

THE TRIBUTARY FUND

POLICIES AND PROCEDURES FOR FUNDING PROJECTS

April 2009

THE TRIBUTARY COMMITTEES
TO THE
CHELAN AND DOUGLAS PUDS'
HABITAT CONSERVATION PLANS

POLICIES AND PROCEDURES FOR FUNDING PROJECTS HCP TRIBUTARY COMMITTEES

1. INTRODUCTION

The Tributary Committees (hereafter, Committees) of the Wells, Rocky Reach, and Rock Island Projects' Habitat Conservation Plans (HCPs) were established to implement the Tributary Conservation Plans (Plans) as described in the respective HCPs. Each Plan provides a Plan Species Account to fund projects for the protection and restoration of Plan Species¹ habitat within the Columbia River watershed from Chief Joseph Dam tailrace to the tailrace of each respective project (collectively referred to as the Upper Columbia Region). These funds are intended to compensate for 2% of the unavoidable mortality to Plan Species at each of the three hydroelectric projects (which was estimated to be 9% at the time of the HCP negotiations).

The Committees recognize that protection and restoration of habitat for Plan Species will benefit other salmonids, particularly resident fish, and perhaps other riparian and aquatic dependent species. It is the policy of the Committees to allocate funds for projects that address the highest priorities for protection and restoration for Plan Species habitat. The Committees will give special consideration to projects that benefit other species in addition to the Plan Species.

2. COORDINATION WITH OTHER FUNDING SOURCES

The Committees will have two stand alone funding programs: 1) the General Salmon Habitat Program; and 2) the Small Projects Program (both are described in Section 3). Based upon discussions with local stakeholders, the Committees established each program to meet a specific need in the Upper Columbia Region and for the most part, they are intended to be "stand-alone" programs. However, the Committees will "cost-share" with other funding sources when feasible. The Committees intend to provide matches to other funding sources as a means to expedite and streamline the implementation of projects. This should help local project sponsors secure funds from sources not otherwise obtainable.

To the extent practicable, the Committees will collaborate with regional, local, state, tribal and national organizations that fund salmon habitat projects and activities. The Committees recognize the economies of scale—and the reduced burden to Project Sponsors—of developing funding policies, procedures, and timelines that are similar to other major funding organizations. At this time, the Committees intend to coordinate with ongoing processes to ensure compatibility with the major funding sources in project solicitation and review. To reduce paperwork and to encourage compatibility and cost-sharing, the Tributary Committees will accept applications on the forms developed by the Salmon Recovery Funding Board (SRFB). A cover page that provides an abstract of the project name, description, cost, and match will be required.

Invariably, the policies and procedures in this document will evolve as the Committees strengthen their collaboration with other funding sources, gain experience from previously funded projects, and solicit input from stakeholders. The Committees may hold annual public workshops to review its funding policies and procedures (Section 6.7).

¹ Plan species include Chinook salmon, sockeye salmon, coho salmon, and steelhead.

3. GENERAL POLICIES

3.1 Permits

It is the responsibility of the Project Sponsor to obtain all local, state, and federal approvals and related permits necessary for the project. The Project Sponsor is also responsible to obtain the approval and consent of landowners affected by a project. All necessary permits and approvals must be obtained prior to construction or final reimbursement. The Committees may terminate a contract in the event that permits and land use approvals are not obtained in a timely manner. The Committees will support the permitting process for projects funded through the Plan Species Accounts.

3.2 Matches

The Committees encourage Project Sponsors to provide a portion of the project value, known as “match.” The Committees believe that matches serve an important purpose for effective project implementation by demonstrating additional commitment to and support for the project. Matches are not required for funding, yet the Committees will seriously consider the extent and type of match when evaluating projects for funding, particularly for the General Salmon Habitat Program (Section 3.4).

Matching resources may include cash, bonds, local and other state or federal grants (unless prohibited by funding source), donated labor, equipment, land valuation, overhead labor costs associated with project management, or materials and force account. The best matching resources will be those that are an integral and necessary part of the approved project and must be committed to the project. Project Sponsors are encouraged to coordinate salmon recovery efforts with other programs, projects, and funding sources.

