

# Accountability Audit Report Department of Ecology

For the period July 1, 2018 through June 30, 2019

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# Office of the Washington State Auditor Pat McCarthy

September 3, 2020

Laura Watson, Director Department of Ecology Olympia, Washington

## **Report on Accountability**

Thank you for the opportunity to work with you to promote accountability, integrity and openness in government. The Office of the Washington State Auditor takes seriously our role of providing state and local governments with assurance and accountability as the independent auditor of public accounts. In this way, we strive to help government work better, cost less, deliver higher value and earn greater public trust.

Independent audits provide essential accountability and transparency for Department operations. This information is valuable to management, the governing body and public stakeholders when assessing the government's stewardship of public resources.

Attached is our independent audit report on the Department's compliance with applicable requirements and safeguarding of public resources for the areas we examined. We appreciate the opportunity to work with your staff, and we value your cooperation during the audit.

Sincerely,

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Pat McCarthy State Auditor Olympia, WA

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# AUDIT RESULTS

## **Results in brief**

This report describes the overall results and conclusions for the areas we examined. In most of the areas we examined, Department operations complied, in all material respects, with applicable state laws, regulations, and its own policies, and provided adequate controls over safeguarding of public resources.

As referenced above, we identified areas where the Department could make improvements. These recommendations are included with our report as findings.

We also noted certain matters related to Waste Water fees addressed in the management letter that we communicated to Department management and Director in a letter dated August 26, 2020. We appreciate the Department's commitment to resolving those matters.

In keeping with general auditing practices, we do not examine every transaction, activity, policy, internal control, or area. As a result, no information is provided on the areas that were not examined.

## About the audit

This report contains the results of our independent accountability audit of the Department of Ecology from July 1, 2018 through June 30, 2019.

Management is responsible for ensuring compliance and adequate safeguarding of public resources from fraud, loss or abuse. This includes the design, implementation and maintenance of internal controls relevant to these objectives.

This audit was conducted under the authority of RCW 43.09.310, which requires the Office of the State Auditor to examine the financial affairs of all state agencies. Our audit involved obtaining evidence about the Department's use of public resources, compliance with state laws and regulations and its own policies and procedures, and internal controls over such matters. The procedures performed were based on our assessment of risks in the areas we examined.

Based on our risk assessment for the year ended June 30, 2019, the areas examined were those representing the highest risk of fraud, loss, abuse, or noncompliance. We examined the following areas during this audit period:

- Water Quality fee revenue finding follow-up
- Monte Cristo Mining Area monitoring of interagency agreement and disbursements
- State Toxics Control Account general disbursements
- Air Pollution Control Account disbursements from Volkswagen settlement funds
- Internal controls over electronic fund transfers

#### SCHEDULE OF AUDIT FINDINGS AND RESPONSES

2019-001 The Department of Ecology did not have adequate controls to ensure funds paid to the United States Forest Service to restore the Monte Cristo Mining Area were allowable and properly supported.

#### Background

The Monte Cristo Mining Area (MCMA) was the site of a gold mining operation in Snohomish County for nearly 100 years run by the American Smelting and Refining Company (ASARCO). The operation contaminated the surrounding area with unnaturally high concentrations of arsenic lead, and other heavy toxic metals.

In 2005, ASARCO filed for bankruptcy. In 2009, as part of the bankruptcy settlement, ASARCO paid both Washington and the United States Forest Service (USFS) \$5.5 million for restoring the MCMA. The payment was to resolve identical, overlapping claims asserted by Washington and the USFS under their respective state and federal environmental cleanup authorities, which both apply to the MCMA. Rather than compete with their claims, Washington and the USFS agreed to divide the claim proceeds 50/50, and within the limits of those proceeds, share equally in cleanup costs associated with the MCMA. This reflected the fact that both entities laid full claim to the same money and both entities had authority to perform full scope of the same environmental cleanup work.

