Pooled Stormwater Resources Fund Oversight Committee Charter

For discussion and approval at the May 16, 2012 SWG meeting

Oversight Committee Charter

The Stormwater Work Group (SWG) recommends that this charter be formally adopted and that the Department of Ecology (Ecology) officially recognize the role of this new Pooled Resources Oversight Committee (Committee), a Subgroup of the SWG.

I. Introduction

The SWG recommended a regional Stormwater Monitoring and Assessment Program for Puget Sound (SWAMPPS). Municipal Stormwater National Pollutant Discharge Elimination System (NPDES) permittees will soon be contributing to a Pooled Stormwater Resources Fund (Pooled Fund), which is dedicated to conducting a regional stormwater monitoring program (RSMP). The RSMP is a specific part of SWAMPPS based on the SWG's recommendations for implementation through the permits. The Committee will provide oversight of the Pooled Fund. This charter complements the agreements between Ecology and each permittee for Ecology to administer implementation of the RSMP using the Pooled Fund.

This charter shall be in effect for the duration of the next municipal stormwater NPDES permit cycle, and will expire in September 2018 or the expiration of the cost-sharing agreements between Ecology and permittees, whichever is later. The Committee shall conduct a review and assessment of Ecology's performance as the administrative entity for the Pooled Fund no later than one year in advance of this expiration date.

II. Purpose

The primary functions of the Committee are to provide transparency, efficiency, and accountability of the expenditure of the Pooled Fund for the RSMP.

Ecology or another future service provider will:

(i) Administer the implementation of the RSMP according to the scope of work of the cost-sharing agreements between Ecology and permittees;

(ii) Consider the collective recommendations of the stakeholders represented by the SWG and its subcommittees;

(iii) Ensure that the execution of the program and the awarded contracts to conduct RSMP activities meet the requirements set forth in cost-sharing agreements with the permittees.

The Committee will:

(i) Provide ongoing review and recommendations to the SWG on Ecology's administrative implementation the RSMP. This review is intended to provide feedback to Ecology through the SWG regarding the schedule, scope, budget, and quality of the program's deliverables and to provide accountability.

(ii) Verify implementation of the contracts.

III. Organization

The Committee shall be comprised of seven to eleven members with broad representation, as determined by the SWG, as follows:

- Four to six members (simple majority of committee) are representatives of local governments and other entities that are required by NPDES permit conditions to fund portions of the regional stormwater monitoring program, and

- The remaining members are representatives of a mix of environmental groups, business groups, federal and state agencies, and tribal governments.

Committee members shall be confirmed by the SWG as nominated by Work Group members and/or on the recommendation of the caucuses they will represent. Formal confirmation will take place at a regularly scheduled SWG meeting. Each representative may have a single official alternate, also to be confirmed by the SWG. Committee members may be a mix of SWG members and others.

Members should agree to participate consistently over the long term. It is desirable that members serve at least two years and preferably for the duration of the NPDES permit term. Terms will be staggered. Committee members shall serve until their successors shall be duly designated. The Committee members shall elect a Chairperson and Vice Chairperson by vote of a majority of the full Committee.

The members of the Committee are representatives of various agencies and organizations and intended to provide expertise regarding project management and program implementation oversight. Members of the committee may have a range of backgrounds and experiences, and are not required to be accountants or auditors by profession or experts in the fields of accounting or auditing. Consequently, it is not the duty of the Committee to conduct audits or to determine that Ecology's financial statements and disclosures are complete and accurate and are in accordance with generally accepted accounting principles and applicable rules and regulations. These are the responsibilities of Ecology and the State Auditor.

The committee membership size and composition will evolve as other permits and entities are brought into the program and other organizations fund major components of the program. Representatives of local government NPDES permittees with RSMP cost-sharing agreements Ecology will maintain the majority of the membership. The SWG may decide to add other members to the Committee as the program evolves. After one year (and annually thereafter), the Committee will review its performance and make specific recommendations to the SWG as to further need for safeguards, checks and balances on the permittee majority composition.

The Committee will simultaneously submit recommendations and findings to Ecology and to the SWG. After reviewing the recommendations, the SWG retains the authority to modify the recommendations.

The Ecology staff person responsible for administering contracts and awards shall provide reports to the Committee. The Committee will be supported by the SWG's staff person.

IV. Meetings

The Committee shall meet in open sessions four times per year on a quarterly basis, or more frequently as circumstances require. The Committee may require Ecology staff, contractors, and others to attend meetings and to provide pertinent information, as necessary. The Chairperson of the Committee will preside at each meeting and, in consultation with the other members of the Committee, will set the frequency and length of each meeting and the agenda of items to be addressed at each meeting. The Chairperson of the Committee shall ensure that the agenda for each meeting is circulated to each Committee member and shared with other interested parties in advance of the meeting. The Chairperson of the Committee shall also ensure that a summary of each meeting is circulated to each Committee member and shared with their caucuses as well as other interested parties no later than two weeks after the meeting.

