

**ALASKA  
LAND AND WATER CONSERVATION FUND  
GRANT  
APPLICANT AND SUBRECIPIENT (SPONSOR) HANDBOOK**



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## SUMMARY

The Land and Water Conservation Fund (LWCF) Act was established in 1964 to provide recreational opportunities for America's communities. The intent was to provide a consistent source of funding for the development of local parks, playgrounds, and other recreational spaces. The fund does not use any taxpayer dollars; rather, it utilizes earnings from offshore oil and gas leases to fund local recreation projects.

In Alaska, the LWCF program is administered by the Division of Parks and Outdoor Recreation (DPOR) as a pass-through grant from the National Park Service (NPS). These funds are allotted to the state's eligible local political subdivisions, including federally recognized tribal governments.

This document summarizes Alaska's LWCF program, details the rules and regulations governing the distribution of these funds, describes the required elements of an application, and incorporates all required application forms. Information in this manual was obtained from the [Land and Water Conservation Fund Manual, Volume 72.1](#) published by the NPS in 2025, Alaska's [2023 Statewide Comprehensive Outdoor Recreation Plan \(SCORP\)](#) and the [Open Project Selection Process \(OPSP\)](#) developed by DPOR in 2023.

Applicants are encouraged to do each of the following prior to starting an LWCF grant application:

- Review this manual completely. This document provides detailed information about the entire LWCF grant program: from the initial planning of new projects to the long-term maintenance of past projects.
- Review Alaska's [Statewide Comprehensive Outdoor Recreation Plan \(SCORP\)](#). Special attention should be paid to Section A, which describes current outdoor recreation themes.
- The above-mentioned documents are available at [Land and Water Conservation Fund Grant Program](#) website. Most importantly, potential applicants are urged to contact DPOR staff during the earliest stages of planning. Staff can help assess whether an LWCF grant is a good option for a project and, if a grant is pursued, help to develop application strategies.

For more information on any aspect of the LWCF grant program, please contact DPOR's Grant Administration staff via email at [DNR.LWCFGrants@alaska.gov](mailto:DNR.LWCFGrants@alaska.gov).

## **PROGRAM OVERVIEW**

### **Legal Authority**

The Land and Water Conservation Fund (LWCF) Act of 1965 (Public Law 88-578, 78 Stat 897) was enacted to provide quality outdoor recreational opportunities to all persons within the United States. The LWCF program, administered through the National Park Service (NPS), provides matching grants to States, and through States to local governments, for the acquisition and development of public outdoor recreation areas and facilities.

The LWCF Act authorizes the Secretary of the Interior to provide financial assistance to States for outdoor recreation projects and land or water acquisition purposes. With some exceptions, this authority has been delegated to the Regional Directors of the NPS, who are authorized to administer the program within their respective jurisdictions.

The NPS administers the LWCF State and Local Assistance matching grant program in close coordination with Alaska through a State Liaison Officer (SLO) and Alternate State Liaison Officers (ASLOs) designated by the Governor. DPOR, within Alaska's Department of Natural Resources, administers the LWCF program in partnership with NPS.

### **Program Goals**

- Meet State and locally identified public outdoor recreation resource needs to strengthen the health and vitality of the American people.
- Increase the number of protected State and local outdoor recreation resources and ensure their availability for public use in perpetuity; and
- Encourage sound planning and long-term partnerships to expand the quantity and to ensure the quality of State and local outdoor recreation resources needed.

LWCF assistance can be used to:

- Acquire lands and waters or interests in lands and waters for public outdoor recreation.
- Develop basic outdoor recreation facilities to serve the public; and
- Provide major renovation work for existing outdoor recreation facilities, including replacement; or
- A combination of acquisition and development or renovation.

### **Statewide Comprehensive Outdoor Recreation Plan (SCORP)**

The SCORP is a research-based plan that evaluates the supply and demand of outdoor recreation resources and facilities across all jurisdictions. Specifically, the SCORP identifies outdoor recreation needs and opportunities for recreation improvements and development, provides the

foundation for the distribution of Land and Water Conservation Fund (LWCF) monies for outdoor recreation and open space acquisition, and outlines the overall status of outdoor recreation in Alaska. At the core of the SCORP is an implementation plan designed to address the needs and goals identified by Alaska's citizens, recreation planners, land managers, and community leaders. All applications for LWCF must address one or more goals outlined in the SCORP.

### **Open Project Selection Process (OPSP)**

The OPSP provides objective criteria and standards for project selection that are explicitly based on the priority needs for recreation land acquisition and outdoor recreation development as identified in the SCORP. The OPSP supplies the most visible connection between a state's planning efforts and its use of LWCF grants to meet some of the high priority needs identified through its SCORP process.