3.3 Geographic Scope

All projects must be in the Columbia River watershed from Chief Joseph Dam tailrace to Rock Island Dam tailrace. The primary focus of the Plan Species Account will be to fund projects in the Okanogan, Methow, Entiat, and Wenatchee watersheds, yet projects in smaller tributaries to the Columbia River will also be considered. Projects located in the Okanogan River in British Columbia are eligible for funding. The Plans do not stipulate the relative allocation of funds to each tributary, yet each does specify a geographic scope to which funding from each Plan is limited. Funds from the Wells Plan Species Account shall be directed toward the Columbia River and its tributaries from the Chief Joseph Dam tailrace to the Wells Dam tailrace. Rocky Reach and Rock Island Plan Species Account funds shall be directed toward the Columbia River watershed from Chief Joseph Dam tailrace to Rock Island Dam tailrace.

3.4 The General Salmon Habitat Program

The Committees have established the General Salmon Habitat Program to assist Project Sponsors in developing practical and effective applications for relatively large projects. Many habitat projects are increasingly complex in nature, and require extensive design, permitting, and public participation to be feasible. Often, a reach-level project involves many authorities and addresses more than one habitat factor. The General Salmon Habitat Program will have the following components to increase the likelihood of successful applications by Project Sponsors:

- Beginning in the 2007 funding cycle, the Committees will adopt a mandatory pre-proposal application process to give Project Sponsors an early indication of the appropriateness of a project concept, without having to complete an entire application form prior to getting an indication from the funding source. Once the Committees determine from the pre-proposal that a project is appropriate, the sponsor will be asked to

- submit a detailed application for funding. The Committees may provide advice to the Project Sponsor on how to improve the detailed application.
- The Committees may hold annual workshops for Project Sponsors to improve the quality of the applications.
 - The Committees will conduct annual field tours of the proposed projects, to allow dialogue with the sponsors on the objectives of the proposed projects. The Committees may tour the project more than once prior to making their funding decisions.
 - The Committees will offer a phased funding process, which is discussed in Section 3.5.

The purpose of the General Salmon Habitat Program is to fund on-the-ground work. However, the Committees recognize that good projects may languish for lack of funds to develop them. Accordingly, the Committees support the use of a limited portion of the funds to support project development activities. These proposals must clearly lead to the eventual implementation of restoration work.

There is no maximum financial request in the General Salmon Habitat Program. The minimum size proposal is valued at \$50,000 total project cost, although the Committees may provide lesser amounts during a phased project. The General Salmon Habitat Program will accept pre-proposals at any time of the year, but detailed applications will be accepted only according to the schedule announced at the opening of each project solicitation round². The Committees may solicit input from the Upper Columbia Regional Technical Team (Section 5.2) or other advisors on the technical adequacy of conceptual designs in proposals. This will enable Project Sponsors to correct potential technical deficiencies prior to submission of a detailed application.

3.5. Phased Projects

As stated in Section 3.4, there is no upper limit to the amount of a funding request under the General Salmon Habitat Program. However, applicants should consider the complexity inherent to large-scale projects, and for this reason, should discuss project phasing with the Committees. Phased projects are subject to the following:

- Approval of any single phase is limited to that phase; no endorsement or approval is given or implied toward future phases.
- Each phase must stand on its own merits as a viable project.
- Each phase must be submitted as a separate application.
- The duration of each phase will be determined through agreement between the Committees and the Project Sponsor.
- Progress on earlier phases may be considered by Committees when making decisions on current proposals by the applicant.

3.6 The Small Projects Program

The Committees encourage small-scale projects by community groups, in cooperation with landowners, to support salmon recovery on private property³. Through a simple, streamlined application and evaluation process, the Small Projects Program is an effective way to accomplish projects that often rely on local volunteer organizations. These grass-roots efforts can provide

² Annual project solicitation rounds are anticipated, the timing of which will vary at the discretion of the committees.

³ Projects on public lands may be acceptable, but the primary intent of this program is to encourage participation by private individuals.

many direct and indirect benefits to salmonid habitat. Besides directly benefiting salmon, these grants can energize local volunteer organizations and community leaders to invest in salmon recovery in their own communities.