V. Responsibilities and Duties

The Committee shall oversee Ecology's administration and management of the Pooled Fund and contracts for implementing the RSMP. The Committee shall focus on reviewing the scope, schedule, budget, and implementation of the RSMP, including expenditures of contingency funds for cost overruns. The Committee

shall make recommendations about issues to be resolved and will review the quarterly and annual reports, annual work plans, and financial statements provided by Ecology.

In fulfilling its duties and responsibilities hereunder, the Committee will be entitled to reasonably rely on:

- The integrity of those persons within the SWG and Ecology, and of the professionals and experts from which it receives information,
- The contractually required reviews of the technical quality of final documents,
- The accuracy of the financial and other information provided to the Committee by Ecology, and
- Representations made by contractors as to any services provided by such organization or entity to Ecology and the SWG.

To fulfill the Committee's responsibilities and duties:

1. Ecology shall provide quarterly status reports to the Committee on the implementation of the RSMP. The reports shall include the following information:
   - A summary of accomplishments, key decisions, and budget expended by task and contractor for the previous quarter,
   - A summary of planned accomplishments, key decisions, and budget expenditures by task and contractor for the next quarter,
   - A description of contracts and agreements awarded in the previous quarter,
   - A description of contracts and agreements planned to be awarded in the next quarter,
   - A description of deliverables received as part of the RSMP in the previous quarter,
   - A description of outstanding issues to be resolved, and Ecology's plan for resolving the issues,
   - A description of topics for which input and advice from the SWG and/or the Committee is desired.
2. Ecology shall provide annual status reports to the Committee on the implementation of the RSMP. The reports shall include the following information:
   - A summary of annual revenues and expenditures for the RSMP by task
   - A summary of annual expenditures by Ecology and its contractors
   - A work plan for the next year by task
   - Any fiscal or material issues raised by the most recent quality control review, or peer review, or by any inquiry or investigation, and any steps taken to deal with any such issues, for all of the contracted work.
3. The Committee will review Ecology's quarterly and annual reports.
4. The Committee will provide quarterly reports to the SWG.
5. The Committee will provide routine feedback to Ecology on the information provided in the quarterly and annual reports.
6. The Committee will forward to the SWG any findings or recommendations for addressing any identified issues with implementation of the RSMP, including recommendations for addressing any cost overruns.
7. All Committee votes will be taken in a manner that allows for all members to confer with their caucuses and, if necessary, to receive feedback from the SWG's technical subgroups. Voting may be conducted by email following discussion at a regular meeting in order to allow for this to be done in a timely fashion. All Committee votes will be posted on the website for openness and transparency.
8. If the Committee is unable to reach consensus on recommendations or findings, then majority and minority opinions may be presented, with notation as to which caucuses are represented by each opinion.
9. The SWG will retain responsibility for approving recommendations to Ecology. The Committee will present its recommendations and findings to the SWG at its next regularly scheduled meeting. The

SWG is expected to approve recommendations at its subsequent meeting unless substantial concerns need to be resolved.

10. In cases in which Ecology for any reason chooses not to or is unable to implement the SWG's recommendations, Ecology will explain to the Committee in a timely fashion the reasons for this decision.
11. Ecology retains direct responsibility for the appointment, compensation, retention and oversight of the work of the contractors (including resolution of disagreements between Ecology and the contractors) for the purpose of preparing its quarterly report or related work, who shall provide reports to the Committee.
12. Any Committee member associated with an applicant for any proposal must recuse himself/herself from all recommendations relating to award and review of that contract, and oversight of the work performed if the application is selected.
13. At Ecology's request, the Committee may assist in hearing appeals on contract award decisions.
14. The Committee shall review and discuss any findings of the State Auditor pertinent to administration of this program as found in the course of their regular audits of Ecology.
15. The Committee shall review and reassess the adequacy of this Charter bi-annually and recommend to the SWG any changes the Committee deems appropriate.
16. The Committee shall initiate and lead an evaluation of Ecology's performance as service provider to be completed no later than 1 year prior to the expiration date of this charter.
17. The Committee shall perform any other activities consistent with this Charter, the SWG's charter and bylaws, and governing law as the Committee or the SWG deems necessary or appropriate.
18. The Committee may conduct or authorize investigations into or studies of matters within the Committee's scope of responsibilities, to the extent deemed necessary or appropriate by the SWG.
19. This Charter and all meeting summaries will be made available on the SWG website at https://sites.google.com/site/pugetsoundstormwaterworkgroup/home and on Ecology's website at http://www.ecy.wa.gov/programs/wq/psmonitoring/swworkgroup.html