### **Major Program Elements**

The following are major elements of the LWCF program. They do not constitute all requirements of the program but do represent the most significant obligations that every subrecipient must meet or otherwise account for:

- LWCF requires at least a 50/50 match on all projects.
- LWCF is a ***reimbursable*** grant program. Subrecipients must pay for all project expenses and then request reimbursement for those costs. There are no exceptions. Reimbursements are only made for completed project elements and must accompany documentation of the required minimum 50% match for each request.
- Plans and specifications for improvements and/or facilities should be in accordance with established engineering and architectural practices.
- The project must comply with all health and safety codes, including both Section 504 of the Rehabilitation Act (1973) and the Americans with Disabilities Act (ADA, 1973) with its subsequent amendments.
- Applicants are required to maintain any LWCF-funded area(s) for public recreation use in ***perpetuity***. As such, DPOR requires that all new projects include deed restrictions on the lands purchased and/or developed with LWCF funds. The cost of a deed restriction is an eligible reimbursement cost. Copies of the executed deed restriction must be provided to DPOR staff before the final reimbursement is issued.
- The use and development policy must be consistent with the Civil Rights Act (1964), which prohibits discrimination by any program receiving Federal financial assistance.
- All applications are scored via the selection criteria detailed in the OPSP. Applicants are strongly encouraged to review those criteria early in the application process and assess their project accordingly.
- A boundary map is required for every LWCF application.

## **ELIGIBILITY**

### **WHO IS ELIGIBLE?**

State, regional or local governments, and federally recognized tribal governments, with the legal authority to provide park and recreation services on public lands, are eligible to apply for LWCF assistance.

### **ELIGIBLE PROJECTS**

#### **Acquisition**

Acquisition of lands, wetlands, and waters for public outdoor recreation, including new areas or additions to existing parks, forests, wildlife management areas, beaches, and other similar areas dedicated to outdoor recreation, as well as physical connections among them (e.g., trails, waterways, land between recreation areas, wildlife habitat corridors) may be eligible for assistance.

Natural areas and preserves may be acquired only if the site will be open to the general public for outdoor recreation use. Acquisition can be by fee simple title or by whatever lesser rights will ensure the desired public use.

Examples of eligible acquisitions may include, but are not limited to:

- Areas with frontage on rivers, streams, lakes, reservoirs, etc. that will provide water-based public recreation opportunities, or the acquisition of the water bodies themselves
- Land for creating water impoundments to provide water-based public outdoor recreation opportunities
- Natural areas, preserves, and outstanding scenic areas where the acquisition objective is to preserve areas of biological importance and/or viewsheds. These areas must remain open to the general public for outdoor recreation use to the extent that the natural attributes of the areas will not be seriously impaired or lost
- Land within urban areas for day-use picnic areas, neighborhood playgrounds, and tot lots; areas adjacent to school playgrounds and competitive nonprofessional sports facilities, as well as more generalized parklands

Land acquired may provide for a wide variety of outdoor activities including but not limited to driving and walking for pleasure, sightseeing, swimming and other water sports, fishing, picnicking, nature study, boating, hunting and target practice, camping, horseback riding, bicycling, skiing, and other outdoor sports and activities.

Acquisition of lands and waters, or interests therein, may be accomplished through purchase, transfer, or by gift. Acquisition through the right of eminent domain is allowable only with agreement from the property owner (such as actions needed to quiet title or to allow a court to set the value of a property).

Every reasonable effort should be made to acquire real property by negotiated purchase. Real property must be appraised before the initiation of negotiations, and the property owner given a "Statement of Just Compensation" for the property.

The donation of land is encouraged, and the value of that donation may be used as all or part of the applicant's match, provided there are additional acquisition and/or development costs to be met. Donations must have both an appraisal and an "Offer to Purchase" from the applicant on file and as part of the project application.

An appraisal by a qualified appraiser (MAI or equivalent), must be submitted with the grant application. (If the property is worth less than \$25,000, a qualified appraiser may do a waiver valuation instead.) The appraisal must be prepared in accordance with the [\*Uniform Appraisal Standards for Federal Land Acquisitions\*](#) (UASFLA). Appraisals and preliminary title documents must be approved by the State before negotiations are begun. A letter of certification (appraisal review) from an independent qualified appraiser is required for each acquisition project.

Only in unusual circumstances can real property be acquired at less than the fair market value as determined by a qualified appraiser. If this occurs, there must be evidence that the owner was first provided with a written "Offer to Purchase" for the full amount established as just compensation. This amount will not be less than the approved appraisal of fair market value.

Such evidence will include a signed statement by the property owner waiving his right to just compensation and indicating that they: (1) have been informed of all rights and benefits under the Uniform Relocation Assistance and Real Properties Acquisition Policies Act of 1970, (2) have been provided with a Statement of Just Compensation and a Written Offer to Purchase for this amount, (3) is satisfied with the price paid even though it is less than the approved appraisal of fair market value, and 4) the reasons why they have elected to accept this lesser amount. This statement must accompany the request to the DPOR for reimbursement.

A copy of the "Offer of Just Compensation" and the deed showing purchase of the property by the applicant must be sent to DPOR within 9 months of the first letter sent to the applicant following the awarding of the grant (acquisition projects only).

Displaced persons and business or farm interests must be notified of their rights under federal and state relocation laws.

## **Development**

Financial assistance may be available through the LWCF program for most facilities necessary for the use and enjoyment of outdoor recreation areas. The LWCF Act specifies that development projects may consist of basic outdoor recreation facilities to serve the public, provided that the funding of such a project is in the public interest.

