

WASHINGTON AUTO THEFT PREVENTION AUTHORITY
INTERAGENCY AGREEMENT
AUTO THEFT PREVENTION GRANT AWARDS
GENERAL TERMS AND CONDITIONS

DEFINITIONS

As used throughout this AGREEMENT, the following terms shall have the meanings set forth below:

1. "WATPA" shall mean the Washington Auto Theft Prevention Authority, any division, section, office, unit or other entity of the WATPA, or any of the officers or other officials lawfully representing the WATPA.
2. "RECIPIENT" shall mean the agency, firm, provider, organization, individual, or other entity receiving financial assistance under this AGREEMENT. It shall include any SUBRECIPIENT as designated by the RECIPIENT and permitted under the terms of this AGREEMENT.
3. A "SUBRECIPIENT" shall mean a person or entity who is not an employee of the RECIPIENT, who is an individual or other entity performing all or part of the services under this AGREEMENT, under a separate written AGREEMENT with the RECIPIENT. It shall include any SUBRECIPIENT retained by the prime RECIPIENT as permitted under the terms of this AGREEMENT. The terms "SUBRECIPIENT" and "SUBRECIPIENTS" mean SUBRECIPIENT(S) in any tier.

GOVERNING LAW AND VENUE

This AGREEMENT shall be construed and enforced in accordance with, and the validity and performance hereof shall be governed by, the laws of the state of Washington. Venue of any suit between the parties arising out of this AGREEMENT shall be the Superior Court of Thurston County, Washington.

RECIPIENT NOT EMPLOYEE, OFFICER, OR AGENT OF AGENCY

The RECIPIENT and his/her employees or agents performing under this AGREEMENT are not deemed to be employees, officers, or agents of the WATPA in any manner whatsoever. The RECIPIENT will not hold himself/herself out as, nor claim to be an officer, employee, or agent of the WATPA by any reason hereof and will not make any such applicable claim, demand, or application to or for any right or privilege.

AGREEMENT MODIFICATIONS

The WATPA and the RECIPIENT may request changes in services to be performed with the funds, or in the amount of funds to be reimbursed to the RECIPIENT. Any such changes that are mutually agreed upon by the WATPA and the RECIPIENT shall be incorporated herein by

written amendment to this AGREEMENT. It is mutually agreed and understood that no alteration or variation of the terms of this AGREEMENT shall be valid unless made in writing and signed by the parties hereto, and that any oral understanding or agreements not incorporated herein, unless made in writing and signed by the parties hereto, shall not be binding.

DUPLICATION OF COSTS/SUPPLANTING

The RECIPIENT certifies that work to be performed under this AGREEMENT does not duplicate any work to be charged against any other AGREEMENT, SUBAGREEMENT, or other funding. The RECIPIENT shall include the provisions of this clause in any SUBAGREEMENT.

NONDISCRIMINATION

During the performance of this AGREEMENT, the RECIPIENT shall comply with the WATPA'S nondiscrimination plan and the federal and state laws upon which it is based. Requirements of the nondiscrimination plan are hereby incorporated by reference, and include, but are not limited to:

1. Nondiscrimination in employment: The RECIPIENT shall not discriminate against any employee or applicant for employment because of race, color, sex, religion, national origin, creed, marital status, age, Vietnam era or disabled veterans status, or the presence of any sensory, mental, or physical handicap. The RECIPIENT shall take affirmative action to ensure that employees are employed and treated during employment without discrimination because of their race, color, religion, sex, national origin, creed, marital status, age, Vietnam era or disabled veterans status, or the presence of sensory, mental, or physical handicap. Such action shall include, but not limited to, the following: employment upgrading, demotion, or transfer; and recruitment or selection for training, including apprenticeships and volunteers.
2. Nondiscrimination in services: The RECIPIENT shall not discriminate against any person eligible for services or participation in the program because of race, color, sex, religion, national origin, creed, marital status, age, Vietnam Era or disabled veterans status, or the presence of any sensory, mental or physical handicap.
3. Religious Activity: The RECIPIENT shall not use any curricula or materials, which have any religious orientation. The RECIPIENT shall not require participants under this AGREEMENT to participate in any religious activity.

NONCOMPLIANCE WITH NONDISCRIMINATION PLAN

In the event of the RECIPIENT'S noncompliance or refusal to comply with the above non-discrimination plan, this AGREEMENT may be rescinded, canceled, or terminated in whole or in part, and the RECIPIENT may be declared ineligible for further grant awards from the WATPA. The RECIPIENT shall, however, be given a reasonable time, in no event to exceed thirty (30) days, in which to correct this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990

The RECIPIENT shall comply with the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. Section 12101 et seq. and its implementing regulations. This act provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

USE OF MINORITY AND WOMEN BUSINESS ENTERPRISES

The RECIPIENT shall provide the maximum opportunity to Minority and Women Owned Business Enterprises to participate in the performance of this AGREEMENT. This condition shall be included in all SUBAGREEMENTS under this AGREEMENT.