In May 2015, the state Department of Ecology (Department) and the USFS formed an inter-agency agreement (IAA) to effectuate the above agreement. The USFS was already performing on-the-ground cleanup actions under its authority. The cost of the full scope of these actions, however, exceeded USFS's one-half share of the bankruptcy proceeds. The Department thus agreed through the IAA to provide USFS with about \$2.47 million in advance from its share of the proceeds. This was to allow USFS to continue to finish the full scope of work under USFS's authority, in lieu of the Department having to mobilize and contract to perform the remaining work under state authority. The IAA stipulated that USFS would provide quarterly progress reports to the Department that included a list of itemized expenditures and documented the balance of remaining funds.

On June 17, 2015, the Department approved the USFS invoice for \$2.47 million and on June 30, 2015, released the funds to USFS.

In September 2019, our Office received a citizen hotline referral asserting the Department did not document how the money it paid to the USFS was spent. The citizen also asserted that they requested documentation supporting the \$2.47

million expenditure, including the quarterly progress reports from USFS, which the Department did not provide.

## **Description of Condition**

The Department of Ecology did not have adequate controls to ensure funds paid to USFS were allowable and properly supported.

We requested the quarterly progress reports called for in the IAA scope of work section. The Department searched its Yakima regional and headquarters offices but could not find the progress reports. In lieu of the progress reports, the Department provided nine invoices from a USFS subcontractor, Cascade Earth Sciences (CES), totaling \$1,441,488, and a receipt documenting a refund from USFS in the amount of \$661,824. We examined the invoices from CES and determined the funds were used for the authorized purpose and allowable. The invoices, along with the refund receipt, supported about 85 percent of the total funds the Department advanced to USFS.

Although the Department did provide documentation that accounted for about 85 percent of the total it advanced to USFS, the documentation did not itemize each expenditure or list the running balance of available funds. Because the Department provided the funding to USFS in advance, it would have required the quarterly progress reports in this context to discern whether the entirety of the ASARCO funds had been used for their intended purpose.

## Cause of Condition

The Department failed to monitor the portion of the IAA that called for the quarterly progress reports.

Representatives from both the Department and the USFS said the reason this portion of the IAA was not followed was because the parties regularly communicated in person, over the phone and through email. Department staff were on the work site regularly, and CES provided a 486 page closeout report detailing the work performed. The Department believed the amount and quality of the communication during the course of work provided assurance that the restoration was progressing as planned.

# Effect of Condition

By relying only on informal communication, site visits and the closeout report, the Department was able to ensure the USFS was performing the scope of work. However, because it did not insist USFS provide the quarterly progress reports called for in the IAA, it could not determine whether the entirety of the advanced funds were spent for allowable purposes and adequately supported. As a result, the Department could not provide supporting documentation for \$374,294, or about 15 percent of the funds advanced.

#### Recommendation

We recommend the Department strengthen its internal controls related to contract monitoring and ensure it holds contractors to the monitoring stipulations outlined in future contracts.

## **Department's Response**

This particular IAA was unique. Given the circumstances of the settlement, the USFS was not actually acting as the Department's contractor as per a typical IAA, but as the lead agency for the cleanup under their own authority. The Department provided funding for the USFS to complete the full scope of cleanup actions the USFS began at the MCMA. Nonetheless, the Department acknowledges that adequate documentation for the IAA, both the supporting invoices accounting for \$374,294 and progress reports, was not available in the Yakima regional or headquarters offices. However, other documentation was made available to the audit team during the course of the audit. It demonstrated a full accounting of the funding provided to the USFS under the IAA that allowed the USFS to complete the cleanup work they were conducting under their authority.

In mid-June 2020, the Department, in coordination with the USFS staff, provided the audit team a USFS accounting report of the Department's contribution to the MCMA cleanup actions. The audit team was offered an opportunity to review invoices in possession of the USFS and to ask any clarifying questions regarding the USFS report. The report documents payments made by the USFS to Cascade Earth Sciences in the amount of \$1,815,781.15 which fully documents project costs paid with Department funding for the MCMA cleanup actions under the IAA. The table below summarizes this information.

