest on late summer streamflow in the Nooksack River watershed occur. To address this knowledge gap, the Nooksack Indian Tribe has recently initiated a research project through a contract with Natural Systems Design and Western Washington University to test the hypothesis that stand age and forest harvest have an influence on late summer streamflows in the Nooksack River watershed.

Combining this potential reduction in streamflow with the observed and projected impacts of climate change could result in substantial cumulative impacts on streamflows. Modifying forest management in the watershed to preserve and protect old growth and mature stands and extend the harvest rotation age from the current practice of 35- 40 years to 80 years or longer could be a voluntary climate adaptation strategy that addresses the impact of declining summer and early fall streamflows. Results of the pilot research suggests that there is a 27 percent reduction in flow when comparing the existing condition in the South Fork Nooksack River watershed to an assumed natural condition. Further, the results of Natural Systems Design/WWU research suggest that similar magnitudes of streamflow change could be attained by implementing gap cuts in the snow zone rather than expansive clear cuts. In summary, the objective and purpose of our research project is to address the knowledge gap on how forest management influences streamflow in the Nooksack River watershed and what management tools might be considered in addressing existing water supply deficits and offset the impacts of continued climate change on forecasted declining streamflows.

The missing piece of the overall restoration puzzle:

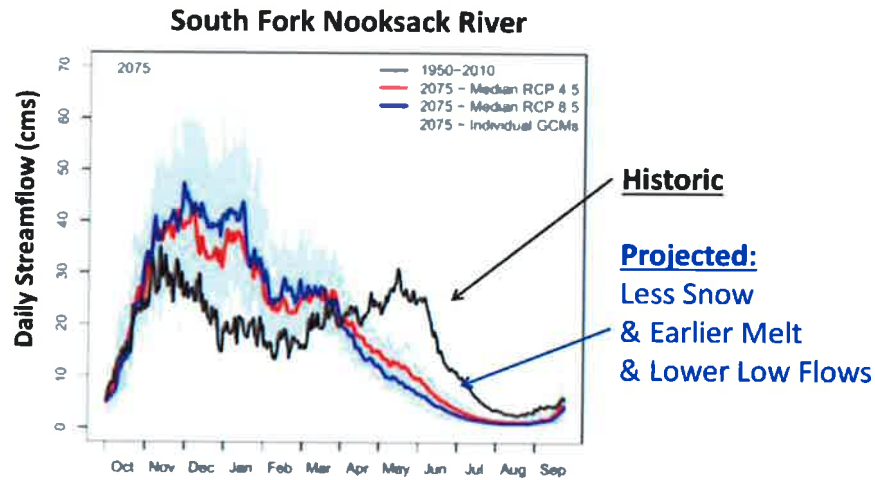
To address climate change impacts and the influence of forestry on streamflow in the PNW, more focus on restoration and enhancement of upper watershed hydrologic function must be applied to the problem. So why focus on upland watershed processes? The convention in watershed restoration is to focus on the waterbody, riparian buffer, and floodplain; without much focus on the upper watershed. Most of our watersheds are forested with commercial forestry the primary land use. In WA, the forest practices act primarily focuses on water quality, very little focus on water quantity. WA FPA includes reference to “hydrologic maturity”; however, not this is not routinely addressed or considered in Forest Practices Act permitting. Hydrologic maturity means mature vegetation has a canopy closure of 70 percent or more, and a diameter (dbh) of 9 inches or more. Studies suggest that this definition of hydrologic maturity is likely unreasonable. The focus is on the influence of forest practices on peak flows and flooding, not low flows. But what about baseflows during the low-flow season typically the most critical time for fish and water availability for other beneficial uses? Apparently there is little or no consideration to the influence of forest practices on baseflows during the summer and fall. Is this assumption factual or reasonable?

Given this situation, different forest management of our watersheds may be needed to address the cumulative impact of legacy land uses and continued future climate change on stream flow. Forest harvest generally increases annual water yield through higher peak flows, but results in a narrower hydrograph base with reduced summer flows. Research in the PNW suggests that timber harvest has a substantive impact on late summer flows. In a paired watershed study (12 watersheds), Perry and Jones (2016) found that forest harvest and the age of regeneration has substantive influence on the hydrology of the watershed. They found that baseflows in logged watersheds may be reduced by 50 percent compared to watersheds with predominantly mature and old growth stands. The logged watersheds showed no sign of recovery from prolonged depletion of late season streamflows in watersheds logged 40-50 years ago, compared to unlogged watersheds with mature/old growth forest stands. Many factors are involved, but the higher transpiration rates of regenerating young forests compared to older forests is the primary factor involved with the late summer flow reduction. Transpirational loss from trees is a form of consumptive use because the water is lost to the atmosphere. Apparently no regulatory programs address the differential consumptive use of young stands versus older stands in forest management and streamflow. This “unregulated consumptive use” could be a focus in restoring watershed function related to reduced streamflows and planning for climate change. This relationship between forest harvest and late-season flows is not addressed by the forest practices act or rules, yet this issue has great relevance

to addressing the cumulative impact of legacy land use and future climate impacts on such flows. My recommendation is to initiate and elevate the conversation on this issue with regulatory and resource agencies, as well as commercial forestry on voluntary harvest strategies that promote late summer flows and improved water quality, stream temperature. This could be an effective tool that addresses the cumulative impact of past climate change, legacy impacts, and the impact of continued future climate change on late summer flows and water quality. This could address current and future water demand and water supply issues that are becoming keener with continued climate change.

Evaluation of legacy impacts caused by land use, such as forest practices, is needed since modifying forestry to promote late summer streamflows may have the greatest potential in addressing and offsetting the added impact of continued climate change on streamflows as well as current and future water demand. The Tribe has recently completed such a pilot research project using BIA grant funding to model the effect of forest management on late summer flows in the SFNR, thus test the hypothesis. This also includes modeling snow accumulation and melt dynamics and to identify enhancement opportunities through small gap cuts compared to standard expansive clearcuts.

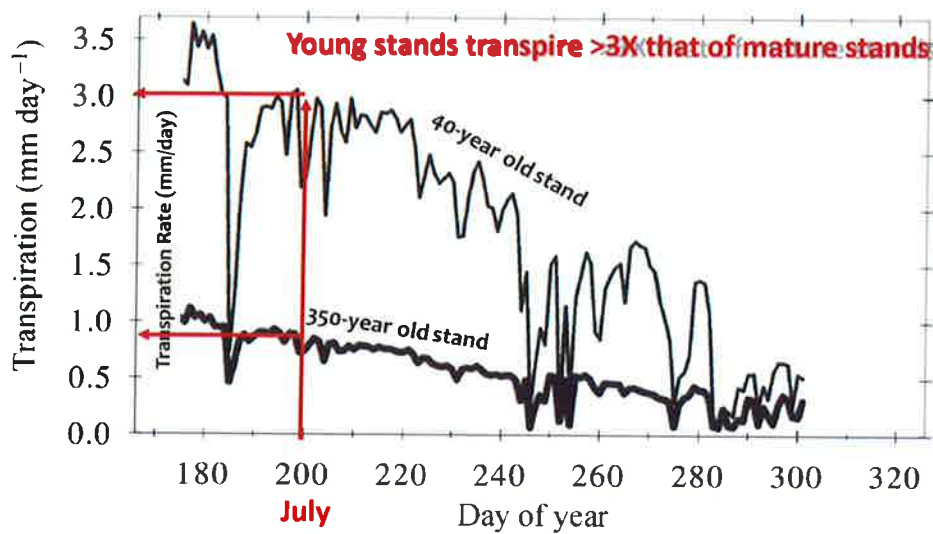
Climate Change Impacts on Streamflow



Murphy, 2016; MS Thesis, WWU

118

Soil Moisture: transpiration rates



Re-generating Doug Fir stands (~40 years old) transpire **3x more** than old growth stands

Moore et al. (2004): HJ Andrews Exp. Forest, OR

VELMA: Visualizing Ecosystem Land Management Assessments

Gridded ecohydrological model (developed by McKane et al.; EPA)

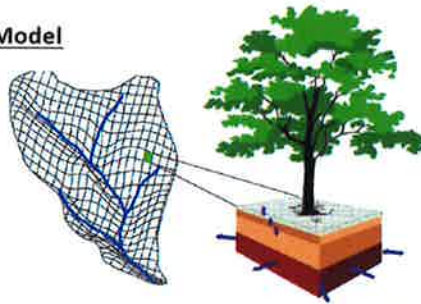
Tracks water, carbon, nitrogen for each pixel, through time,
to simulate soil moisture, snow, and streamflow

Meteorology: air temperature, precipitation

Digital Elevation Model

Landcover: type, age, disturbance

Soils: type, depth



Graphic by Pascal Storck

122

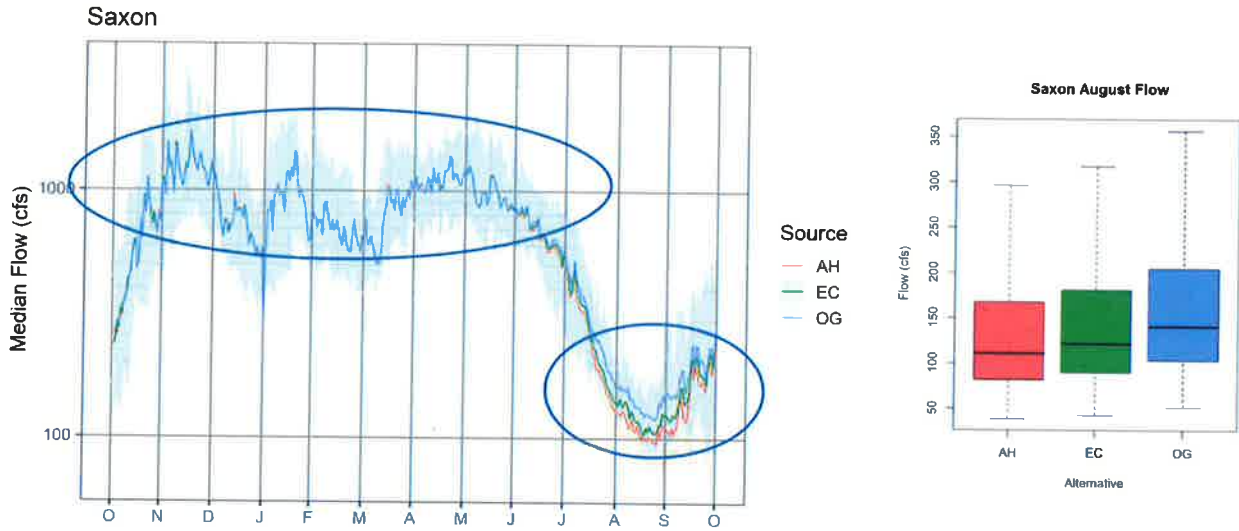
Research Questions



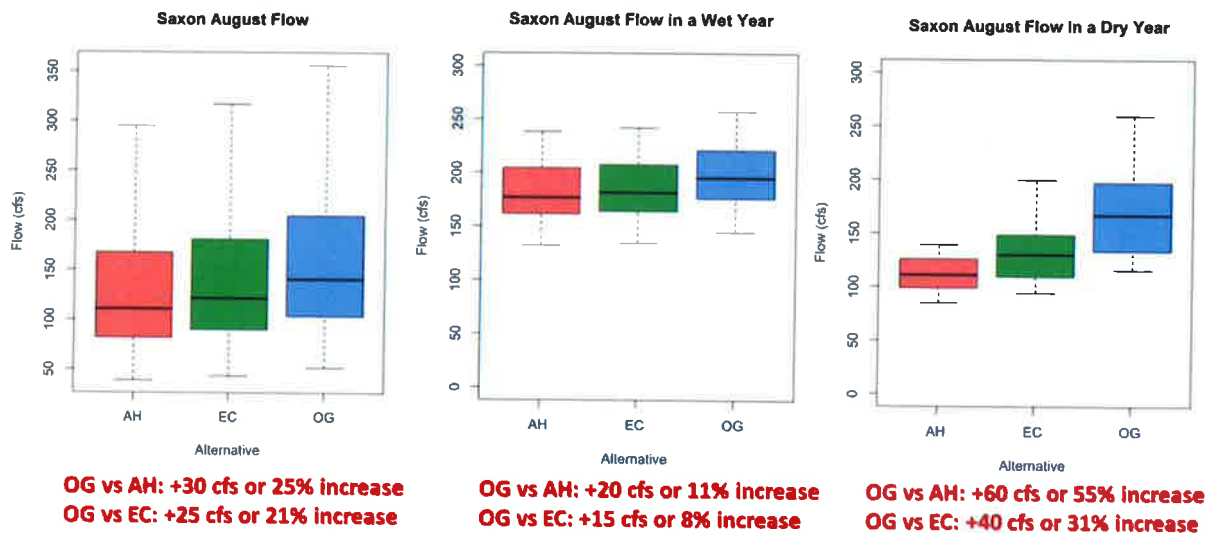
120

VELMA Experimental Results (PRELIMINARY)

(N = 120)



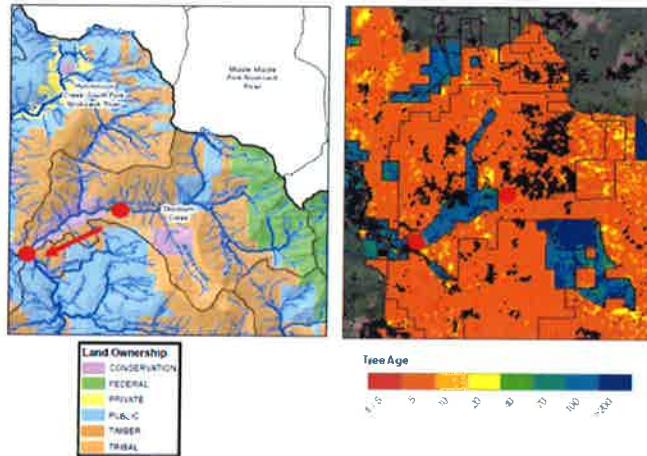
VELMA Experimental Results (PRELIMINARY)



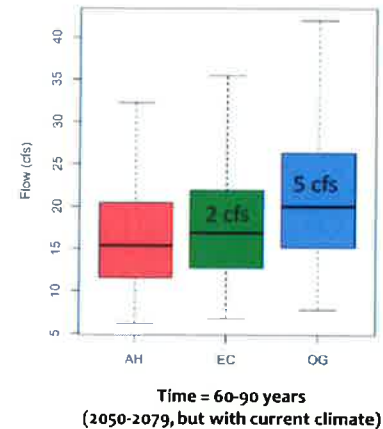
VELMA Experimental Results (PRELIMINARY)

What is the reach-scale effect of conservation lands on streamflow?

Skookum Creek reach



Amount of August streamflow **GAINED** between upstream and downstream points



References cited:

- Burt, T., N. Howden, J. McDonnell, J. Jones, and G. Hancock. 2015. Seeing the climate through the trees: observing climate and forestry impacts on streamflow using a 60-year record. *Hydrologic Process* 29,473-480.
- Moore, G., B. Bond, J. Jones, N. Phillips and F. Meinzer. 2004. Structural and compositional controls on transpiration in 40- and 450- year-old riparian forests in western Oregon, USA. *Tree Physiology* 24, 481-491.
- Perry, T.D., and J.A. Jones. 2016. Summer streamflow deficits from regenerating Douglas-fir forest in the Pacific Northwest, USA. *Ecohydrology* 2016:1-13. DOI 10.1002/eco.1790.
- Segura, C., K. Bladon, J. Hatten, J. Jones, C. Hale, and G. Ice. 2020. Long-term effects of forest harvesting on summer low flow deficits in the Coast Range of Oregon. *Journal of Hydrology* Volume 585, June 2020, 124749.

Climate Change
And
Implications of Forest Management on Streamflow

Oliver Grah – Retired
Watershed Scientist/Climate Change Scientist

Presentation To:

Clallum County Board of
Commissioners
Port Angeles, WA

March 11, 2024

"Watershed Restoration: The Rest of the Story –
Bringing Land Use and
Upper Watershed Processes into Focus"

NOOKSACK INDIAN TRIBE'S CLIMATE CHANGE PROGRAM

Objectives of presentation:

Part One:

- Identify the scope and context of the climate change program
- History of climate change program
- Elements of climate change program
- Brief Summary of Results

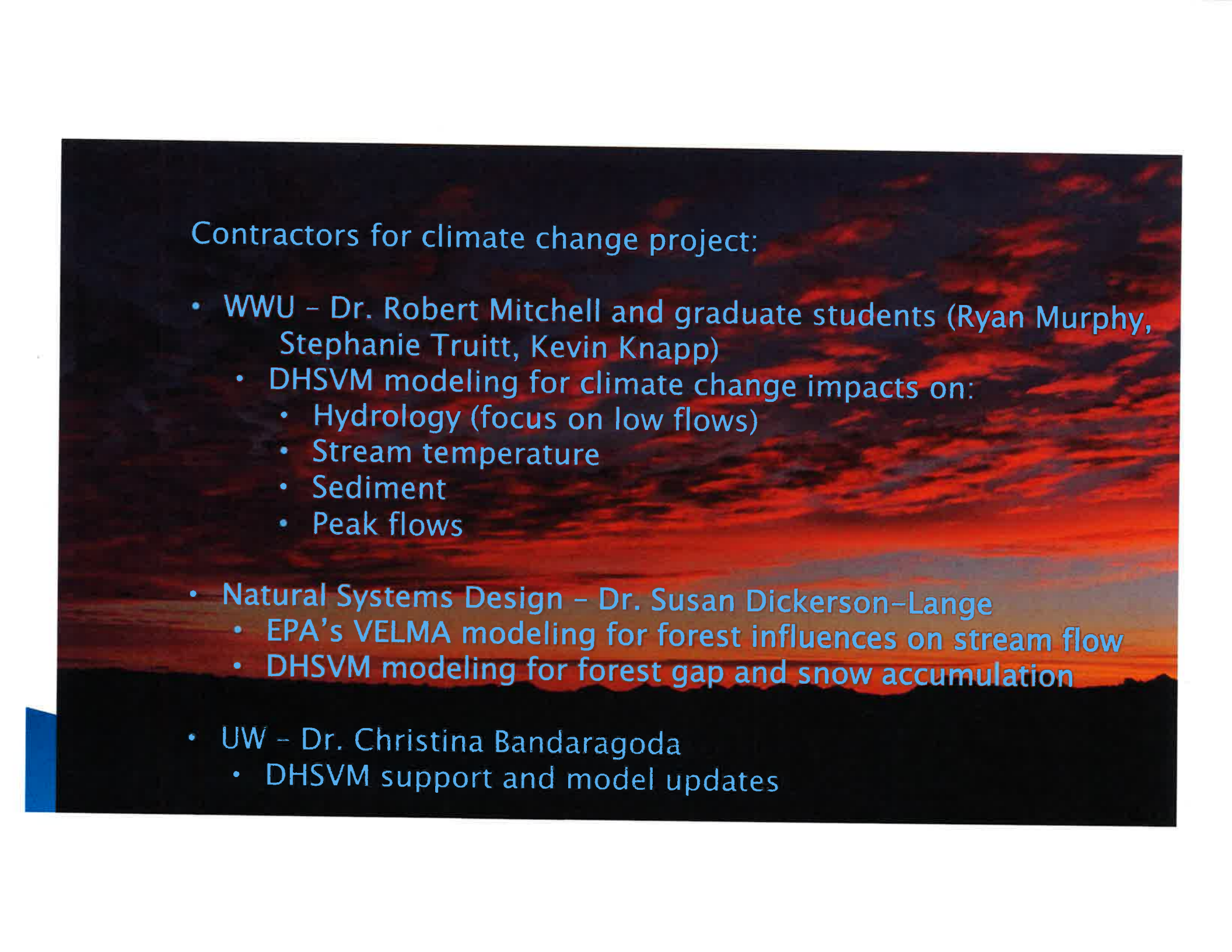
Part Two:

- Importance of focus on upper watershed processes
- Focus on knowledge gaps that must be filled to address land use and management, watershed health, water supply, water quality, and climate change
- Possible solutions

NOOKSACK INDIAN TRIBE'S CLIMATE CHANGE PROGRAM

Co-Investigators/Partners:

- Susan Dickerson-Lange, Restoration Hydrologist, Natural Systems Design
- Steve Klein, Research Scientist, EPA-ORD
- Jezra Beaulieu, Maggie Taylor, Water Resources Specialists, Nooksack Indian Tribe
- Tom Cline, Rich Auguston, Water Quality Technicians, Nooksack Indian Tribe
- Robert Mitchell, Professor of Geology, Western Washington University
- Elizabeth Kimberly, MS consulting geologist, glaciologist.
- Christina Bandaragoda, Senior Research Scientist, University of Washington
- Michael Maudlin, Restoration Geomorphologist, Nooksack Indian Tribe
- Treva Coe, Habitat Program Manager, Nooksack Indian Tribe
- Holly O'Neil, Crossroads Consulting, Public Outreach/Stakeholder Engagement
- Ian Smith, Restoration Planner, Living Systems
- Jason Hatch, Washington Water Trust
- Mauri Pelto, Professor of Geology, Nichols College, MA
- Chris Frans, UW, USACOE
- Ryan Murphy, Point-No Point Treaty Council
- Ned Currence, Fisheries Program Manager, Nooksack Indian Tribe
- Meade Krosby, Research Scientist, UW-CIG
- Harriet Morgan, Consultant, UW-CIG
- Kip Killebrew, Fisheries Biologist; Jen Sevigny, Biologist, Stillaguamish Tribe
- Gabe Epperson, Executive Director, Whatcom Land Trust
- Alex Harris, Crossroads Consulting
- Chris Elder, Whatcom County
- Alex Jeffers, Jennifer Mackey, Whatcom Land Trust
- Rosie O'Neil, Brel Froebe, Crossroads Consulting



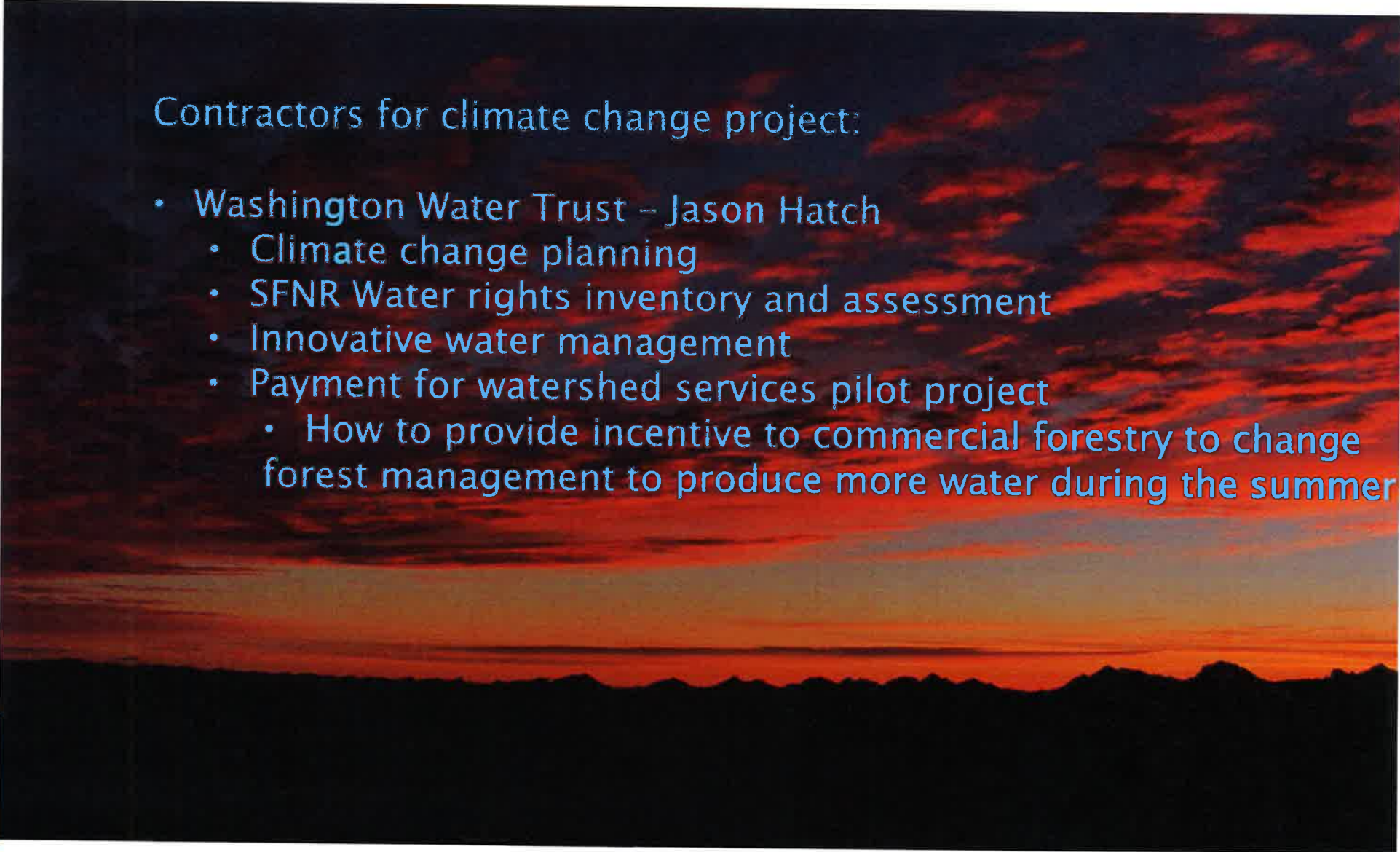
Contractors for climate change project:

- WWU – Dr. Robert Mitchell and graduate students (Ryan Murphy, Stephanie Truitt, Kevin Knapp)
 - DHSVM modeling for climate change impacts on:
 - Hydrology (focus on low flows)
 - Stream temperature
 - Sediment
 - Peak flows
- Natural Systems Design – Dr. Susan Dickerson–Lange
 - EPA's VELMA modeling for forest influences on stream flow
 - DHSVM modeling for forest gap and snow accumulation
- UW – Dr. Christina Bandaragoda
 - DHSVM support and model updates



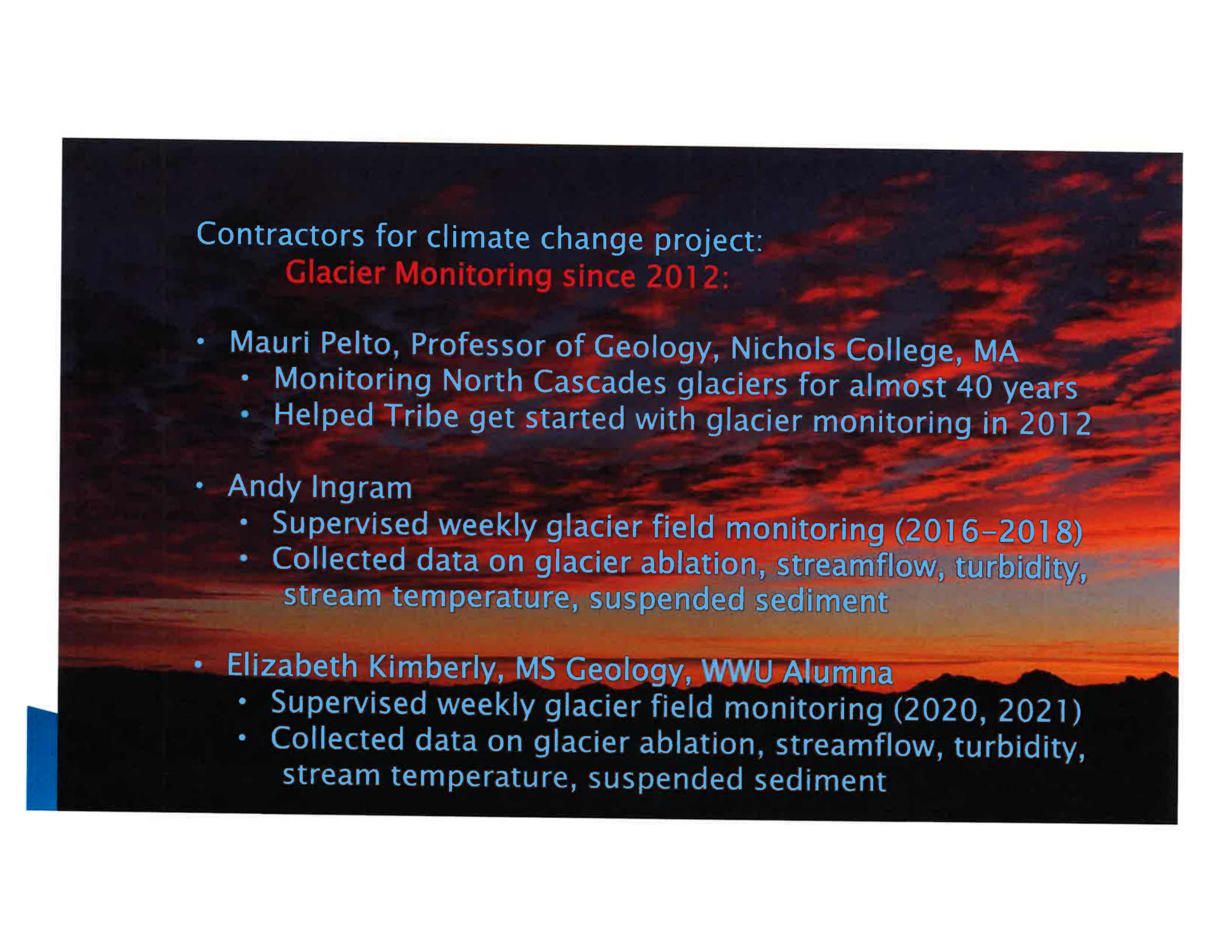
Contractors for climate change project:

- UW, Climate Impacts Group – Dr. Mead Krosby, Harriet Morgan
 - Climate change vulnerability assessment
 - Climate change adaptation and resilience planning
 - Climate change adaptation implementation planning
 - Species and communities/habitats of concern to the Tribe
 - Collaborator and stakeholder engagement
- Crossroads Consulting – Holly O’Neil, Ian Smith, Alex Harris
 - Public outreach and stakeholder engagement
 - Climate change planning
 - SFNR Watershed Conservation Plan
 - Stewart Mountain Community Forest



Contractors for climate change project:

- Washington Water Trust – Jason Hatch
 - Climate change planning
 - SFNR Water rights inventory and assessment
 - Innovative water management
 - Payment for watershed services pilot project
 - How to provide incentive to commercial forestry to change forest management to produce more water during the summer



Contractors for climate change project:

Glacier Monitoring since 2012:

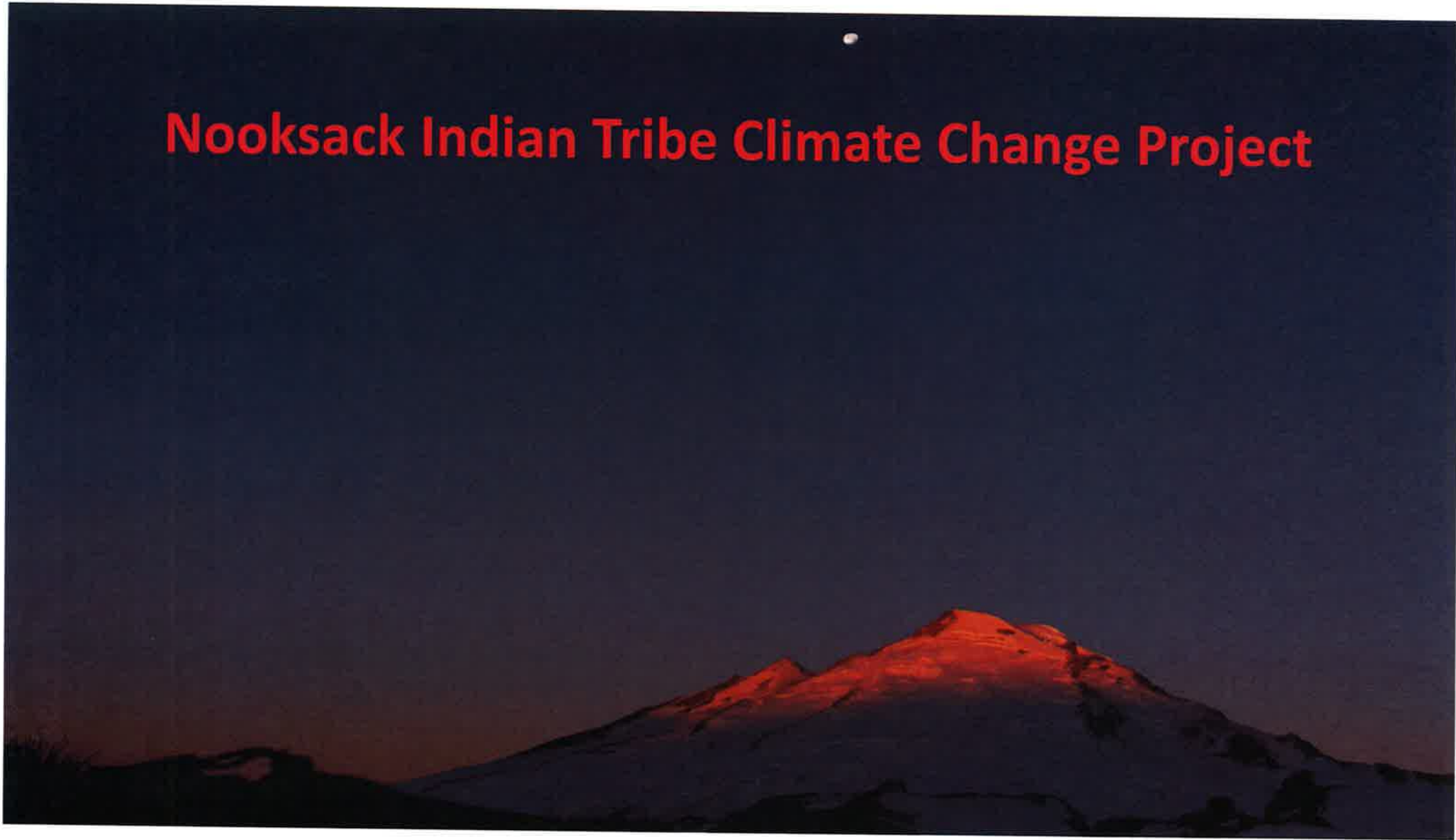
- Mauri Peltó, Professor of Geology, Nichols College, MA
 - Monitoring North Cascades glaciers for almost 40 years
 - Helped Tribe get started with glacier monitoring in 2012
- Andy Ingram
 - Supervised weekly glacier field monitoring (2016–2018)
 - Collected data on glacier ablation, streamflow, turbidity, stream temperature, suspended sediment
- Elizabeth Kimberly, MS Geology, WWU Alumna
 - Supervised weekly glacier field monitoring (2020, 2021)
 - Collected data on glacier ablation, streamflow, turbidity, stream temperature, suspended sediment



Sources of Funding:

- EPA – PPG, NEP
- BIA – TCRP, RP
- NWIFC
- NPLCC
- WA Dept. Ecology – NEP
 - Riparian Restoration and Protection in Agricultural Lands

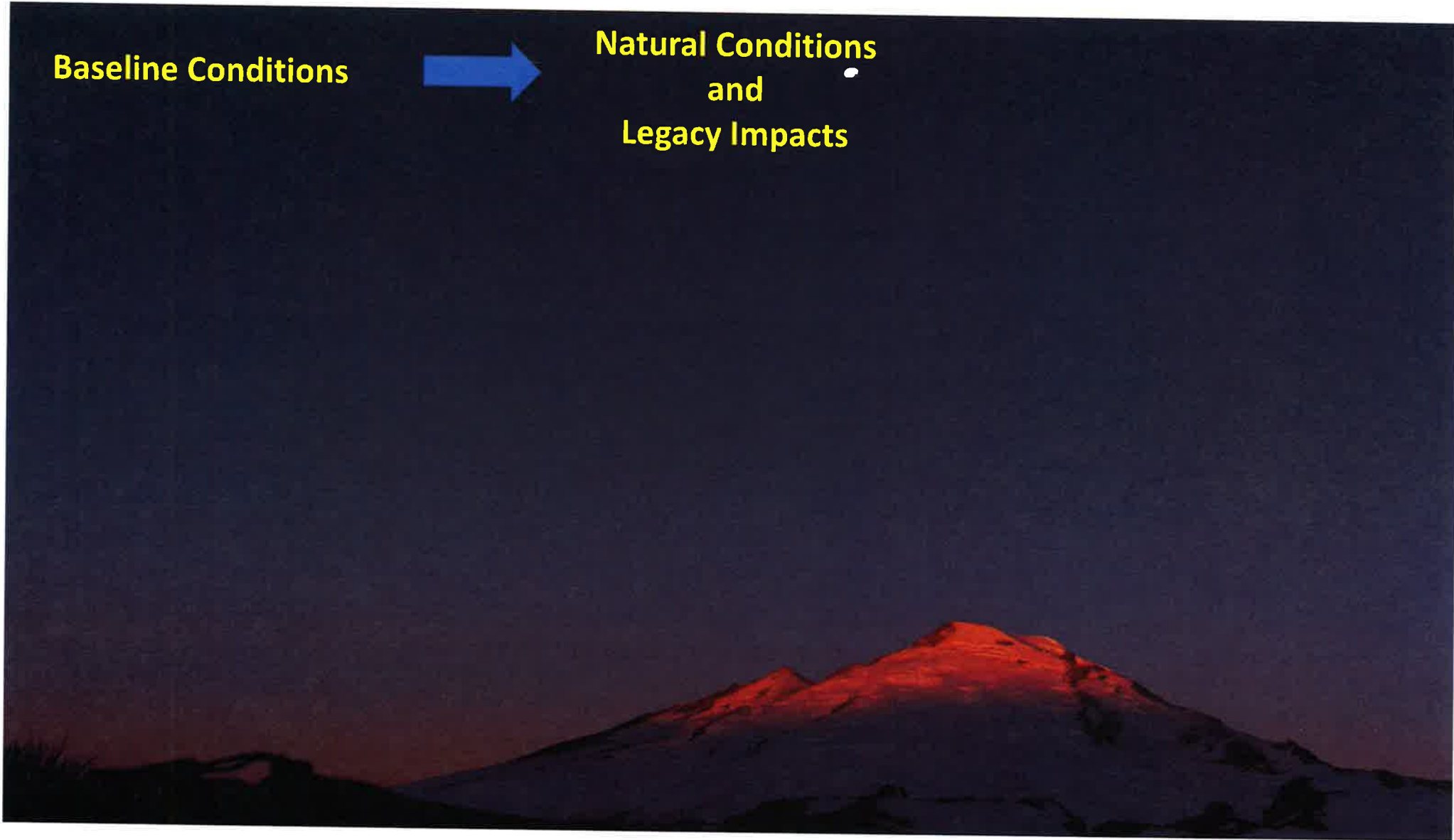
Nooksack Indian Tribe Climate Change Project



Baseline Conditions



**Natural Conditions
and
Legacy Impacts**



Legacy Impacts.....





Legacy Impacts.....

Cumulative Impacts:

- Legacy Impacts
- Climate Change impacts

Don't underestimate the importance of identifying, characterizing, and quantifying existing legacy impacts in conducting vulnerability assessments and adaptation planning.

Baseline Conditions



**Natural Conditions
and
Legacy Impacts**



**Climate Change
Impacts**



Cumulative Impacts



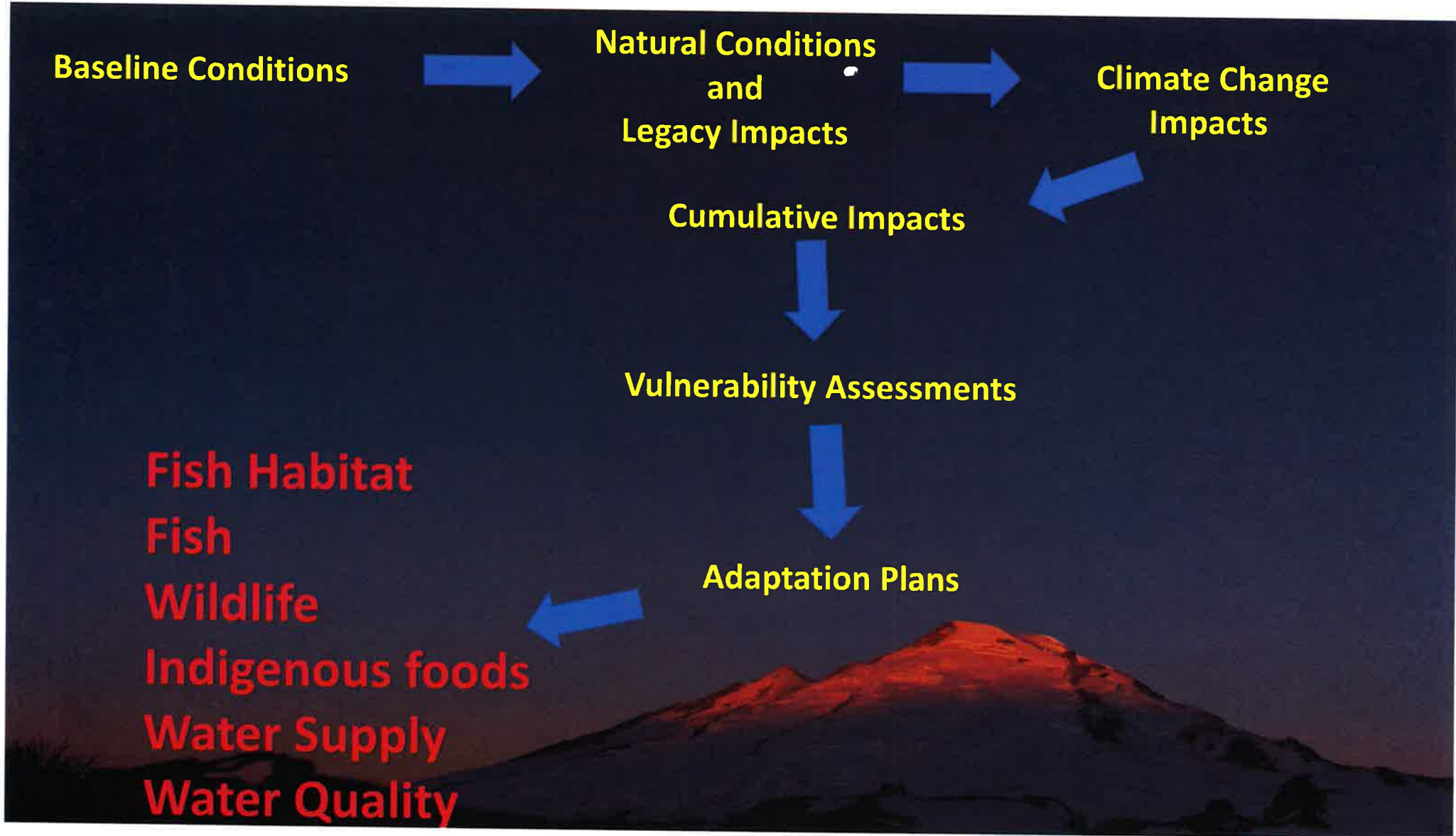
Vulnerability Assessments



Adaptation Plans

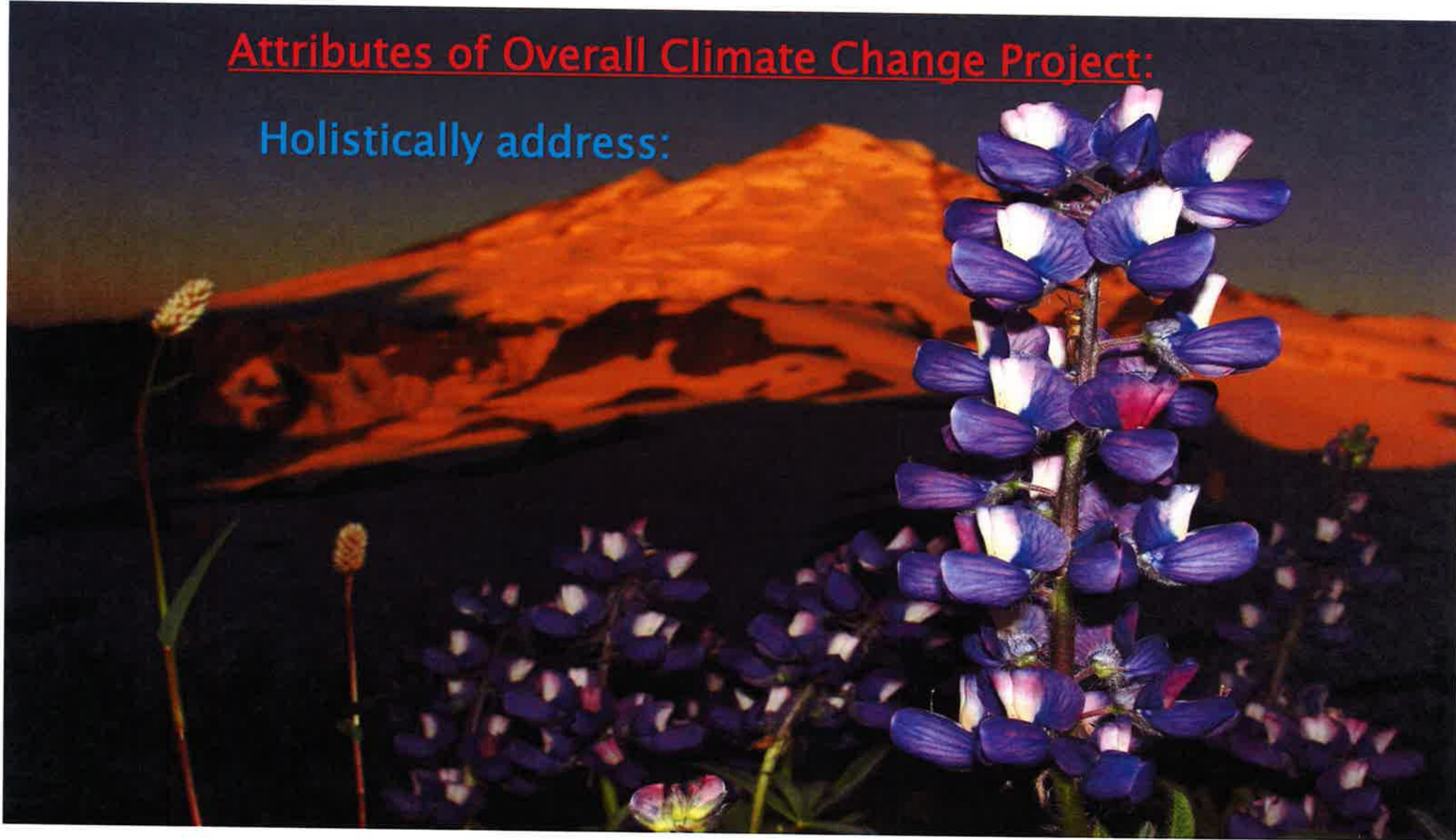


**Fish Habitat
Fish
Wildlife
Indigenous foods
Water Supply
Water Quality**

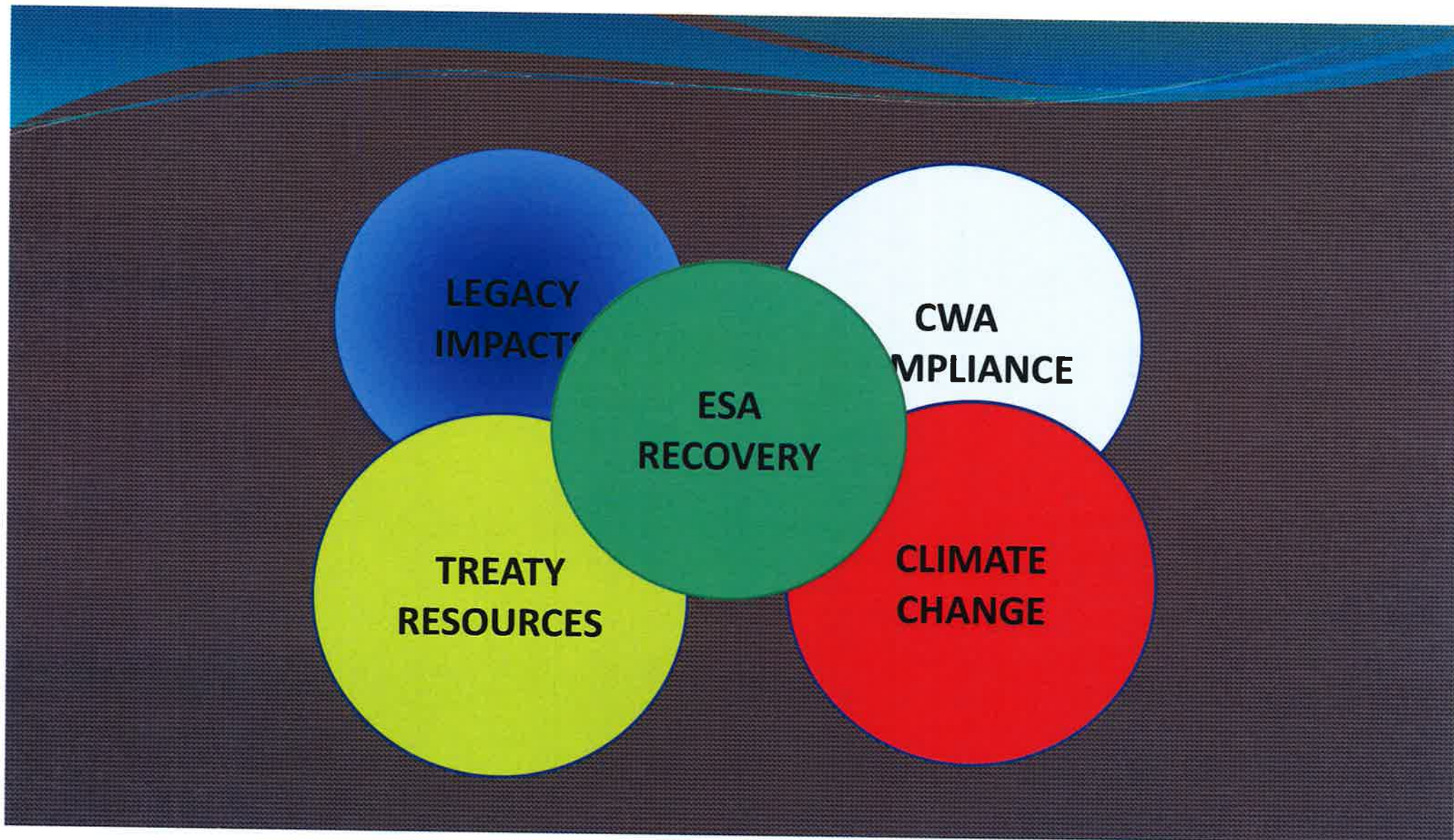


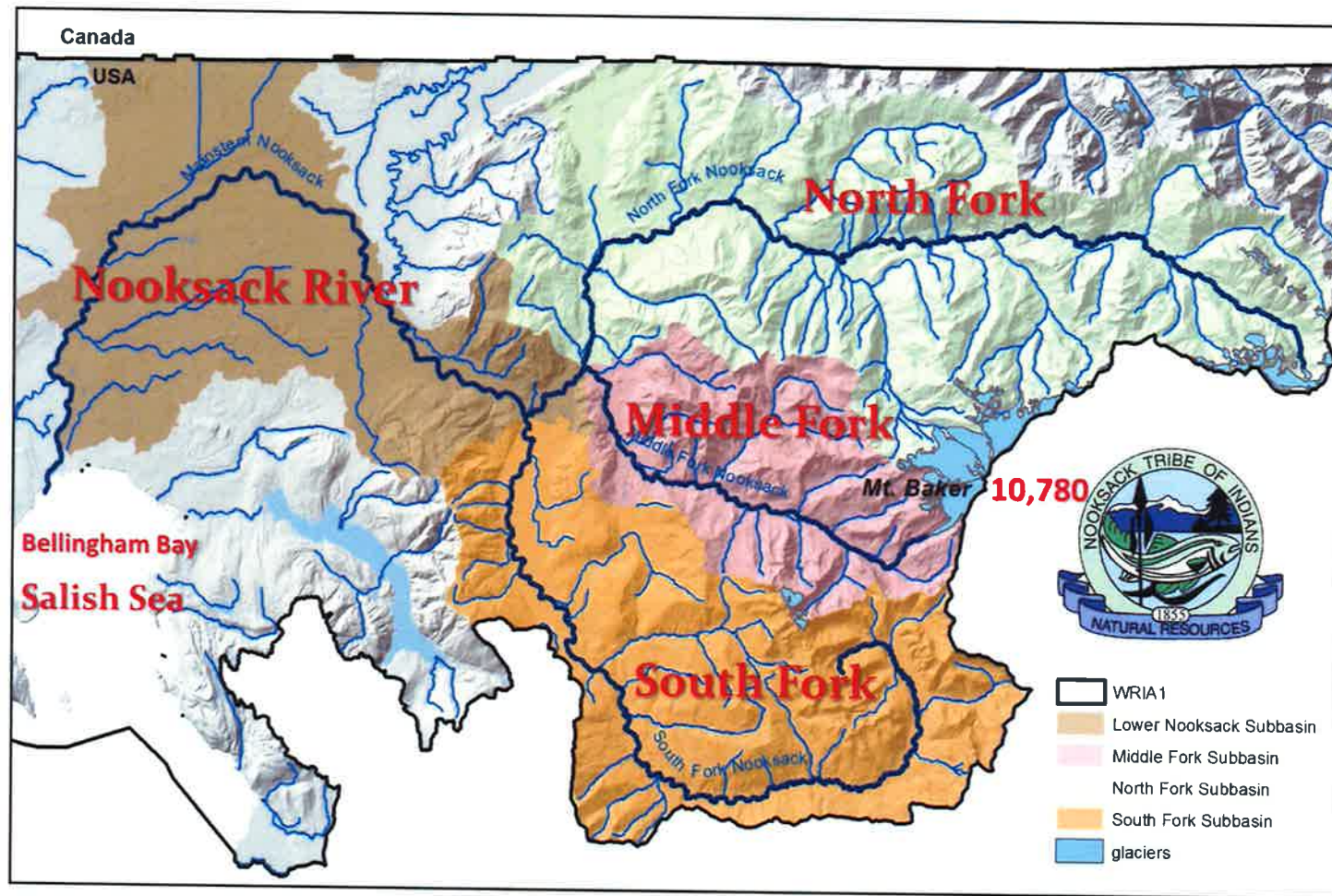
Attributes of Overall Climate Change Project:

Holistically address:









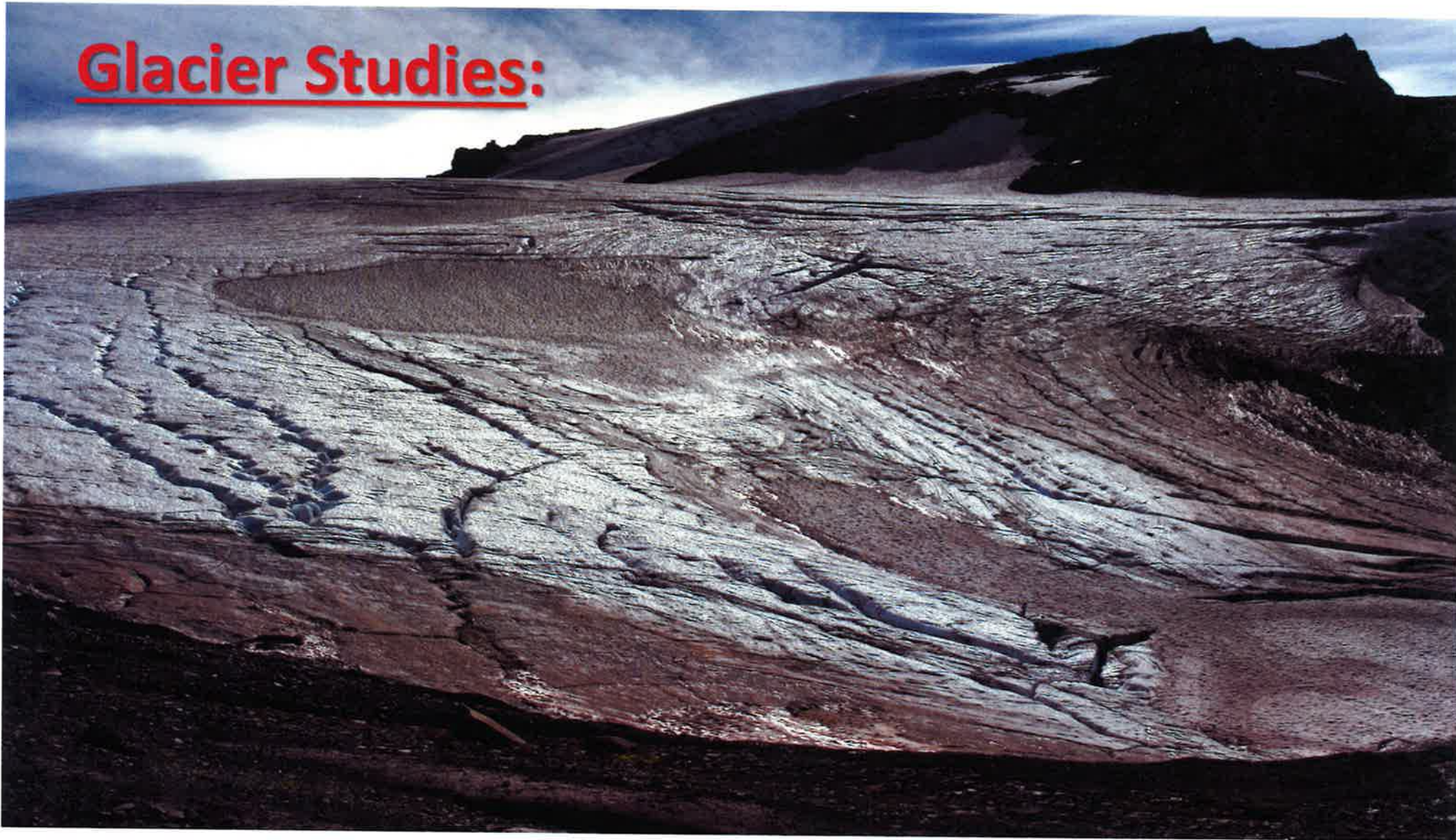
Nooksack River Watershed

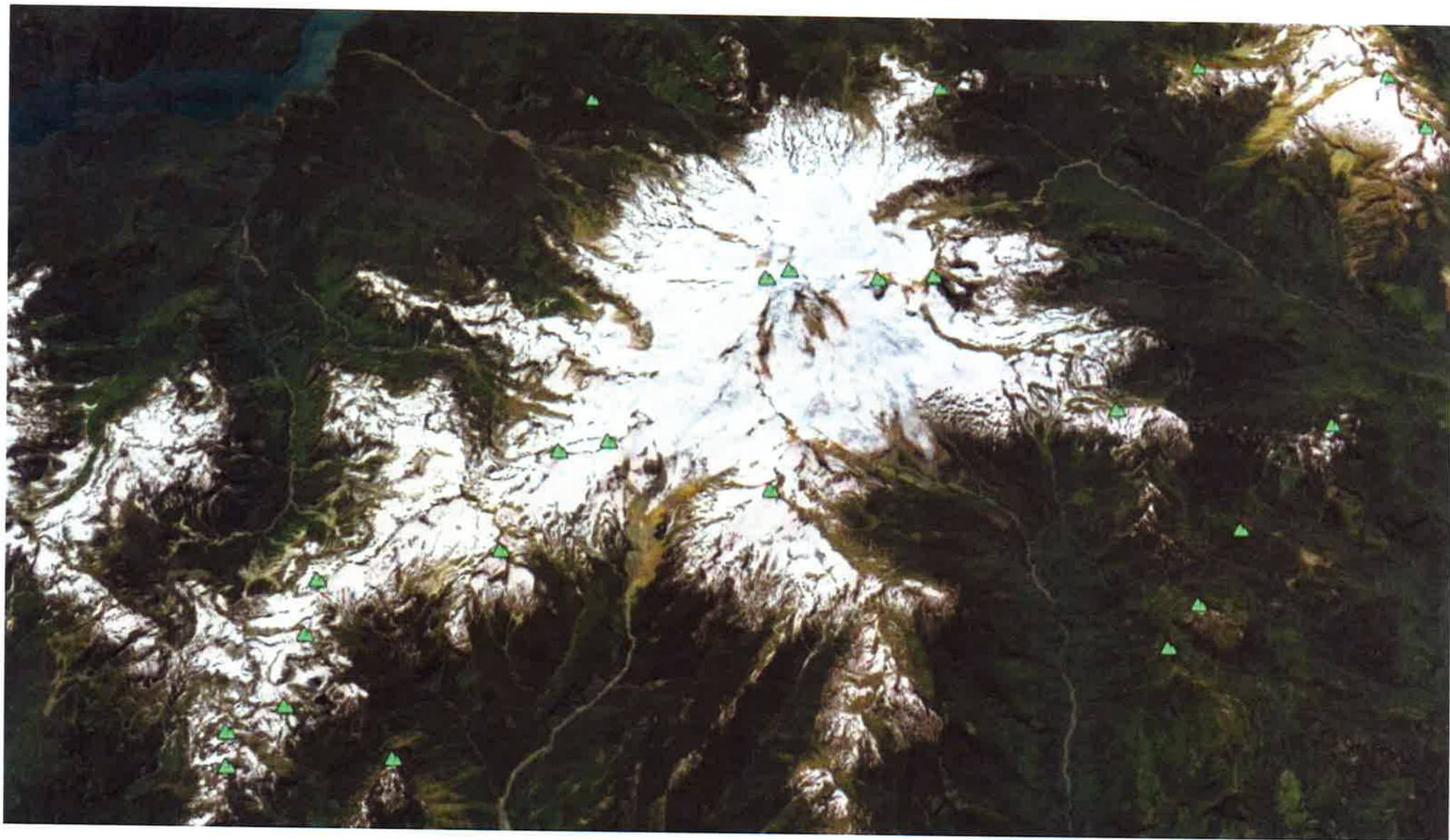


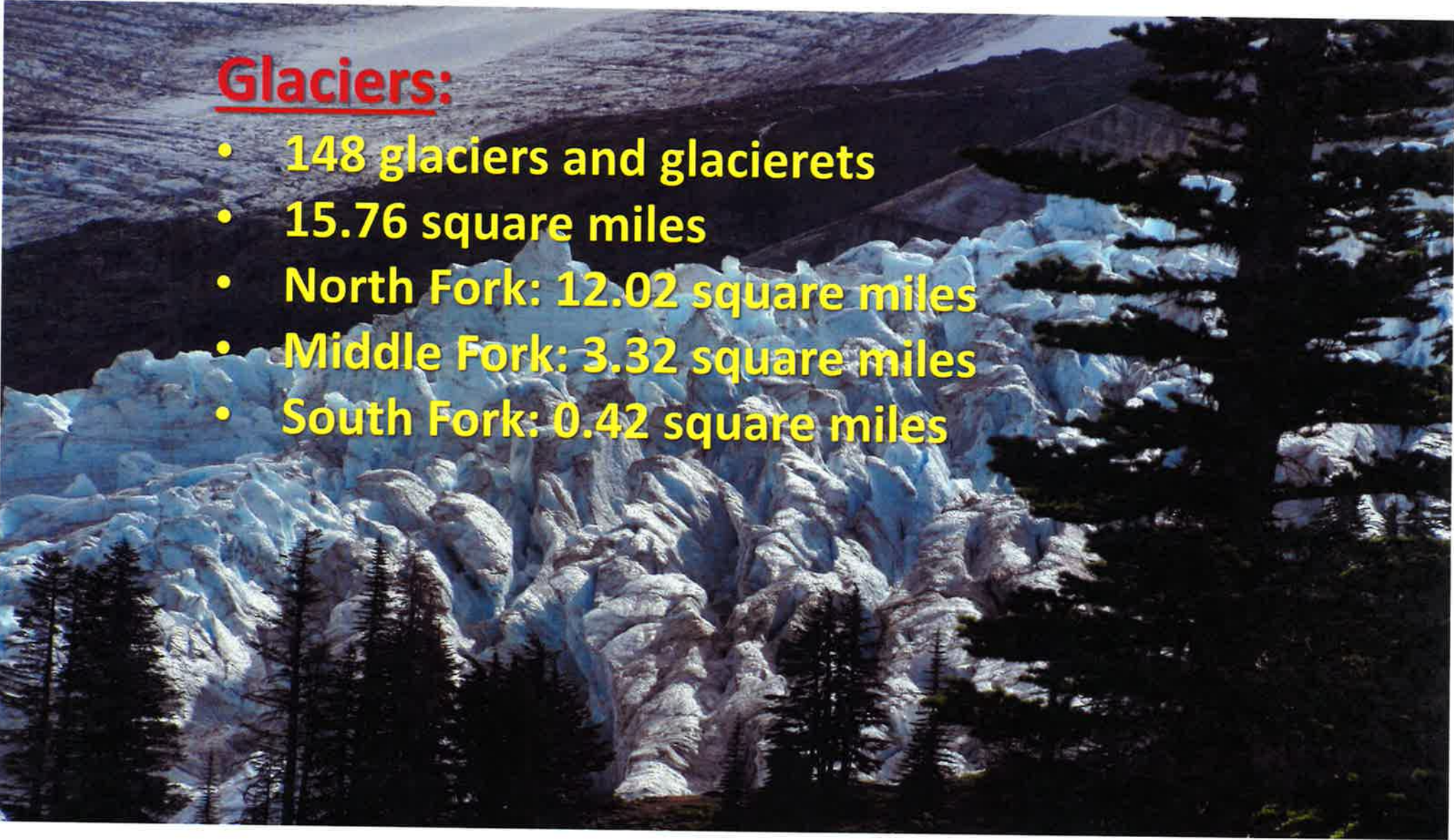
Elements and Projects of Climate Change Project:



Glacier Studies:





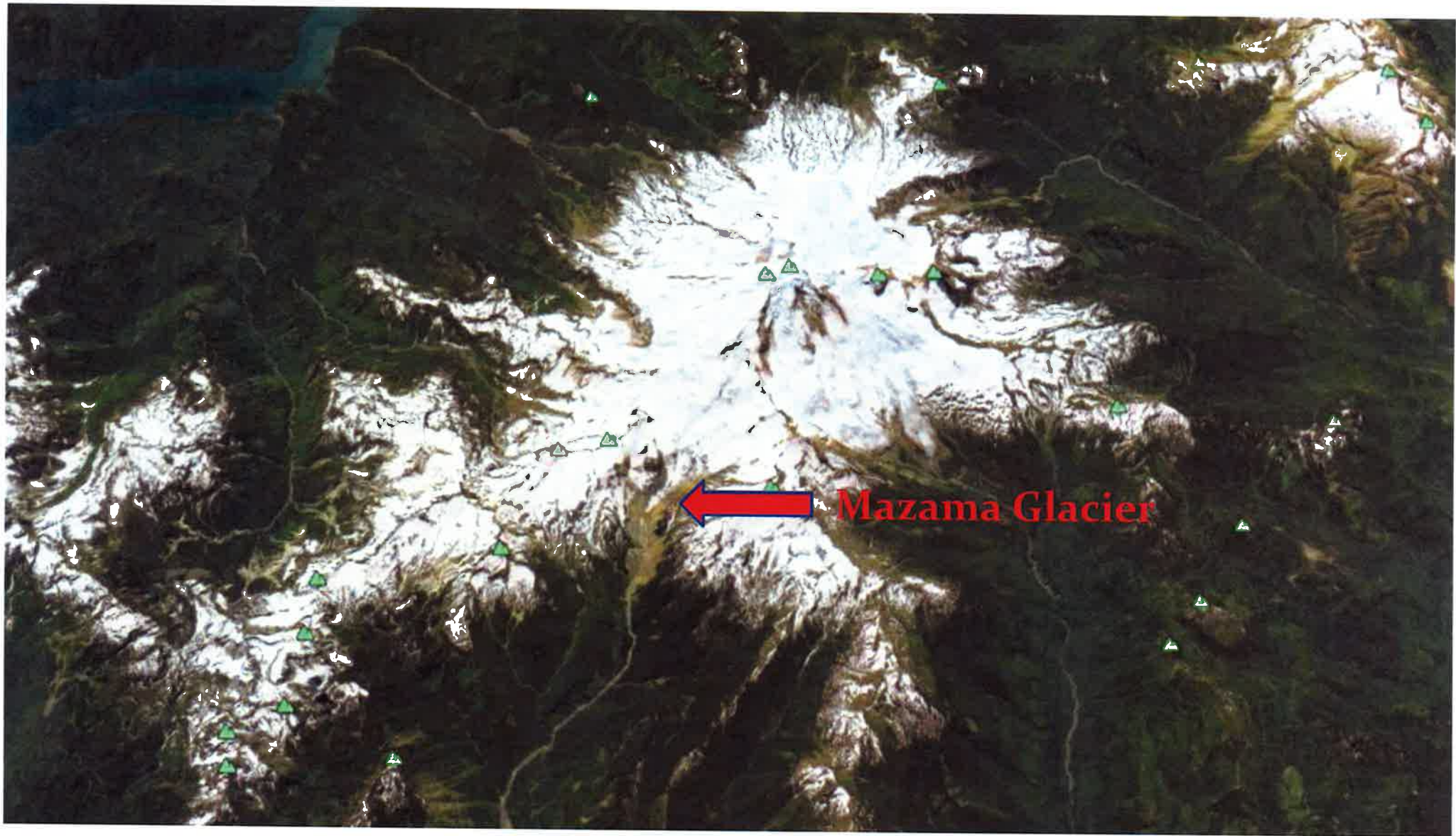


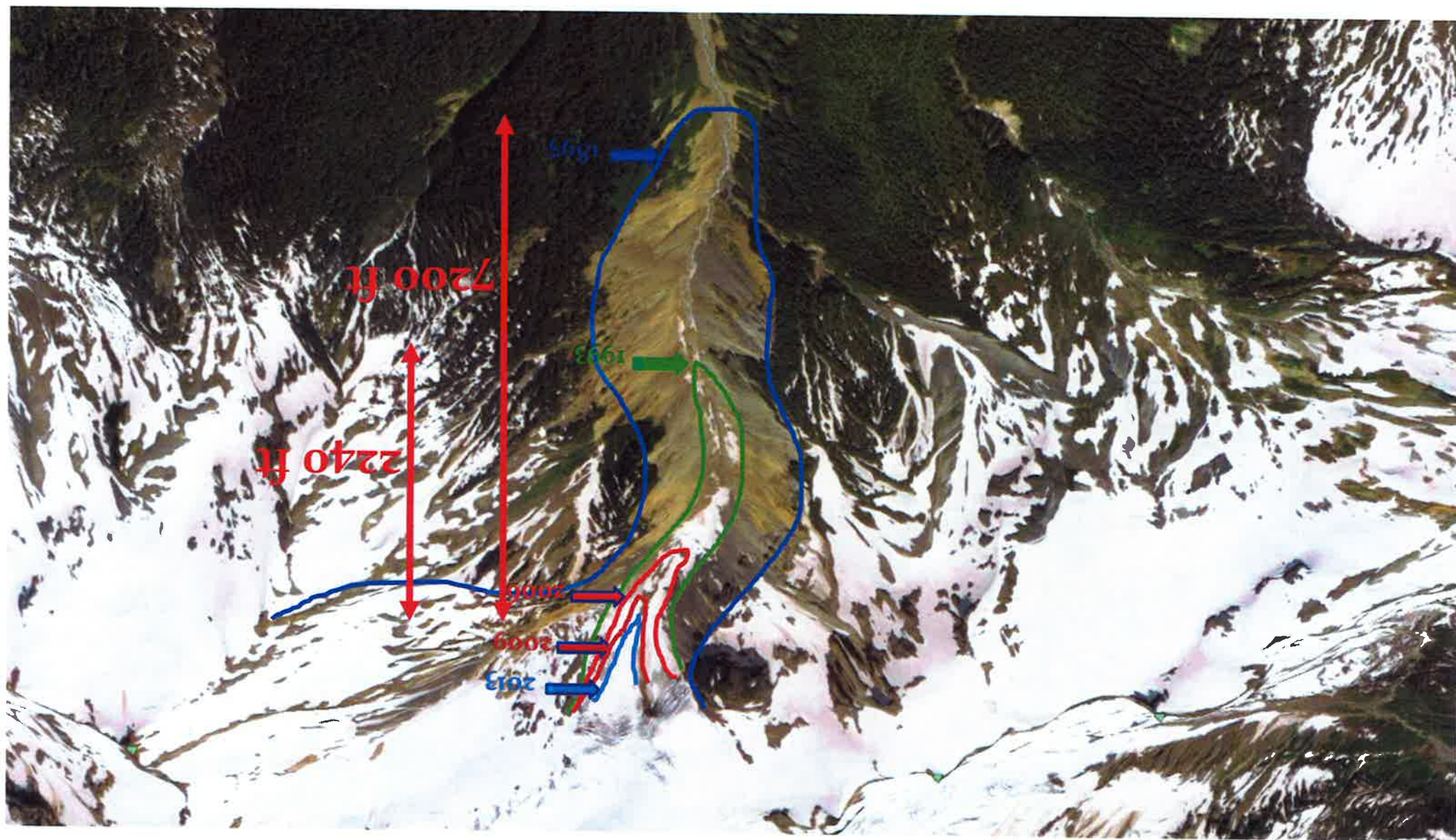
Glaciers:

- 148 glaciers and glacierets
- 15.76 square miles
- North Fork: 12.02 square miles
- Middle Fork: 3.32 square miles
- South Fork: 0.42 square miles

Glacier Field Studies:

- Snow and ice ablation
- Streamflow
- Stream and air temperature
- Turbidity and suspended sediment
- Weather station: precip, solar, RH, temperature
- Oxygen isotope analysis





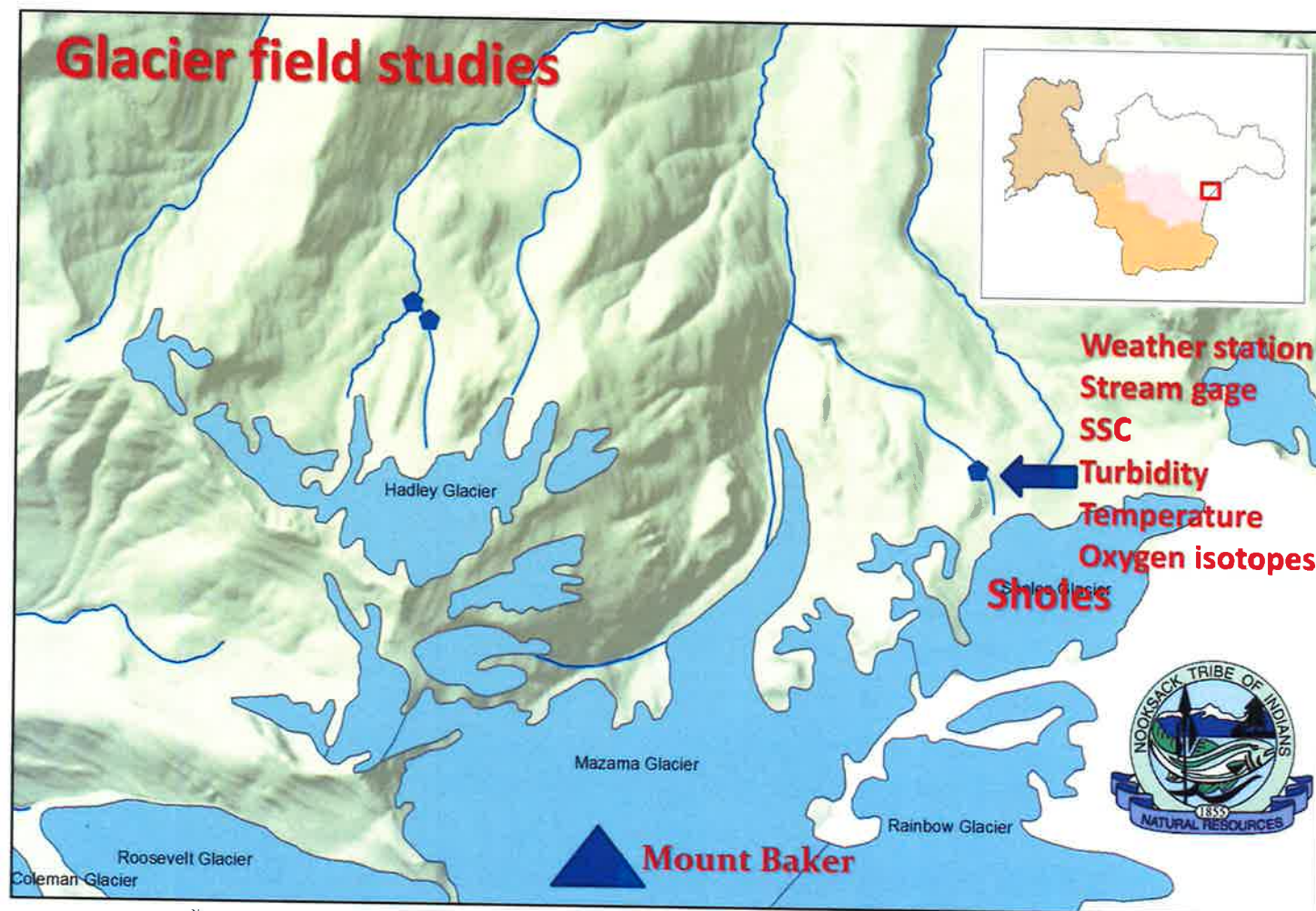
Glacier Recession since the end of the Little Ice Age (feet).

Glacier	1890-1993	2013	1993-2013	TOTAL
Roosevelt	7830	8220	390	8220
Coleman	5220	6140	920	6140
Deming	6050	7495	1445	7495
Mazama	4980	7220	2240	7220
Rainbow	10515	11830	1350	11865
Thunder	7190	7860	670	7860
<i>Sholes</i>	4060	4710	650	4710
<i>Heliotrope</i>	2460	3410	950	3410
<i>Hadley</i>	3380	3890	510	3890
Bastile	5580	6020	440	6020

Average Recession = 6683 feet

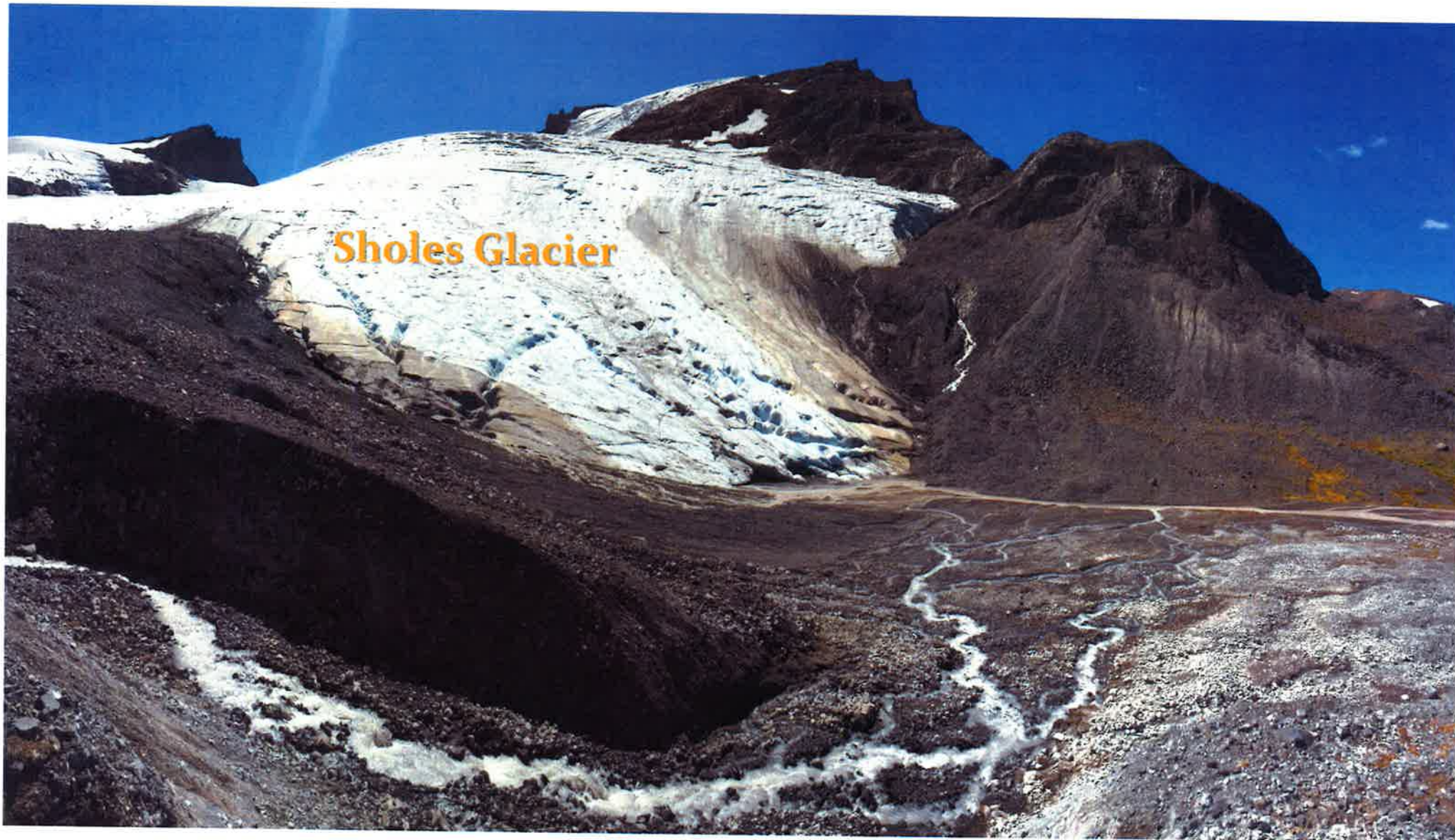


Glacier field studies



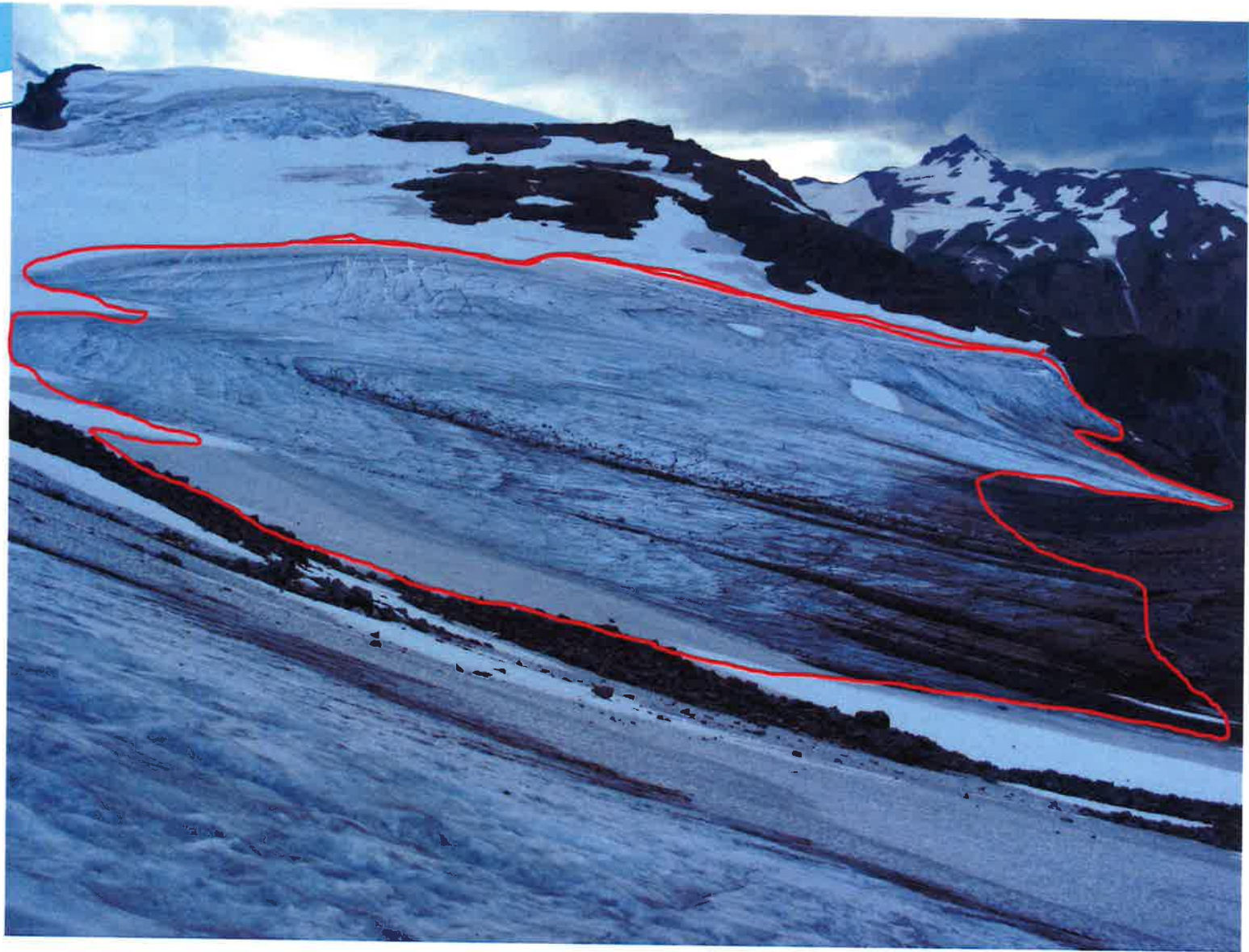
- Stream Gages
- Glaciers

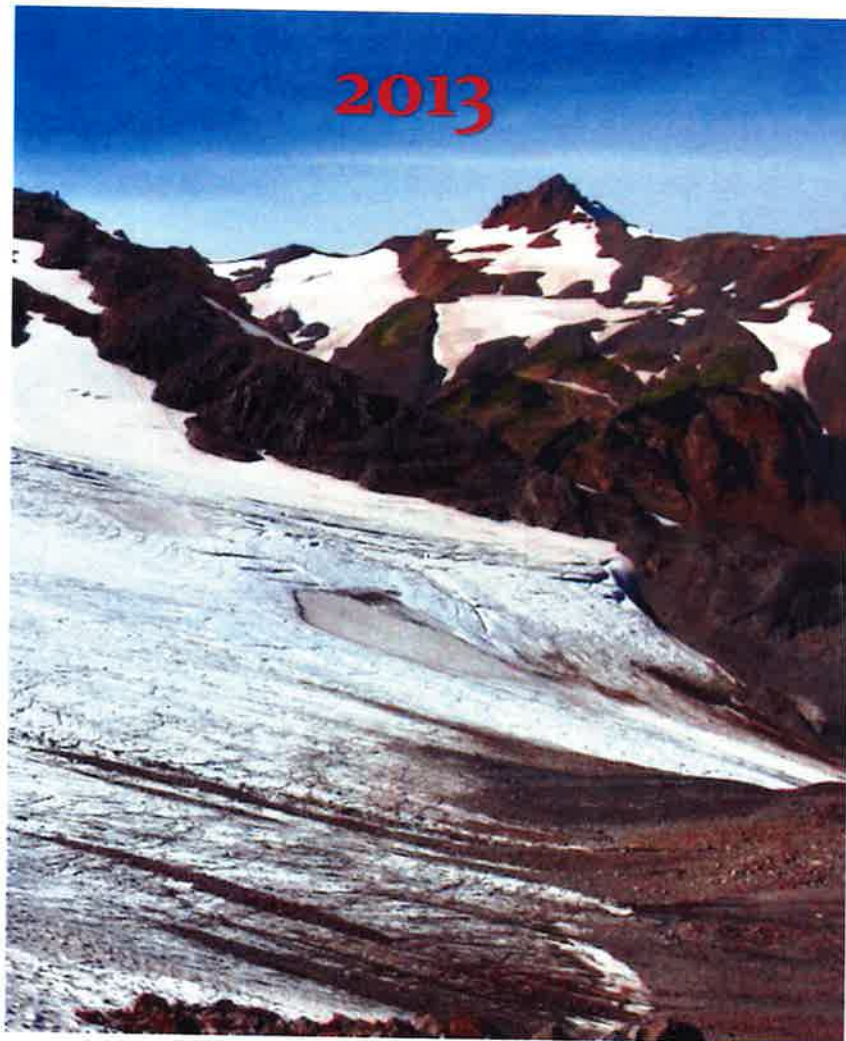
0 0.25 0.5 1 Miles

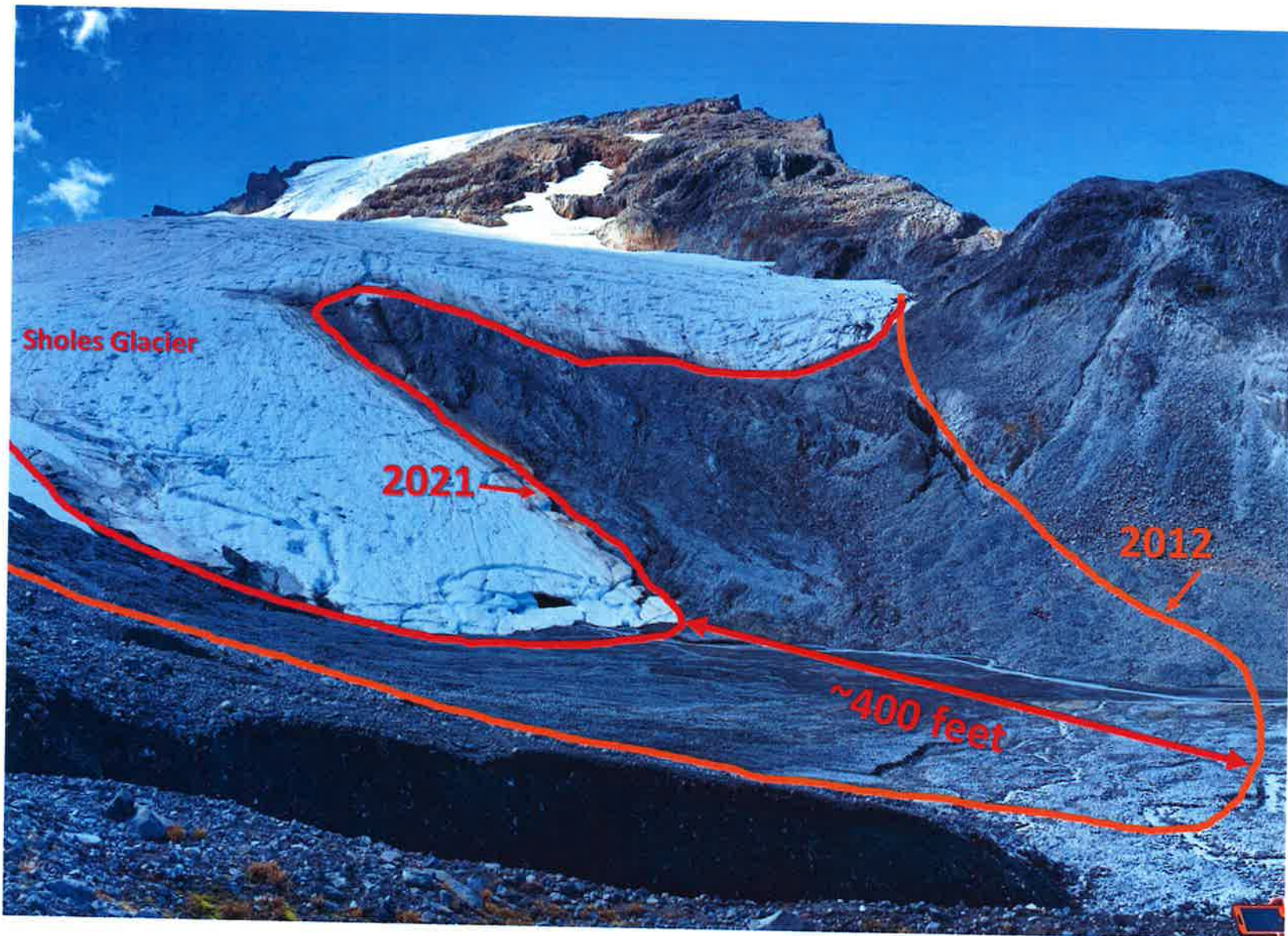












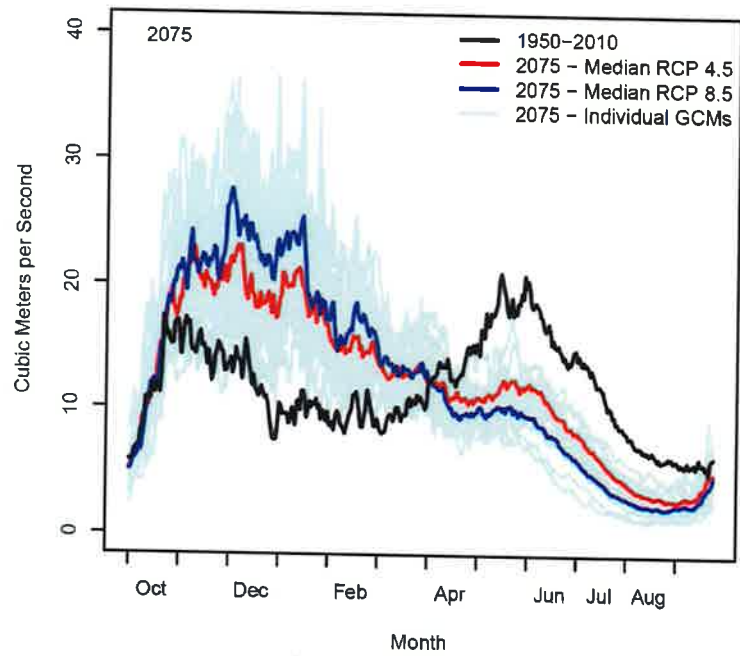
Sholes Glacier

2021

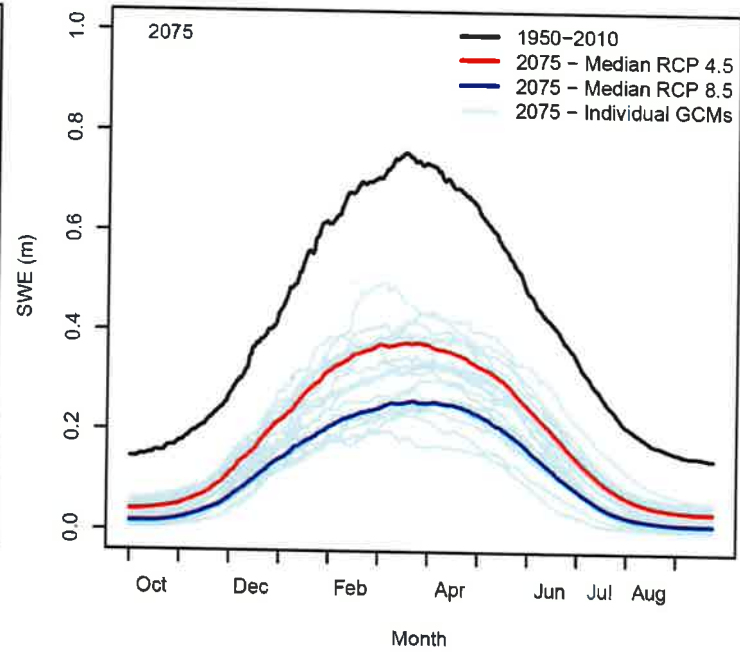
2012

~400 feet

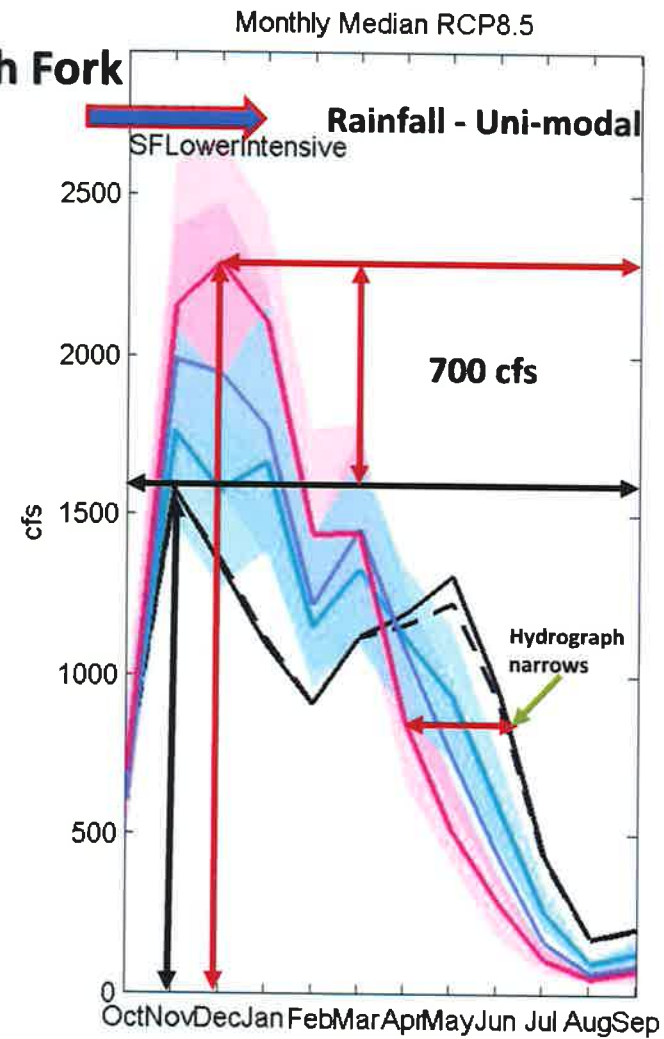
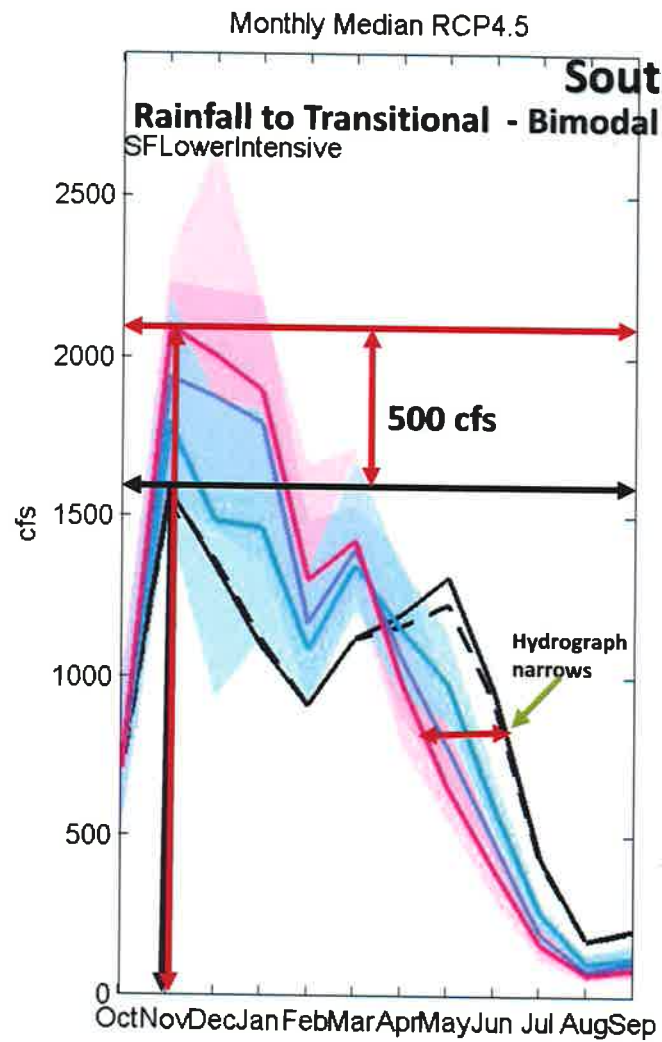
2075 Streamflow



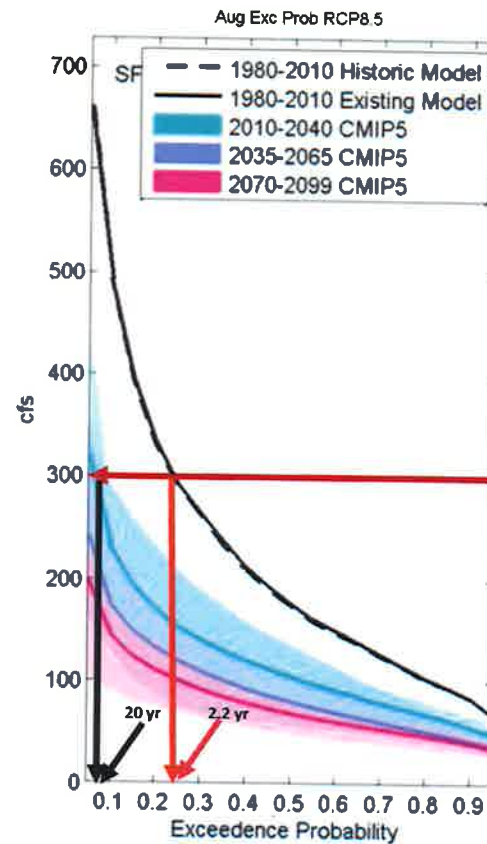
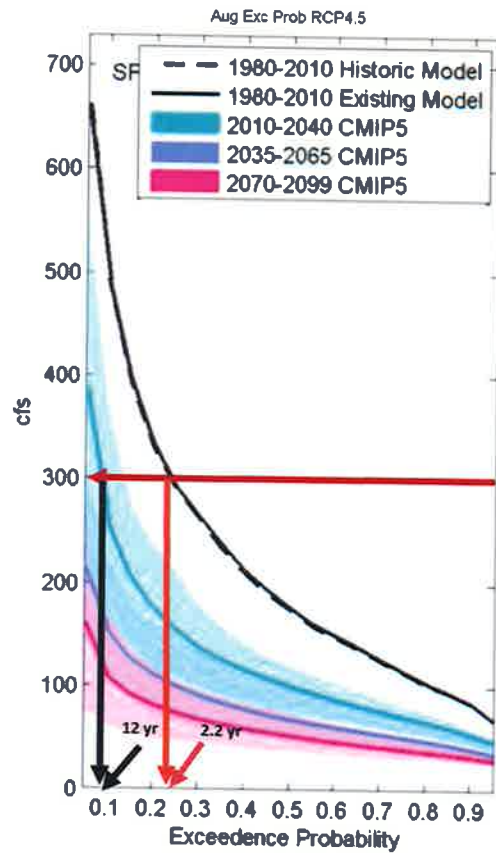
2075 SWE



Bimodal hydrograph to unimodal hydrograph



South Fork – Recurrence Intervals



Fish Impacts SFNR:

- Summer minimum instream flow
300 cfs, RI~2.2 yr
- RCP8.5, ~2050
300 cfs, RI~20 yr

Other Results

Climate change impacts on fish (climate risks):

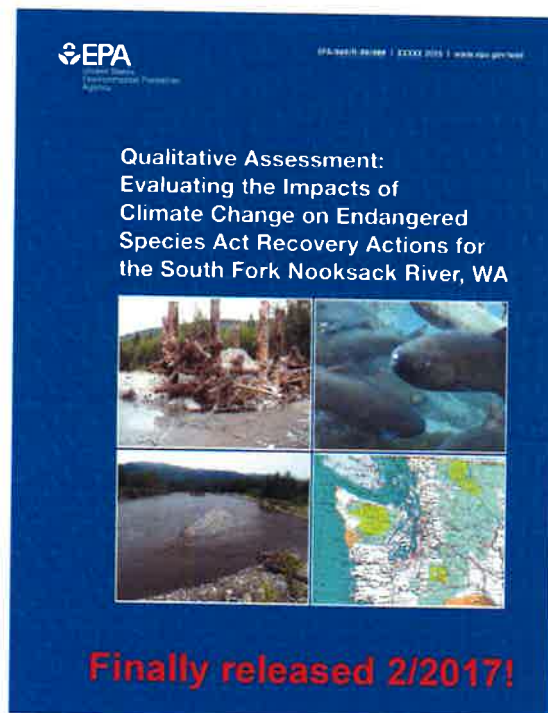
- Higher peak flows: 153% greater
- Lower low flows: 77% lower
- Required minimum instream flows will be met *less frequently*
- Increase stream temperatures: +2-5 degrees C
- Increased turbidity
- Increased sediment: 300 to 600% increase
- Impact all life stages of salmon throughout the year

Our Comments on the TMDL implementation plan:

- A required element of a TMDL.
- SFNR TMDL lacked detail.
- Deferred detail to monitoring and adaptive management after 5 years.
- Suggests that local stakeholders be responsible for developing the detail, implementation, and monitoring.
- TMDL assumed compliant forestry had no influence on the results of the TMDL.
- Did not directly acknowledge that compliant forestry likely has substantial influence on stream water quality and discharge.



Qualitative Assessment: Evaluating the Impacts of Climate Change on Endangered Species Act Recovery Actions for the South Fork Nooksack River, WA



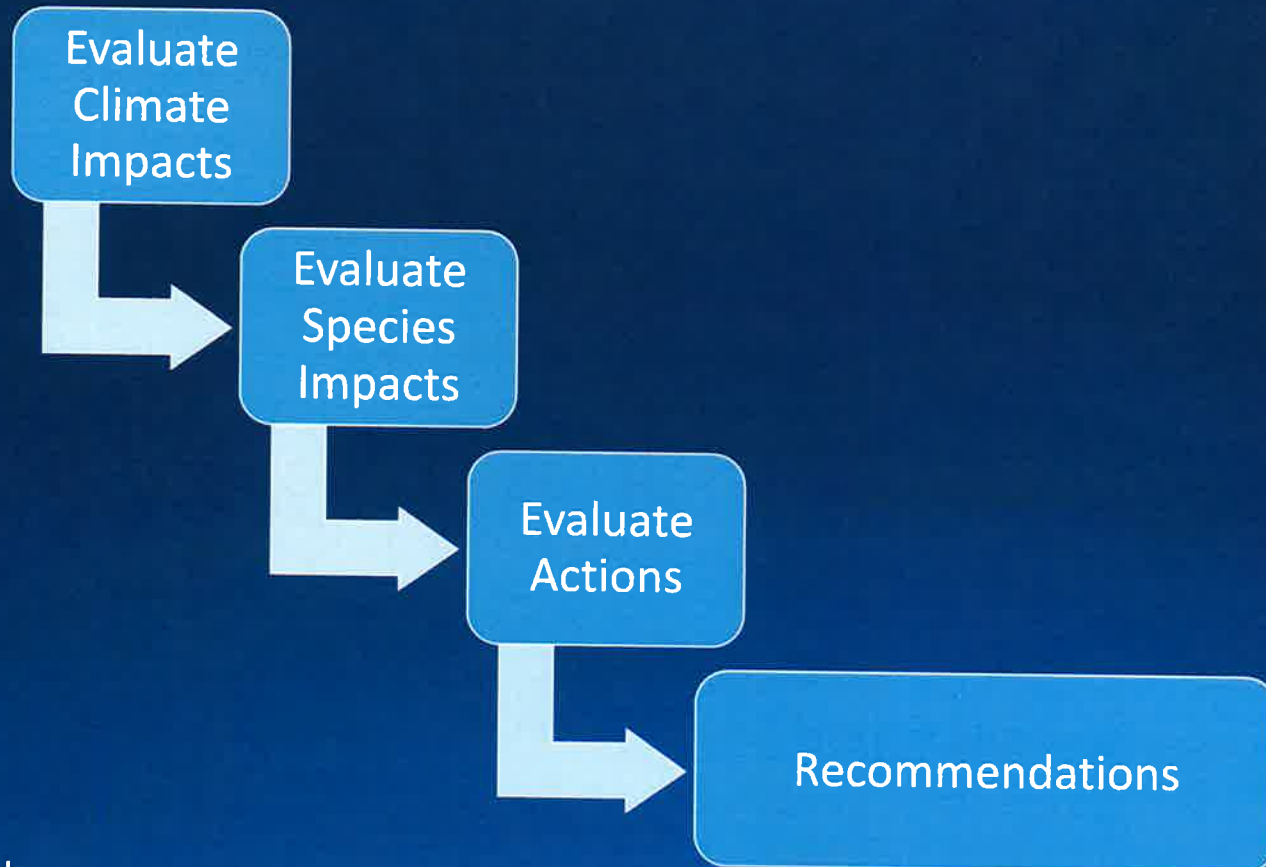
Key Messages:

- Identify and prioritize ESA climate change adaptation strategies or recovery actions for the SFNR that explicitly include climate change as a risk.
- Methodology based on Scientific Literature: ***Restoring Salmon Habitat for a Changing Climate*** (Beechie et al. 2013).
- Utilized Interdisciplinary Teams (Federal, Tribal, State, Local, WRIA 1) to develop research pilot demonstration and complete the assessment.

Elements and Projects:

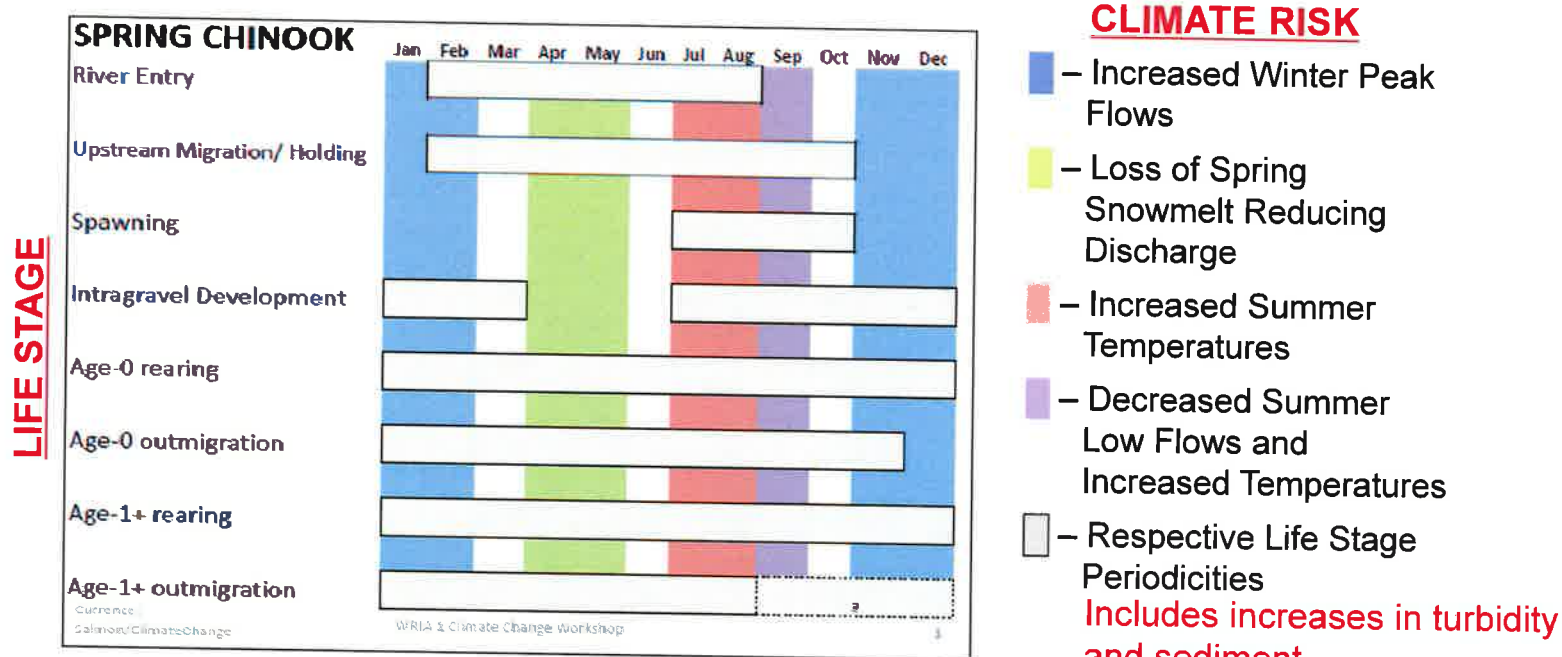
- **EPA-ORD SFNR Climate Change Pilot Research Project**
- Tribal staff were the authors of the “Qualitative Assessment” report, published by the EPA in 2016.
- Publication focused on CWA compliance, climate change impacts on fish, vulnerability assessment, and adaptation and resilience planning.
- First EPA publication with Tribal staff as senior authors.

QUALITATIVE ASSESSMENT





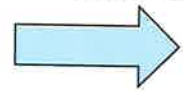
Qualitative Assessment: Timing of Climate Change Effects of Stream Flow and Temperature on Spring Chinook by Life History Periodicities



Source: Workshop Summary, Final Draft Report, May 14, 2013, Restoring Salmon Habitat for a Changing Climate In the SFNR, Washington. Adapted from Currence (Nooksack Natural Resources Staff) and Beechie et al 2012.



Qualitative Assessment: Summary of Major Categories of Restoration Action Types



Ability To Ameliorate Climate Change Risks

Restoration Tool

Climate Risk

Expected climate change effect	Longitudinal connectivity	Floodplain connectivity	Restore incised channel	Restore stream flow	Restore riparian functions	Reduce sediment supply	Construct instream habitat
Increased temperature	Y	Y	Y	Y	Y	N	N
Decreased low flow	Y	N	Y	Y	Y/N	N	N
Increased peak flow	N	Y	Y	N	N	N	N
Reduced diversity	Y	Y	Y	Y/N	N	N	N



Positive Effect



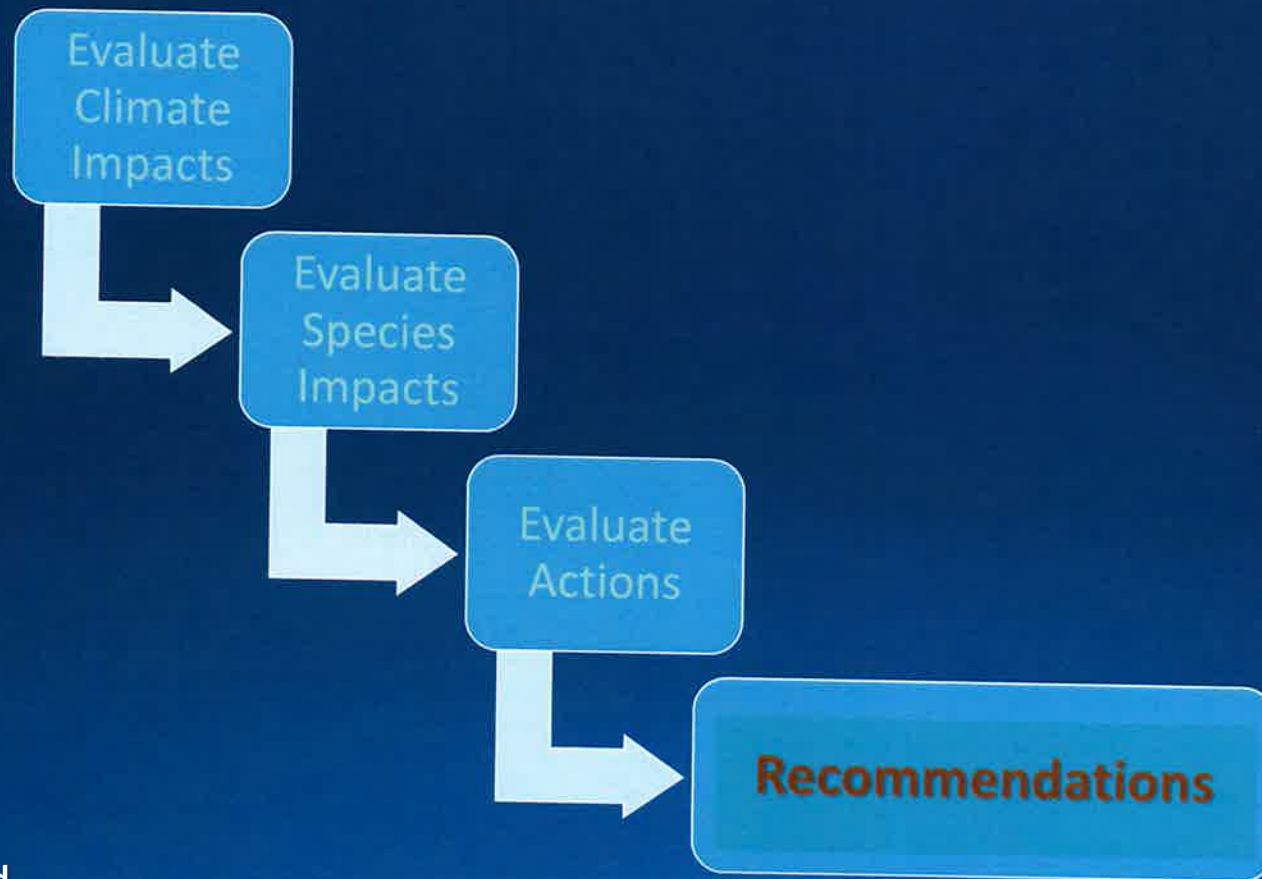
No Effect



Context-dependent Effect

Source: Workshop Summary, Final Draft Report, May 14, 2013, Restoring Salmon Habitat for a Changing Climate in the SFNR, Washington. Adapted from Beechie et al 2012.

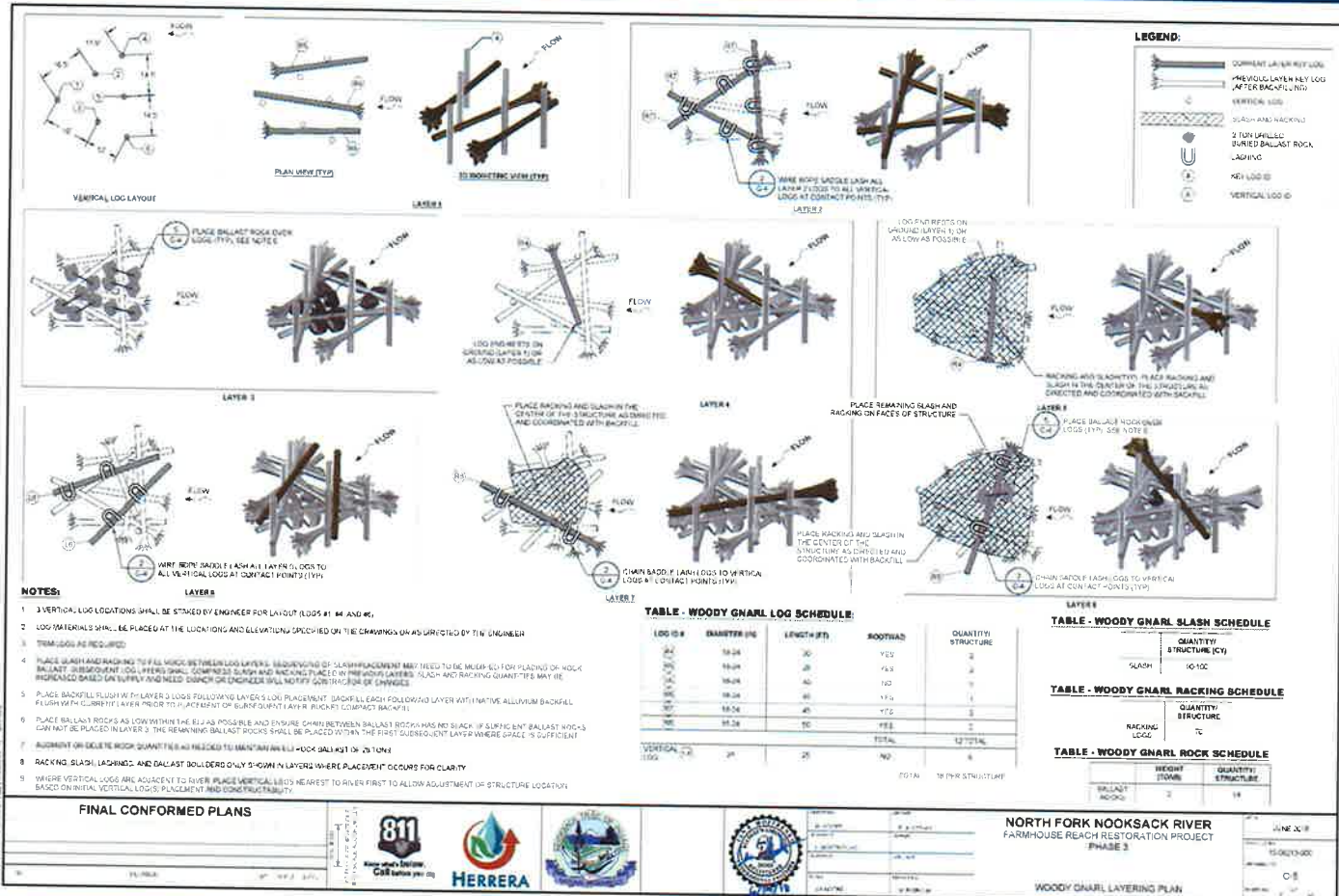
QUALITATIVE ASSESSMENT



ACTIONS TO PROMOTE RESILIENCE TO CLIMATE CHANGE:

- **RECONNECT RIVER TO FLOODPLAIN**
- **RESTORE RIPARIAN AREAS**
- **CONTINUE INSTREAM REHABILITATION/RESTORATION**

North Fork Farmhouse Phase 3 Logjam Detail



North Fork Farmhouse Phase 3 Logjam Construction



ACTIONS TO PROMOTE RESILIENCE TO CLIMATE CHANGE:

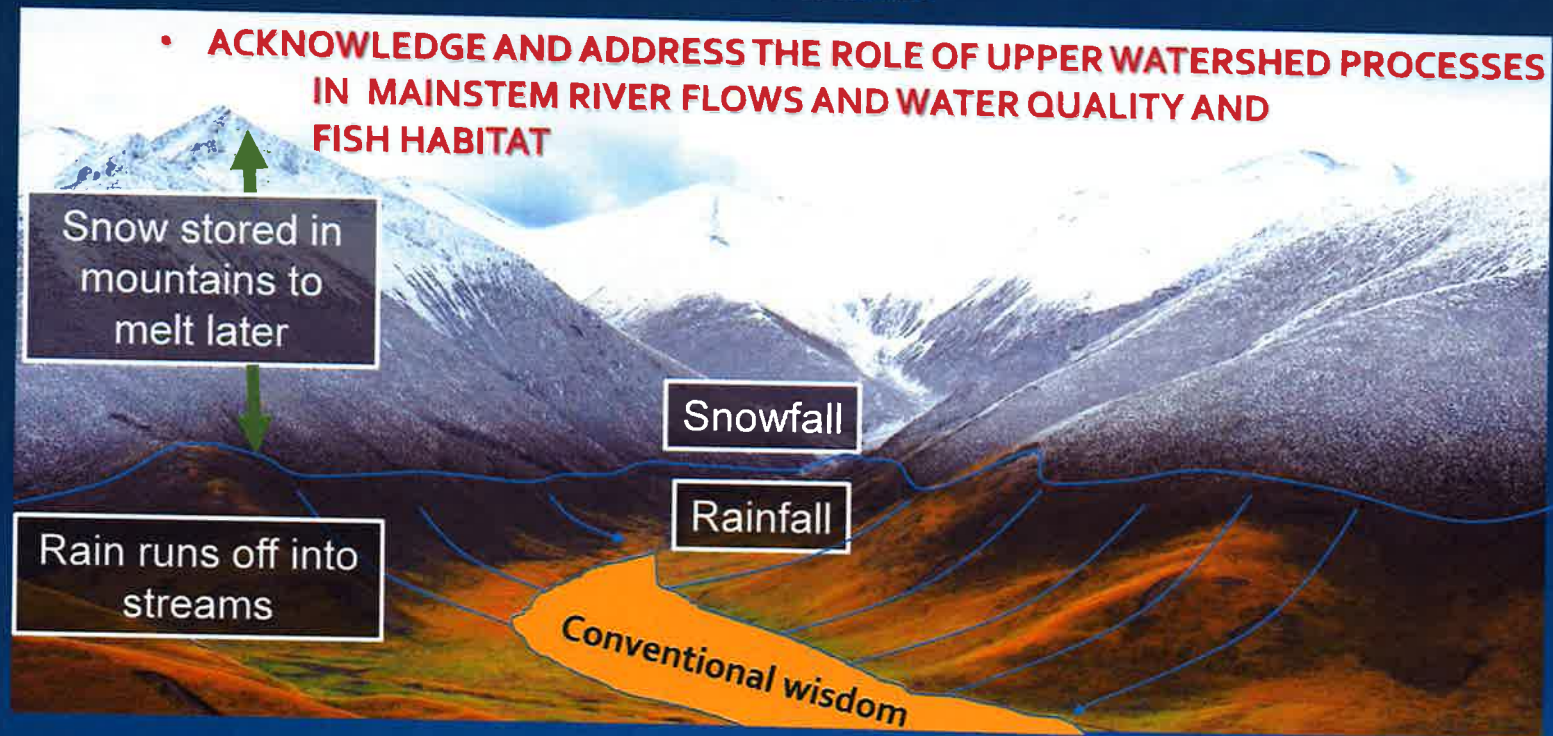
- RECONNECT RIVER TO FLOODPLAIN
- RESTORE RIPARIAN AREAS
-  • CONTINUE INSTREAM REHABILITATION/RESTORATION **Not very effective against climate change**
-  • RESTORE FLOW REGIMES **This strategy given little or no attention**
- PROMOTE LONGITUDINAL CONNECTIVITY
- RECONNECT FLOODPLAINS TO THE RIVER
- REDUCE SEDIMENT DELIVERY

ACTIONS TO PROMOTE RESILIENCE TO CLIMATE CHANGE:

- ADDITIONAL ACTIONS:**

Motivation: Climate Change Effects on Streamflow

Current Climate



ACTIONS TO PROMOTE RESILIENCE TO CLIMATE CHANGE:

• ADDITIONAL ACTIONS:

- ACKNOWLEDGE AND ADDRESS THE ROLE OF UPPER WATERSHED PROCESSES IN MAINSTEM RIVER FLOWS AND WATER QUALITY AND FISH HABITAT

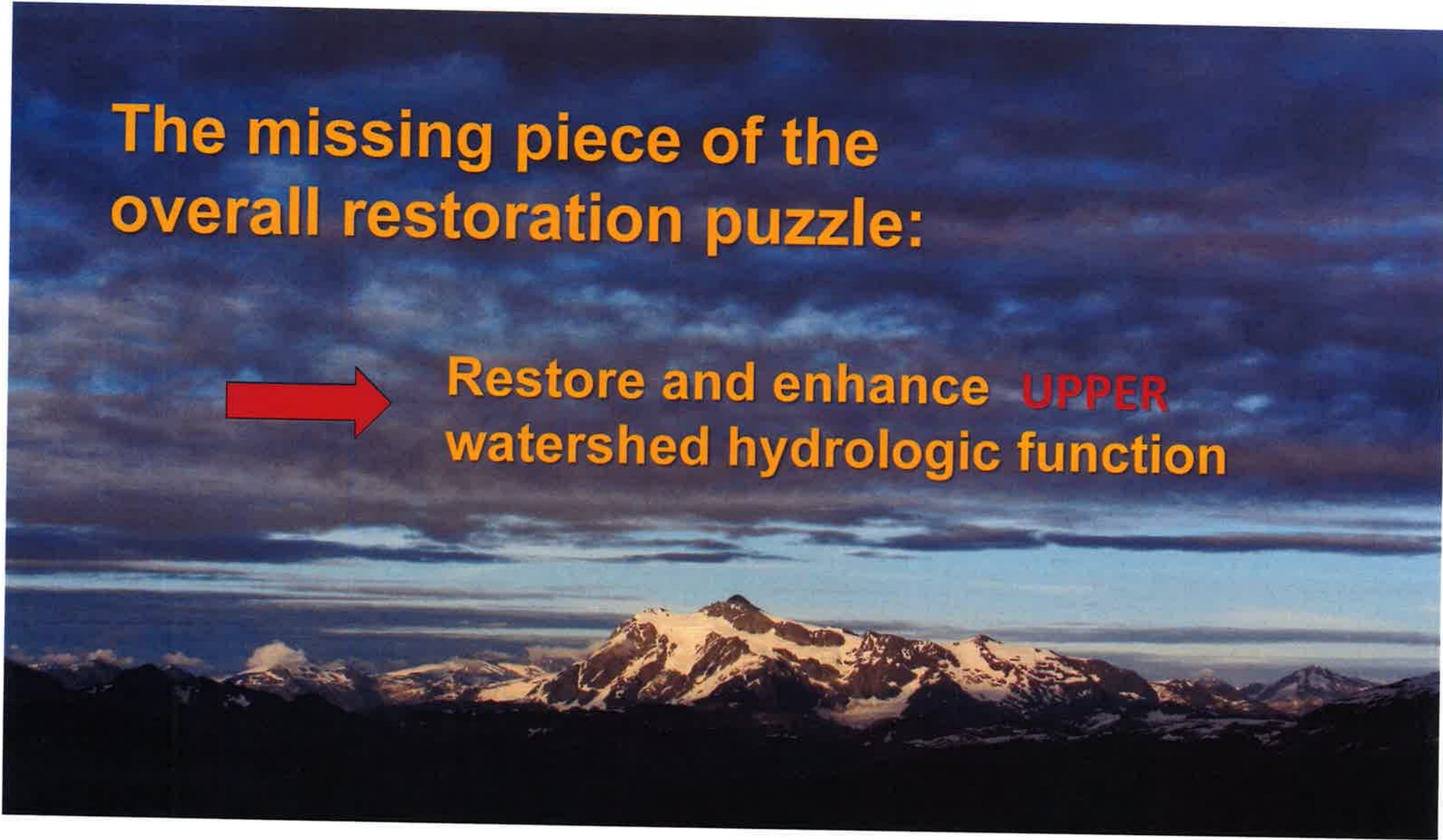


- DEVELOP A WATERSHED CONSERVATION PLAN THAT INCLUDES TOOLS THAT PROMOTE WATERSHED RESILIENCE IN THE FACE OF CLIMATE CHANGE
- DESIGN AND IMPLEMENT WATERSHED RESTORATION TOOLS THAT SUPPORT AND SUPPLEMENT TRADITIONAL INSTREAM TOOLS
- VOLUNTARY ACTIONS THROUGHOUT THE WATERSHED
 - Forestry
 - Transportation
 - Agriculture
 - Development
 - Government

**The missing piece of the
overall restoration puzzle:**



**Restore and enhance UPPER
watershed hydrologic function**



Why focus on upland watershed processes?:

- The convention in watershed restoration is to focus on the waterbody, riparian buffer, and floodplain; without much focus on the upper watershed.
- Most of our watersheds are forested with commercial forestry the primary land use.
- In WA, the forest practices act primarily focuses on water quality, very little focus on water quantity.
- Includes reference to “hydrologic maturity”; however, not routinely addressed or considered in Forest Practices Act permitting.
- Hydrologic maturity means mature vegetation has a canopy closure of 70 percent or more, and a diameter (dbh) of 9 inches or more.
- Studies suggest that this definition of hydrologic maturity is unreasonable.

Why focus on upland watershed processes?:

- Focus is on peak flows and flooding, not low flows.
- But what about baseflows during the low-flow season typically the most critical time for fish and water availability for other beneficial uses?
- Apparently no consideration. Factual? Assumption reasonable?
- Different management of our watersheds may be needed to address the cumulative impact of legacy land uses and continued future climate change on stream flow.



Why focus on upland watershed processes?:

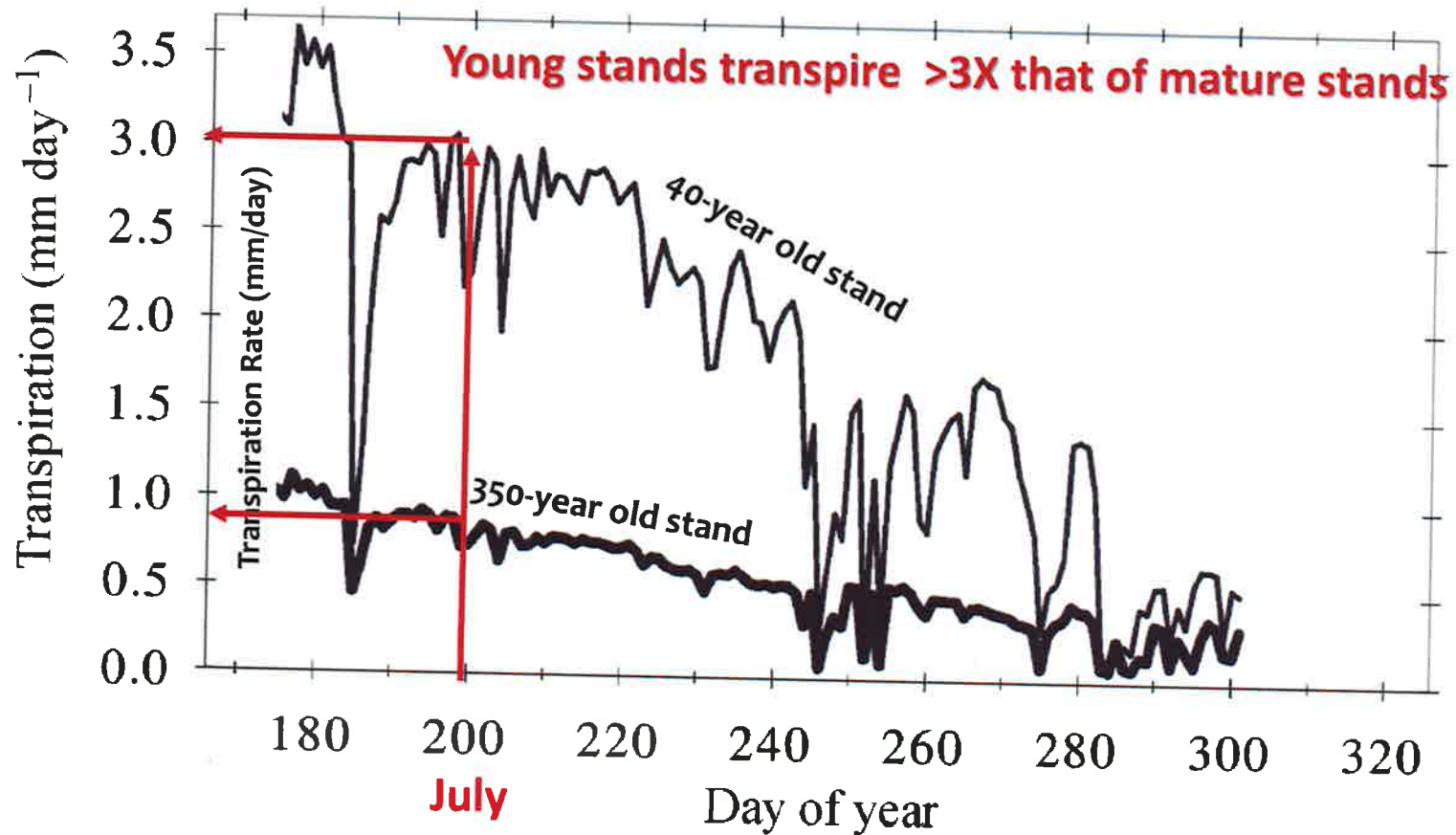
- Research starting in the late 1800's through today shows the influence of forest management on streamflow.
- Forest harvest generally increases annual water yield through higher peak flows, but results in a narrower hydrograph base with reduced summer flows.
- Research in the PNW suggests that timber harvest has a substantive impact on late summer flows.
- In a paired watershed study (12 watersheds), Perry and Jones (2016) found that forest harvest and the age of regeneration has substantive influence on the hydrology of the watershed.

Why focus on upland watershed processes?:

- They found that baseflows in logged watersheds may be reduced by 50 percent compared to watersheds with predominantly mature and old growth stands.
- The logged watersheds showed no sign of recovery from prolonged depletion of late season streamflows in watersheds logged 40-50 years ago, compared to unlogged watersheds with mature/old growth forest stands.
- Many factors are involved, but the higher transpiration rates of regenerating young forests compared to older forests is the primary factor involved with the late summer flow reduction.



Soil Moisture: transpiration rates



Re-generating Doug Fir stands (~40 years old) transpire 3x more than old growth stands

Moore et al. (2004): HJ Andrews Exp. Forest, OR

Why focus on upland watershed processes?:

- Transpirational loss from trees is a form of consumptive use because the water is lost to the atmosphere.
- Apparently no regulatory programs address the differential consumptive use of young stands versus older stands in forest management and streamflow.
- This “unregulated consumptive use” could be a focus in restoring watershed function related to reduced streamflows and planning for climate change.

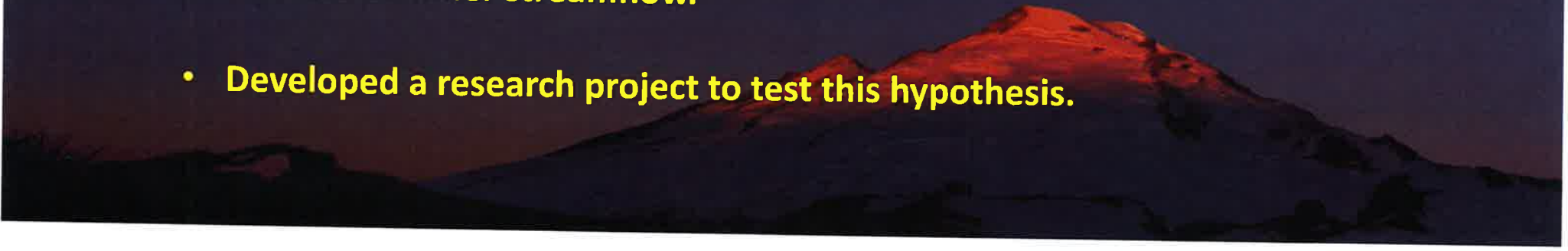


Why focus on upland watershed processes?:

- This relationship between forest harvest and late-season flows is not addressed by the forest practices act or rules, yet this issue has great relevance to addressing the cumulative impact of legacy land use and future climate impacts on such flows.
- Recommendation: initiate and elevate the conversation with regulatory and resource agencies as well as commercial forestry on voluntary harvest strategies that promote late summer flows and improved water quality, stream temperature.
- This could be an effective tool that addresses the cumulative impact of past climate change, legacy impacts, and the impact of continued future climate change on late summer flows and water quality.
- This could address current and future water demand and water supply issues.

Why focus on upland watershed processes?:

- Through literature review on these topics, we identified a huge knowledge gap in regard to how commercial forestry might influence late summer streamflows in the Nooksack River watershed.
- Not reasonable to assume the same relationship between old growth and young regenerating stands in Oregon applies here in the Nooksack River watershed.
- As such, we identified the obvious hypothesis that needs to be tested:
“commercial forest harvest in the Nooksack River watershed has an influence on late summer streamflow.”
- Developed a research project to test this hypothesis.



Why focus on upland watershed processes?:

- Evaluation of legacy impacts caused by land use, such as forest practices, is needed since modifying forestry to promote late summer streamflows may have the greatest potential in addressing and offsetting the added impact of continued climate change on streamflows as well as current and future water demand.

- The Tribe has recently completed such a pilot research project using BIA grant funding to model the effect of forest management on late summer flows in the SFNR, thus test the hypothesis.

Susan Dickerson-Lange, Bob Mitchell, and Christina Bandaragoda.

- Collaboration between the Tribe, Natural Systems Design, WWU, UW, and WWT.
- This also includes modeling snow accumulation and melt dynamics and to identify enhancement opportunities through small gap cuts compared to standard expansive clearcuts.
- Develop a pilot watershed services exchange project for “water saved” through modifications of commercial forestry. **Jason Hatch, WWT**

South Fork Nooksack River Forest Hydrology Pilot Study

Susan Dickerson-Lange, Natural Systems Design

Oliver Grah, Nooksack Indian Tribe

Jason Hatch, Washington Water Trust

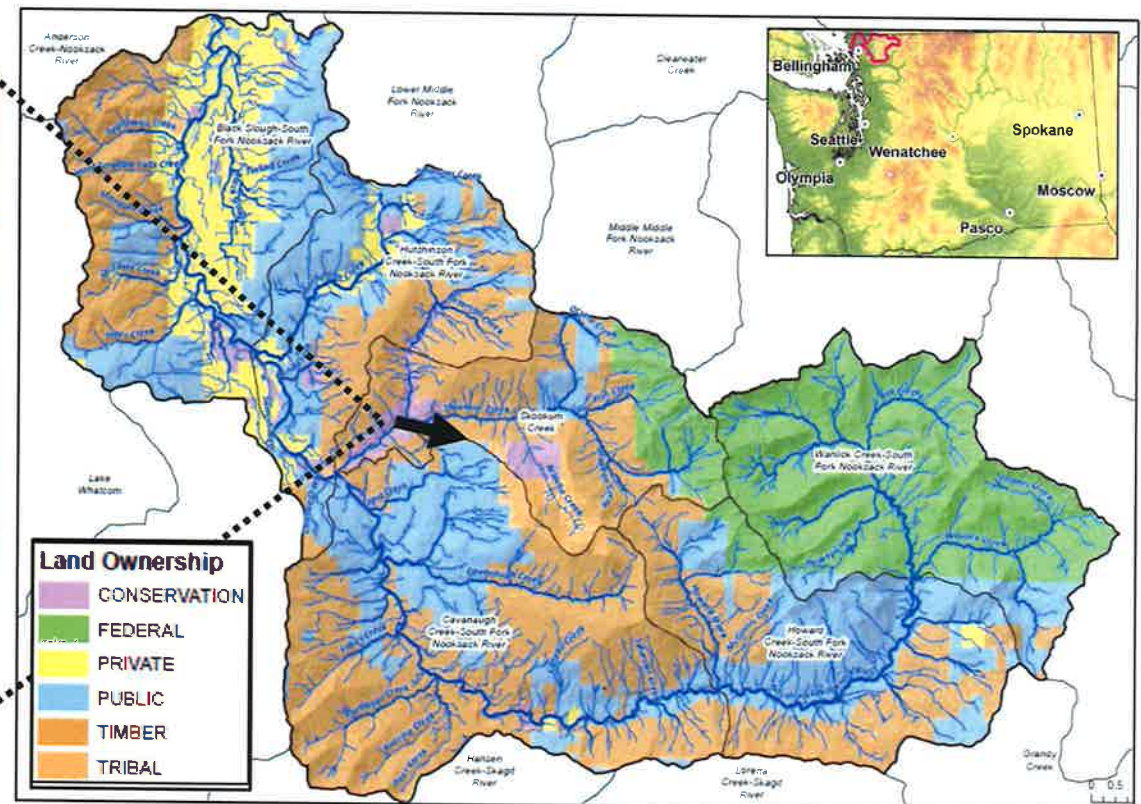
Bob Mitchell, WWU



With Thanks to Grantors, Partners, and Collaborators!

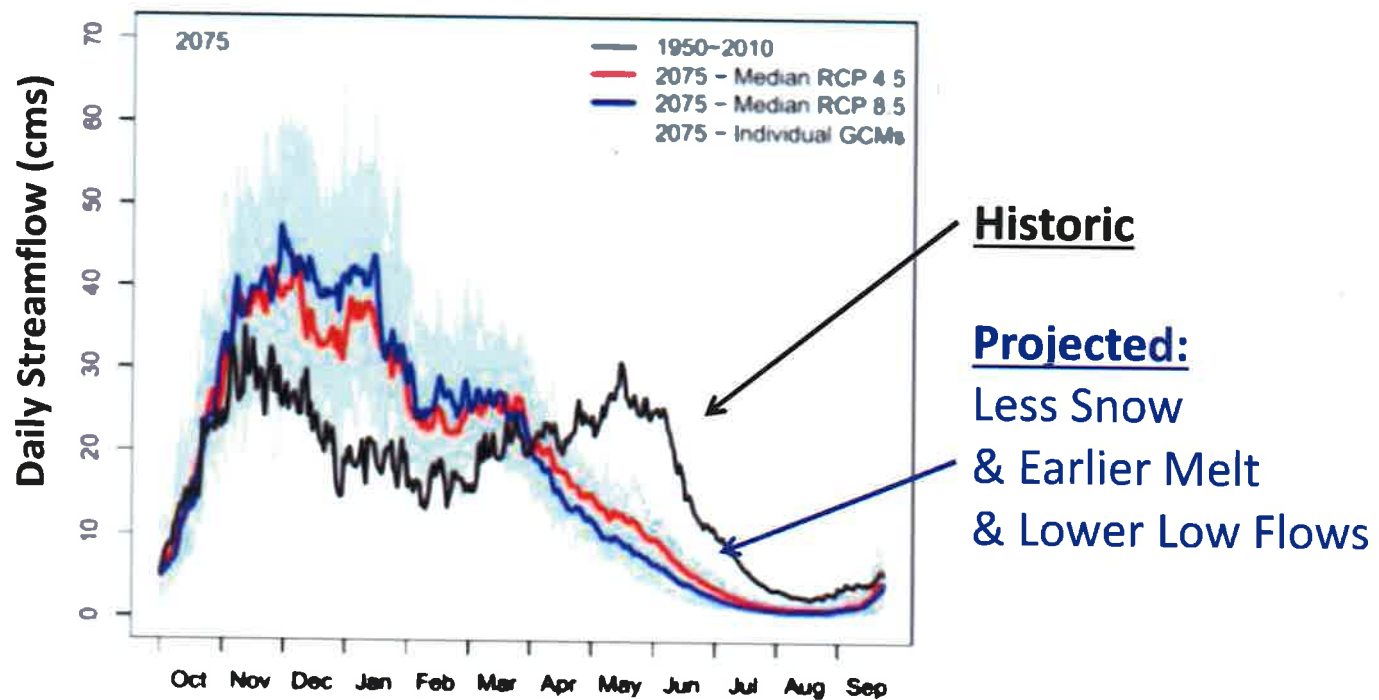
- Oliver Grah, Nooksack Indian Tribe, BIA Tribal Climate Resilience Grants
- Bob Mitchell, WWU
- Christina Bandaragoda, UW
- Bob McKane and Jonathan Halama, EPA
- Holly O'Neil and Alex Harris, Evergreen Land Trust

South Fork Nooksack River



Climate Change Impacts on Streamflow

South Fork Nooksack River



Research Questions

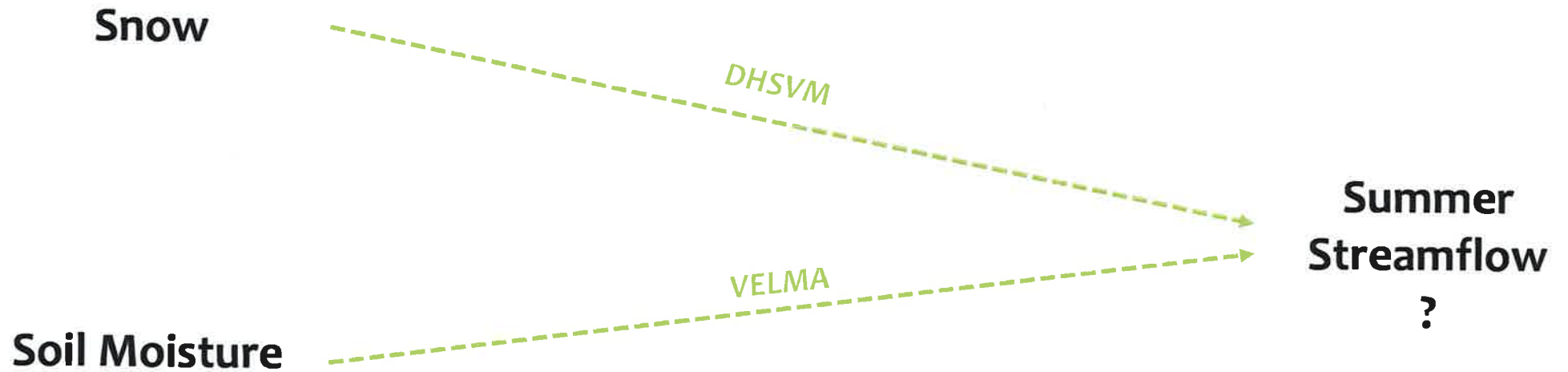
Snow

Soil Moisture

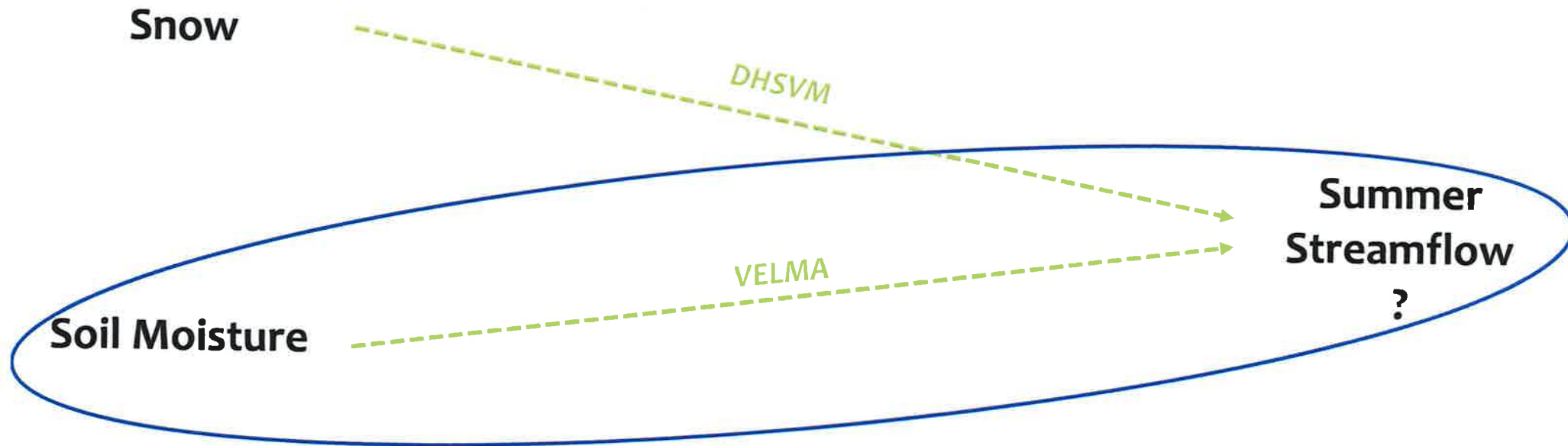


**Summer
Streamflow
?**

Research Questions



Research Questions



VELMA: Visualizing Ecosystem Land Management Assessments

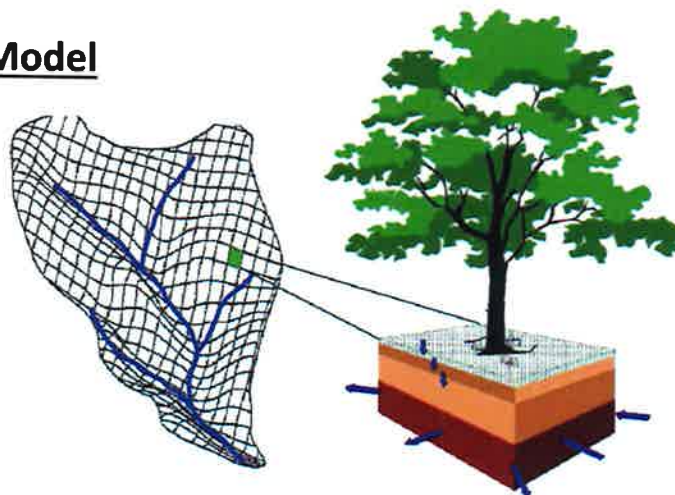
Gridded ecohydrological model (developed by McKane et al.; EPA)

Tracks water, carbon, nitrogen for each pixel, through time,
to simulate soil moisture, snow, and streamflow

Meteorology: air temperature, precipitation

Digital Elevation Model

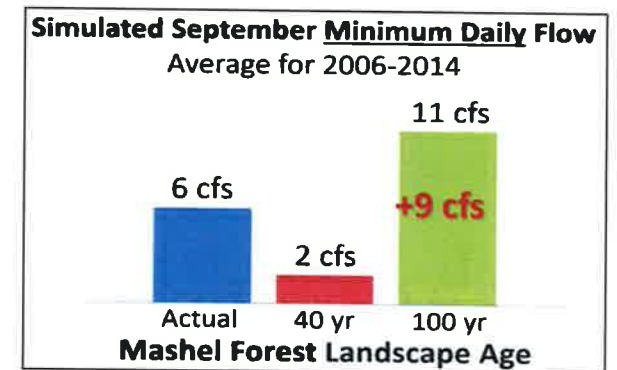
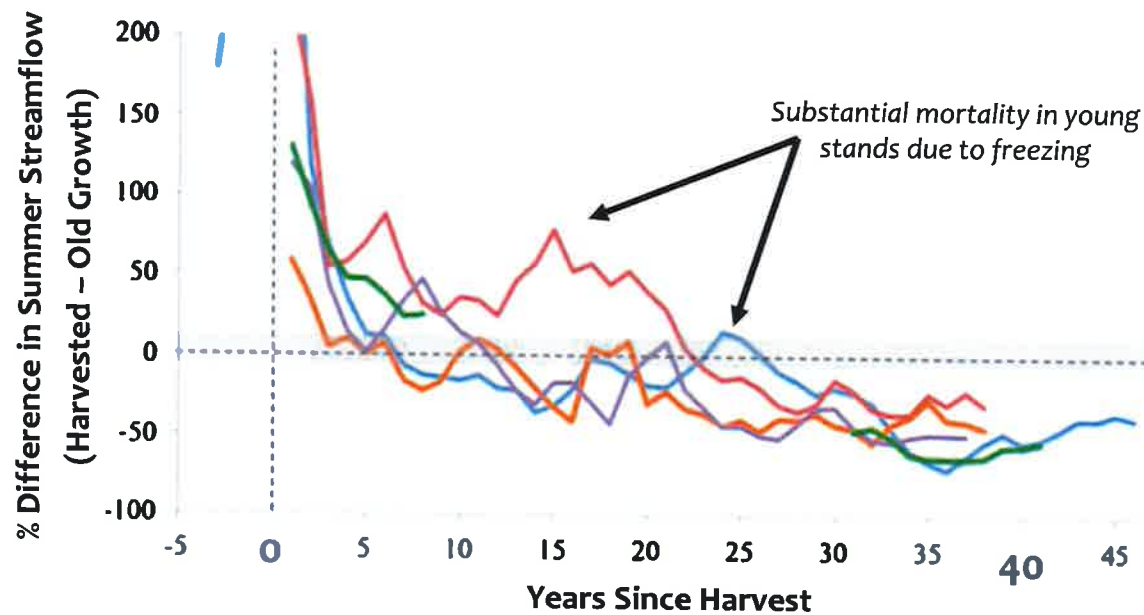
Landcover: type, age, disturbance



Soils: type, depth

Graphic by Pascal Storck

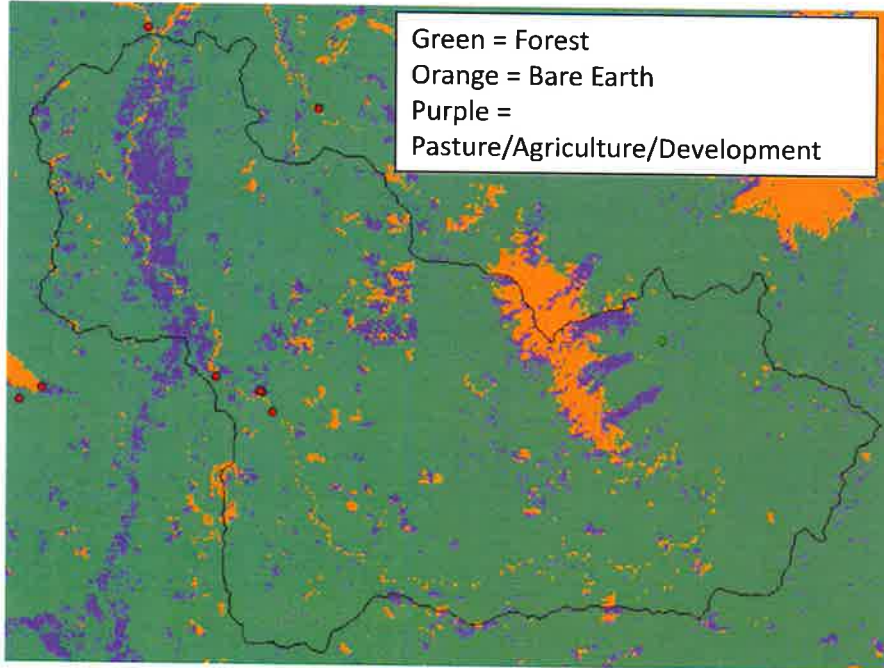
Soil Moisture



Up to 50% less summer streamflow from young stands

VELMA

Simulate hydrological effects of forest harvest, which occurs based on the age and location of a stand



72

Landcover

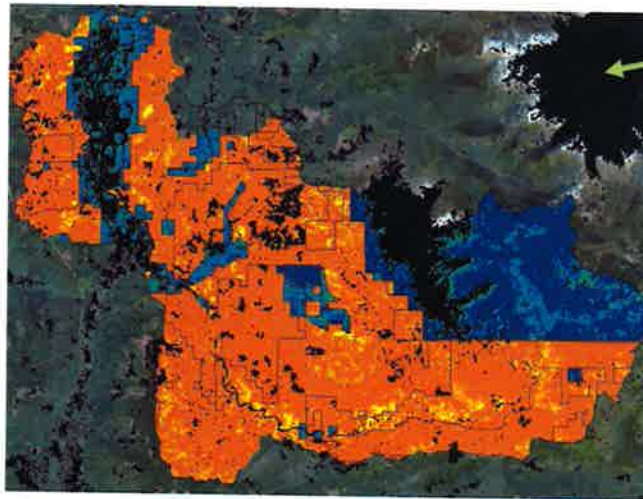


Aerial Image

VELMA Experimental Scenarios

Existing Conditions:

Start with current tree ages;
40-year harvest on WDNR
and Timber Lands



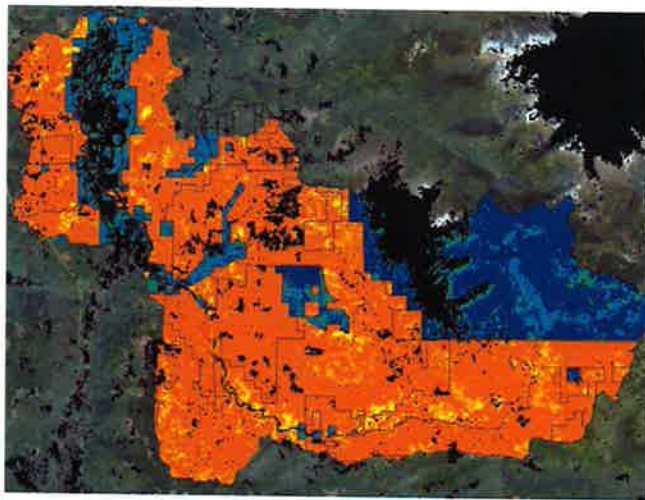
*Non-forest landcover masked,
e.g., Mt. Baker*

Tree Age Grid at Time = 90 years

VELMA Experimental Scenarios

Existing Conditions:

Start with current tree ages;
40-year harvest on WDNR
and Timber Lands



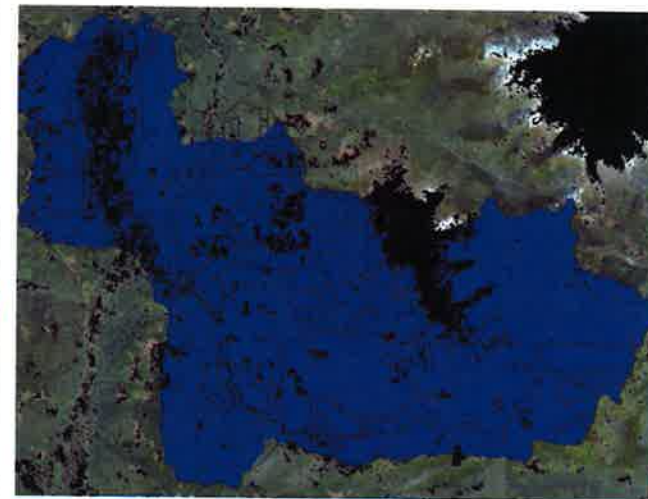
All Harvest:

Start with current tree ages;
40-year harvest of ALL
coniferous forest pixels



All Old Trees:

Start with >200-year-old trees;
No Harvest



Tree Age

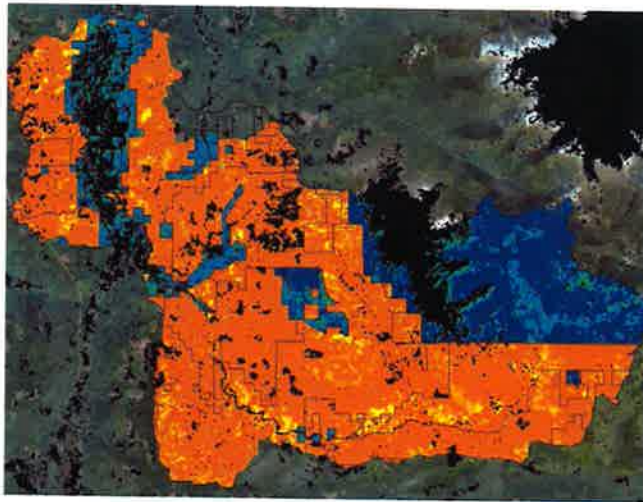


Tree Age Grid at Time = 90 years

VELMA Experimental Scenarios

Existing Conditions:

Start with current tree ages;
40-year harvest on WDNR
and Timber Lands



Tree Age



All Harvest:

Start with current tree ages;
40-year harvest of ALL
coniferous forest pixels



All Old Trees:

Start with >200-year-old trees;
No Harvest



“End Members”

Preliminary Results of VELMA Simulations

USGS Stream Gage: SF Nooksack River at Saxon Bridge

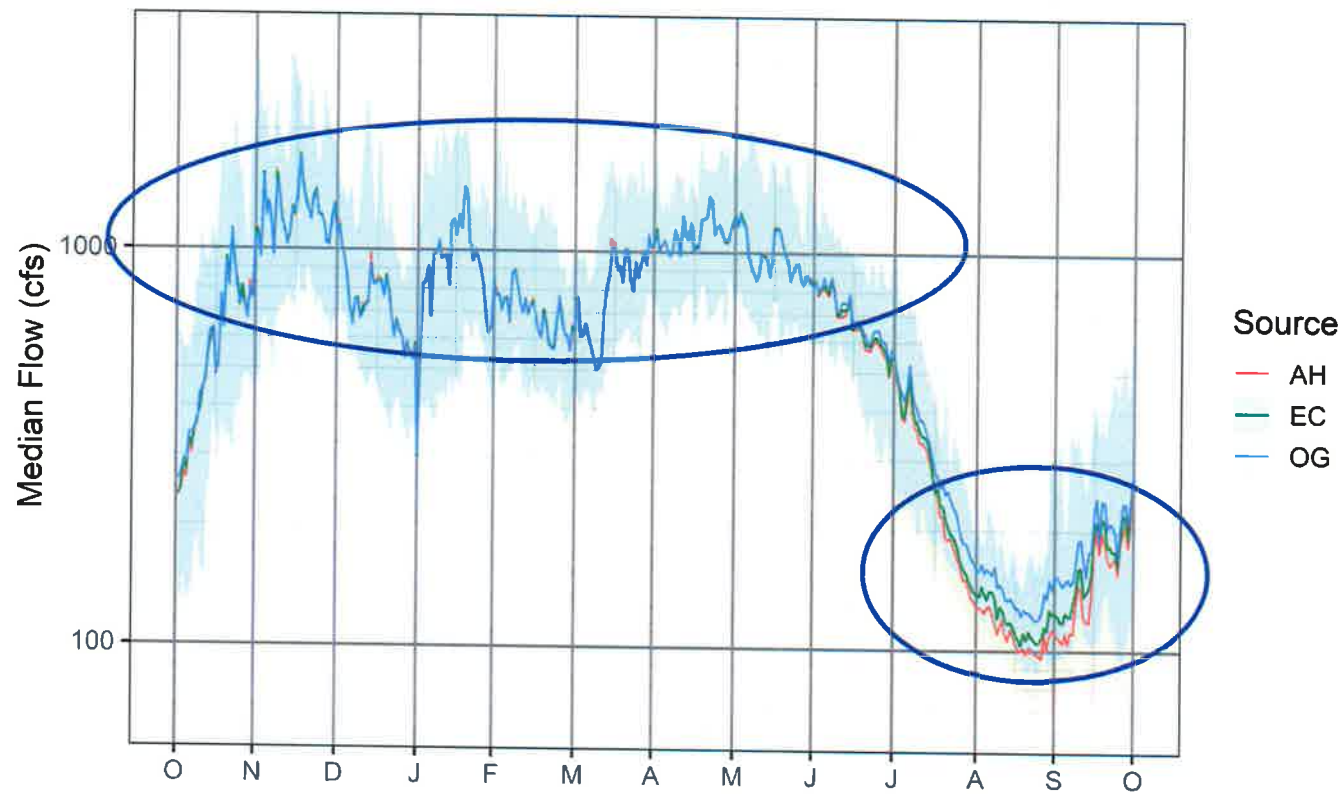
USGS Gage;
Drains 130 sq miles



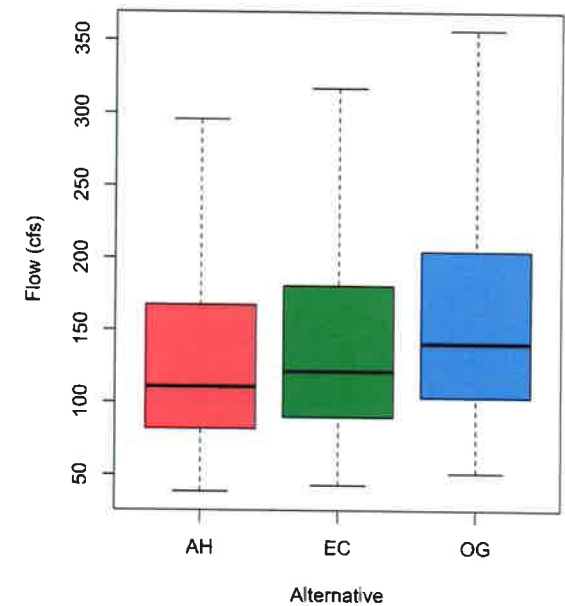
VELMA Experimental Results (PRELIMINARY)

(N = 120)