INDEMNIFICATION

The RECIPIENT agrees that he or she is financially responsible (liable) for any audit exception or other financial loss to the WATPA which occurs due to the negligence, intentional acts, or failure for any reason, to comply with the terms of this AGREEMENT by the RECIPIENT and/or its agents, employees, SUBRECIPIENTS or representatives.

The RECIPIENT further agrees to protect, defend, and save the WATPA, its appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, and causes of action of any kind or character, including the cost of defense thereof, arising in favor of the RECIPIENT'S employees or third parties on account of bodily or personal injuries, death, or damage to property or any other liability arising out of services performed or omissions of services or in any way resulting from the acts or omissions of the RECIPIENT and/or its agents, employees, SUBRECIPIENTS, or representatives under this AGREEMENT.

The RECIPIENT is responsible for ensuring that any SUBRECIPIENT(S) include a comprehensive indemnification clause holding harmless the RECIPIENT, and the WATPA.

The RECIPIENT waives his or her immunity under Title 51 RCW to the extent required by this clause.

PROGRAM INCOME

Program income generated by interest-bearing accounts or otherwise under this AGREEMENT shall be used for operational expenses directly related to motor vehicle theft activities not included in the total budget.

TREATMENT OF ASSETS

The RECIPIENT shall take the following actions to secure the financial interest of the WATPA in items purchased under this AGREEMENT:

1. Title to all property purchased by the RECIPIENT, the cost of which the RECIPIENT is entitled to be reimbursed as a direct item of cost under this AGREEMENT, shall remain with the RECIPIENT provided the RECIPIENT certifies to the WATPA in writing that the property will be used for the same funded program purposes. If such certification is not made, title shall vest in the WATPA.
2. The RECIPIENT shall be responsible for any loss or damage to property purchased or procured with WATPA grant funding.
3. The RECIPIENT shall maintain records, perform inventories, and maintain control systems to prevent loss, damage, or theft of equipment, materials, and supplies.
4. The RECIPIENT shall maintain a non-expendable equipment inventory on file. The WATPA'S interest in equipment purchased under this AGREEMENT and prior AGREEMENTS from the same funding source is automatically transferred forward to the next AGREEMENT year at the close of the AGREEMENT period.
5. The RECIPIENT shall surrender to the WATPA all property of the WATPA prior to settlement upon completion, termination, or cancellation of this AGREEMENT.

PROCUREMENT STANDARDS

The RECIPIENT shall comply with the procurement policies and procedures established for their agency by their local governing body.

RECIPIENTS and SUBRECIPIENTS shall be required to receive prior approval from the WATPA for using funds from this AGREEMENT to enter into a sole source agreement or contract with a value exceeding \$5,000 where only one bid or proposal is received. Prior approval requests shall include: a copy of the proposed agreement or contract, any related procurement documents, and justification for noncompetitive procurement, if applicable.

NONASSIGNABILITY

Neither this AGREEMENT, nor any claim arising under this AGREEMENT, shall be transferred or assigned by the RECIPIENT.

RIGHTS OF DATA

All finished or unfinished documents, data, studies, surveys, drawings, models, photographs, films, duplicating plates, computer disks, and reports prepared by the RECIPIENT under this AGREEMENT shall be for the common use of both the RECIPIENT and the WATPA. The WATPA may duplicate, use, and disclose in any manner, and for any purpose whatsoever, all material prepared under this AGREEMENT.

The RECIPIENT shall be required to obtain prior approval of the WATPA to produce patents, patent rights, inventions, original books, manuals, films, or other patentable or copyrightable

materials, in whole or in part, with funds received under this AGREEMENT. The WATPA reserves the right to determine whether protection of inventions or discoveries shall be disposed of and administered in order to protect the public interest. Before the RECIPIENT copyrights any materials produced with funds under this AGREEMENT, the WATPA reserves the right to negotiate a reasonable royalty fee and agreement.

RECAPTURE PROVISION

In the event the RECIPIENT fails to expend funds in accordance with state law or the provisions of this AGREEMENT, the WATPA reserves the right to recapture funds in an amount equivalent to the extent of the noncompliance. Such right of recapture shall exist for a period not to exceed six (6) years following termination of this AGREEMENT. Repayment by the RECIPIENT of funds under this recapture shall occur within thirty (30) days of demand.

WRITTEN POLICIES AND PROCEDURES

Written policies and procedures consistent with federal and state regulations, as applicable, shall be kept on file in the office of the RECIPIENT or its local programs and available for review. Such policies and procedures shall include, but not be limited to: personnel regulations; job descriptions; organizational charts; travel regulations; fiscal management regulations; and affirmative action policies and plans.

RECORDS AND DOCUMENTS

The RECIPIENT shall maintain books, records, documents, and other evidence that properly reflect financial procedures and practices, participant records, statistical records, property and materials records and supporting documentation. These records shall be subject at all reasonable hours to review and audit by the WATPA, the Office of the State Auditor, and state and federal officials so authorized by law. The RECIPIENT shall retain all such records for a period of six (6) years from termination of the AGREEMENT.

If any litigation or audit is begun in the period during which records must be retained, or if a claim is initiated involving the AGREEMENT or any related agreement, the RECIPIENT must retain the related records until the litigation, audit, or claim has been finally resolved.

DOCUMENTS ON FILE

Documents consistent with federal and state regulations, as applicable, shall be kept on file and available for review in the office of the RECIPIENT or its local programs. Such documents shall include, but not be limited to; Articles of Incorporation/Tribal Charter; by-laws; IRS Nonprofit Status Certification; and latest agency audit.

APPLICABLE LAWS AND REGULATIONS

The RECIPIENT shall comply with all applicable laws, ordinances, codes, regulations, and policies of state and federal governments, as now or hereafter amended.

POLITICAL ACTIVITIES PROHIBITED

No award funds may be used in working for or against ballot measures or for or against the candidacy of any person for public office.

DISPUTES

Except as otherwise provided in this AGREEMENT, when a bona fide dispute arises between the parties and it cannot be resolved through discussion and negotiation, either party may request a dispute hearing. The parties shall select a dispute resolution team to resolve the dispute. The team shall consist of a representative appointed by the WATPA, a representative appointed by the RECIPIENT, and third party mutually agreed upon by both parties. The team shall attempt, by majority vote, to resolve the dispute. The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

LEGAL PROCEEDINGS

In the event the WATPA is required to institute legal proceedings to enforce any provision of this AGREEMENT, and is the prevailing party, the WATPA shall be entitled to its costs thereof, including reasonable attorneys' fees.

TERMINATION OF AGREEMENT

1. If, through any cause, the RECIPIENT shall fail to fulfill in a timely and proper manner its obligations under this AGREEMENT, or if the RECIPIENT shall violate any of the covenants, agreements, or stipulations of this AGREEMENT, the WATPA shall thereupon have the right to terminate this AGREEMENT and withhold the remaining allocation if such default or violation is not corrected within thirty (30) days after submitting written notice to the RECIPIENT describing such default or violation.
2. Notwithstanding any provisions of this AGREEMENT, either party may terminate this AGREEMENT by providing written notice of such termination, specifying the effective date thereof, at least thirty (30) days prior to such date.
3. Reimbursement for RECIPIENT services performed, and not otherwise paid for by the WATPA prior to the effective date of such termination, shall be as the WATPA reasonably determines.
4. The WATPA may immediately and unilaterally terminate all or part of this AGREEMENT, or may reduce its scope of work and budget, if there is a reduction in funds by the source of those funds, and if such funds are the basis for this AGREEMENT. Such termination shall be effective when the WATPA sends written notice of termination to the RECIPIENT.

SEVERABILITY

In the event any term or condition of this AGREEMENT or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications of this AGREEMENT that can be given effect without the invalid term, condition, or application. To the end the terms and conditions of this AGREEMENT are declared severable.

AUDIT REQUIREMENTS

1. State Funds Audit Requirements

This AGREEMENT includes state funds. RECIPIENTS expending \$75,000 or more in total state funds in a fiscal year must have a financial audit as defined by Government Auditing Standards (The Revised Yellow Book) and according to Generally Accepted Accounting Standards (GAAS).

If RECIPIENT has an OMB Circular A-133 audit, it meets these requirements.

The RECIPIENT shall include the above audit requirements in any SUBAGREEMENTS granting state funds to sub recipients.

2. The RECIPIENT must send a copy of the audit report no later than nine months after the end of the RECIPIENT'S fiscal year(s) to:

Washington Auto Theft Prevention Authority
3060 Willamette Drive NE
Lacey WA 98516
ATTN: Grant Services Coordinator

3. Responses to any unresolved management findings and disallowed or questioned costs shall be included with the audit report. The RECIPIENT must respond to WATPA requests for information or corrective action concerning audit issues within 30 days of the date of request.

SPECIAL PROVISION

The WATPA'S failure to insist upon strict performance of any provision of this AGREEMENT or to exercise any right based upon breach thereof or the acceptance of any performance during such breach shall not constitute a waiver of any rights under this AGREEMENT.