The application and review process for the Small Projects Program is intended to increase the likelihood of participation by private stakeholders that typically do not have the resources or expertise to complete an extensive application process. The Committees may directly purchase materials for the project to reduce the initial cost outlays by small project sponsors. Project Sponsors may apply for funding at any time, and in most cases, will receive a notification of funding within three months. The maximum contract allowed under the Small Projects Program is \$50,000 (total, including matches)⁴, yet the Committees encourage Project Sponsors to submit applications for \$10,000 or less. The minimum size proposal is a project valued at \$1,000; projects valued at less than \$1,000 may be considered by the Committees on a case-by-case basis.

3.7 Ownership of Assets

The Committees shall make determinations regarding ownership of real and personal property purchased with funds from the Plan Species Account. Title may be held by a Public Utility District, by a resource agency or tribe or by a land or water conservancy group, as determined by the Committees. Unless the Committees determine that there is a compelling reason for ownership by another entity, the Districts shall have the right to hold title. All real property purchased shall be free and clear of all encumbrances and include permanent deed restrictions to assure protection and conservation of habitat, and the maintenance of habitat, as appropriate.

3.8 Management Guidelines for Conservation Easements/Acquired Lands

The Committees will stipulate that Project Sponsors who submit habitat protection projects describe the intended management of the property to be considered for funding. As appropriate to the land use, conservation easements or acquired lands should be managed to:

- Protect existing high quality habitat;
- Encourage or maintain the establishment and growth of native plant species;
- Strive for appropriate plant succession and species diversity;
- Permit natural channel migration, deposition, and erosion;
- Prohibit destructive human activities and only allow passive recreational use such as wildlife viewing and/or limited fishing access;
- Ensure that timber management activities do not negatively impact the riparian area;
- Exclude livestock from the riparian area;
- Prohibit bank armoring using rip-rap or other permanent, hardened material;
- Encourage over bank flows during high water;
- Promote recruitment and retention of LWD;
- Treat/protect/preserve seasonally dewatered areas (e.g., side channels) as if they were part of the river;

⁴ The intent of the Small Projects Program is to fund projects that have “total” costs that do not exceed \$50,000. “Total” cost includes the amount of money requested from the Tributary Committees plus any contributions or matching funds. Any project that exceeds \$50,000, even though the amount requested from the Tributary Committees may be less than \$50,000, must be submitted under the General Salmon Habitat Program.

- Prohibit roads or other fill on low terraces in situations where such development could affect over-bank or sub-surface flows.

4. GENERAL ELIGIBILITY CRITERIA

Generally, projects are eligible for funding by Committees when:

- The applicant is requesting funds for a project that protects or restores salmon habitat. The specific types of eligible elements of a project are discussed later on in this section.
- The applicant demonstrates a commitment to long-term (10 years or more) stewardship of the project.
- The project will be implemented as soon as feasible, and be completed within five years for the General Salmon Habitat Program and two years for the Small Projects Program. The Committees will work with Project Sponsors to establish the most efficient completion schedule reasonable for the project.

4.1. Eligible Applicants

Anyone may apply. Private landowners are eligible applicants for restoration projects when the project takes place on their own land. Private individuals may not acquire land.

A Landowner Agreement is required for proposals on land not owned or controlled by the Project Sponsor. The Application Instructions describe the Landowner Agreement requirements.

4.2 Eligible Projects and Elements

The Committees use the following definitions to establish eligible project types. The eligible project types are:

Acquisition Projects:

Acquisition includes the purchase of land, access, or other property rights in fee title or less than fee, such as conservation easements. Rights or claims may be acquired provided the value can be established or appraised. All acquisitions must be from willing sellers and acquisitions that are less than fee title shall be perpetual. Acquisition of projects will be based on appraised value.

Restoration Projects:

In-Stream Passage—Includes projects that affect or provide fish migration up and downstream to include road crossings (bridges and culverts), barriers, fishways (ladders, chutes, pools), suitable stream flows, and log and rock weirs.

In-Stream Diversions—Includes projects that affect or provide for the withdrawal and return of surface water to include the screening of fish from the actual water diversion (dam, headgate), the water conveyance system (both gravity and pressurized pump), and the by-pass of fish back to the stream.