USFS Accounting Report of Cascade Earth Sciences Expenditures	\$1,815,781.15
USFS Refund to the Department	\$661,823.85
Total Department/USFS IAA	\$2,477,605.00

Although this particular IAA has unique circumstances, the Department is committed to ensuring that all of our contracts follow required processes and procedures. Therefore, to improve our internal control processes and procedures to ensure we hold all contractors to the monitoring stipulations outlined in future contracts, the Department will ensure both the financial managers and cleanup project managers responsible for contracted cleanup work understand their responsibilities and apply the requirements outlined in the Department's existing Policy 13-20, Managing Bids and Contracts for Goods and Services. The policy clearly outlines programmatic responsibility for managing the following records:

- Copy of contracts and amendments
- Copy of Face Sheet
- Copy of signed A-19s with original invoices
- Support documentation for invoices
- Correspondence and other documents related to the contract
- Deliverable documents, reports, data, etc.

## Auditor's Remarks

At the time of audit, the Department did not have adequate supporting documentation in its possession for us to determine whether the USFS used the totality of funding for its intended purpose.

We reaffirm our finding and appreciate the Department's commitment to improving its contract monitoring processes. We will follow-up on this matter in a future audit.

## Applicable Laws and Regulations

State Administrative and Accounting Manual, Chapter 85.32.30.a:

At a minimum, payment processing documentation should include evidence of authorization for purchase, receipt of goods or services, and approval for payment. Agencies may utilize paper or electronic forms.

Interagency Agreement# C1500138, Appendix A- scope of work:

The USFS or its contractor will submit quarterly progress Status Reports detailing project activity to Ecology. Such reports shall be due 45 days after the conclusion of each quarter, with the first quarter beginning May 15, 2015, and ending July 31, 2015, with each succeeding quarter ending 3 months following the end of the preceding quarter. Such reports shall include a list of itemized expenditures (transaction register) and document the balance available from funds transferred under IAA C1500138. All expenses invoiced shall be supported with copies of invoices paid.

#### SCHEDULE OF AUDIT FINDINGS AND RESPONSES

2019-002 The Department of Ecology did not have adequate controls to ensure state Volkswagen penalty funds paid to recipients were properly supported.

#### Background

From 2008 to 2015, the global automaker Volkswagen (VW) sold diesel vehicles equipped with illegal software designed to cheat and falsify U.S. emissions tests. These actions violated both federal and state Clean Air Acts, and as a result, the state received a total state penalty disbursement of \$28.4 million from a settlement to be used for investments in cleaner air throughout Washington.

Beginning in 2018, the state Legislature approved the Department of Ecology's (Department) use of the state penalty funds to enter into and administer grants to scrap and replace old, high-polluting diesel school buses, transit buses, and other vehicles with low-emission and zero-emission vehicles. The grant fund expenditures that are passed through to recipients are tracked and monitored in the Ecology Administration of Grants and Loans (EAGL) system and are guided by Department policy, Administrative Requirements for Recipients of Ecology Grants and Loans.

During state fiscal year 2019, the Department provided one payment to the Department of Transportation totaling \$242,267 for the installation of charging stations and purchase of plug-in electric vehicles. During the same time, the Department also made 53 payments to 50 school districts totaling \$4.2 million for the scrap and replacement of 120 buses. The Department awarded \$35,000 for each bus made in 2001 or earlier that was replaced with a new school bus. School districts must provide the cost difference for the purchase of each new bus.

#### **Description of Condition**

The Department of Ecology did not have adequate controls to ensure Volkswagen state penalty funds paid to recipients were properly supported.

As part of the grant agreement with school districts, recipients must submit copies of quotes, purchase orders, and/or invoices to demonstrate the purchase of eligible vehicle(s). In addition, the old buses must be scrapped and photo evidence along with a destruction certificate(s) must be provided to the Department to receive payment. A progress report must accompany each payment request (or be submitted no less frequently than each quarter), and each equipment purchase of \$5,000 or more requires the creation of an Equipment Purchase Request within EAGL.

We reviewed 20 payments totaling nearly \$2.5 million and found five payments (25 percent) made to school districts that were not properly supported by documentation in EAGL. Specifically, we identified the following:

- The Department did not keep complete records to support destruction of six buses, involving four payments.
- The Department did not keep records to support the purchase of 11 buses, involving two payments.
- Equipment Purchase Reports (EPR) were not created for the purchase of six buses, involving one payment.

We also found that for all 20 payments, the Department did not obtain progress reports from recipients nor did the Department enforce quarterly submission of progress reports throughout the audit period for the associated 17 vendors.

# Cause of Condition

Because school districts are not routine Ecology recipients, much of the backup documentation was provided to the Department via email to facilitate easier transmission. The staff person managing these grants left the program, and the support for the payments was not uploaded into EAGL. In response to our audit, an email recovery search was performed, which recovered some items. Additionally, the Department reached out to the school districts and was provided documentation to support the remaining items in question. After reviewing the support, we confirmed that the expenditures were allowable and activities were in line with grant agreements. However, due to the timing of receiving the records and not maintaining them in EAGL, we could not determine if the Department had these items available for review at the time of payment request and approval.

Before mid-April 2019, the Department believed that the EPRs did not apply to the bus purchases. When the Department realized that the EPRs were necessary, it made significant efforts to retroactively complete EPRs for equipment that had already been reimbursed. Additionally, the Department has since included them in the agreements' deliverables.

The Department did not require recipients to provide progress reports because after the submission of purchase orders, there was little to nothing to report on until invoices and destruction documents were submitted. The Department asserts that this practice was corrected beginning in state fiscal year 2020 to align with the agreement's general terms and conditions and specifically includes quarterly progress reports as a deliverable.

# Effect of Condition

By not maintaining adequate documentation, the Department cannot easily demonstrate that recipient activities were properly monitored and that charges were allowable before disbursement.

## Recommendation

We recommend the Department follow internal policy to ensure all recipient grant records are kept, equipment purchase reports are created, and progress reports are obtained.

## **Department's Response**

The Department of Ecology acknowledges the audit finding.

Ecology will take the following steps to improve our internal control processes and procedures to ensure supporting documentation for Air Quality grants are properly retained. The Department will:

- Ensure Equipment Purchase Reports are submitted in EAGL for all equipment purchases greater than \$5,000 before approving any payments on are Air Quality Grants.
- Ensure Progress Reports are submitted in EAGL at least quarterly on all Air Quality Grants.
- Ensure required supporting documents such as destruction documents, purchase orders, and invoices are uploaded to EAGL before the approval of any payments on Air Quality Grants.

## Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

## Applicable Laws and Regulations

State Administrative and Accounting Manual, Chapter 85.32.20.b:

Prior to payment authorization, agencies are to verify that the goods and services received comply with the specifications or scope of work indicated on the purchase or contract documents. Authorized personnel receiving the goods and services are to indicate the actual quantities received, services provided, deliverable submitted, etc. Refer to Chapter 20 for guidance related to internal control procedures.

State Administrative and Accounting Manual, Chapter 85.32.30.a:

At a minimum, payment processing documentation should include evidence of authorization for purchase, receipt of goods or services, and approval for payment. Agencies may utilize paper or electronic forms.

Administrative Requirements for Recipients of Ecology Grants and Loans:

Part II – Terms of the Agreement, states in part:

E. Monitoring Project Progress, Progress Reports: Recipients may submit a progress report at any time, however, a progress report must be submitted with each payment request.

Progress reports must be submitted as specified in the agreement or in Funding Program Guidelines. Reports are due 30 days following the end of the reporting period, as specified in the agreement or as agreed to by Ecology.

Progress reports are to contain a summary of:

- Task accomplishments and a percent the project is complete for the report period.
- Reasons for any delays.
- Reasons for any cost overruns.
- Any additional pertinent information and requested metrics.

Part III– Eligible Costs, states in part:

A. Eligibility Criteria:

To be eligible, a cost much be:

• Necessary and reasonable for efficient completion of the project. Necessary costs are determined by the nature and scope of the project as detailed in the agreement terms.

- Authorized or not prohibited under federal, state, or local laws and regulations, and funding program guidelines.
- Conformed to the project budget and any other financial limitations in the agreement terms.
- Incurred on or after the agreement effective date and before the agreement expiration date.
- The net sum of all applicable credits (such as refunds, discounts, and adjustments). If any credit is applied to a cost, the amount that is eligible is the net cost after the credit is applied. If the credit is received after reimbursement by Ecology, the next billing will be adjusted to account for the credit.
- Adequately documented and supported by invoices, time sheets, or other required documentation.
- Consistent with standard business practices.
- Not charged to any other project. Costs may be split between projects, but the same cost cannot be billed to two separate projects.

Part IV – Financial Requirements, states in part:

B. Budget Design:

#### Payment Requests/Progress Reports

The agreement describes how often payment requests may be submitted for reimbursement. Progress reports are required at least quarterly. The agreement may allow more frequent payment requests, but each payment request must include a Progress Report.

#### Supporting Documentation

Recipient must submit all supporting documentation with each payment request or progress report according to the agreement.

#### Reporting Forms

Forms the recipient uses to provide required supporting documentation are available from Ecology's website. If

the agreement is in EAGL, the recipient must use EAGL forms.

- Part VI Property Management and Records, states in part:
  - A. Property Management:

#### Equipment

The recipient may purchase equipment according to the agreement and funding program guidelines. Purchases of \$5,000 or more must be pre-approved by Ecology and must be reported on the Equipment Purchase Report.

Air Quality School Bus Replacement Agreement, states in part:

#### Task Description

Under this project the recipient will purchase 2018 or newer engine model year school buses to replace 2001 or older engine model year diesel powered primary-use school buses. The buses must have idle reduction as an added option.

The old buses must be scrapped. The scrapped buses can be from the recipient's backup fleet upon prior approval from Ecology, and must be permanently disabled. This requires a hole cut in the engine block and destruction of the chassis. A form to assist with this is available in the EAGL system.

The recipient will submit the buses ordered to Ecology upon placing the order

The recipient will make full payment for the buses, and submit all invoices and destruction documents in order to receive payment.

#### General Terms and Conditions

#### 19. Progress Reporting

a) Recipient must satisfactorily demonstrate the timely use of funds by submitting payment requests and progress reports to Ecology. Ecology reserves the right to amend or terminate the agreement if the recipient does not document timely use of funds.

- b) Recipient must submit a progress report with each payment request. Payment requests will not be processed without a progress report. Ecology will define the elements and frequency of progress reports.
- c) Recipient shall use Ecology's provided progress report format.
- d) Quarterly progress reports will cover the period from January 1 through March 31, April 1 through June 30, June 1 through September 30, and October 1 through December 31. Reports shall be submitted within thirty (30) days after the end of the quarter being reported.



STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

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# SUMMARY SCHEDULE OF PRIOR AUDIT FINDINGS

# Department of Ecology July 1, 2018 through June 30, 2019

This schedule presents the status of findings reported in prior audit periods.

Audit Period	:	Report Ref	. No.:	Finding Ref. No.:
07/01/2015 -	06/30/2016	47442		2016-001
Finding Capt	ion:	·		
The Department of Ecology did not establish adequate internal controls to ensure wastewater discharge permit fees were properly assessed and billed.				
Background:				
The Department did not perform reconciliations between its permitting and billing systems to ensure all fees were accurately billed. The Department did not monitor to ensure the water quality program implemented policies and procedures over the permit fee billing process. We examined 98 permits, for which the Department billed \$120,764 and found 23 permits for which the customer was billed the incorrect fee according to the fee schedule.				
Status of Cor	rective Action: (check on	<b>e</b> )		
□ Fully Corrected	☑ Partially Corrected	Not Corrected	□ Find longer	ling is considered no valid
Corrective Action Taken:				
The Department has established policies and procedures over the billing process to: 1) verify the accuracy of fees; 2) perform a reconciliation between permitting and billing system; 3) determine when accounts can be adjusted or written off; and 4) ensure required documentation is obtained and reviewed.				

Audit Period:	Report Ref. No.:	Finding Ref. No.:
07/01/2017 - 06/30/2018	51522	2018-001

#### **Finding Caption:**

The Department of Ecology did not have adequate internal controls over and did not comply with requirements to conduct underground storage tank compliance inspections every three years.

#### **Background:**

After completion of initial required inspections, federal law and a state rule require the Department to perform an onsite inspection of each underground storage tank at least once every three years. During the audit, a list of the last three inspection dates for all operational tanks was reviewed to determine the time between each set of inspections performed and found:

- The most recent inspection of 3,429 sites showed that 431 sites (12.6 percent of the total operational sites) were not inspected within three years. The longest time between inspections in this group was 5.5 years.
- The prior inspection of 3,392 sites showed that 183 sites (5.4 percent of the total operational sites) were not inspected in a timely manner. The longest time between inspections in this group was over 15.5 years.

Status of Corrective Action: (check one)			
□ Fully	$\Box$ Partially	⊠ Not Corrected	□ Finding is considered no
Corrected	Corrected		longer valid

#### **Corrective Action Taken:**

In response to the audit finding, the Department has taken the following steps:

- Expedited the training of new underground storage tank (UST) inspectors to conduct independent inspections
- Provided cross training to staff to conduct UST inspections
- Assigned inspectors from other regional offices to assist with the workload of the short-staffed regions
- Created a report from the UST database to identify UST sites in each region that are within three months of the end of the three-year inspection period. TCP management and UST staff will use this report to identify sites that are coming close to being out of compliance.

## **RELATED REPORTS**

#### Financial

We perform an annual audit of the statewide basic financial statements, as required by state law (RCW 43.09.310). Our opinion on these financial statements is included in the Comprehensive Annual Financial Report (CAFR) prepared by and available from the Office of Financial Management.

The CAFR reflects the financial activities of all funds, organizations, institutions, agencies, departments and offices that are part of the state's reporting entity. That report is issued by the Office of Financial Management in December of each year and can be found at <u>www.ofm.wa.gov</u>.

A summary of the audit for the period ending June 30, 2019, can be found at <u>https://www.sao.wa.gov/about-audits/about-state-government-audits/</u>.

## **Federal programs**

In accordance with the Single Audit Act, we annually audit major federal programs administered by the state of Washington. Rather than perform a single audit of each agency, we audit the state as a whole. The results of that audit are published in a report issued by the Office of Financial Management in March of each year.

## **INFORMATION ABOUT THE DEPARTMENT**

The Department of Ecology ("Ecology") was established by the state Legislature to oversee Washington State's environmental stewardship activities. The Department's mission is to protect, preserve, and enhance the environment for current and future generations. The Department's operating budget for the 2019-2021 Biennium is \$590.4 million, with a \$932.1 million capital biennial budget. 65 percent of Ecology's combined capital and operating budgets will be passed through to local communities to be used on environmental projects throughout Washington.

The Department headquarters is located in Lacey and is supported by four regional offices and six field offices, and staffed with approximately 1,735 employees. The Governor appoints the Department's Director.

Contact information related to this report		
Address:	Department of Ecology	
	P.O. Box 47612	
	Olympia, WA 98504-7612	
Contact:	Janis Henry, Senior Financial Advisor	
Telephone:	(360) 407-6386	
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Information current as of report publish date.

## **Audit history**

You can find current and past audit reports for the Department of Ecology at http://portal.sao.wa.gov/ReportSearch.

#### **ABOUT THE STATE AUDITOR'S OFFICE**

The State Auditor's Office is established in the state's Constitution and is part of the executive branch of state government. The State Auditor is elected by the citizens of Washington and serves four-year terms.

We work with our audit clients and citizens to achieve our vision of government that works for citizens, by helping governments work better, cost less, deliver higher value, and earn greater public trust.

In fulfilling our mission to hold state and local governments accountable for the use of public resources, we also hold ourselves accountable by continually improving our audit quality and operational efficiency and developing highly engaged and committed employees.

As an elected agency, the State Auditor's Office has the independence necessary to objectively perform audits and investigations. Our audits are designed to comply with professional standards as well as to satisfy the requirements of federal, state, and local laws.

Our audits look at financial information and compliance with state, federal and local laws on the part of all local governments, including schools, and all state agencies, including institutions of higher education. In addition, we conduct performance audits of state agencies and local governments as well as <u>fraud</u>, state <u>whistleblower</u> and <u>citizen hotline</u> investigations.

The results of our work are widely distributed through a variety of reports, which are available on our <u>website</u> and through our free, electronic <u>subscription</u> service.

We take our role as partners in accountability seriously, and provide training and technical assistance to governments, and have an extensive quality assurance program.

Contact information for the State Auditor's Office		
Public Records requests	PublicRecords@sao.wa.gov	
Main telephone	(564) 999-0950	
Toll-free Citizen Hotline	(866) 902-3900	
Website	www.sao.wa.gov	