Development projects may proceed in stages. Each stage must result in a complete and usable facility (even if it is part of a larger multi-phase project). Facilities may be built on 1) land owned by eligible political subdivisions, 2) land acquired under this program, and/or 3) federal lands under lease for 25 years or more.

Funding of development projects may cover construction, renovation, site planning, demolition, site preparation, architectural services, and similar activities essential for the proper execution of the project.

Plans for the development of land and/or facilities must align with the LWCF grant scoring criteria, the expected use, and the type and character of the project area. Emphasis should be given to the health and safety of users, accessibility to the public, and persons with disabilities (per standards of the Americans with Disabilities Act), and the protection of the recreation and natural values of the area.

### **Plans and Specifications**

Plans and specifications for improvements and/or facilities should be in accordance with established engineering and architectural practices. Emphasis should be given to the health and safety of users, accessibility to the public, and the protection of the recreation and natural values of the area. All facilities developed with assistance from the Fund must be designed in conformance with the appropriate current design standards for the Architectural Barriers Act of 1968 (Public Law 90-480); Section 504 of the Rehabilitation Act of 1973, as amended; and the Americans with Disabilities Act.

Regarding utility lines, the subrecipient is encouraged to bury, screen, or relocate existing overhead electrical and telephone lines underground, in collaboration with relevant utility companies.

### **Eligible Projects**

Examples of eligible development projects may include, but are not limited to:

#### Sports and Playfields

Fields, courts, and other outdoor spaces used in competitive and individual sports. This includes athletic fields and courts, playgrounds and tot lots, rifle/pistol/archery ranges, trap/skeet fields, skate parks, running tracks, and other similar facilities.

#### Picnic Facilities

Tables, fireplaces, shelters, and other facilities related to family or group picnic sites.

#### Swimming Facilities

Development of beaches, outdoor pools (Sheltered indoor swimming pools may be developed in communities where the normal daily mean temperature for the month of June is 72 degrees or less), lifeguard towers, bathhouses, and other related facilities.

### Boating Facilities

Facilities related to boating, sailing, canoeing, kayaking, sculling, and other similar activities are eligible. These facilities may include, but are not limited to docks, berths, floating berths secured by buoys or similar services, launching ramps, breakwaters, mechanical launching devices, boat lifts, boat storage, sewage pump out facilities, fuel depots, water and sewer hookups, restrooms, showers, electrical systems, and parking areas. Assistance will not be provided for operational equipment or supplies such as buoys, ropes, life jackets, or boats.

### Hunting/Fishing Facilities

Development of fishing piers, access points, fish hatcheries, tree stands, blinds, initial clearing and planting of food and cover, stream improvements, and other habitat improvements are eligible. In developing and evaluating facilities focused on preservation or production of game or fish, such as game refuges/sanctuaries or fish hatchery, such areas and facilities will be eligible only if they are or will be open to the public for general compatible outdoor recreation.

### Winter Sports Facilities

LWCF assistance may be available for facilities such as ski trails, jumps, lifts, trails/runs, and permanent snowmaking equipment used in downhill skiing, cross country skiing, sledding/tubing, and other winter sports. *Outdoor* ice rinks are also eligible.

### Camping Facilities

LWCF assistance may be available for tables, fireplaces, restrooms, information stations, snack bars, utility outlets, and other facilities needed for camping (tent, trailer, camper, etc.). Cabins or group camps may be eligible as well.

### Exhibit Facilities

Outdoor exhibit or interpretive facilities that provide opportunities for the observation or interpretation of natural, cultural and/or historic resources located on the recreation site or in the immediate surrounding area are eligible. This includes small demonstration farms, arboretums, outdoor aquariums, outdoor nature exhibits and interpretive centers, etc. However, exhibit areas will not be assisted if they function primarily for academic, historic, economic, entertainment or other non-recreational purposes.

### Spectator Facilities

Amphitheaters, bandstands, and modest seating areas related to playfields and other eligible facilities, providing that the associated facilities are not designed primarily for professional, semiprofessional, intercollegiate or interscholastic arts or athletics are allowed.

### Community Gardens

Community garden infrastructure such as land preparation, perimeter fencing, storage bins and sheds, irrigation systems, benches, walkways, parking areas, and restrooms are allowed. To be

eligible, community gardening must be clearly identified in the SCORP as a needed outdoor recreation activity and must be accessible to the public in an equitable manner.

#### Renovated Facilities

LWCF assistance may be available for extensive renovation or redevelopment to bring a facility up to standards of quality and attractiveness suitable for public use. Renovation specifically involves facilities or areas that have deteriorated to the point where their usefulness is impaired or outmoded; or where it needs to be upgraded to meet public health and safety laws and requirements. Funds are not available to reverse deterioration due to inadequate maintenance during the reasonable life of the facility.

#### Accessible Facilities

LWCF assistance may be available for the adaptation of new or existing outdoor recreation and support facilities for use by people with disabilities. Funds may not be used for facilities that are exclusively for the disabled unless such facilities are available to the public or are part of an outdoor recreation area which serves the public.

#### