

## SWG Pooled Resources Oversight Subgroup Draft Proposal

April 12, 2011

The Stormwater Work Group (SWG) recommends that:

1. A formal Oversight Committee with caucus representatives will meet on a regular basis to review and discuss deliverables from Ecology. The committee will be delegated authority to speak for the SWG.
  - a. Proposed membership is a minimum of seven and no more than eleven representatives with broad representation, including at least:
    - i. Four to six representatives of local governments and other entities that are required by National Pollutant Discharge Elimination System (NPDES) permit conditions to fund portions of the regional stormwater monitoring program (simple majority of committee).
    - ii. A mix of representatives of environmental groups, business groups, federal and state agencies and tribal governments.
    - iii. Each representative may have a single official alternate delegate.
    - iv. 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.
    - v. The committee's charter can be amended as needed.
    - vi. The Ecology staff person responsible for administering contracts and awards shall report to the Committee.
    - vii. The committee will be supported by the Stormwater Work Group's staff person.
  - b. Process for resolving disagreements
    - i. If the group is unable to reach consensus, decisions will be made by majority vote. The committee will decide whether an issue needs to be heard by the entire Stormwater Work Group prior to making a decision.
    - ii. The committee will assist Ecology as needed in hearing appeals on contract award decisions.
2. The committee will review and approve annual work plans and budgets submitted by Ecology. The purpose of the reviews is to assure fiscal accountability and progress toward implementing SWG recommendations.
3. Ecology will provide quarterly financial updates, including:
  - a. A high-level accounting of income and expenditures, the format and content of which shall be proposed by Ecology for review and approval by the Committee. This is expected to be a standard financial reporting format.
  - b. A list of active contracts.
  - c. A list of recent deliverables submitted by contractors.
  - d. A list of contracts to be awarded in the near term.

4. The committee will meet to review and discuss Ecology's quarterly financial updates to ensure that contracts meet the intent of SWG recommendations and that adequate progress is being made by contractors.
5. The committee will schedule additional meetings as necessary to make decisions about contracting.
6. The committee will follow the decision making process established in its charter.
  - a. The committee will assist Ecology staff in dividing the overall contracting work to practical groupings and in writing requests for proposals.
  - b. Requests for proposals for the contractual work will emphasize a competitive approach, with fair and open decision making.
  - c. The committee will review proposals submitted to Ecology for contracting work and assign reviews to other SWG technical subgroups as appropriate.
7. Ecology will deliver products and reports to the committee according to timelines established in the annual work plan.
  - a. The committee will help oversee the work to ensure it is done at a sufficient level of quality.
    - i. Ensure that SOPs are in place and followed.
8. Cost overruns will be managed by establishing a contingency fund of 10%. The committee will scrutinize expenditures from the contingency fund.
9. The committee will also review monitoring and assessment activities funded through other opportunities (i.e., grants or direct awards from state or federal agencies or others).
10. The Committee shall report regularly to the Stormwater Work Group on its activities.

## **Proposed Oversight Committee Charter**

### **I. Purpose**

The primary functions of the Oversight Committee (the Committee) of the Stormwater Work Group are to provide transparency, efficiency, and accountability of the Pooled Resources Fund for the Regional Stormwater Monitoring and Assessment Program. The Department of Ecology (Ecology) will fulfill the roles and responsibilities of:

- (i) Managing the funds submitted by local governments and others to conduct a regional stormwater monitoring and assessment program in Puget Sound;
- (ii) Implementing the collective recommendations of the stakeholders that comprise the Stormwater Work group; and
- (iii) Conducting a process to request proposals and award contracts to perform monitoring and assessment activities. Consistent with these functions, the Committee will implement Stormwater Work Group recommendations and oversee Ecology's administrative and technical methods of implementing a regional stormwater monitoring and assessment program.

Although the Committee has the powers and responsibilities set forth in this Charter, the role of the Committee is oversight and decision making. The members of the Committee are representatives of various agencies and organizations and are not accountants or auditors by profession or experts in the fields of accounting or auditing and, in any event, do not serve in such capacity. 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.

### **II. Organization**

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

- Four to six members (simple majority of committee) are representatives of local governments and other entities that are required by National Pollutant Discharge Elimination System (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 Stormwater Work Group 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 Stormwater Work Group meeting. Each representative may have a single official alternate, also to be confirmed by the Stormwater Work Group. Committee members may be a mix of Stormwater Work Group 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 and confirmed. The Committee's Chairperson shall be designated by the Stormwater Work Group or, if it does not do so, the Committee members shall elect a Chairperson by vote of a majority of the full Committee.

The Committee may form and delegate authority to subcommittees or to other subgroups of the Stormwater Work Group when appropriate.

The Ecology staff person responsible for administering contracts and awards shall report to the Committee. The committee will be supported by the Stormwater Work Group's staff person.

### **III. Meetings**

The Oversight Committee shall meet in open sessions four times per year on a quarterly basis, or more frequently as circumstances require. The Committee shall 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 other interested parties no later than two weeks after the meeting.

### **IV. Responsibilities and Duties**

The Oversight Committee shall be responsible for overseeing Ecology's administration and management of the accounts and contracts for implementing the regional stormwater management and assessment program. The Committee shall make decisions about contracting awards and will review the annual work plans and quarterly financial statements provided by Ecology. The Committee shall consult with Ecology but shall not delegate these responsibilities.

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

- (a) The integrity of those persons within the Stormwater Work Group and Ecology, and of the professionals and experts from which it receives information,
- (b) The accuracy of the financial and other information provided to the Committee by Ecology, and
- (c) Representations made by contractors as to any services provided by such organization or entity to Ecology and the Stormwater Work Group.

To fulfill the Oversight Committee's responsibilities and duties:

#### **With respect to contracting decisions:**

1. Ecology shall provide directly to the Committee a list of contracting awards that must be made in the upcoming biennium in order to successfully implement the regional stormwater monitoring and assessment program.
2. The Committee will have the sole authority to review proposals, and grant any appropriate pre-approvals of all services to be provided by the independent contractors. The Committee may delegate the authority to grant such pre-approvals to one or more members of the Committee, or to other Subgroups of the Stormwater Work Group, whose decisions will be presented to the full Committee at its next regularly scheduled meeting.
3. The committee will establish the criteria and process by which contracting decisions are made, and will rank the proposals for Ecology to award the contracts. Ecology will award contracts in accordance with Committee decisions and following state guidelines and regulations. In cases in which Ecology for any reason is unable to implement the Committee's recommendations, Ecology will explain to the Committee in a timely fashion the reasons Ecology cannot do so, and propose a solution to the Committee.

4. 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 report to the Committee.
5. The Committee shall review the performance of each contractor on at least an annual basis.
6. Any Committee member associated with an applicant for any proposal must recuse himself/herself from all decisions relating to award and review of that contract, and oversight of the work performed if the application is selected. An alternate member should serve on those occasions.
7. At least annually, the Committee shall obtain and review an annual report from Ecology describing (i) the data collection, storage, and analysis methods and quality control procedures and (ii) 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.
8. If the Committee is unable to reach consensus, decisions will be made by majority vote. The Committee will decide whether an issue needs to be heard by the entire Stormwater Work Group prior to making a decision.
9. The Committee will assist Ecology as needed in hearing appeals on contract award decisions.

**Periodic and Annual Reviews:**

10. The Committee will review the quarterly financial statements from Ecology.
11. The committee will review and approve the annual work plan and budget submitted by Ecology.
12. The Committee will 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.

**Other:**

13. The Committee shall request a bi-annual performance evaluation by the Stormwater Work Group.
14. 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 Committee.
15. The Committee shall report regularly to the Stormwater Work Group on its activities, as appropriate.
16. Perform any other activities consistent with this Charter, the Stormwater Work Group's By-laws and governing law as the Committee or the Stormwater Work Group deems necessary or appropriate.
17. The Committee shall review and reassess the adequacy of this Charter bi-annually and recommend to the Stormwater Work Group any changes the Committee deems appropriate.
18. This Charter and all meeting summaries will be made available on the Stormwater Work Group 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>"