



**WASHINGTON STATE PARKS AND RECREATION COMMISSION  
SUBRECIPIENT GRANT AGREEMENT  
FEDERAL FINANCIAL ASSISTANCE GRANT**



**Agreement No. MLE 325-178**

This Agreement is between the State of Washington, Washington State Parks and Recreation Commission (State Parks) acting by and through its Marine Law Enforcement Program (“MLE or “Recipient”) and **Everett Police Department** (“Subrecipient”), each a “Party” and, together, the “Parties”.

## **SECTION 1: AUTHORITY**

Per 2 Code of Federal Regulations 200 (2CFR200), State Parks has determined this to be a “Subrecipient” relationship under 2 CFR 200.330. This subrecipient agreement is authorized by 2 CFR 200 and 50 CFR 80. MLE is authorized to provide grants for recreational boating enforcement and education activities and has sufficient grant funds available within its current biennial budget and has authorized expenditure on the Subrecipient’s Project as defined below, and the Subrecipient agrees to comply with 2 CFR 200, MLE rules and other MLE adopted policies and procedures, and this Subrecipient Grant Agreement.

## **SECTION 2: PURPOSE**

The purpose of this Agreement is to set forth the obligations of both Parties in the awarding of funds for recreational boating enforcement and education and to set forth the deliverables under the Federal Financial Assistance Grant, hereinafter called the “Project.”

## **SECTION 3: COURTESY INFORMATION & REMINDER**

Very important information is located throughout this document. The onus is on the Subrecipient to read the entire document which may include Attachments, Exhibits, or other information incorporated by reference.

Experience has shown that the following information seems to have the most interest for the Subrecipient. As such, MLE is providing this nonexclusive list but cautions that other important information does not appear in the Courtesy List.

- **Term:** See *Section 5.1 – Term*
- **Project Completion:** See *Section 5.2 – Project Completion*
- **Subrecipient’s Authorized Representative:** See *Section 6.2 – Subrecipient’s Authorized Representative*.
- **Project completion date:** See *Section 7.1.1 – Project Timeline*
- **Reimbursement Total:** See *Section 8.3.c [not titled]*.
- **Grant Funds:** See *Section 9.2 – Grant Funds*.
- **Accident Report:** See *Section 12.7 – Accident Report*
- **Information required for Federal Subawards (2 CFR §200.331(A) (1)):** See *Exhibit B*
- **Subrecipient’s Completed FFA Grant Application:** See *Attachment A*.

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## SECTION 4: DEFINITIONS

- 4.1 Attachment:** A document provided by the Subrecipient (application, budget plan, etc.) that is also made part of this agreement and incorporated by reference. See also Exhibit.
- 4.2 MLE:** The federally funded Marine Law Enforcement Program administered by Washington State Parks and Recreation Commission (State Parks). For purposes of this agreement MLE represents the State of Washington. If MLE ceases to exist or is no longer the state program designated to administer this federal program, then references to MLE will be understood to be the State of Washington.
- 4.3 Equipment.** Equipment means tangible personal property having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or \$5,000.00.
- 4.4 Exhibit:** A document provided by the MLE Program that is also a part of this agreement and incorporated by reference. See also Attachment.
- 4.5 RBS Officer:** Recreational Boating Safety Officer is a fully commissioned law enforcement officer in Washington State and has the authority to enforce the laws of the state of Washington and local ordinances. The RBS Officer must have attended the Washington state Basic Marine Law Enforcement Academy or an equivalent recognized by MLE.
- 4.6 Boating Safety Inspection:** A full inspection for all safety equipment, vessel registration when required and mandatory boater education compliance when required. The results of the inspection shall be documented through Washington states Statewide Electronic Collision and Ticket Online Records (SECTOR). This may be done at the time of the inspection or when SECTOR is available to the RBS Officer.
- 4.7 Law Enforcement Vessel:** A vessel used by a law enforcement agency and shall be equipped with proper markings showing it to be an official law enforcement vessel.
- 4.8 Recreational Vessel:** Defined in federal regulation 50 CFR 85.11 as a vessel owned and operated primarily for pleasure; or a vessel leased, rented, or chartered to another for recreational use.
- 4.9 Subrecipient:** 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. In this agreement, the subrecipient is the successful applicant with whom Washington MLE awards a Federal Financial Assistance Grant (See 2 CFR 200.93).
- 4.10 Subrecipient Grant Agreement:** Also known as a subaward. Defined in federal regulation as “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 (See 2 CFR 200.92).
- 4.11 Small agency:** An agency which services a jurisdiction with a population below 30,000 people as determined by the latest U.S. Census.
- 4.12 Medium agency:** An agency which services a jurisdiction with a population of 30,000 or more and below 100,000 people as determined by the latest U.S. Census.

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- 4.13 Large agency:** An agency which services a jurisdiction of over 100,000 people as determined by the latest U.S. Census.
- 4.14 Boating Safety Program approval:** means that the county or local jurisdiction has entered into an agreement with State Parks to develop and maintain a boating safety program meeting minimum requirements established by state parks.

## **SECTION 5: EFFECTIVE DATE AND DURATION**

- 5.1 Term.** This Agreement is effective on the date of the last signature and terminates on **September 30, 2024**, or the date of final payment issuance, whichever is later, unless terminated earlier in accordance with *Section 22 - Termination*. See also, *Section 12.3 Useful Life*.
- 5.2 Project Completion.** The Project shall be completed, and final billing for the Project shall be submitted to MLE on or before **October 15, 2024**. Unless approved in writing, MLE shall not be obligated to disburse any payments after this date.
- 5.3 Closeout.** (See 2 CFR § 200.343) MLE will closeout this award under this Agreement when it determines that all applicable administrative actions and all required work of this Agreement have been completed by the Subrecipient.

## **SECTION 6: AUTHORIZED REPRESENTATIVES**

- 6.1** State Parks MLE Program Authorized Representative is:

Bryan Alexander, Marine Law Enforcement Coordinator  
Washington State Parks - Boating Program  
1111 Israel Road SW  
Tumwater, WA 98501-6512  
Bryan.Alexander@parks.wa.gov

Backup:  
Rob Sendak, Boating Program Manager  
Washington State Parks - Boating Program  
1111 Israel Road SW  
Tumwater, WA 98501-6512  
Rob.Sendak@PARKS.WA.GOV

- 6.2** Subrecipient's Authorized Representative is:

Chief John DeRousse  
Everett Police Department  
2003 Wetmore Avenue  
Everett, WA 98201-4018  
jderousse@everettwa.gov  
(425) 257-7575

- 6.3** A Party may designate a new Authorized Representative by written notice to the other Party.

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## SECTION 7: RESPONSIBILITIES OF EACH PARTY

### 7.1 Responsibilities of Subrecipient:

This project itself is the sole responsibility of Subrecipient. MLE undertakes no responsibilities to Subrecipient, or to any third party, other than as expressly set out in this document. Subrecipient shall be solely responsible for the design, development, implementation, achievement of deliverables and reporting of the project, as those phases are applicable to this project, and solely responsible for any claim or suit of any nature by any third party related in any way to the project.

**7.1.1 Project Timeline.** The Subrecipient is responsible for maintaining the project timeline for all dates and activities outlined as the Subrecipient's responsibility as identified in the Subrecipient's FFA Grant Application (Attachment "A").

The Subrecipient shall complete the approved project no later than **September 30, 2024**, as a term of the acceptance of this grant award. The project timeline cannot be extended under the scope of this agreement.

MLE staff shall monitor the activities conducted under the scope of this project on a quarterly basis. Work will be considered complete, only when the following conditions are met:

- The activities described in the Scope of Work and this grant document have been achieved.
- All request for reimbursements have been submitted.
- All reporting through the MLE Statement of Activity Reporting system (SOAR) and SECTOR have been completed
- Appropriate proof of completion has been provided to MLE

If the work is not satisfactorily completed, Subrecipient will be in breach and MLE may, at its discretion, rescind the grant and require repayment of any grant funds already disbursed.

**7.1.2 Design Preparation.** The Subrecipient shall design a project that will have a reasonably likelihood of positively impacting the reduction of boating accidents, boating injuries, and boating fatalities. Such design shall include applicable items on the Checklist for Plans and Specifications as provided in the Subrecipient's MLE Grant Application (Attachment "A").

**7.1.3 Purchase.** The Subrecipient shall make no purchases in excess of \$2,500.00 without prior written authorization by MLE. All purchases must be in the furtherance of recreational boating safety and must adhere to the guidelines set out in the in the Allowable Costs and Expenditures for State Vessel Registration Fees and Federal Assistance Grants manual. (Attachment "B").

**7.1.4 Periodic Inspections.** Subrecipient hereby grants to the Recipient, or its authorized representative, a right, equal in time to six years from the date of the last signature on this document, to enter upon Subrecipient's property as deemed necessary by the Recipient for inspection documents and any equipment. These periodic inspections are intended to ensure continued compliant use of the awarded funds toward recreational boating safety enforcement and education. materials, products, and workmanship to the original

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approved plans and specifications. These inspections require a 30-day advance notification to the Subrecipient of such inspection or access.

#### **7.1.5 Commercial and Other Uses.**

- a. For purposes of this *Section 7 – Responsibilities of Each Party*, Commercial Use means any activity on or affecting the Project that was not described in the Subrecipient's proposal, or not approved in writing by MLE, where the Subrecipient:
  1. has financial profit as a goal,
  2. charges any fees or receives any benefit to provide services, supplies or goods, or
  3. allows third parties to charge any fees or receive any benefit to provide services, supplies or goods.
- b. Subrecipient must restrict use of the Project funds to only recreational boats boating safety enforcement and education.

#### **7.1.6 Publications & Advertising.** The Subrecipient shall include the following statement if publishing any report, news release or publication regarding this project: *"Partial funding was through the Washington State Parks and Recreation Commission Marine Law Enforcement Program, and in cooperation with U.S. Recreational Boating Safety Act."*

#### **7.1.7 Project Sign.** The Subrecipient may post in a conspicuous location on the vessel, a sign identifying State Parks, any Federal Agencies and specific federal grant program's participation in the Project.

The Subrecipient shall include the following statement if publishing any report, news release or publication regarding this project: *"Partial funding for this project was provided by the Washington State Parks Marine Law Enforcement Program. This program is funded by the U.S. C.G. through the Sport Fish Restoration and Boating Trust Fund, which is financed by your purchase of motorboat fuels and fishing equipment."*

#### **7.1.8 Public Access to Project.** During the term of this Agreement the Subrecipient shall allow open and unencumbered public access to the Project to all persons without regard to race, color, religious or political beliefs, sex, national origin, or place of primary residence.

#### **7.1.9 Payments.** Subrecipient agrees to:

- a. Make payment promptly as due to all contractors, subcontractors, vendors, or any other persons supplying labor or materials for the Project;
- b. All employers, including Subrecipient that employ subject workers shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for exemption. Subrecipient shall require and ensure that each of its subcontractors complies with these requirements (unless inapplicable as a matter of federal law); and
- c. Not permit any lien or claim to be filed or prosecuted against State Parks, due to any construction or maintenance activities at the Project.

#### **7.1.10 Alternative Dispute Resolution.** The Parties should attempt in good faith to resolve any dispute arising out of this agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of the

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agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

**7.1.11 Indemnification by Subrecipient's Contractors.** For purposes of this Section 7.1.11 – *Indemnification by Subrecipient's Contractors* the term “contractor” means actors downstream of the Subrecipient whether it be a contractor, a subcontractor, or downstream subrecipient of the Subrecipient. The Subrecipient shall take all reasonable steps to cause its contractor(s) to indemnify, defend, save and hold harmless the State of Washington and its officers, employees and agents (“Indemnatee”) from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys’ fees) arising from a tort caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Subrecipient’s contractor or any of the officers, agents, employees or subcontractors of the contractor (“Claims”). It is the specific intention of the Parties that the Indemnatee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnatee, be indemnified by the contractor from and against any and all Claims.

## **7.2 Responsibility of Marine Law Enforcement Program (MLE):**

**7.2.1** MLE shall pay Subrecipient as described in *Sections 8 – Conditions to Disbursement* and *Section 9 – Reimbursement and Payment Terms*.