In-Stream Habitat—Includes projects that affect or enhance fish habitat below the ordinary high water mark of the water body. Items include work conducted on or next to the channel, bed, bank, and floodplain by adding or removing rocks, gravel, or large wood. Other items necessary to complete the project may include livestock fencing, water conveyance, and plant control.

Riparian Habitat—Includes projects that affect or will improve the riparian habitat outside of the ordinary high water mark or in wetlands. Features may include plant establishment/removal/management, livestock fencing, stream crossing, and water supply.

Upland Habitat—Includes projects or land use activities that affect water quality and quantity important to fish, but occur above the riparian area. Items include the timing and delivery of water to the stream; sediment and water temperature control; soil stabilization, plant removal, control, and management; and livestock fencing and water supply.

Other Projects:

The Committees encourage innovative approaches to protection and restoration of habitat. Technically sound projects that do not fit into the above categories will be evaluated by the Committees.

Assessments and Studies:

The results of proposed assessments must directly and clearly lead to identification, siting, or design of habitat protection or restoration projects or fill a data gap that is identified as a priority in the Upper Columbia Biological Strategy⁵. Assessments only intended for research purposes, stand-alone monitoring, or to further general knowledge and understanding of watershed conditions and function, although important, are not eligible for Tributary Committee funding. Eligible studies may include, but not be limited to:

Technical Studies—Project feasibility and design studies; channel migration studies; and inventories such as barriers or unscreened water diversions.

Feasibility Studies—Assessing the willingness of landowners to allow access to their land for a habitat restoration project or to consider leasing or selling a property interest.

Reach-level Studies—Integrative assessments that include physical and biological elements to identify and prioritize restoration and protection projects.

Assessments must be closely coordinated with other assessments and data collection efforts in the watershed. Sponsors must work with the appropriate federal, tribal, state, regional, and local organizations and landowners to prevent duplication and ensure the use of appropriate methods and protocols. To improve coordination, Project Sponsors are encouraged to partner with each other. Assessments and studies must be completed within two years unless additional time is necessary and can be justified by the sponsor. The Committees encourage Project Sponsors to select assessments that can provide usable results within a two-year period. On a periodic basis, the Committees may request proposals to carry out specific projects or assessments. These requests for proposals will be announced through regular procedures.

4.3. Ineligible Projects and Elements

Some specific projects are ineligible for Committees' funding consideration:

- Property acquisition through eminent domain.
- Purchase or construction of buildings or land not essential to the functions or operation and maintenance of the project site.
- Mitigation projects, activities, or funds.
- Monitoring, maintenance and stewardship as stand-alone projects.
- Project administration as a stand-alone project.

⁵ The "current" working document of the Upper Columbia Biological Strategy, developed by the Upper Columbia Regional Technical Team, will be used as the technical foundation for identification of habitat protection and restoration priorities.

- Capital facilities and public works projects, such as sewer treatment facilities and stormwater management systems, and domestic water supply systems.
- Converting from septic to sewage treatment systems.
- Operation or construction of fish hatcheries.
- Net pens, artificial rearing facilities, remote site incubation systems and supplementation.
- Operation of hydropower facilities.
- Fish harvest and harvest management activities.
- Silvicultural treatments or other forest practices required by the Forest Practices Act or the Forest and Fish Agreement.
- Purchase of equipment necessary to implement or monitor a restoration or protection project funded by the Committees.
- Support for lobbying or legislative activities.
- Organizational costs not directly related to project management.
- Costs incurred in developing the Committees' project application. However, the Tributary Committee may provide indirect support in development of large and complex projects (Section 3.4).

5. REVIEW PROCEDURES

The Committees will make funding decisions based on the above eligibility criteria, fund availability, and if necessary, the recommendations from technical advisors (discussed below). The Committees will use a more detailed review procedure for the General Salmon Habitat Program than for the Small Projects Program. However, proposals to both programs will be evaluated for biological and technical merit, feasibility, durability, and cost-effectiveness.

5.1. Pre-proposal Review (for General Salmon Habitat Program proposals only)

To reduce the work load for Project Sponsors, the Tributary Committees require conceptual plans for projects using a pre-proposal format. This will enable the Project Sponsor to seek guidance from the Tributary Committee, and gives the sponsor an early indication of the likelihood for funding from the Committees. Pre-proposals may be submitted to the Committees in accordance with the annual funding schedule.

5.2 Technical Review

The Committees may solicit review of project proposals within the General Salmon Habitat Program by the Upper Columbia Regional Technical Team (RTT). The RTT will use the Biological Benefits Rating System that is consistent with the Upper Columbia Spring Chinook Salmon and Steelhead Recovery Plan as the framework to rate the biological and technical merit of project proposals. For the General Salmon Habitat Program, the Committees will ask the RTT to provide an unranked rating of project proposals. The Committees reserve the right to forego a technical review for a given proposal, in particular, those qualifying for the Small Projects Program.

5.3 Final Review

The date by which funding decisions will be made on proposals submitted through the General Salmon Habitat Program will be announced at the opening of each project solicitation round. All decisions on funding will be held in a closed executive session. The Committees reserve the right to hold closed sessions on other issues, when necessary. Project pre-proposal presentations will be open to the public. All other meetings will be open by invitation only. The Committees may use the Mid-Columbia Forum⁶ to inform stakeholders of the status of the Plan Species Account(s). Decisions by the Committees are final and not subject to review by any entity.

The Committees may sponsor workshops for all stakeholders to present the annual Plan activities and project selection policies and procedures. Successful project applicants may be asked to present the status of their projects during these workshops.

6. AWARDS OF CONTRACTS

6.1. Provisional Awards

After approval of funding by the Committees, and prior to issuing a Project Agreement, the Committee Chair may request updated or clarifying information from the applicant. Upon receipt of the information, the Committees will prepare the Project Agreement and send it to the applicant, who becomes the Project Sponsor upon signature of the Project Agreement. Reimbursable costs may not be incurred until the Project Agreement is signed by all parties. Committee approval of individual projects is provisional until execution of a formal Project Agreement.

6.2 Cost Increases

The Committees may provide project cost increases up to 15% of total project approved cost if funds are available. Project Sponsors should use all other funding sources before requesting a cost increase. Requests for project increases will be considered by the Committees at their next regular meeting. Approval of cost increases in excess of 15% may be considered provided the following conditions have been satisfied:

- The Project Sponsor must have fully explored all practical alternatives to completing the intent of the Agreement.
- The Project Sponsor has had little control over the condition(s) causing the overrun.
- Any increase must only be used for elements in the Project Agreement.

6.3 Timelines and Extensions

Project Sponsors must complete funded projects promptly. For this reason, the Committees, with applicant assistance, will establish a timetable for project completion, including milestones and a project completion date. This will avoid the risk of the Committees terminating the contract, and help ensure reasonable but timely project completion, accountability, and the proper use of public funds. The Committees will monitor critical project milestones (for example, ordering appraisals and reviews, starting construction, etc.). Unless otherwise specified, all General Salmon Habitat Projects funded by the Committees must be completed within five years of the date of project agreement signatures and small projects must be completed within two years of the date of

⁶ The Mid-Columbia Forum is a meeting of the HCP Coordination, Hatchery, and Tributary Committees with stakeholders, including the Confederated Tribes of the Umatilla Indian Reservation and American Rivers, who were involved in negotiating the HCPs but elected to not sign the HCPs. The purpose of the meeting is to provide stakeholders with a progress report on implementation, as well as give them an opportunity to ask questions of the Committee members.

project agreement signatures. Project sponsors must provide written certification of matches within 60 days of award notification and must complete the Project Agreement settlement within 90 days of award notification.

Unsatisfactory progress may be cause for project termination or other remedies. Project Sponsors may appeal to the Tributary Committees on any decision made. Extension requests must be in writing and provided to the Committees chair not less than 30 calendar days before expiration of the project's completion date. The request must (a) justify the need and (b) commit to a new set of specified milestones.

6.4 Public Works/Statutory Requirements

Project Sponsor may be required to comply with certain statutory requirements associated with public works, such as bid, prevailing wage, performance bonds, or other requirements. These requirements will be reviewed on a case-by-case basis. However, the requirements will always apply if the work is to be conducted on property owned by (or to be owned by) either Chelan or Douglas Public Utility Districts.

6.5 Site Inspections

Interim:

An interim inspection(s) by the Committees (or designated representative) will be coordinated with the Project Sponsor during project implementation to help resolve any apparent or anticipated problems and to monitor project progress.

Final:

A final review by the Committees (or designated representative) will apply to development/restoration projects only. This final review will take place after the sponsor requests a final payment and/or final inspection. This request will be made only after the project is complete, architects and/or engineers have made their inspection, and defects have been corrected. When the Committees' final inspection verifies that the project is complete as described in the Agreement, the final payment, including retainage, will be made.

Post-Completion Compliance:

After verification of project completion (see previous paragraph), the Committees (or designated representative) will periodically check the site to ensure that it is being used and maintained according to the terms of the Project Agreement. After making special arrangements with the Committees, the Sponsor's staff may also perform these inspections.

Long-term Effectiveness:

At the discretion of the Committees, some projects may be evaluated for effectiveness in meeting their stated objectives over a long term, typically a minimum of ten years. The Committees reserve the right to inspect sites, if necessary.

6.6 Responsibility for Project

The Committees will provide financial support to the Project Sponsor, but the Project itself remains the sole responsibility of the Project Sponsor. The Committees assume no responsibilities to the Project Sponsor, or to any third party, other than as is expressly set out in the Contract Agreement. The responsibility for the implementation of the Project, as those phases are applicable to this Project, is solely that of the Project Sponsor, as is responsibility for any claim or suit of any nature by any third party related in any way to the Project. The Project Sponsor shall agree to indemnify and hold the Tributary Committee, its members, and subcontractors harmless from any damages associated with the Project.

6.7 Project Reimbursements

The Committee's contracting program is operated on a direct reimbursement basis. The Project Sponsor must expend funds and provide documentation for expenditures, prior to receiving compensation. Project Sponsors may apply for funds to implement projects on a phased approach, as described in Section 3.6.

Project administration will be the responsibility of the Sponsor, except when work is performed on property owned or to be owned by a Public Utility District (District). All reimbursement requests and documentation will be submitted by the 5th of the month to the Committee, along with a short narrative of job progress. At a maximum, invoices may be submitted once a month, and at a minimum, invoices must be submitted once each quarter. Upon approval and a corresponding written directive to pay, the invoice will be processed for payment. Work on property owned by a District (or similar public government status) will be administered by that District and will require compliance with public-works projects (Chapter 39 RCW).

A. Compliance and Payment: The obligation of the Committees to pay any amount(s) under this Agreement is expressly conditioned upon strict compliance with the terms of this Agreement by the Project Sponsor.

B. Compliance and Retainage: The Committees reserve the right to withhold disbursement of the final ten percent (10%) of the total amount of the grant to the Sponsor until the Project has been completed and approved by the Committees. A Project is considered "complete" when:

1. All approved or required activities outlined in the Agreement are complete;
2. A final Project report is submitted to the Committees with the Sponsor's final request for reimbursement;
3. The completed Project has been approved by the Committees;
4. Final amendments have been processed; and
5. Fiscal transactions are complete.

C. Invoice Frequency: Invoices are required at least quarterly and no more than monthly. Final reimbursement requests should be submitted to the Committees within ninety (90) days of the completion of the Project, funding end date, or the termination date, whichever comes first.

6.8 Project Status Reviews

The Committees recognize the importance of sharing "lessons learned" from projects that have been funded. Project Sponsors gain experience in designing, contracting, permitting, implementing, and monitoring of projects. This information should be shared with others in an open dialogue that promotes the development of better, more cost effective projects in the future. As part of their contract, some sponsors will be asked to give a status report to the Committees and other sponsors in workshops. The Committees intend that these workshops will engender a common goal of mutual support, and foster a frank and open discussion on how to improve the Tributary Fund.

6.9 External Financial Review

The Committees will request an external financial review of all financial transactions made by the Committees. Unless agreed to otherwise, the external review will be conducted every five years. Funds for this review will be derived from the Committees' Administrative Account.