Saxon

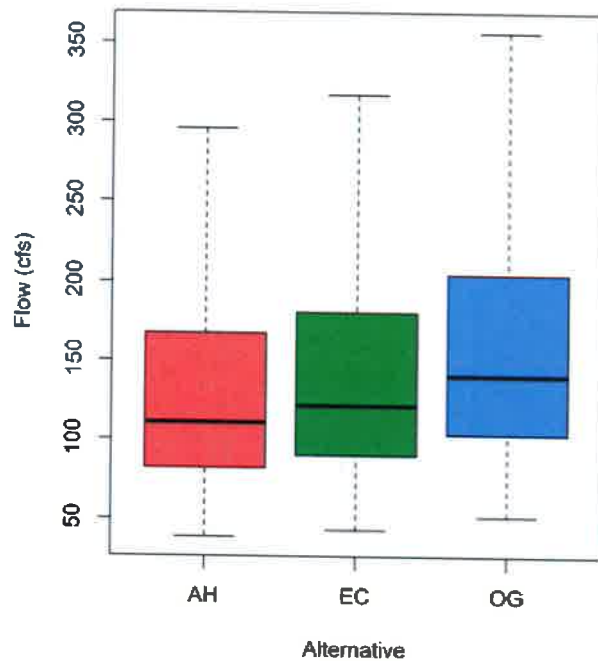


Saxon August Flow



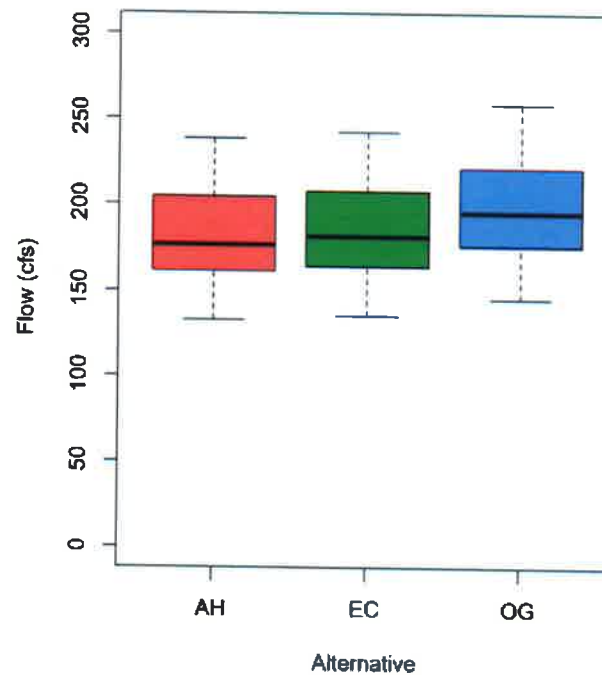
VELMA Experimental Results (PRELIMINARY)

Saxon August Flow



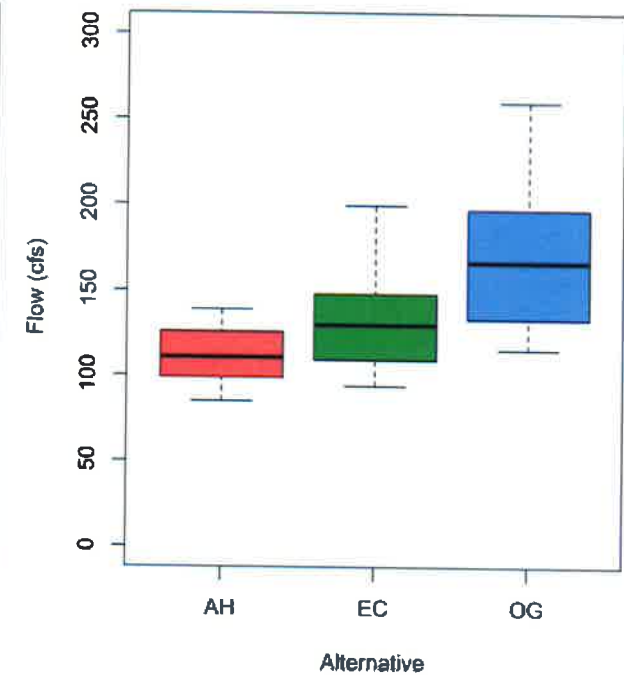
OG vs AH: +30 cfs or 25% increase
OG vs EC: +25 cfs or 21% increase

Saxon August Flow in a Wet Year



OG vs AH: +20 cfs or 11% increase
OG vs EC: +15 cfs or 8% increase

Saxon August Flow in a Dry Year

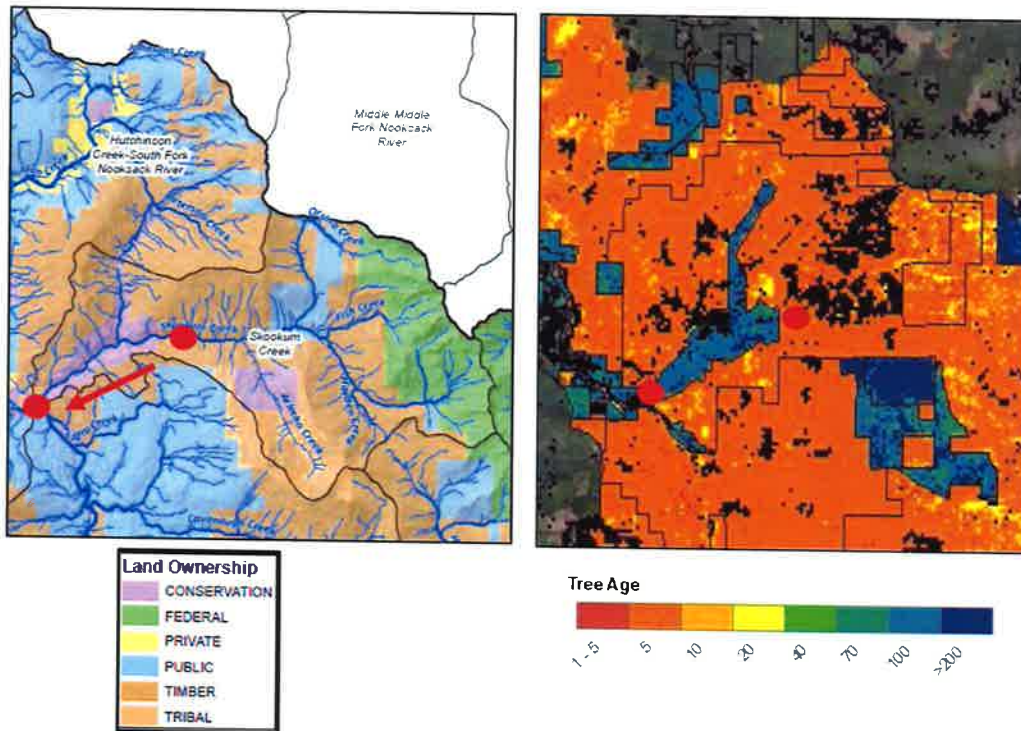


OG vs AH: +60 cfs or 55% increase
OG vs EC: +40 cfs or 31% increase

VELMA Experimental Results (PRELIMINARY)

What is the reach-scale effect of conservation lands on streamflow?

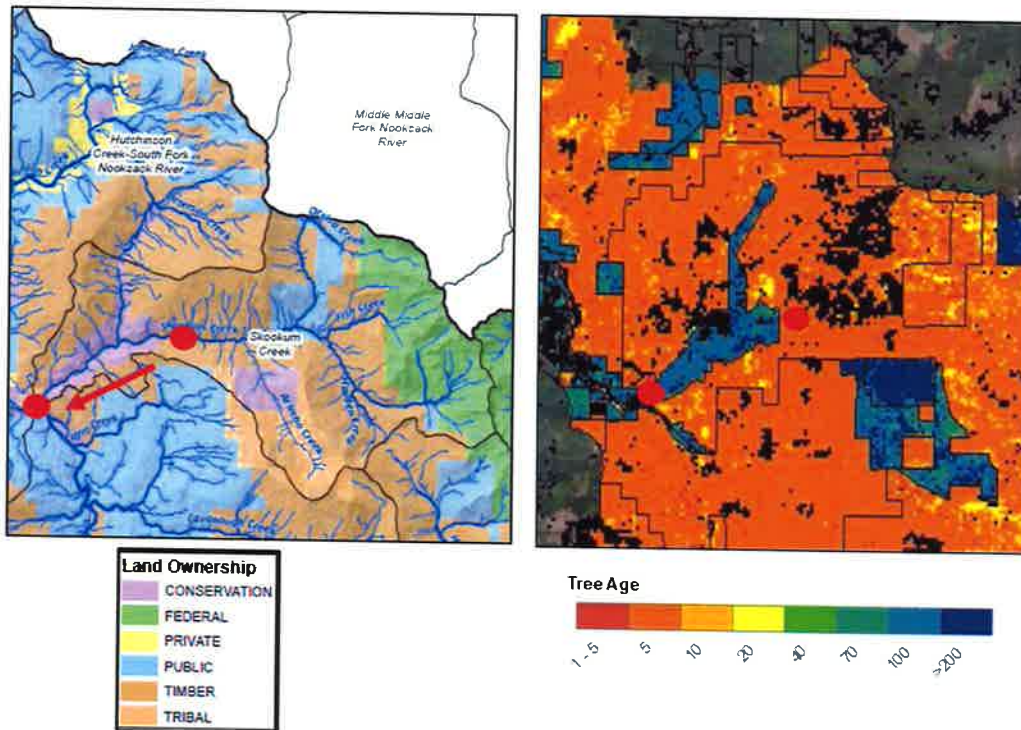
Skookum Creek reach



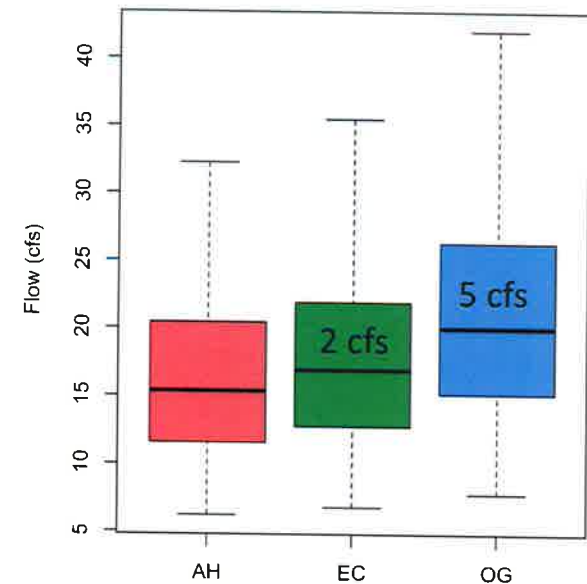
VELMA Experimental Results (PRELIMINARY)

What is the reach-scale effect of conservation lands on streamflow?

Skookum Creek reach



Amount of August streamflow **GAINED** between upstream and downstream points



Time = 60-90 years
(2050-2079, but with current climate)

Further Research Questions

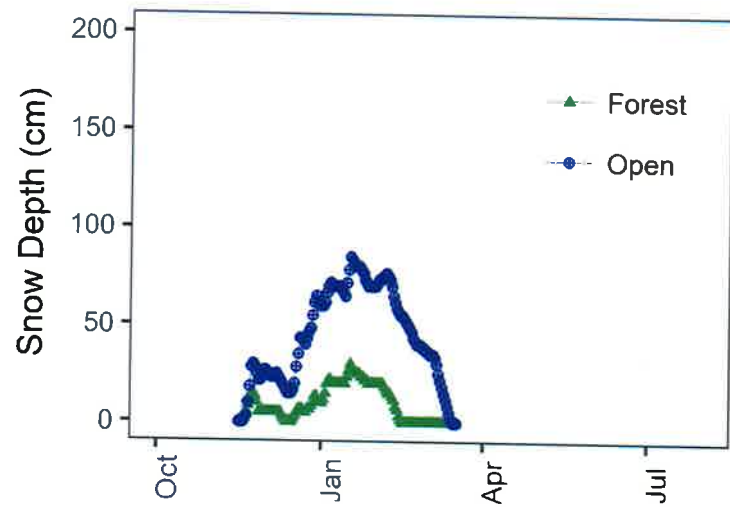
Snow

Soil Moisture

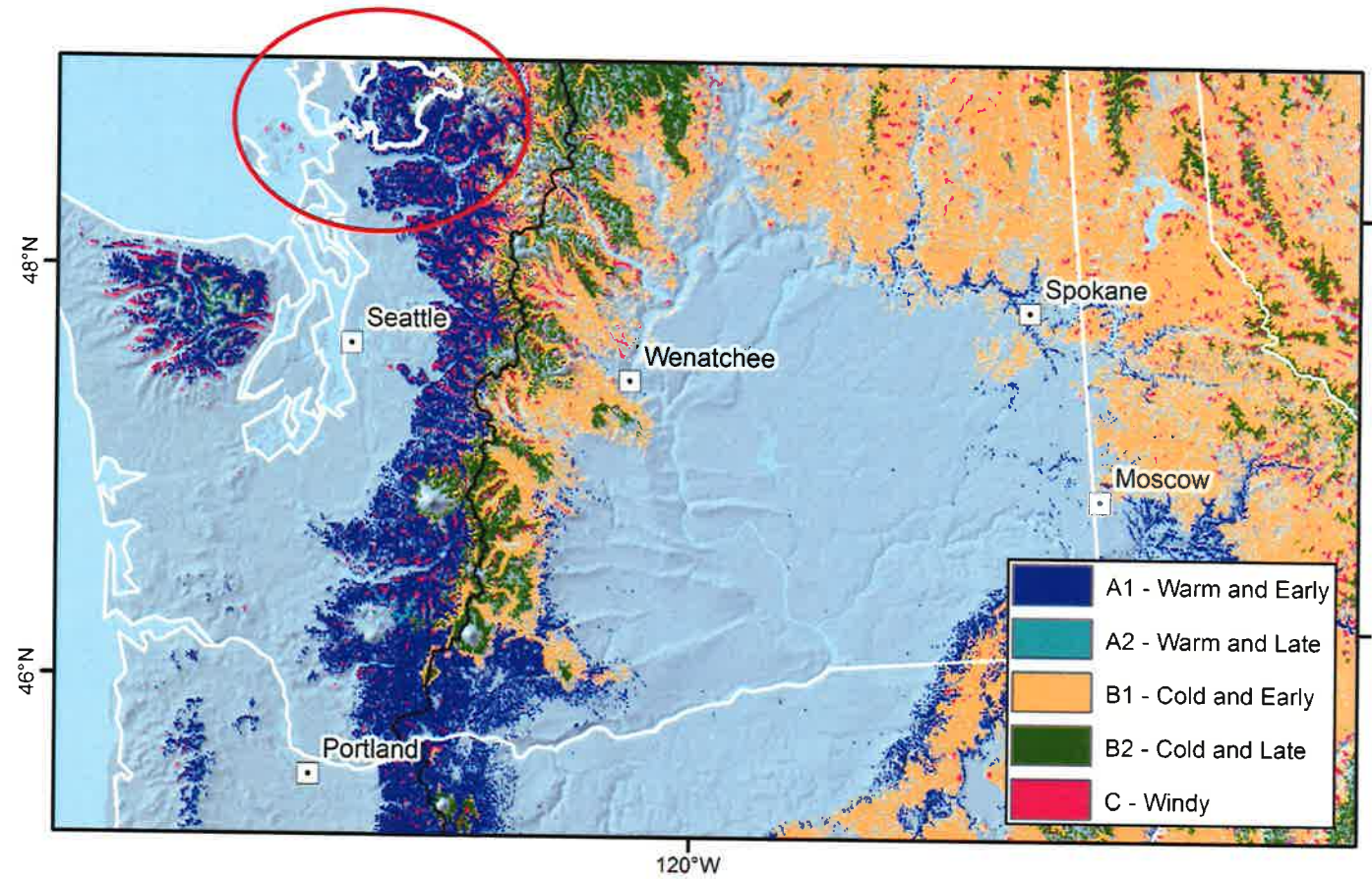
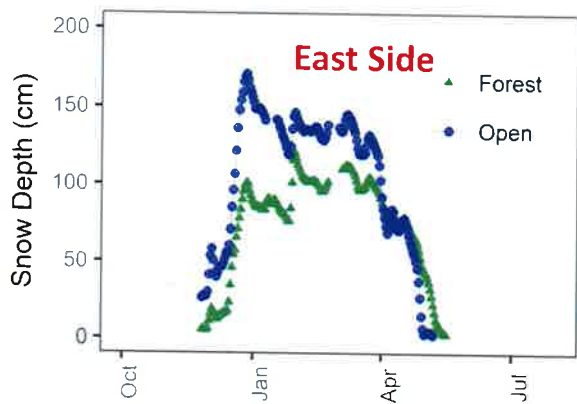
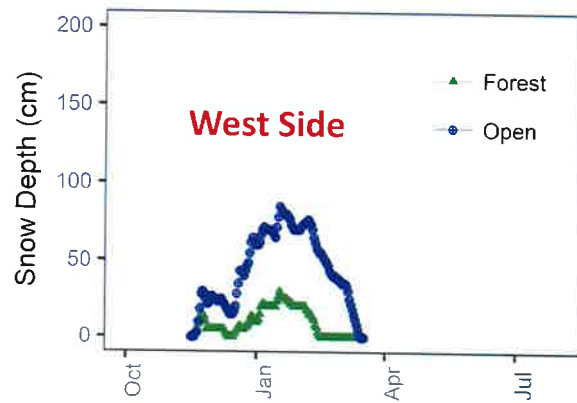


**Summer
Streamflow
?**

Snow Storage

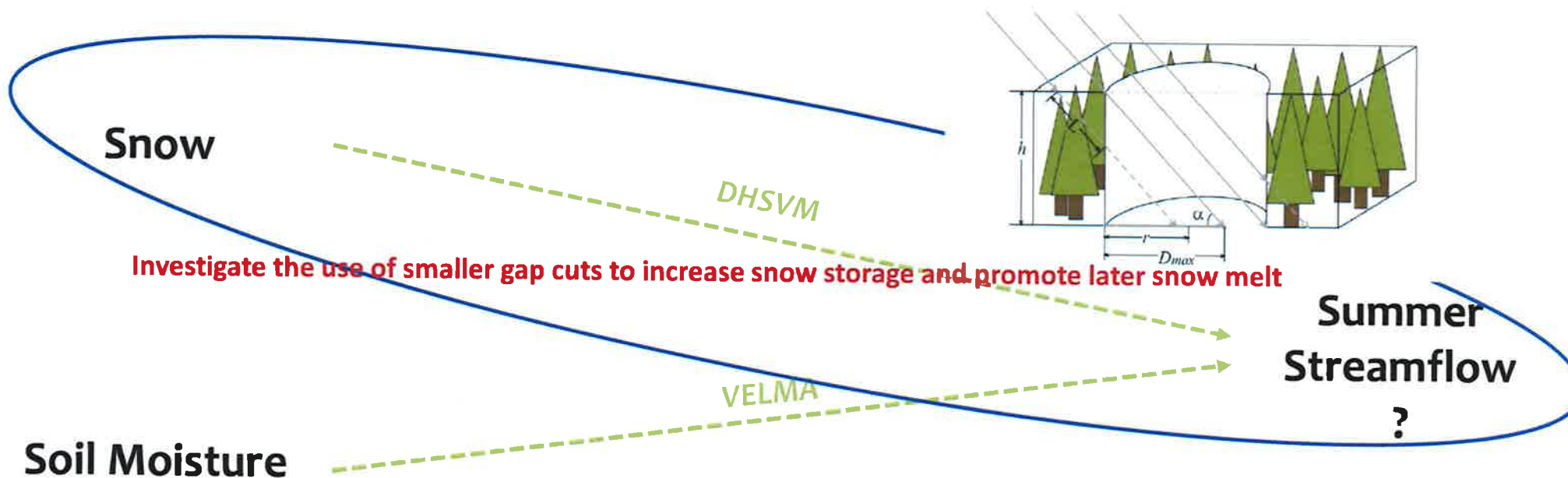


Snow Storage



Dickerson-Lange et al., 2021 (in review)

Research Questions



Research Questions

Forest Management Scenarios To Optimize Water Storage by Applying DHSVM

Snow



Gaps

Soil Moisture



Older Stands

**Summer
Streamflow
?**

Next Steps

- Additional Modeling
 - Refinement of VELMA calibration:
 - SFNR
 - MFNR and NFNR
 - Other watersheds that drain to Salish Sea (Puget Sound)
 - VELMA experimental scenarios
 - DHSVM modeling of gap cuts
 - Climate change + Forest management
- Ecosystems Services Transaction Model: **WA Water Trust – Jason Hatch**

Payment for Watershed Services

Key Questions

1) **What factors influence improved late season flow?**

- What geographic unit (i.e. # of acres)
- How forest management prescriptions improved late season flow (i.e. longer rotations, riparian setbacks, canopy gaps)
- What is a metric unit=factors, practice, geographic unit=# AFY

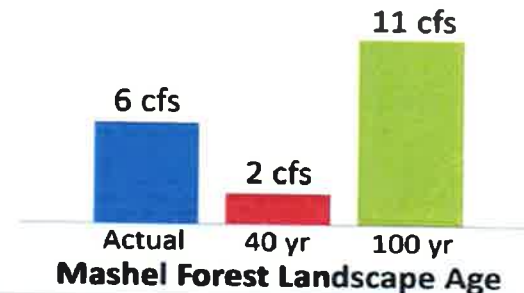
2) **What is the legal status of this water?**

3) **How can this water be protected?**

4) **What is a PWS framework to incentivize forest management?**

VELMA results show that longer forest harvest intervals can potentially increase summer low flows for salmon recovery

Simulated September Minimum Daily Flow
Average for 2006-2014



Payment for Watershed Services *Washington Water Trust*

1. Assess lessons learned from other PES Watershed Services projects including transaction frameworks and unit/metric development;
2. Identify potential buyers/sellers of watershed services within the study area;
3. Conduct legal analysis on building transactions and attendant payment system;
4. Participate in forest owner outreach; and
5. Recommend a proposed watershed services transaction framework for the study area.

Protectability of Water from LR

- *A model from which to transact water projects*
- *Subject to appropriation*
 - ▶ *Salvage Water*
 - ▶ *PHCB Decisions plus*
 - ▶ *Manke Lumber Co. v. Department of Ecology*

“A tree does not hold a water right. Trees grow, they die, they are cut down. The amount of ground water they suck up, and the amount of precipitation they intercept, is ever-changing. The water they leave in the ground at any point in time is merely a portion of the ground water resource that belongs to the people of the State, subject to the rights of prior appropriators.”
 - ▶ *Black River Quarry, Inc. v. Department of Ecology*

“not entitled to any credit for increasing recharge to the ground water, as a result of deforestation.”
 - ▶ *RCW 90.03.255-Applications for water right, transfer, or change—Consideration of water impoundment or other resource management technique.*
- *Legislation is needed*
 - ▶ *Conservation water by landscape restoration, protected and not subject to appropriation*

Elements and Projects:

- **Stewart Mountain Community Forest Initiative**
- The relevance and utility of a community forest in addressing legacy impacts as well as climate change impacts were recognized in the SFNR Watershed Conservation Plan, TMDL, and the EPA Climate Change Pilot Research Project.
- The Tribe has been a founding member in the development of the Stewart Mountain Community Forest that aims to address water quality and flow issues in the SFNR as well as offset forecast climate change impacts.

STEWART MOUNTAIN COMMUNITY FOREST

- The watershed planning process mentioned previously has led to a team focused on establishing a community forest on the east side of Stewart Mountain.
- In 2017 a timber management investment organization called Conservation Forestry purchased 12,000 acres on Stewart Mountain.
- Conservation Forestry approached our Watershed Planning team with an offer to sell about half of their holding on Stewart Mountain, about 6,000 acres –to establish a Community Forest.
- The SMCF would be owned by the community and managed as a working forest that balances a wide variety of ecological, economic, and community benefits.
- One of the primary objectives of the SMCF will be to restore natural watershed functions; increase summer streamflows, and recover salmon populations through improved forest management practices.

THANK YOU!



THANKS!





1a
MAR 11 2024

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

Department: BOCC

WORK SESSION ☒ Meeting Date: 3/11/24

REGULAR AGENDA ☐ Meeting Date:

Required originals approved and attached? ☐
Will be provided on:

Item summary:

- | | |
|---|--|
| ☐ Call for Hearing | ☐ Contract/Agreement/MOU - Contract # |
| ☐ Resolution | ☐ Proclamation ☐ Budget Item |
| ☐ Draft Ordinance | ☐ Final Ordinance ☒ Other – Update only |

Documents exempt from public disclosure attached: ☐

Executive summary:

Legislative Session Update:

The purpose of this discussion will be to regularly review Clallam County's priorities, projects and programs that require support from the Washington State Legislature and to plan and coordinate our individual and collective outreach efforts. We envision this to be a standing weekly agenda item throughout the term of this current Legislative session.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐
None.

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
Update only.

County Official signature & print name: Loni Gores Loni Gores, Clerk

Name of Employee/Stakeholder attending meeting: Board of Commissioners

Relevant Departments: Board of Commissioners

Date submitted: 1/18/24

* Work Session Meeting - Submit 1 single sided/not stapled copy
** Regular Meeting – Submit 1 single sided/not stapled copy and originals (1 or 3 copies)