## **SECTION 8: CONDITIONS TO DISBURSEMENT**

**8.1 Eligible project expenses include only those items from the list below that are in your approved project budget:**

- 8.1.1** Grant funds may be used only for activities under WAC 352-65-040, the ten elements necessary to accomplish the Recreational Boating Safety (RBS) mission.
- 8.1.2** RBS salaries to include time, salaries, benefits and wages for officers or deputies who possess a Washington State Peace Officers Certification, are fully commissioned to enforce the laws of Washington state and who have completed an RBS course acceptable to State Parks (BMLE or equal).
- 8.1.3** Time, salaries, benefits and wages for officers or deputies who possess a Washington State Peace Officers Certification, are fully commissioned to enforce the laws of Washington state, and who have not completed a BMLE course is acceptable **ONLY** when working with an RBS trained officer **AND** when the agency has a written “two-officer policy for officers on marine patrol for the purpose of officer safety.
- 8.1.4** Providing instructors for the *Adventures in Boating* course that qualifies graduates for the required mandatory boater education card. Cost may include classroom supplies, light refreshments, other goods, and services necessary to promote and teach classes, and officer salaries, benefits, and wages. Officer salaries will only be reimbursed for those officers who have successfully completed State Parks *Adventures in Boating Instructor Training Class* and are listed on our files.
- 8.1.5** RBS training as outlined in the Allowable Costs and Expenditures for State Vessel Registration Fees and Federal Assistance Grants (Attachment “B”)

- 8.1.6 RBS Equipment as outlined in the Allowable Costs and Expenditures for State Vessel Registration Fees and Federal Assistance Grants (Attachment "B"). Any equipment expenditures over two thousand two hundred and fifty dollars (\$2,250.00) must receive authorization from state parks prior to purchase.
- 8.1.7 Educational publications which promote RBS education that are already prepared or the creation, design, and printing of publications
- 8.1.8 Promotion of Adventures in Boating classes, including presentation materials, light refreshments, and room rental for classes.
- 8.1.9 Other items as deemed by MLE to be necessary to complete the project
- 8.1.10 Support of the Basic Marine Law Enforcement Academy by agencies who provided MLE recognized instructors

## **8.2 Non-Allowable Costs and Expenditures.**

- 8.2.1 Bullet proof vests are beneficial; however, equipment of this nature is not essential for meeting the established criteria in WAC 352-65-040 nor is it related to the performance of the RBS program mission and is considered a local agency responsibility to purchase.
- 8.2.2 Equipment used in recover operations (dive equipment, etc.) while being used in an RBS search or investigation mode are 100% eligible. Once this equipment is used for recovery operations it must be prorated between RBS missions and recovery missions.
- 8.2.3 Handheld or portable night vision, FLIR or thermal imaging devices are a 100% allowable expense while in RBS patrol, search, or investigation mode. Once this equipment is used for recovery operations it must be prorated. Permanently mounted and electrically wired FLIR and thermal imaging devices are 100% allowable expenses.
- 8.2.4 Homeland Security missions (weapons, etc.), or any other equipment determined as unrelated by the boating program is not an allowable expense.
- 8.2.5 Firefighting equipment is not an allowable expense.
- 8.2.6 Any equipment or vehicles not 100% dedicated to the RBS mission must be prorated, documenting the amount of time the equipment or vehicle was dedicated to the program.
- 8.2.7 Operating costs for law enforcement vessels boats (staff, fuel, fluids, repairs, maintenance) or operating costs for boats used to service floating restrooms (staff, fuel, fluids)
- 8.2.8 Documented staff or contract labor associated with routine custodial and non-routine maintenance and repairs, the cost of that person operating or maintaining the system.
- 8.2.9 Other items as deemed by MLE to be necessary to complete the project

## **8.3 Conditions Precedent to Any Reimbursement.** MLE shall not be obligated to disburse any of the grant funds to reimburse the Subrecipient for Project costs hereunder unless MLE has received from the Subrecipient:

- a. Prior to Project plans, specifications, and cost estimate(s), statement of work, request for proposal or other documentation for the Project, documents must be in form and substance satisfactory to MLE.
- b. Reimbursement Requests must be submitted on the approved MLE Grant Reimbursement form along with all supporting documentation.

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Reimbursements shall be prorated between the Parties based on the percentage of their respective cash or in-kind contributions as set forth in *Section 7 – Responsibilities of Each Party* and *Section 9 – Reimbursement and Payment Terms*.

Supporting documents must:

- Be numbered in the upper right corner and correspond to the “Document #” column on your Reimbursement Request Form
- Be dated. The date of the invoice must be within the period of performance of this award
- Have Subrecipient’s business name clearly identified
- Clearly identify the cost and the amount paid & show zero-balance due

**If a receipt, invoice, or statement includes expenses not related to the MLE project, those costs must be highlighted and noted as “ineligible costs”.**

- c. MLE will reimburse Subrecipient for eligible activities only after MLE has accepted the work as complete—expenditure as an allowable cost and all proper documents have been submitted with the reimbursement request. Reimbursement requests must be submitted on a quarter basis and during the quarter that the expenditure has taken place. Reimbursement from MLE shall not exceed fifty percent (50%) of the total project cost from eligible grant expenses. Total reimbursement under this grant agreement shall not exceed the award amount of **\$17,904.70**.
- d. MLE will reimburse Subrecipient up to an additional \$5,000.00 who supply a recognized BMLE instructor for 80 hours. For instructor services less than 80 hours, a sum of \$500.00 per day will be awarded. The additional award is available for use commencing on June 1, 2024.
- e. The Subrecipient may not exceed the approved budget which was proposed by the Subrecipient as part of the Subrecipient’s Subrecipient Grant Application that was accepted by MLE. The Subrecipient’s budget is attached to this agreement (Exhibit “B”). If the Subrecipient would like to change the allocations of funds to the original budget, a budget amendment request must be sent in writing via email to MLE in advance of the expense being incurred.
- f. If a boat, a vehicle, or equipment is used partially for other purposes, costs must be pro-rated for that portion of their use that is for Recreational Boating Safety Act purposes.

**8.4 Conditions Precedent to Partial Progress Payment(s).** MLE shall not be obligated to make partial progress reimbursement payment(s) hereunder until the appropriate supporting documentation and reimbursement form has been submitted no less than on a quarterly basis of the percentage of Project completion has been received, reviewed, and approved by MLE. In no event shall MLE disburse more than fifty percent (50%) of the amount indicated in *Section 9.2 – Grant Funds* as progress payments.



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**8.5 Conditions Precedent to Final Payment.** MLE shall not be obligated to make final payment hereunder until the following have been completed or supplied:

- a. Supporting documentation in form and content determined by MLE, has been received reviewed and approved by MLE; and
- b. Subrecipient provides summary of work achieved pursuant to the SOW as provided with the grant application to MLE with funding the Project; and
- c. Inspection and approval of the Project by MLE Program staff.

## **SECTION 9: REIMBURSEMENT AND PAYMENT TERMS**

**9.1 Federal Fund Approval.** MLE has received a grant from the United States Department of Homeland Security, United States Coast Guard as described pursuant to 2 CFR 200.331 on Exhibit B. In accordance with 2 CFR 200.330, MLE's determination is that the other party to this contract is a subrecipient and is therefore a subrecipient of federal funds.

**9.2 Grant Funds.** Upon approval by its governing body or bodies, MLE shall provide federal grant funds in the amount of **Seventeen Thousand, Nine Hundred Four, and 70/100ths Dollars (\$17,904.70)** to the Subrecipient to fund the Project.

**9.3 Match.** The Subrecipient shall contribute at least twenty-five percent (25%) of the total project cost as cost sharing or non-federal match as described in the approved project budget. Such cost sharing or match may be provided as cash costs or in-kind services provided such services are reasonable and necessary for grant purposes. Vessel Registration Fees cannot be used as match. These are non-reimbursable items. Allowability of any cost sharing or match shall be determined in accordance with 50 CFR Part 85; and 2 CFR Part 200 as applicable and as adopted in regulation by 2 CFR 1402.100.

The Subrecipient shall maintain records that adequately document the valuation of non-federal match/in-kind services in accordance with 50 CFR Part 85; and 2 CFR Part 200 as applicable and as adopted in regulation by 2 CFR 1402.100. The Subrecipient shall submit a summary of the valuation to MLE. Further instruction on adequate valuation of match expenses can be provided by contacting the Marine Law Enforcement Coordinator or the Program Manager.

**9.3.1 Matching Cash Funds.** The Subrecipient shall contribute the total sum of **Four Thousand, Four Hundred Seventy-Six, and 17/100ths Dollars (\$4,476.17)** in cash or in-kind match. It is understood that match cannot be from another federal source and are non-reimbursable costs. In addition, **Vessel Registration Fee funds cannot be used as match**; however, in-kind match as reported in the VRF Expenditure Report can.

**9.3.2 Matching Non-cash Resources.** Non-cash resources, in-kind; match is allowable under the FFA grant. Any expenditure the subrecipient incurs in support of their recreational boating safety program can be used as non-cash match.

**9.4 Allowable Costs.** All costs charged by the Subrecipient must be eligible, necessary, and reasonable for performing the tasks outlined in the approved project work plan. The costs, including match, must be incurred during the period of performance of the project and submitted for reimbursement during the quarter which the costs are incurred. The costs

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also must be allowable and well documented, in conformance with specific federal requirements (50 CFR Part 85; and 2 CFR Part 200 as applicable and as adopted in regulation by 2 CFR 1402.100.

- 9.5 Payments.** After the Subrecipient awards the contract for the Project, and activities commence, MLE shall, upon receipt of the Subrecipient's request for reimbursement and appropriate documentation all in form and substance satisfactory to MLE, disburse funds to the Subrecipient in accordance with *Section 8 - Conditions to Disbursement*.

Subrecipient may request reimbursements no less than on a quarterly basis and during the quarter for which the expenditures have been incurred for project expenses. Reimbursement shall take place after Subrecipient submits a properly completed Reimbursement Request Form (provided by MLE), along with required supporting documentation. Requests shall only be allowed when requested on the proper forms provided by MLE, reference this agreement number, and accompanied with appropriate supporting documentation.

Subrecipient shall be reimbursed for the actual project costs incurred, up to the total reimbursement amount defined above as long as grant funds remain available. Accounting procedures must provide for accurate and timely recording of receipt of funds by source, expenditures made from such funds, and of unexpended balances. Controls must be established which are adequate to ensure that expenditures are for allowable purposes and that documentation is readily available to verify that such charges are accurate. The burden of proof lies with the subrecipient to provide clear information as to the expense and form of payment.

- 9.6 Cost Overruns.** Cost overruns are the responsibility of Subrecipient and must be borne by Subrecipient.

- 9.7 Overpayment.** In the event that the aggregate amount of MLE's interim progress payments to the Subrecipient exceeds the allowable reimbursable costs of the Subrecipient for the Project, the Subrecipient agrees to refund to MLE the amount paid in excess of such allowable expenses within thirty (30) days of **September 30, 2024**.

- 9.8 Offset or Reduction.** The Subrecipient agrees that payment(s) made by MLE under this Agreement shall be subject to offset or reduction for any amounts previously paid hereunder that are found by MLE not to constitute allowable costs under this Agreement based on the results of an audit examination. If such disallowed amount exceeds the payment(s), the Subrecipient shall pay MLE the amount of such excess within 30 days after written notice of disallowed costs is provided by MLE.

- 9.8.1 Entertainment Costs.** In accordance with 2 CFR 200, the cost of amusement, diversion, social activities, ceremonials, and costs relating thereto, such as meals, lodging, rentals, transportation, gratuities, and alcoholic beverages are not allowable expenses.

- 9.8.2 Prior Costs.** MLE will not reimburse Subrecipient for any costs incurred prior to the effective date of this agreement **October 1, 2023**.

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## SECTION 10: REPRESENTATIONS AND WARRANTIES

Subrecipient represents and warrants to MLE that:

- 10.1** Subrecipient is a law enforcement agency, duly organized and validly existing. Subrecipient has the power and authority to enter into and perform this Agreement.
- 10.2** The making and performance by Subrecipient of this Agreement (a) have been duly authorized by Subrecipient, (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of Subrecipient's charter or other organizational document and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Subrecipient is party or by which Subrecipient may be bound or affected. No authorization, consent, license, approval of, or filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery, or performance by Subrecipient of this Agreement, other than those that have already been obtained.
- 10.3** This Agreement has been duly executed and delivered by Subrecipient and constitutes a legal, valid, and binding obligation of Subrecipient enforceable in accordance with its terms.
- 10.4** Subrecipient has the skill and knowledge possessed by well-informed members of the industry, trade or profession most closely involved in providing the services under this Agreement, and Subrecipient will apply that skill and knowledge with care and diligence to perform its obligations under this Agreement in a professional manner and in accordance with the highest standards prevalent in the related industry, trade, or profession; and
- 10.5** Subrecipient shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform its obligations under this Agreement. The representations and warranties set forth in this *Section 10- Representation and Warranties* are in addition to, and not in lieu of, any other representations or warranties provided by Subrecipient.

## SECTION 11: GOVERNING LAW AND CONSENT TO JURISDICTION

This Agreement shall be governed by and construed in accordance with the laws of the State of Washington without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively "Claim") between MLE or any other agency or department of the State of Washington, or both, and Subrecipient that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Superior Court for Thurston County, State of Washington; provided, however, if a Claim MUST be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the Western District of Washington. In no event shall this *Section 11 – Governing Law and Consent to Jurisdiction* be construed as a waiver by the State of Washington of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, to or from any Claim or from the jurisdiction of any court. SUBRECIPIENT, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

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## **SECTION 12: EQUIPMENT: OWNERSHIP, MAINTENANCE, USEFUL LIFE & DISPOSAL**

**12.1 Ownership Of Equipment.** Except as otherwise provided herein, Subrecipient shall retain ownership of equipment purchased pursuant to the terms of the grant. Subrecipient may not, during the term of the grant, transfer or convey its ownership interest in the equipment. Subrecipient shall not at any time during the term of the grant convert any facility equipment which was acquired pursuant to the grant to a use other than those for which the assistance was originally approved.

**Equipment purchased with Recreational Boating Safety Act funds shall be used only for the purpose for which it was purchased and no other purpose, whether or not the Subrecipient continues to be supported by Recreational Boating Safety Act grant funds.**

Observed/reported incidents of unauthorized use of MLE equipment shall be addressed by the following:

- 1) Any observed/reported incident of unauthorized use of MLE funded vessels will be followed-up by MLE communication with the Subrecipient. MLE may conduct site visits or contact area boaters for supplemental information as necessary.
- 2) In those instances where the MLE determines that an unauthorized use of a MLE funded vessel has occurred, the MLE will provide written notification to the operator of its determination with a warning that continued misuse or abuse of MLE-funded vessels and equipment may result in:
  - a) the removal of misused equipment from the facility; and/or
  - b) an assessment against the operator for reimbursement of the federal contribution against the current market value of the vessel.

**12.2 Title.** Title to equipment purchased under this Agreement shall vest in the Subrecipient. If the Subrecipient determines that it cannot use the equipment for the stated grant purposes at any point prior to the end of the equipment's useful life, but after the end of this award period and any extensions thereof, the Subrecipient shall inform MLE in writing within 30 days of such determination. Such equipment shall be transferred by the Subrecipient to a third party approved by MLE for use for grant purposes in accordance with applicable provisions of state and federal law. Should the equipment not be transferred to another State Parks RBS approved law enforcement agency in accordance with this provision, the equipment shall either be returned to MLE for use for grant purposes, or it shall be disposed in accordance with 50 CFR Part 85; and 2 CFR Part 200.

**12.3 Useful Life.** Beyond the acquisition grant period of performance and throughout the duration of the equipment's useful life, the equipment must continue to be used in the program or project for which it was acquired, as Recreational Boating Safety Act Program. When no longer needed for the original program or project, equipment may be used in other activities in the following order of priority:

- a. Activities supported under a Federal award from the Federal awarding agency which funded the original program or project; then
- b. Activities under Federal awards from other Federal awarding agencies; then
- c. Any activities consistent with the administration of the Washington State Parks and Recreation Commission.

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**12.4 Special Survivorship Note:** Ownership is not absolute. Regardless of agreement's expiration, anything tangible, intangible, or intellectual property that was purchased or created from federal funds or funded with federal funds maintains federal and state MLE entanglements, requirements, or conditions (conditional ownership) unless/until released by the MLE or federal government in writing. While other conditions may apply, typically a release would occur upon the MLE, or federal government being completely satisfied that the item in question has reached the end of its useful life which is usually a dollar value. Determination of value is solely at the discretion of the MLE or federal government. Should professional appraisal services be needed to determine value, these costs shall be borne by the Subrecipient. Selection of an appraisal services firm is subject to the written approval of the MLE or federal government.

**12.5 Use and Maintenance.** The Subrecipient shall operate and maintain the equipment, purchased, constructed, installed, renovated, operated, repaired, or maintained with MLE grant funds to function as intended for the full period of their useful life and in a manner that provides adequate service, promotes use, and protects public health. Such conditions include:

- 12.5.1** Subrecipient shall operate and maintain grant funded equipment in accordance with all applicable Federal, State, and local laws, orders, regulations and permits.
- 12.5.2** Operation shall include having trained personnel available to facilitate operation of the equipment and a schedule for maintenance.
- 12.5.3** Law Enforcement vessels shall be operated by trained personnel with a valid State of Washington Boater Education Card or equivalent and be a graduate of State Parks Basic Marine Law Enforcement Academy or equivalent.
- 12.5.4** Law Enforcement vessels shall be equipped with all federally required safety equipment and provide and ensure appropriate personal flotation devices are worn at all times when on the vessel or dock.
- 12.5.5** All law enforcement vessels shall have a routine schedule for maintenance.
- 12.5.6** As a condition of receiving the grant funds, Subrecipient shall actively maintain the vessel for the **full design life** of the equipment provided from this grant.
- 12.5.7** Subrecipient shall be responsible for all operation, maintenance, and repair of all vessels and equipment provided from this grant.

## **12.6 Equipment Replacement.**

When original or replacement equipment acquired under this award is no longer needed or the Subrecipient is no longer able to support the RBS mission and the disposition occurs during the grant period, disposition of the equipment shall be made as follows:

- The equipment may be transferred at no cost to another law enforcement agency with a State Parks approved marine law enforcement program (e.g., city or county law enforcement agency) if such equipment will remain in use and be dedicated to the MLE program. The conditions for such transfer shall be stipulated by the MLE and shall include the same requirements as those imposed in the original grant.

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Any cash or in-kind match paid when the equipment was originally purchased will be forfeited in total.

- If the equipment cannot be transferred to another law enforcement agency with a state approved marine law enforcement program, it must be sold at the discretion of the MLE, and the Subrecipient shall pay MLE the proceeds of the sale or the fair market value of the equipment, whichever is the greatest.

### **12.6.1 Equipment Breakdown**

In the event an equipment breakdown occurs during the grant period, Subrecipient shall notify MLE within ten (10) working days of breakdown. The equipment must be repaired and fully operational within thirty (30) working days after the breakdown where the breakdown can be remedied with normal expected repairs for one thousand dollars (\$1000) or less. For repairs greater than one thousand dollars (\$1000) the equipment must be fully operational within sixty (60) days after the breakdown. A written report for all breakdowns must be submitted via email to MLE within two (2) weeks of the breakdown describing the problem(s), repair(s), and the cost(s).

**A failure to notify MLE of an equipment breakdown and plan for repairs may result in the withholding of grant funds.**

### **12.7 Accident Report**

Subrecipients or Subrecipient's staff involved in an accident must remain at the scene and assist any other vessel or person involved, if possible, without endangering their safety, their own vessel, or the people aboard.

## **SECTION 13: OWNERSHIP OF WORK PRODUCT**

**13.1** As used in this Section 13 – Ownership of Work Product and elsewhere in this Agreement, the following terms have the meanings set forth below:

**13.1.1 Project Ownership.** MLE acknowledges and agrees that the Project is the exclusive property of the Subrecipient. MLE is neither responsible nor liable in any manner for the construction, operation, or maintenance of the Project.

**13.1.2 Special Survivorship Note:** Ownership is not absolute. Regardless of agreement's expiration, anything tangible, intangible, or intellectual property that was purchased or created from federal funds or funded with federal funds maintains federal and state MLE entanglements, requirements, or conditions (conditional ownership), unless/until released by MLE or federal government in writing. While other conditions may apply, typically a release would occur upon the MLE, or federal government being completely satisfied that the item in question has reached the end of its useful life which is usually a dollar value. Determination of value is solely at the discretion of the MLE or federal government. Should professional appraisal services be needed to determine value, these costs shall be borne by the Subrecipient. Selection of an appraisal services firm is subject to the written approval of the MLE or federal government.

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## **SECTION 14: NO DUPLICATE PAYMENT**

The Subrecipient shall not be compensated for, or receive any other form of duplicate, overlapping or multiple payments for the same work performed under this Agreement from any agency of the State of Washington, including, but not limited to the Washington State Parks and Recreation Commission, or the United States of America or any other party.

## **SECTION 15: CONTRIBUTION ON THIRD PARTY CLAIMS**

- 15.1** If any third party makes any claim or brings any action, suit or proceeding alleging against a Party (the “Notified Party”) with respect to which the other Party (the “Other Party”) may have liability, the Notified Party shall promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party, along with the written notice, a copy of the claim, process and all legal pleadings with respect to the Third Party Claim that have been received by the Notified Party. Each Party is entitled to participate in the defense of a Third-Party Claim, and to defend a Third-Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this *Section 15 – Contribution on Third Party Claims* and a meaningful opportunity for the Other Party to participate in the investigation, defense, and settlement of the Third-Party Claim with counsel of its own choosing are conditions precedent to the Other Party’s contribution obligation under this *Section 13 – Ownership of Work Product* with respect to the Third-Party Claim.
- 15.2** With respect to a Third Party Claim for which MLE is jointly liable with Subrecipient (or would be if joined in the Third Party Claim ), MLE shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Subrecipient in such proportion as is appropriate to reflect the relative fault of MLE on the one hand and of Subrecipient on the other hand in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of MLE on the one hand and of Subrecipient on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines, or settlement amounts. MLE’s contribution amount in any instance is capped to the same extent it would have been capped under Washington law if the State had sole liability in the proceeding.
- 15.3** With respect to a Third Party Claim for which Subrecipient is jointly liable with MLE (or would be if joined in the Third Party Claim), Subrecipient shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by MLE in such proportion as is appropriate to reflect the relative fault of Subrecipient on the one hand and of MLE on the other hand in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Subrecipient on the one hand and of MLE on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines, or settlement amounts. Subrecipient’s contribution amount in any instance is capped to the same extent it would have been capped under Washington law if it had sole liability in the proceeding.

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## **SECTION 16: SUBRECIPIENT DEFAULT**

Subrecipient will be in default under this Agreement upon the occurrence of any of the following events:

- 16.1** Subrecipient fails to perform, observe, or discharge any of its covenants, agreements, or obligations under this Agreement;
- 16.2** Any representation, warranty or statement made by Subrecipient in this Agreement or in any documents or reports relied upon by MLE to measure the delivery of services, the expenditure of funds or the performance by Subrecipient is untrue in any material respect when made;
- 16.3** Subrecipient (a) applies for or consents to the appointment of, or taking of possession by, a receiver, custodian, trustee, or liquidator of itself or all of its property, (b) admits in writing its inability, or is generally unable, to pay its debts as they become due, (c) makes a general assignment for the benefit of its creditors, (d) is adjudicated a bankrupt or insolvent, (e) commences a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (f) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (g) fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against it in an involuntary case under the Bankruptcy Code, or (h) takes any action for the purpose of effecting any of the foregoing; or
- 16.4** A proceeding or case is commenced, without the application or consent of Subrecipient, in any court of competent jurisdiction, seeking (a) the liquidation, dissolution or winding-up, or the composition or readjustment of debts of Subrecipient, (b) the appointment of a trustee, receiver, custodian, liquidator, or the like of Subrecipient or of all or any substantial part of its assets, or (c) similar relief in respect to Subrecipient under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for a period of sixty consecutive days, or an order for relief against Subrecipient is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).

## **SECTION 17: INDEMNIFICATION**

Subrecipient shall hold harmless, save harmless, indemnify, and defend at the Subrecipient's expense the State of Washington, State Parks, its officers, employees, successors and assigns against any and all damages and/or losses arising out of Subrecipient's use of, or presence or activity in, the facilities, including those arising out of the use or operation of equipment or facilities or as a result of the conduct of Subrecipient's programs, or from the conduct of Subrecipient's employees or agents, or damages or vandalism to facilities by third-parties, contracted or participating in Subrecipient's programs, events or activities.

## **SECTION 18: LIABILITY INSURANCE**

- 18.1** **LIABILITY INSURANCE**—If required in the special terms and conditions subrecipient shall obtain and keep in force during the term of this Agreement, a combined single limit bodily injury and property damage insurance policy in the minimum amount of \$1,000,000 naming



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the Washington State Parks and Recreation Commission as an additional insured against any liability arising out of Subrecipient's or its agents, employees, or assigns. Subrecipient shall provide to State Parks, a certificate evidencing such insurance coverage and shall provide 30 days written notice prior to any changes in the amount or cancellation of said policy.

- Subrecipient shall buy and maintain property insurance covering all real property and fixtures, equipment, and tenant improvements and betterments. Such insurance shall be written on an all-risk's basis and, at a minimum, cover the perils insured under ISO special causes of loss Form CP 10 30, and cover the full replacement cost of the property insured. Such insurance may have commercially reasonable deductibles.
- Any coinsurance requirement in the policy shall be waived.
- State shall be included as an insured and a loss payee under the property insurance policy.

**18.2 AUTOMOBILE INSURANCE--** Subrecipient shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit not less than \$1,000,000 per accident. Such insurance shall cover liability arising out of "Any Auto." Business auto coverage shall be written on ISO form CA 00 01, or substitute liability form providing equivalent coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage. Subrecipient waives all rights against State for the recovery of damages to the extent they are covered by business auto liability or commercial umbrella liability insurance.

**18.3 INDUSTRIAL INSURANCE COVERAGE--** Subrecipient shall provide or purchase industrial insurance coverage for themselves their employees as required by Labor and Industries prior to performing work under this Agreement. State Parks will not be responsible for payment of industrial premiums or for any other claim or benefit for Subrecipient, or any subcontractor or employee of Subrecipient, which might arise under the industrial insurance laws during the performance of duties and services under this agreement. Subrecipient, its employees and agents performing under this contract, are not employees of State Parks.

**18.4 CERTIFICATE OF INSURANCE / NAMING WASHINGTON STATE AS ADDITIONAL INSURED:** A current Certificate of Insurance must be submitted with the grant application form. The certificate must name the Washington State Parks and Recreation Commission as an additional insured, and the Certificate Holder and contain a provision that the insurance will not be canceled for any reason except after thirty (30) days written notice. Facilities must be insured by carriers licensed in or eligible to do business in Washington, and must maintain applicable Commercial General Liability, Automobile Liability, and Worker's Compensation coverage. Government entities will need to include a letter from their Chief Financial Officer stating if they are self-insured or provide a certificate of insurance as stated below."

## **SECTION 19: REMEDIES**

**19.1** In the event Subrecipient is in default under *Section 16 – Subrecipient Default* MLE may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including, but not limited to: (a) termination of this Agreement under *Section 22 - Termination*, (b) reducing or withholding payment for work or Work Product

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that Subrecipient has failed to deliver within any scheduled completion dates or has performed inadequately or defectively, (c) requiring Subrecipient to perform, at Subrecipient's expense, additional work necessary to satisfy its performance obligations or meet performance standards under this Agreement, (d) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief, or (e) exercise of its right of recovery of overpayments under *Section 20 – Recovery of Overpayments* (which is in addition to the remedies provided in *Section 9.7 - Overpayment*), of this Agreement or setoff, or both. These remedies are cumulative to the extent the remedies are not inconsistent, and MLE may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.

**19.2** In the event MLE terminates this Agreement under *Section 22.1 – Termination for Convenience*, *Section 22.2 Termination for Inefficiency*, *Section 22.3 – Termination Because of Non-Appropriation or Project Ineligibility*, or *Section 22.4 – Termination for Default*, Subrecipient's sole monetary remedy will be (a) for work compensable at a stated rate, a claim for unpaid invoices for work completed and accepted by MLE, for work completed and accepted by MLE within any limits set forth in this Agreement but not yet invoiced, for authorized expenses incurred, less any claims MLE has against Subrecipient, and (b) for deliverable-based work, a claim for the sum designated for completing the deliverable multiplied by the percentage of work completed on the deliverable and accepted by MLE, for authorized expenses incurred, less previous amounts paid for the deliverable and any claims that MLE has against Subrecipient. In no event will MLE be liable to Subrecipient for any expenses related to termination of this Agreement or for anticipated profits. If previous amounts paid to Subrecipient exceed the amount due to Subrecipient under this *Section 19.2*, Subrecipient shall promptly pay any excess to MLE.

## **SECTION 20: RECOVERY OF OVERPAYMENTS**

In addition to the remedies provided in *Section 9.7 - Overpayment*, if payments to Subrecipient under this Agreement, or any other agreement between MLE and Subrecipient, exceed the amount to which Subrecipient is entitled, MLE will not reimburse any further claims. In addition, MLE will require repayment of any over payments as reflected in Section 9.7 of this agreement. may, after notifying Subrecipient in writing, withhold from payments due Subrecipient under this Agreement, such amounts, over such periods of times, as are necessary to recover the amount of the overpayment.

## **SECTION 21: LIABILITY**

THE SUBRECIPIENT SHALL BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, OR OTHER INDIRECT DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF WHETHER THE LIABILITY CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PRODUCT LIABILITY OR OTHERWISE. NEITHER PARTY WILL BE LIABLE FOR ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION, EXPIRATION, OR SUSPENSION OF THIS AGREEMENT IN ACCORDANCE WITH ITS TERMS.

## **SECTION 22: TERMINATION**

**22.1 Termination for Convenience.** The Subrecipient may terminate this Agreement at any time upon thirty (30) days prior written notice to MLE; provided, however, that the

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Subrecipient shall, within thirty (30) days of such termination, reimburse MLE for all funds contributed by MLE to the Project; provided further that until the Subrecipient has fully reimbursed MLE for such funds, the Subrecipient shall comply with the terms hereof. Delinquent payments shall bear interest at the rate of 12 percent (12%) per annum, if such rate shall exceed the maximum rate allowed by law, then as such maximum rate, and shall be payable on demand. After ninety (90) days MLE may turn any delinquent debt over for collection.

**22.2 Termination Because of Inefficiency.** Use of federal funds demands good stewardship. MLE in an ongoing basis will be monitoring the performance of the subrecipient through the subrecipient's reporting into the MLE Statement of Activity Reporting system. If in MLE's opinion, these metrics demonstrate poor stewardship the Agreement will be terminated. If feasible, MLE may work with the Subrecipient and give the Subrecipient an opportunity to improve the metrics to what MLE believes is a healthy metric.

**22.3 Termination Because of Non-Appropriation or Project Ineligibility.** MLE, as provided in *Section 33 - Force Majeure*, may modify or terminate this Agreement and at any time upon 30 days prior written notice to the Subrecipient, may modify or terminate this Agreement if:

- a. MLE fails to receive funding or allotments, appropriations, limitations, or other expenditure authority at levels sufficient to pay for the allowable costs of the Project to be funded hereunder or should any state law, regulation or guideline be modified, changed, or interpreted in such a way that the Project, or any portion of the Project, is no longer eligible for facility grant funds.
- b. In the event insufficient funds are appropriated for the payments under this Agreement and the Subrecipient has no other lawfully available funds, then the Subrecipient may terminate this Agreement at the end of its current federal fiscal year, with no further liability to MLE. The Subrecipient shall deliver written notice to MLE of such termination no later than 30 days from the determination by the Subrecipient of the event of non-appropriation. MLE shall pay for all authorized Project costs expended up to the date of written notice of termination.

**22.4 Termination for Default.** MLE, at any time upon 30 days prior written notice of default to the Subrecipient, may modify or terminate this Agreement if:

- a. The design and implementation, of the Project is not pursued with due diligence; or
- b. The Project is not permissible under federal, state, or local law; or
- c. The Subrecipient, does not abide by the nondiscrimination and affirmative action provisions of this Agreement; or
- d. The Subrecipient, without the prior written approval of MLE uses the funds provided by MLE hereunder to pursue any project other than the Project described in the final project approved by MLE; or
- e. During the term of this Agreement, the Subrecipient fails to perform any obligation or requirement of this Agreement.
- f. The Subrecipient defaults under any other agreement between the Parties.

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## **22.5 Rights and Remedies.**

- a. The Subrecipient shall, within 30 days of its receipt of a notice of default, reimburse MLE for all funds contributed by MLE to the Project. Further, MLE shall have any and all rights and remedies available at law or in equity.
- b. In the event that Subrecipient has materially failed to comply with this Agreement and such non-compliance has resulted in the Federal Funding Agency terminating MLE's grant or cause or requires MLE to return funds to the Federal Funding Agency, Subrecipient will return to MLE an amount equal to the funds which MLE is not reimbursed for or is required to return to Federal Funding Agency.

## **SECTION 23: NONAPPROPRIATION**

MLE's obligation to pay any amounts and otherwise perform its duties under this Agreement is conditioned upon MLE receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow MLE, in the exercise of its reasonable administrative discretion, to meet its obligations under this Agreement.

## **SECTION 24: AMENDMENTS**

The terms of this Agreement may not be altered, modified, supplemented, or otherwise amended, except by written agreement of the Parties.

This agreement may be amended only by mutual agreement of the parties in writing. Formal written amendment of the contract is required for changing the terms and conditions specifically stated in the original agreement and any prior amendments, including but not limited to:

- Budget revisions
- Scope of work
- Change in due dates
- Extensions of the period of performance
- Any other revisions determined material by MLE

## **SECTION 25: NOTICE**

Except as otherwise expressly provided in this Agreement, any notices to be given relating to this Agreement must be given in writing by email, personal delivery, or postage prepaid mail, to a Party's Authorized Representative at the physical address or to such other addresses as either Party may indicate pursuant to this *Section 24 - Amendments*. Any notice so addressed and mailed becomes effective five (5) days after mailing. Any notice given by personal delivery becomes effective when actually delivered.

## **SECTION 26: SURVIVAL**

All rights and obligations of the Parties under this Agreement will cease upon termination of this Agreement, other than the rights and obligations arising under *Section 11 – Governing Law and Consent to Jurisdiction*, *Section 13 – Ownership of Work Product*, *Section 20 – Recovery of Overpayments*, *Section 21 – Limitation of Liability*, and *Section 26 - Survival* hereof and those rights and obligations that by their express terms survive termination of this Agreement; provided, however, that termination of this Agreement will not prejudice any rights or obligations accrued to the Parties under this Agreement prior to termination.

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## SECTION 27: SEVERABILITY

The Parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

## SECTION 28: COUNTERPARTS

This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Agreement so executed constitutes an original.

## SECTION 29: COMPLIANCE WITH LAW

**29.1 Compliance with Law Generally.** Subrecipient shall comply with all federal, state, and local laws, regulations, executive orders, and ordinances applicable to Subrecipient and the Agreement.

**29.2 Penalty of Perjury.** By its execution of this Agreement, Subrecipient certifies under penalty of perjury under the laws of the state of Washington the truthfulness, completeness, and accuracy of any statement or claim it has made, it makes, it may make, or causes to be made that pertains to this Agreement.

**29.3 Tax Compliance.** Subrecipient has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state. Subrecipient shall, throughout the duration of this Agreement and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. For the purposes of this *Section 29.3 – Tax Compliance*, “tax laws” includes: (i) All tax laws of this state; (ii) Any tax provisions imposed by a political subdivision of this state that applied to Subrecipient, to Subrecipient’s property, operations, receipts, or income, or to Subrecipient’s performance of or compensation for any work performed by Subrecipient; (iii) Any tax provisions imposed by a political subdivision of this state that applied to Subrecipient, or to goods, services, or property, whether tangible or intangible, provided by Subrecipient; and (iv) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

Any failure to comply with the provisions of this *Section 29 – Compliance with Law* constitutes a material breach of this Agreement. Any failure to comply with Subrecipient’s certifications shall constitute a material breach of this Agreement. Any failure to comply shall entitle MLE to terminate this Agreement, to pursue and recover any and all damages that arise from the breach and the termination of this Agreement, and to pursue any or all of the remedies available under this Agreement, at law, or in equity, including but not limited to:

**29.3.1** Termination of this Agreement, in whole or in part, this is in addition to any remedies available under *Section 22 - Termination*.

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**29.3.2** Offsetting against any amount owed to Subrecipient, and withholding of amounts otherwise due and owing to Subrecipient, in an amount equal to State's setoff right, without penalty; and

**29.3.3** Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. MLE may recover any and all damages suffered as the result of Subrecipient's breach of this Agreement, including but not limited to direct, indirect, incidental, and consequential damages, costs of cure, and costs incurred in securing replacement Services and applications.

The state of Washington may take any and all actions permitted by law relative to the collection of taxes due to the state of Washington or a political subdivision, including (i) garnishing the Subrecipient's compensation under this Agreement or (ii) exercising a right of setoff against Subrecipient's compensation under this Agreement for any amounts that may be due and unpaid to the state of Washington.

These remedies are cumulative to the extent the remedies are not inconsistent, and MLE may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

## **SECTION 30: INDEPENDENT CONTRACTORS**

The Parties agree and acknowledge that their relationship is that of independent contracting parties and that Subrecipient is not an officer, employee, or agent of the state of Washington.

## **SECTION 31: PERSONS NOT TO BENEFIT**

No member of or delegate to Congress, resident commissioner, officer, agent or employee of the United States of America, member of the Washington Legislative Assembly, elected official of the state of Washington, or official, agent, or employee of the state of Washington, or elected member, officer, agent, or employee of any political subdivision, municipality or municipal corporation of the state of Washington shall be admitted to any share or part of this Agreement or derive any financial benefit that may arise therefrom.

## **SECTION 32: INTENDED BENEFICIARIES**

MLE and Subrecipient are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement provides, is intended to provide, or may be construed to provide any direct or indirect benefit or right to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of this Agreement.

## **SECTION 33: FORCE MAJEURE**

Neither Party is responsible for any failure to perform or any delay in performance of any obligations under this Agreement caused by fire, civil unrest, labor unrest, natural causes, or war, which is beyond that Party's reasonable control. Each Party shall, however, make all reasonable efforts to remove or eliminate such cause of failure to perform or delay in performance and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement. MLE may terminate this Agreement upon written notice to Subrecipient after reasonably determining that the failure or delay will likely prevent successful performance of this Agreement.

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## **SECTION 34: ASSIGNMENT AND SUCCESSORS IN INTEREST**

Subrecipient may not assign or transfer its interest in this Agreement and any attempt by Subrecipient to assign or transfer its interest in this Agreement will be void and of no force or effect. The provisions of this Agreement will be binding upon and inure to the benefit of the Parties hereto, and their respective successors. Any sub grant entered into under this Agreement shall contain terms and conditions substantially similar to this Agreement, including Federal provisions contained in Exhibit A and the sub grant shall:

- a. If the contract is not to a unit of Washington State government, the contract shall require the Subrecipient to indemnify, defend, save and hold harmless the state of Washington and its officers, employees, and agents ("indemnatee") from and against any and all claims, actions, liabilities, damages, losses or expenses arising from a tort, caused or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Subrecipient's contractor or any of the officers, agents, employees or subcontractors of the contractor ("claims"). It is the specific intentions of the parties that the Indemnatee shall, in all instances, except for claims arising solely from the negligent or willful acts or omissions of the Indemnatee, be indemnified by the contractor from and against any and all Claims.

## **SECTION 35: SUBCONTRACTS & SUB-AWARDS**

Subrecipient shall not, without MLE's prior written consent, enter into any subcontracts or follow-on sub-recipient sub-awards (work carried out by parties other than the Subrecipient) for any of the work required of Subrecipient under this Agreement. Subrecipient's consent to any contract, subcontract, sub-award will not relieve Subrecipient of any of its duties or obligations under this Agreement.

## **SECTION 36: TIME IS OF THE ESSENCE**

Time is of the essence in Subrecipient's performance of its obligations under this Agreement.

## **SECTION 37: MERGER AND WAIVER**

This Agreement and all Exhibits and Attachments, if any, constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver or consent under this Agreement binds either Party unless in writing and signed by both Parties. Such waiver or consent, if made, is effective only in the specific instance and for the specific purpose given.

Failure by MLE to insist upon the strict performance of any provision of this agreement shall not affect MLE's right to require strict performance of the same provision in the future or any other provision. Failure by MLE to exercise any right based upon a breach, or acceptance by MLE of performance during such breach, shall not constitute a waiver of any of its rights or remedies with respect to such breach.

EACH PARTY, BY SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

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## **SECTION 38: RECORDS MAINTENANCE AND ACCESS**

Subrecipient shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, Subrecipient shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of Subrecipient, whether in paper, electronic or other form, that are pertinent to this Agreement in such a manner as to clearly document Subrecipient's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of Subrecipient, whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." Subrecipient acknowledges and agrees that Washington State Parks and Recreation Commission and the federal government and their duly authorized representatives will have access to all Records to perform examinations and audits and make excerpts and transcripts. Subrecipient shall retain and keep accessible all Records for a minimum of six (6) years, or such longer period as may be required by applicable law, following termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later.

## **SECTION 39: HEADINGS**

The headings and captions to sections or subsections of this Agreement have been inserted for identification and reference purposes only and may not be used to construe the meaning or to interpret this Agreement.

## **SECTION 40: INCORPORATION BY REFERENCES AND ORDER OF PRECEDENCE**

The table below reflects the documents that are incorporated by reference (whether attached or not) and the order of precedence should there be a conflict between the parts of document or other documents incorporated by reference. The lower the number, the higher the precedence. Where two or more documents address a point or concept but are not in conflict, they should be read as supplemental, additive, and/or cumulative.

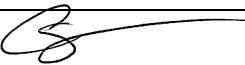
<b>Precedence</b>	<b>Document</b>
1 (highest)	United States of America Laws or Rules AND Washington State Laws and Rules
2	Amendments to any of the documents listed below shall control over the earlier version of that same document or earlier amendment to that same document.
3	EXHIBIT A - FEDERAL COMPLIANCE TERMS
4	EXHIBIT B - INFORMATION REQUIRED BY 2 CFR §200.211(b)
5	EXHIBIT C – 2 CFR 200, Appendix II - TERMS
6	ATTACHMENT A - SUBRECIPIENT'S MLE GRANT APPLICATION

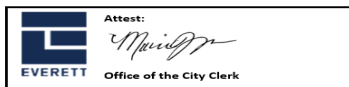
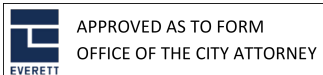


7	ATTACHMENT B – ALLOWABLE COSTS & EXPENDITURES FOR STATE VESSEL REGISTRATION FEES AND FEDERAL ASSISTANCE GRANTS
8	ATTACHMENT C – VESSEL REGISTRATION FEE PROGRAM GUIDANCE FOR MARINE LAW ENFORCEMENT PROGRAMS

## SECTION 41: SIGNATURES

This Agreement, which includes incorporated documents, is executed by the persons signing below who warrant under penalty of perjury under the laws of the State of Washington that they have read and understood the document and find it to be legal, valid, and a binding obligation, enforceable according to its terms, and have the authority to execute the contract.

<b>City of Everett</b> 3002 Wetmore Avenue Everett, WA 98201-4018	<b>Washington State</b> <b>Parks and Recreation Commission</b> 1111 Israel Road SW PO Box 42650 Olympia, WA 98504-2650
<b>Sign:</b> 	<b>Sign:</b> <i>Mark Bibeau</i>
<b>Title:</b> Cassie Franklin, Mayor	<b>Title:</b> Mark Bibeau, Chief Financial Officer
<b>Email:</b> N/A	<b>Email:</b> Contracts@parks.wa.gov
<b>Date:</b> 01/03/2024	<b>Date:</b> 01/03/2024
<b>Place:</b> Everett, WA	<b>Place:</b> Tumwater, WA



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## **EXHIBIT A: FEDERAL COMPLIANCE TERMS**

### **I. Grant Subrecipient Compliance Requirements:**

A. Subrecipient is responsible to ensure compliance with the federal implementing regulations for (Clean Vessel Act 50 CFR Part 85 or Boating Infrastructure Grant Program 50 CFR Part 86).

B. Subrecipient to comply with Assurances – Construction Programs (Standard Form 424D)

C. Pursuant to 2 CFR Part 170, MLE will enter grant information into the Federal Funding Accountability and Transparency Act (FFATA).

### **II. Federal Terms and Conditions:**

Subrecipient is responsible to comply with the following Federal Terms and Conditions, as applicable:

A. Uniform Administrative Requirements, 2 CFR Part 200, Subparts A through D or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B.

B. including but not limited to the following:

1. Property Standards. 2 CFR 200.313, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, which generally describes the required maintenance, documentation, and allowed disposition of equipment purchased with federal funds.

2. Contract Provisions. The contract provisions listed in 2 CFR Part 200, Appendix II, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, that are hereby incorporated into this Exhibit. These are, to the extent applicable, obligations of Subrecipient, and Subrecipient shall also include these contract provisions in its contracts with non-Federal entities.

3. Audits. Subrecipient shall comply, and require all subcontractors to comply, with applicable audit requirements and responsibilities set forth in this Agreement and applicable state or federal law. If Subrecipient expends \$750,000 or more in federal funds (from all sources) in a fiscal year beginning on or after December 26, 2014, Subrecipient shall have a single organization-wide audit conducted in accordance with the provisions of 2 CFR Subtitle B with guidance at 2 CFR Part 200. Copies of all audits must be submitted to MLE within 30 days of completion.

B. Cost Principles 2 CFR Part 200, Subpart E

C. Central Service Cost Allocation Plans Appendix V to Part 200

D. Indirect Cost Proposals Appendix VII to Part 200

E. Audit Requirements 2 CFR Part 200, Subpart F

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F. Federal Non-discrimination Statutes. Subrecipient is responsible to comply with all federal statutes relating to non-discrimination, including but not limited to: Title VI of the Civil Rights Act of 1964 (PL 88-352) which prohibits discrimination on the basis of race, color or national origin; Title IX of the Education Amendments of 1972 (20 USC §§ 1681-1683; 1685-1686) which prohibits discrimination on the basis of gender; Section 504 of the Rehabilitation Act of 1973 (29 USC § 794) which prohibits discrimination on the basis of handicaps; Age Discrimination Act of 1975 (42 USC §§ 6101-6107) which prohibits discrimination on the basis of age; Drug Abuse Office and Treatment Act of 1972 (PL 92-255) which prohibits discrimination on the basis of drug abuse; the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (PL 91-616) regarding non-discrimination on basis of alcohol abuse or alcoholism; Sections 523 and 527 of the Public Health Services Act of 1912 as amended (42 USC §§ 290 dd-3 and 290 ee-3) regarding confidentiality of alcohol and drug abuse patient records; Title VIII of the Civil Rights Act of 1968 (42 USC §§ 3601 et seq.) regarding nondiscrimination in the sale, rental or financing of housing; any other nondiscrimination provisions of the specific statutes under which this agreement is being made; and the requirements of any other nondiscrimination statute(s) which apply to the federal financial assistance award received by MLE.

G. Eligible Workers. Subrecipient shall ensure that all employees complete the I-9 Form to certify that they are eligible for lawful employment under the Immigration and Nationality Act (8 USC 1324a). Subrecipient shall comply with regulations regarding certification and retention of the completed forms.

H. To the extent applicable to this award, Subrecipient is responsible to comply with

1. National Environmental Policy Act; E.O. 11514 (which requires the Subrecipient to comply with environmental standards which may be prescribed pursuant to institution of environmental quality control measures under the National Environmental Policy Act of 1969 (42 USC Chapter 55, [Pub. L. 91-190]) and Executive Order 11514.
2. E.O. 11990: Protection of Wetlands (which requires the Subrecipient to comply with environmental standards for the protection of wetlands)
3. E.O. 11988: Floodplain Management; E.O. 11988 (which requires the Subrecipient to comply with environmental standards for the evaluation of flood hazards in floodplains)
4. Coastal Zone Management Act (which requires Subrecipient to ensure that the work performed will not violate State management programs developed under the Coastal Zone Management Act of 1972) (16 USC Chapter 33, Sections 1451 et seq.).'
5. Wild and Scenic Rivers Act (which requires the Subrecipient to protect components or potential components of the national wild and scenic rivers system). (16 USC Chapter 28, Sections 1271 et seq.)

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6. Historic Preservation Act, E.O. 11593 (which requires Subrecipient to assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 USC 470), E.O. 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 USC Sec. 469a-1 et seq.).

7. Endangered Species Act (which requires the Subrecipient to comply with environmental standards for the protection of endangered species) 16 USC Chapter 35, Sections 1531ff [Pub. L. 93-205]).

8. Marine Mammal Protection Act (which Requires permits and reports for research projects that will involve the taking or importation of protected marine mammals or marine mammal products) (16 U.S.C. Chapter 31, Subchapter I, Sections 1361ff).

I. Other Requirements (USFWS specific)

1. Universal Identifier and Central Contractor Registration 2 CFR Part 25

2. Reporting Sub-awards and Executive Compensation 2 CFR Part 170

3. Award Term for Trafficking in Persons (applicable to private entity subrecipients) 2 CFR Part 175

4. Government-wide Debarment and Suspension (Non-procurement) 2 CFR Part 1400

5. Requirements for Drug-Free Workplace (Financial Assistance) 2 CFR Part 1401

6. 43 CFR 18 New Restrictions on Lobbying: Submission of an application also represents the applicant's certification of the statements in 43 CFR Part 18, Appendix A, Certification Regarding Lobbying.

7. 41 U.S.C. 4712 Enhancement of Recipient and Subrecipient Employee Whistleblower Protection:

a. This award, related sub-awards, and related contracts over the simplified acquisition threshold and all employees working on this award, related sub-awards and related contracts over the simplified acquisition threshold are subject to the whistleblower rights and remedies established at 41 USC 4712b. Subrecipient, Subrecipient's contractor, or Subrecipient's sub-recipient(s) (however many levels), and their contractors award contracts over the simplified acquisition threshold related to this award, shall inform their employees in writing, in the predominant language of the workforce, of the employee whistleblower rights and protections under 41 U.S.C. 4712.

c. The Subrecipient shall insert this clause, including this paragraph (c), in all sub awards and in contracts over the simplified acquisition threshold related to this award.

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8. Prohibition on Members of Congress Making Contracts with Federal Government: No member of or delegate to Congress or Resident Commissioner shall be admitted to any share or part of this award, or to any benefit that may arise therefrom; this provision shall not be construed to extend to an award made to a corporation for the public's general benefit 41 USC § 6306.

9. Federal Leadership on Reducing Text Messaging while Driving: Subrecipients are encouraged to adopt and enforce policies that ban text messaging while driving, including conducting initiatives of the type described in Section 3(a) of the Order Executive Order 13513.

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## EXHIBIT B: INFORMATION REQUIRED BY 2 CFR §200.211(b)

### Federal Award Identification:

- (i) Subrecipient name (which must match registered name in DUNS): Everett Police Department
- (ii) Subrecipient's UEI number: #LVPSLN4A2LF6
- (iii) Federal Award Identification Number (FAIN): #3323FAS230153
- (iv) Federal Award Date: 10/1/2023
- (v) Sub-award Period of Performance Start and End Date: From 10/1/2023 to 9/30/2024
- (vi) Total Amount of Federal Funds Obligated by this Agreement: \$17,904.70
- (vii) Total Amount of Federal Award committed to the Subrecipient by the pass-through entity: \$17,904.70
- (ix) Federal award project description: Marine Law Enforcement Federal Financial Assistance Grant
- (ix) Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the Pass-through entity:
  - (a) Name of Federal awarding agency: United States Coast Guard
  - (b) Name of pass-through entity: Washington State Parks and Recreation Commission
  - (c) Contact information for awarding official of the pass-through entity:  
boatingprogram@parks.wa.gov
- (x) CFDA Number and Name: Federal Boat Safety Act 92-75
- (xi) Is Award R&D? No
- (xii) Indirect cost rate for the Federal award: NA %

*\*For the purposes of this Attachment, the term "pass-through entity" refers to Washington MLE Grant Program.*

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## **EXHIBIT C: 2 CFR 200, APPENDIX II - TERMS**

### **Provisions for Non-Federal Entity Contracts Under Federal Awards (current as of 20200717)**

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

**(A)** Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

**(B)** All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be affected and the basis for settlement.

**(C)** Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

**(D)** Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

**(E)** Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve

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the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

**(F) Rights to Inventions Made Under a Contract or Agreement.** If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

**(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended -** Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

**(H) Debarment and Suspension (Executive Orders 12549 and 12689) -** A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

**(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) -** Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

**(J) See § 200.322 Procurement of recovered materials.**

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75888, Dec. 19, 2014]



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## ATTACHMENT “A”: SUBRECIPIENT’S FFA GRANT APPLICATION



EVERETT PD 2024  
A-300 Application.pdf

# Washington State Parks & Recreation Commission - Recreational Boating Program

## Federal Financial Assistance Grant Program Application

Application Year: 2024

Agency Name: Everett Police Department

### PREVENTION PLAN PART 1 - ASSESSMENT, IDENTIFICATION, GOALS

#### High Priority Boating Risks and Hazards

High Priority Boating Risks & Hazards	Data / Professional Judgement	Comments
Paddle Sports	05-29-24 to 09-27-24	Kite Surfers use small paddle craft to cross the Snohomish River in an area of high boat traffic.
Fishing and Crabbing	07-01-24 to 09-07-24	We have a large amount of boats using our waterways for recreational fishing and crabbing. This is the primary use of our waterways
Shrimping	TBD	Shrimping not only brings out a large amount of boats, but the limited number of shrimping days forces boaters to go out in possible poor conditions.

#### High Priority Audiences

Description of Audience	Why is this Audience a Priority?	Comments
Fishers and Crabbers using boats under 16 feet	Our last two fatalities were in small boats in this type of activity	we will target this population for inspections and enforcement. Any violations involving overloading of boats will result in enforcement.
Kite Surfers, kayakers	They use small paddle craft to cross the Snohomish River to get to Jetty Island	Where they cross the Snohomish river is one of the busiest areas of the river. Rules of the road violations will be enforced, along with PFD.

## PREVENTION PLAN PART 1 - TASKS, TACTICS, MEDIA

### Patrol Plans / Emphasis Patrols / Enforcement Policies

Activity	Time Frame	Patrol Hour Goal	Inspection Goal	Comments	Type
Operation Dry Water	TBD	24.00	Patrol Plan/Emphasis Patrol/Enforcement Policy	we will participate in Operation Dry Water	Patrol Plan/Emphasis Patrol/Enforcement Policy
Boat patrol	05-24-24 to 09-29-24	440.00	Patrol Plan/Emphasis Patrol/Enforcement Policy	We are going to focus on this time of the year as it is our busy season. We will add additional patrols later in the day during the summer to increase our hours on the water and contact people that we do not normally contact during the day.	Patrol Plan/Emphasis Patrol/Enforcement Policy
Derelict Boat identification and removal	Various	30.00	Patrol Plan/Emphasis Patrol/Enforcement Policy	We are going to use a combination of boats and sUAS to locate and remove derelict recreational vessels in our jurisdiction..	Patrol Plan/Emphasis Patrol/Enforcement Policy
Fishing and Crabbing	05-24-24 to 09-29-24		Safety Inspection	We will focus on the busiest time of the year to operate	Safety Inspection

				patrols to maximize number of inspections per boat patrol hour.	
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#### State Approved Boater Education Classes & Community Events

Activity	Date	Hours Planned	Attendance	Comments	Type
	4/14/2024	10.00	25.00	Dependent upon space availability	SABEC
4th of July	7/4/2024	40.00		We have high RBS activity on the 4th.	Community Events
Christmas Light Parade	12/15/2024	10.00		We launch a boat for the Christmas light boat parade. This event is in dark and cold conditions with many trip hazards on the vessels.	Community Events
		10.00		Water safety class for Futball camp during summer	Presentation to Groups
		10.00		Water safety class baseball camp.	Presentation to Groups
		5.00		We present at our community Police Academy classes. We speak about boater safety and the capabilities of our marine unit.	Presentation to Groups

#### Vessel Dealer/Rental Site Visits

Dealers Targeted	Hours Spent Visiting	Comments	Type
Boat dealers in the City of Everett	10.00		Dealer
	0.00	We do not have boat rental in Everett.	Rental

#### Professional Prevention Partners

Name of Partnering Orgs	Hours Planned Coordinating	Comments
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#### Media Plan

Campaign	Owned Media Posts	Earned Media Posts	Events	Comments
Operation Dry Water	4.00	4.00		
National Safe Boating Week	4.00	4.00		
Paddle Safety Week	4.00	4.00		
Spring Aboard	4.00	4.00		
Other (please describe)				

#### INSTRUCTOR INFORMATION

SAW ID	First Name	Last Name	Phone	Email	Development Complete?
	Kevin	O'Brien	425-754-8107	kobrien@everettwa.gov	Yes

#### PREVENTION GOALS SUMMARY

Total Patrol Hour Goal: 494.00

Total Inspections Goal: 600.00

Count of State Approved Boater Education Classes Planned: 1.00

Sum of Hours for State Approved Boater Education Classes: 10.00

Sum of State Approved Boater Education Classes Planned Attendance: 25.00

Count of Community Events: 2.00

Sum of Community Events Hours: 50.00

Count of Presentations to Schools: 0.00

Sum of Presentation to Schools Hours: 0.00

Count of Presentations to Groups: 3.00

Sum of Presentations to Groups Hours: 25.00

Count of Dealer Visits Planned: 1.00

Sum of Dealer Visits Hours: 10.00

Count of Rental Sites Planned: 1.00

Sum of Rental Site Visits Hours: 0.00

Owned Media Posts: 16.00

Earned Media Posts: 16.00

Count of Partnering Organizations: 0.00

Sum of Partnering Organization Hours: 0.00

Printed On: November 20, 2023

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## **ATTACHMENT B – ALLOWABLE COSTS & EXPENDITURES FOR STATE VESSEL REGISTRATION FEES & FEDERAL ASSISTANCE GRANTS**

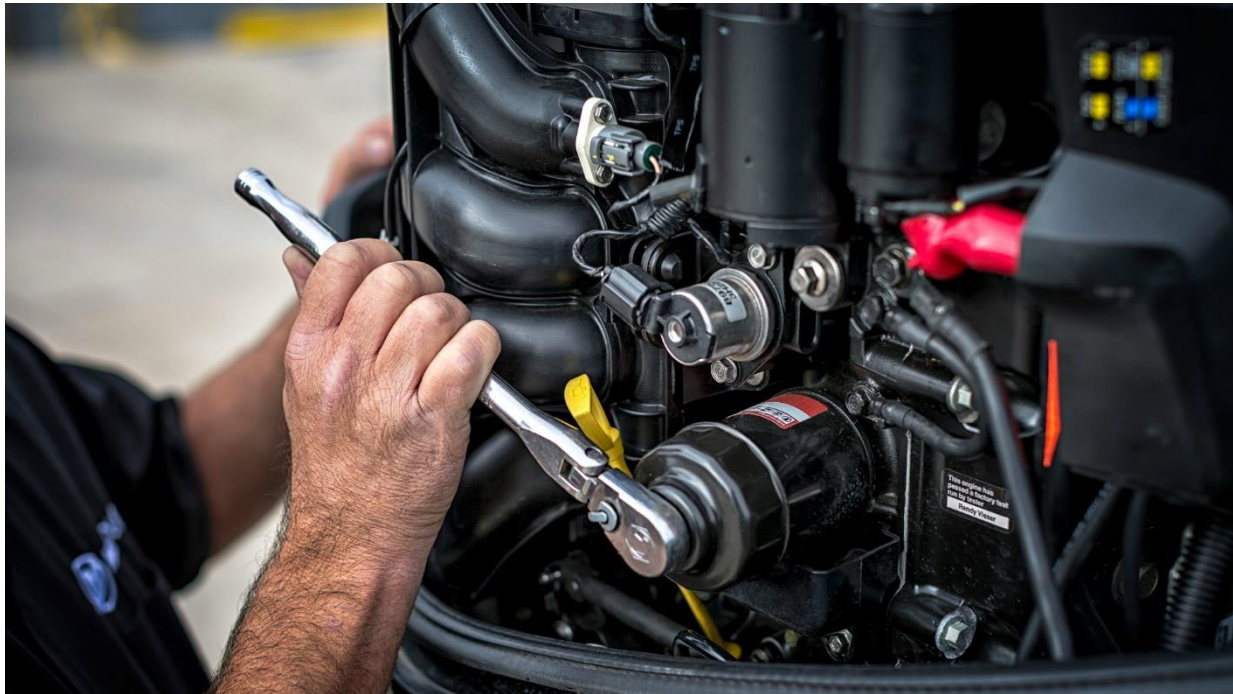


2023 Allowable Costs  
& Expenditures.pdf



# Allowable Costs & Expenditures For State Vessel Registration Fees & Federal Assistance Grants

Updated June 2023





# Washington State Parks & Recreation Commission

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# Washington State Parks & Recreation Commission

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## **VESSEL REGISTRATION FEES & GRANT FUNDING**

Any item not listed below must be reviewed and found acceptable by the Washington State Parks Boating Program (Boating Program) before it is considered a valid Recreational Boating Safety (RBS) expenditure.

### **UNIT COST APPROVAL**

Items with a unit cost of \$5,000 or more must have the prior written approval of Washington State Parks and Recreation Commission Marine Law Enforcement (MLE) Coordinator.

### **COST PRORATION**

If a cost benefits both your RBS program and other work of your agency, the cost should be allocated to the RBS Program based on the proportional benefit to the program. The costs may be allocated using any reasonable documented method.

### **ADMINISTRATIVE COSTS**

Agencies that receive Vessel Registration Fees (VRF) are not allowed to charge flat administrative costs for the administration of the VRF funds as is often done with federal grants. However, agencies may charge the salaries and benefits costs of actual hours worked by staff associated with the administration of their dedicated VRF account.

Agencies that receive federal assistance grants from the Boating Program are allowed to charge indirect (administrative) costs for those funds. If the agency has a federally negotiated indirect cost rate, they are permitted to charge that against the total salaries + benefits charged to the federal assistance grants. They must first provide a copy of their current rate agreement to Parks. If not, then they may charge a *de minimis* flat rate of 10% or elect not to charge indirect at all (2 CFR 200.414(f)).

### **ALLOWABLE EXPENDITURES**

Grant funds may be used only for activities under WAC 352-65-040, the ten elements necessary to accomplish the Recreational Boating Safety (RBS) mission. If it is unclear if an expense meets these criteria, contact State Parks at (360) 902-8835 or [Bryan.Alexander@parks.wa.gov](mailto:Bryan.Alexander@parks.wa.gov) to discuss the item before proceeding.

Allowable expenses include but are not limited to:

- **RBS SALARIES**
  - Time, salaries, benefits and wages for officers or deputies who possess a Washington State Peace Officers Certification, are fully commissioned to enforce the laws of Washington State and who have completed an RBS course acceptable to State Parks (BMLE or equal).

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- Time, salaries, benefits and wages for officers or deputies who possess a Washington State Peace Officers Certification, are fully commissioned to enforce the laws of Washington State, and who have not completed a BMLE course is acceptable ONLY when working with an RBS trained officer AND when the agency has a written 'two-officer' policy for officers on marine patrol for the purpose of officer safety.

- **RBS EDUCATION AND INSTRUCTION**

Providing instructors for the *Adventures in Boating* course that qualifies graduates for the required mandatory boater education card. Costs may include classroom supplies, light refreshments, other goods and services necessary to promote and teach classes, and officer salaries, benefits and wages. Officer salaries will only be reimbursed for those officers who have successfully completed a State Parks *Adventures in Boating* Instructor Training class and are listed on our files.

Life jackets (USCG approved only) for the state *Adventures in Boating* course and other RBS presentations, such as: throw rings or cushions for loaners and the cost to print only the agency's name or RBS safety messages.

- **RBS TRAINING**

Grant or VRF funds can be used to pay for full-time and reserve officers who are fully commissioned to enforce the laws of the State of Washington to attend training provided by the Boating Program or courses approved by the Boating Program.

**Note: Approval from State Parks is mandatory if an officer or deputy is applying for a non-Washington RBS course.** Examples of approved courses include:

- MLE Instructor Meeting
- Basic Marine Law Enforcement/Boat Crew Member or equivalent (BMLE)
- Boat Operator Search and Rescue (BOSAR)
- Boating Under the Influence – Basic (BUI-Basic)
- Boating Under the Influence-Advanced (BUI-Adv)
- Personal Watercraft for Law Enforcement (PWCLE)
- Enhanced Vessel Operator Course (EVOC)
- Fall Marine Law Enforcement Conference
- Boating Accident Investigation-Level 1
- Officer Water Survival
- Boater Education Instructor Training (BEIT)
- Designated Education Officer Training (DEOT)
- Adventures in Boating Instructor Training

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- RBS Related Local In-Service Training
- Other USCG training courses with prior approval
- Other NASBLA training courses with prior approval

Per Diem travel expenses at **state per diem rate** in effect for the destination RBS training, conferences, and meetings. Cost is prorated for percentage of travel /per diem for RBS purposes /missions only.

## RBS EQUIPMENT

Allowable expenses may include the purchase, maintenance and operation of patrol boats and patrol boat equipment to perform the RBS mission as defined in WAC 352-65-040 only. **Any purchase exceeding \$5,000 must receive prior approval from the Boating Program.** All decisions by the Boating Program for equipment purchases are final.

## PATROL VESSELS

- Motors and hardware
- Props
- Trailers and maintenance of trailers (repair, tires, winch, cables, power take-off)
- Patrol vessel and engine drive system repairs
- Repair and replacement of equipment on boat (includes de-watering pumps which can also be used as fire-fighting equipment)
- Tow vehicles (dedicated for 100% RBS use, or prorated for the percentage of time used for RBS activities)
- Hitch assemblies and installation cost for tow vehicles that are dedicated for 100% RBS use, or prorated for the percentage of time used for RBS activities
- Anti-freeze fluid
- Batteries and fluid; maintenance and replacement
- Costs related to the maintenance and repair of the vessel
- Costs related to marking and identifying patrol vessels as government owned, which includes painting, decals and cost of removal and application
- Vessel electrical system repairs and replacement
  - Electronic devices: parts and labor for maintenance, repairs to maintain, or replacement when devices fail, or are no longer serviceable, or when upgrades are required to meet customary and current standards for law enforcement work
  - Devices dedicated to the program such as agency & VHF radios
  - Radar units
  - Sirens

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- Blue lighting equipment
- Hailers
- Global positioning system (GPS) units
- Personal breath testers (PBT)
- Cell phones used 100% RBS only, or prorated for a percentage of time used on boat
- Battery chargers and computers dedicated to program use
- Includes brackets and fittings for installation and use
- Fluids for hydraulic system
- Fuel, fuel additives and filters; associated disposal fees
- Gear oil for lower units
- Glass replacement and costs to install, associated disposal fees
- Grease and lubricants
- Oil and oil filters; associated disposal fees
- Parts and labor for regular scheduled maintenance and scheduled replacement
- Parts for replacement on the vessel when failure occurs or when damaged and labor, which includes engine, lower unit and cooling system repairs and replacement
- Vessel canvas tops and side covers; includes repairs and replacement of canvas/vinyl/plastic material and framing structures
- Vessel hull and structural repairs/replacement of railings, pilot house, decks, cleats, ladders, swim platforms, Sampson posts, fittings, towing equipment, davits, anchors, chain, and associated hardware and fittings

### **ASSOCIATED EQUIPMENT FOR PATROL VESSELS**

- Cost of emergency response and rescue equipment repair, replacement and maintenance, including: stretchers, first aid/first responder kits and materials, fire suppression equipment and supplies.
- Cost of fees related to cell phone charges, annual registration charges, renewal fees, and insurance are prorated for percentage of time used performing RBS missions.
- Cost of haul-outs and associated costs with cleaning and maintenance of hull, fixtures and drive systems, and associated disposal fees.
- Costs related to moorage, including cost of water/electricity associated with maintenance and moorage.
- Cost of required safety equipment on the vessel when replacement, repair, or regular maintenance is needed to meet state/federal regulations and maintain USCG standards. For example:
  - Life jackets, replacement parts (clips, hooks, CO2 cartridges and re-arm kits) and stenciling/screening of agency name or law enforcement

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- Exposures suits
  - Fire extinguishers/extinguishing systems
  - Visual distress signals
  - Navigation lights
  - Sounding devices
  - Ventilation systems
  - Backfire flame arrestor
- Cost of replacement, repair, or regular maintenance of equipment used during operation and moorage. For example:
  - Fenders
  - Lines for towing and mooring
  - Chafing gear
  - Boat hooks
  - Towing equipment
  - Bilge pumps
  - Batteries
  - Navigation charts
  - Piloting equipment
  - Helm fixtures and seats
  - Logbooks
  - Depth sounders & radar, does not include FLIR systems
  - Portable fuel tanks and hoses

### **PATROL VESSEL TRAILERS**

- Costs related to maintenance and repair of patrol vessel trailer(s)
- Cost of tires and wheels, including: installation, repair, and balancing; associated disposal fees
- Electrical system maintenance, repair and replacement
- Hitch and ball repair or replacement
- Hydraulic or electric brake system maintenance, repair and replacement
- Oil, grease and lubricants, and associated disposal fees
- Winch maintenance, repair and replacement

### **BOAT EQUIPMENT**

- Anchors
- Line for towing and mooring

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- Chain or shackles and attachment hardware
- Carabineers
- Boat hooks
- Fire extinguishers (only USCG approved)
- Fenders
- Depth finders
- Radar units, does not include FLIR systems
- Radios and computers, dedicated for 100% RBS use or prorated for the percentage of time used for RBS activities
- Lines for tie up
- Light bars – blue lights only (no red, white or yellow lights)
- Search lights dedicated for 100% RBS use or prorated for the percentage of time used for RBS activities
- FLIR System (mounted on and wired to the vessel)
- Sirens
- Cost of installation and servicing of electronic components
- Canvas and siding for weather protection
- Haul out for cleaning/painting/servicing patrol vessels
- First-aid kits dedicated for 100% RBS use or prorated for the percentage of time used for RBS activities
- Rescue throw bags for use on boats only

### **NAVIGATION AIDS & BUOYS**

- Navigation signs & markers (to meet RCW 79A.60.500 and WAC 352)
- Decals for buoys
- Chain
- Cable and connectors
- Weights
- Equipment to maintain buoys and signs to remain effective

### **EDUCATION**

- Publications to promote RBS education that are already prepared or the creation, design and printing of publications
- Education equipment related to required boating safety equipment for recreational boats

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- Promotion of *Adventures in Boating* classes (including presentation materials, light refreshments and room rental for classes)

### **NON-ALLOWABLE COSTS AND EXPENDITURES**

- Bullet proof vests are beneficial, however equipment of this nature is not essential for meeting the established criteria in WAC 352-65-040 nor is it related to the performance of an RBS program mission and is considered a local agency responsibility to purchase.
- Equipment used in recovery operations (dive equipment, etc.) while being used in an RBS search or investigation mode are 100% eligible. Once this equipment is used for recovery operations it must be prorated between RBS missions and recovery missions.
- Handheld or portable night vision, FLIR or thermal imaging devices are a 100% allowable expense while in RBS patrol, search or investigation mode. Once this equipment is used for recovery operations it must be prorated. Permanently mounted and electrically wired FLIR and thermal Imaging devices are 100% allowable expenses.
- Homeland security missions (weapons, etc.), or any other equipment determined as unrelated by the Boating Program is not an allowable expense.
- Firefighting equipment is not an allowable expense.



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## **ATTACHMENT C – VESSEL REGISTRATION FEE PROGRAM GUIDANCE FOR MARINE LAW ENFORCEMENT PROGRAMS**



2023 Vessel  
Registration Fee Prog



# Vessel Registration Fee Program Guidance for Marine Law Enforcement Programs

Updated September 2023



## Introduction

The purpose of the Vessel Registration Fee (VRF) program is to focus local jurisdiction marine programs on injury prevention activities around recreational boating safety. These activities include enforcing [RCW 79A.60: Regulation of Recreational Vessels](#) and providing emergency response to boating accidents. Each marine patrol unit should strive to serve and protect the lives and property of Washington's recreational boaters. All VRF Funds are awarded based on the potential success and ability of the local agency to provide such service to the boating community. Recreational Boating Safety (RBS) programs are evaluated using the criteria published in this document, as well as its ability to meet the requirements and assurances of [WAC 352-65: Boating Safety Program Approval](#).

This guidance document is intended to help local marine law enforcement programs understand the minimum qualifications and requirements to receive vessel registration fees. The document has been laid out to explain this as simply as possible. The beginning section provides a brief list of the qualifications and requirements, and the remainder of the document explains each component in more depth.

The Washington State Parks Boating Program (State Parks) has established different operational goals for agencies dependent on the population within their jurisdiction (based on 2019 census data).

- **Small Agencies** – Under 30,000 population
- **Medium Agencies** – Population between 30,000 and 100,00
- **Large Agencies** – Populations exceed 100,000.

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# Overview of Agency Eligibility Requirements and Qualifications

Only counties or local public agencies having jurisdiction over waters used for recreational boating and possessing the authority to enforce the Revised Code of Washington and the Washington Administrative Code are eligible to apply to receive vessel registration fees. Participating agencies must:

## **Administrative & Financial Requirements**

1. Sign an annual agreement with State Parks.
2. Designate a “Marine Lead”: A single point of contact that oversees the day-to-day program operations, commits to attend the annual marine law enforcement conference, and responds to surveys sent by State Parks.
3. Designate a “Marine Supervisor”: A single point of contact that has administrative authority over the marine program for the agency.
4. Report recreational boating safety activities and certain financial data to State Parks.
5. Place all vessel registration fees into a dedicated account, agree to spend them only on eligible expenses and agree to accountability requirements.
6. Provide digital links to all local ordinances regulating recreational boating.

## **Operational Requirements**

7. Employ Officers / Deputies commissioned to enforce Washington state law.
8. Send all marine Officers / Deputies through the Washington State Parks Basic Marine Law Enforcement Academy.
9. Maintain annual training qualification currency for each participating Officer / Deputy.
10. Provide the appropriate vessels and equipment to carry out the operational requirements.
11. Report all boating accidents that occur within the jurisdiction (that meet minimum criteria) pursuant to RCW 79A.60.200, RCW 79A.60.220 and WAC 352-70.
12. Respond and provide assistance to boaters for on-water emergencies, complaints, and accidents.
13. Commit to a minimum number of hours patrolling the waters used by recreational boaters during peak boating season.
14. Actively enforce Washington’s boating safety laws and regulations.
15. Conduct vessel safety inspections for recreational boaters.
16. Provide a boating safety education and outreach program and designate at least one Officer / Deputy to receive the Adventures in Boating Instructor training and to manage the program.
17. Place and maintain aids to navigation as legislated by local ordinances.

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### Summary of Required Documents and Due Dates

Document Name	Form Number	Date Due
Request for Boating Program Approval	A-299 / Web form	15 Oct each year
Federal Financial Assistance Grant Application (If applying)	A-300/Web form	15 Oct each year
B.O.A.T Currency Report	Web form	15 Oct each year
Summary of Activity Report (SOAR)	Web form	Quarterly *
Boating Accident Report (BAR)	A-440	10 days following accident
Boating Accident Investigation Report (BAIR)	A-425 (Rev 08/2009)	10 days following accident / fatality meeting report criteria
Washington State Vessel Inspection	P&R A-274	Quarterly*
VRF Expenditure Report	Web form	1 Nov each year
Financial System Report	Agency generated	1 Nov each year
VRF Fund Balance Report	Agency generated	1 Nov each year
Boating Safety Surveys	N/A	Varies

*\* Document is due quarterly and must be submitted by the 15th of the month following the last month of the quarter (1st Qtr-04/15, 2nd Qtr-07/15, 3rd Qtr-10/15, 4th Qtr. 01/16).*

# Administrative & Financial Requirements

## Annual Agreement – The A-299 Application Form

Each agency is required sign an agreement with State Parks by submitting a complete A-299 application form. The A-299 contains several informational fields that must be filled out completely to be considered and aids in the continued approval of the agency's program. These forms are due each year by October 15. Agencies must provide information on their current staff, training, an inventory of vessels, and the anticipated patrol schedule. The form also defines the specific requirements your agency is committing to in exchange for vessel registration fees. This form, and instructions on how to fill it out, is located at <http://mle.parks.wa.gov/>.

## Designated Marine Lead / Conference Attendance / Surveys

Each agency has a unique and different operational environment that offer a variety of solutions to ensure Marine Law Enforcement (MLE) unit operations, enforcement, fiscal and administrative functions are conducted according to best practices. Some agencies may have a Lieutenant serving the MLE Unit Supervisor and crew member conducting vessel operations and patrols. Other agencies may have a Sergeant as a supervisor and different crew member conducting vessel operations.

Recognizing this, State Parks requires each agency to designate a "Marine Lead", which is the person responsible for the day-to-day operations of its marine program and acts as the point-of-contact with State Parks on all issues and matters related to that agency's MLE unit. While the Sheriff or Chief of Police is ultimately responsible for ensuring their agency is meeting all the program requirements, the Marine Lead is the person implementing their guidance and communicating that to other Marine Unit members, State Parks, and the public.

The Marine Lead is responsible to:

- Ensure all required reports are completed and submitted to State Parks within due date guidelines.
- Submit personnel names to attend training courses and conferences.
- Attend the annual fall conference.
- Ensure that B.O.A.T. Currency training is conducted and reported to State Parks.
- Utilize Marine SECTOR within their agency.
- Communicate with State Parks on all matters and issues which may arise around recreational boating safety and marine law enforcement.
- Respond to surveys from State Parks.

State Parks also requires the agency to designate a "Marine Supervisor", which is the person with administrative supervision of the agency's MLE program.



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## Reporting Recreational Boating Activities and Financial Data

### **SOAR – Summary of Activity Reports**

A Summary of Activities Report (SOAR) form must be submitted at least quarterly to State Parks. However, agencies are invited to report activities daily, weekly, or monthly. This form, and instructions on how to fill it out, is located at <http://mle.parks.wa.gov/>.

### **Vessel Registration Fee Expenditure Report**

This annual report form must be submitted by October 15 each year to State Parks. The form fulfills the requirements of **WAC 352-65-040(9)** which requires each participating agency to submit an annual account of program expenditures showing the amount of vessel registration fees received, spent, and remaining in their dedicated account. They must also show the amount of “local spending” on recreational boating safety activities. “Local spending” is the amount agencies spend on the RBS mission and cannot come from other grant sources. Local spending is required because [RCW 88.02.650](#) specifies that “[VRF] Funds may not supplant local funds used for boating safety programs”. This form, and instructions on how to fill it out, is located at <http://mle.parks.wa.gov/>.

### **Supporting Financial Documents**

Every Vessel Registration Fee (VRF) Expenditure Report must be accompanied with the following reports:

- **Financial System Report**: A report from the agency financial system (not Excel) showing a dedicated account for the deposit of state VRF funds received from the Office of State Treasurer (Enclosure 4).
- **VRF Fund Balance Report**: A report showing the fund balance of the dedicated account (Enclosure 5). The VRF fund balance on this system-generated report should match the bottom line on the VRF report (“Total Remaining Balance of State VRF funds for Fiscal Year”).

### **Dedicated Account / Limitations on the Use of Funds / Accountability**

Participating agencies must deposit VRF funds allocated by the state treasurer, under RCW 88.02.650, into an account dedicated solely for boating safety purposes, which include all activities or expenditures identified in this section. See the document “Allowable Costs & Expenditures for State Vessel Registration Fees & Federal Assistance Grants” for a thorough explanation of eligible expenses located at <http://mle.parks.wa.gov/>.

Vessel Registration Fees are intended to increase the education and enforcement efforts of local agencies and stimulate greater local participation in boating safety. They cannot be used to fund any activities except those that are part of the recreational boating safety mission.

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Agencies may charge actual, direct administrative costs to the VRF account - such as staff hours it takes to fill out forms, or to maintain the dedicated account - but may not charge administrative fees based on an estimated percentage.

Participating agencies must maintain accurate annual records of activities and expenditures of their boating safety programs. Those records must be provided to State Parks consistent with their agreement, or upon request. The agency must also permit State Parks to audit the use of funds in accordance with generally accepted audit practices and standards.

## **Links to local ordinances**

When the local jurisdiction adopts ordinances governing recreational boating, the ordinances must be at least as restrictive, but may be more restrictive than Washington state boating laws and regulations. Participating agencies must submit a web link to all such ordinances to State Parks using the designated field in the A-299 Form.

## Operational Requirements

### **Officer / Deputy Qualifications / Training / Training Currency**

Participating agencies must provide Officers / Deputies with law enforcement certificates from the Criminal Justice Training Commission which authorizes them to enforce all boating laws and regulations. All Officers / Deputies must maintain a current Washington State Peace Officers Certification.

Participating agencies are responsible for acquiring the required training for all RBS Officers / Deputies. Washington State Parks provides two or more Basic Marine Law Enforcement Academies each year to help agencies fulfill this requirement. These courses are provided at no charge. They are taught in the spring - usually one in Western Washington and one in Eastern Washington. Officers / Deputies may attend other basic boating safety training, if approved by State Parks. Those approved courses are the Federal Law Enforcement Training Center's (FLETC), Marine Law Enforcement Training Program (MLETP), or National Association of Boating Law Administrator's (NASBLA) Boat Crewman course (BCM).

Such training must be acquired within one year of initiating a new boating safety program and within one year for each newly assigned boating safety Officer / Deputy.

Washington State Parks' Marine Law Enforcement Training Academy is accredited through the NASBLA's Boat Operation and Training (BOAT) Program. As a term of accreditation, State Parks must ensure that all active marine Officers / Deputies maintain proficiency in basic RBS skills. This is important because these skills are perishable but critical to operate in a marine environment. All agencies must submit a BOAT Currency Requirements Report Form for all active personnel listed in the A-299. These reports are

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submitted at least annually with the A-299 but may be updated throughout the year. This form, and instructions on how to fill it out, is located at <http://mle.parks.wa.gov/>.

Agencies which have not completed all currency training tasks required may submit a statement of explanation and attach it to the A-299 form. State Parks recognizes that many different circumstances could prevent training from being completed (wildfires, maintenance issues, staffing shortfalls, etc.). Each circumstance will be evaluated on its own merits.

Agencies are required to list any additional training courses their personnel have completed on the A-299 web form. This helps State Parks in maintaining an up-to-date database of marine law enforcement capabilities across the state and helps identify training subjects and courses that are needed, but not offered within the state.

## Vessels and Equipment

Agencies must supply the necessary boating safety patrol equipment, including vessels capable of serving the minimum requirements outlined in this guidance. Patrol vessels must be properly marked and properly equipped as provided in chapter 88.02 RCW and chapter 352-60 WAC. Agencies are also required to provide State Parks with an inventory of all vessels along with details for how they are equipped each year by filling out the A-299 form. Information required on that form includes:

- **Vessels:** State Parks requires the following data on each vessel:
  - Vessel name
  - Manufacturer
  - Radio equipped (Y/N): Radio equipped means the vessel has an agency **radio installed or “hardwired”**. Non-radio equipped boats are vessels that do not have radios installed. Portable radios may be carried on these boats, but they would be considered non-radio equipped. Examples include personal watercraft, drift boats, Jon boats, kayaks, and inflatable rafts (motorized or non-motorized).
  - SECTOR equipped (Y/N): SECTOR equipped boats are the patrol vessels in your agency that are SECTOR equipped with a computer or tablet plus printer and scanner (**installed or “hardwired” to include portable cased units**). Non-SECTOR equipped boats are vessels that do not have a computer, tablet, printer installed or if these are not carried aboard as a cased kit.
  - Model
  - Length
  - Propulsion type
  - Horsepower
  - Year
  - Funds used to purchase the vessel (local, state, or federal)
  - Percent of time employed for the RBS mission.

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**NOTE:** Vessels purchased with state or federal dollars must be sold at the end of their useful life, consistent with the local agency's policies and procedures. Once a vessel is sold it should be removed from the Patrol Vessel list as quickly as possible. **If the agency is selling a vessel that was purchased with federal grant dollars provided by State Parks, you must notify State Parks 60 days in advance of the sale date.**

- **Vehicles** (trucks, cars, SUVs, ATVs): The number of other patrol vehicles assigned to the marine services unit **and the percentage they are used for RBS activities.**
  - Vehicle type
  - Manufacturer
  - SECTOR/Radio equipped
  - Model
  - Year
  - Funds used for purchase.
  - Percent of time employed for the RBS mission.
- **Aircraft:** The number of aircraft in your agency **and the percentage they are used for RBS activities.**
  - Aircraft type
  - Manufacturer
  - SECTOR/Radio equipped
  - Model
  - Year
  - Funds used for purchase.
  - Percent of time employed for the RBS mission.
- **Equipment valued at \$5000.00** (i.e., engines, electronics, etc.): Agencies are required to update their inventory of durable items defined as having a cost or value of \$5000.00 or more. Only items listed under "allowable expenses" are permitted (see "Allowable Expense Guidance" document for full details).
  - Type of equipment
  - Manufacturer
  - Model
  - Year
  - Funds used for purchase (local, state, federal)

### Boating Accident Reporting

Participating agencies are required to submit accident reports to State Parks in compliance with RCW 79A.60.200, RCW 79A.60.220 and W AC 352-70.

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For any boating accident resulting in a death or injury requiring hospitalization, each participating agency must:

- Notify State Parks **within 48 hours** of becoming aware of it.
- Fill out and submit a complete Boating Accident Investigation Report (BAIR – form number A-425) within ten days of the occurrence.
- Include the results of any other investigation conducted by the agency.
- Submit any coroner's reports concerning the death of any person resulting from the boating accident, within one week of completion.

Participating agencies must also submit a Boating Accident Report (BAR – form number A-440) within **10 days** of the occurrence to State Parks for any boating accident:

- Resulting in a death, OR
- An injury requiring hospitalization, OR
- Damage to any vessel or property of two thousand dollars or more, OR
- A vessel is a complete loss, OR
- A person disappears from the vessel under circumstances that indicate death.

## Boater Assistance

The local municipality will have the ability to respond or coordinate response to boating emergencies which occur within their jurisdiction. Furthermore, agencies must document each occurrence and report it to State Parks through the Summary of Activity Report (SOAR) at least quarterly using the following definitions:

- **Search and Rescue/Recovery** – Search and rescue (SAR) is defined as a water-borne response (including aircraft) involving a person or vessel **in peril**. Agencies should only report SAR cases on the Summary of Activity Report (SOAR) that were assigned a case number by their agency or a USCG MISLE Case ID Number and an Urgent Marine Information Broadcast (UMIB) initiated by the USCG. Agencies should not report assists (defined below) as SAR cases.
- **Assist** – An "Assist" is defined as aid where there is no immediate danger to the vessel or its occupants. This includes vessels involved in boating accidents, disabled, aground, out of fuel, or otherwise unable to reach a safe mooring under their own power. Assistance may include providing a tow, jump start, re-floating, re-righting, fuel, repair, repair parts, assisting persons in the water, etc. This does NOT include the salvage of a vessel once abandoned or commercial vessels. Report the number of vessels assisted and the number of persons assisted on the SOAR report.

## Boat Patrol (Boat Log Hours)

Boat patrol (Boat Log Hours) are those hours that the patrol vessel was actually on the water patrolling. Participating agencies must submit a patrol schedule (with the A-299) that demonstrates they are patrolling waters within their jurisdiction during peak recreational hours. They must also patrol a

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minimum number of hours per year. See the note below.

## **Minimum Patrol Hour Goals Based on Agency Size**

- Small agencies - 133 hours
- Medium agencies - 255 hours
- Large agencies - 436 hours

**NOTE:** State Parks recognizes that Washington State experiences a diverse boating season. Various areas of the state have increased boating activities due to recreation fishing, hunting and pleasure crafting. Because of its diverse landscapes and seasons, State Parks acknowledges that the traditional peak boating season remains during the time between Memorial Day and Labor Day but is not exclusive to that time frame. State Parks has collected data for patrol hours performed by all participating over a period of years and has established the average boat log hours for agencies based on jurisdiction population size according to the U.S. Census. Patrol hours can be a combination of Boat Log and Ramp-side hours.



Patrol hours is considered a critical metric. It is used by State Parks to determine if an agency is complying with the minimum requirements. Failing to achieve the minimum number of hours of patrol (based on size) could be a factor in determining ineligibility for vessel registration fees.

Example patrol schedule

Boat Patrol Schedule							
	Mon	Tue	Wed	Thur	Fri	Sat	Sun
Patrol Hours							
# of Officers / Deputies							
# of Vessels							
Patrol Season Beginning Date				Patrol Season Ending Date			

## **Enforcement**

Participating agencies must enforce safety equipment, vessel operation, noise level, navigation, harbor improvements (as authorized and placed through local ordinances), and registration laws as specified in Title 88 RCW, and as specified in local codes or ordinances. Agencies must also document and report the numbers of warnings and citations they issue for each type of boating violation in the Summary of Activity Report – **except those issued through SECTOR.**

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State Parks recommends zero tolerance policy in the enforcement of mandatory boater education card carriage, life jacket wear/carriage, boating under the influence and rules of the road violations. Officers / Deputies should strongly consider issuing citations for violations of these laws in all circumstances.

The SECTOR system should be used to issue boating citations and warnings. State Parks will no longer accept mailed-in paper inspection forms, although State Parks will continue to provide paper inspection forms to agencies for internal use.

## **Boating Safety Inspections**

Participating agencies must complete written boating safety inspections during enforcement and informational contacts when considered safe and appropriate to document boater compliance with state boating laws. State Parks will provide boating safety inspection forms. Copies of the completed inspections must be submitted to State Parks for statistical purposes. Inspections conducted in SECTOR do not have to be reported to State Parks.

**NOTE: We will not accept paper inspection forms after January 1, 2019. All inspections must be submitted using SECTOR.**

State Parks has calculated suggested minimum goals for the number of boating safety inspections an agency performs in a boating season based on size.

## **Suggested Written Inspections – Minimum Goals**

- Small, 92
- Medium, 283
- Large, 372

## **Boating Safety Education / Designated Education Officer / Deputy**

Participating agencies must have a boating safety education and information program. At a minimum, they must designate an Officer / Deputy, trained by State Parks, to coordinate the activities of boating safety education instructors, act as liaison to boating education organizations and to coordinate:

- Boating safety presentations, which may include presentations to primary and secondary school children, boating organizations, or youth groups.
- Boating safety instruction meaning a public course of instruction using the Adventures in Boating materials from State Parks, or other state or nationally recognized curriculum approved by State Parks.
- Distribution of boating safety information, including materials provided by State Parks, to boating and outdoor recreation organizations, the boating public, public agencies, and local media.

## NOTES

- Any Officers / Deputies designated as Certified Boating Education Instructors must be listed as Instructors qualified for the Adventures in Boating course by the State Parks Education and Outreach coordinator.
- State Parks considers education and outreach activities a key component of preventing boating injuries and fatalities. Classroom instruction, school presentations and participation in community events, Dealer and Rental site visits, and effective use of media are crucial to preventing boating accidents and fatalities. Agencies are not required to engage in all education and outreach activities described below but should pursue a mix of tactics appropriate for their area of operation.

## Education and Outreach Tactics and Suggested Goals

- **Education Classes:** Classroom instruction of the Adventures in Boating course sanctioned by Washington State Parks that qualifies passing students to obtain a Mandatory Boater Education Card.
  - Small = 15 students, 1 Class
  - Medium = 20 students, 1 Class
  - Large = 50 students, 1 Class
- **Boating Safety Presentations to Groups:** Presentations to various groups such as yacht clubs, kayak clubs, anglers, and any groups that use boats on the water.
  - Small = 10 hours
  - Medium = 15 hours
  - Large = 25 hours
- **Boating Safety Presentations to Schools:** Presentations to local public and or private schools K-12, and colleges / universities.
  - Small = 10 hours
  - Medium = 15 hours
  - Large = 25 hours
- **Vessel Rental Site Visits:** Visits to local vessel rental sites intended to ensure employees and renters are following guidance on the Motor Vessel Rental Safety Checklist. These can also be site visits to businesses that rent out kayaks, canoes, stand-up paddleboards, or other small non-motorized craft. The intent of visits in this case is to emphasize basic safety behaviors such as encouraging renters to always wear a life jacket and encouraging boating in low hazard areas.
  - Small = 2
  - Medium = 4



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- Large = 6
- **Participation in Community Events:** Events like county fairs, parades, and night outs that reach large numbers of community members. A qualified event requires face-to-face interaction with community members. Participation in regattas, races, or opening days where there is little or no face-to-face interaction between Officers / Deputies and community members does not count as a “Community Event”. Also, maintaining a screen line or security area at an on-water event does not count for reporting event hours on the SOAR.
  - Small = 40 hours
  - Medium = 150 hours
  - Large = 275 hours
- **Vessel Dealer Site Visits:** Visits to vessel dealerships and brokers to ensure they are following dealer registration laws, educate them on any safety issues with type of vessels they sell, and checks that required safety equipment is on board during test rides and sea trials. Dealers should also be encouraged to remind their customers of the mandatory boater education requirement.
  - Small = 5
  - Medium = 10
  - Large = 15
- **Professional Prevention Partners (Safe Kids, Power Squadron, USCG Auxiliary, etc.):** Engaging partners can multiply the effectiveness of a marine law enforcement program’s by increasing their area of influence and leveraging the resources of partners. Partnering activities include meetings, conference calls, event participation, and actual on-water time. Agencies should report the hours that Prevention Partners spend conducting RBS activities.
  - Small = 1
  - Medium = 3
  - Large = 5

**Media Contacts:** (This section only applies to Federal Financial Assistant Grant recipients). The intent is for agencies to distribute recreational boating safety content through their own social media channels, the social media channels of their partners, or the news media.

- **Owned Media:** This is the number of hours spent on this activity and the number of posts or articles distributed through communication channels that are owned and managed by the agency like the agency website, social media channels (Facebook, Twitter), newsletters, etc.
  - Small = 4
  - Medium = 8
  - Large = 16
- **Earned Media:** This is the number of hours spent on this activity and the number of articles broadcast through media channels that are not managed by the agency. Examples include

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stories in the newspaper, radio, and television. Agencies should also count the number of recreational boating safety posts on the social media channels of partner organizations when the agency can show that the posts are the result of interaction with that partner.

- Small = 4
- Medium = 8
- Large = 16

**Campaigns:** See SOAR for reporting requirements. Goals for all agencies, regardless of size, is participation in these campaigns. The State Parks Recreational Boating Safety communications staff will distribute content to all agencies for each of the campaigns making participation quick and simple.

These campaigns can have a powerful impact if all agencies participate.

- Operation Dry Water campaign is a national campaign focused on the deterrence of boating under the influence. Participation in this campaign is mandatory for all agencies that receive a federal assistance grant. It is a combination of emphasis patrols and media the weekend before the Fourth of July.
- Spring Aboard Campaign was a national campaign but is now a state campaign designed to encourage all boaters to take a recreational boating safety class. It occurs in late March.
- National Safe Boating Week is a nationally observed week focused on encouraging all boaters to wear their lifejackets and other best practices for optimal safety. In addition to media posts, agencies are encouraged to participate in “Wear IT” events. This campaign is sponsored by the National Safe Boating Council.
- Safe Paddling Week is a campaign sponsored by the Washington State Parks Recreational Boating Safety Program. The purpose of the week is to elevate awareness around basic paddling safety behaviors such as always wearing a PFD, obtaining training, etc.

## Waterway Marking

Participating agencies should report the total number of Aids to Navigation (ATONs) that they are responsible for within their jurisdiction on the SOAR. Do not count ATON’s emplaced / maintained by the USCG, Corps of Engineers or other Federal agencies. The county or local jurisdiction will use only those waterway markers which conform to the uniform state waterway marking system as identified, found in chapter 352-66 WAC.

## Accountability

### Audits

All agencies will be audited on a periodic rotating basis. When your agency is slated for an audit, the State Parks Marine Law Enforcement Coordinator will contact your agency to schedule a time. You will

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be sent a list of documents and questions that you will need to prepare before the audit. Audits are a review of the performance and accomplishments to measure and evaluate compliance with the terms of the agreement with State Parks.

### Compliance

If it is determined that a participating agency is not in compliance with the minimum requirements of the agreement, the State Parks Marine Law Enforcement Coordinator will notify the agency through a Non-Compliance Warning Letter and cite the wording of the agreement. The letter will request the agency responds with a plan to remedy the deficiency per **WAC 352-64-060 (3)**: Revocation of approval ***“Those counties or local jurisdictions unable to demonstrate compliance with minimum approval requirements will have forty-five days to submit a plan satisfactory to state parks to remedy the deficiencies. If, after forty-five days, a county or local jurisdiction is unable to demonstrate its ability to meet minimum requirements, state parks may revoke the program approval after the county or local jurisdiction has had an opportunity for a hearing under chapter 34.05 RCW, the Administrative Procedure Act.”***












# FFA Grant 2024\_1-3-2024\_SD


Final Audit Report

2024-01-04


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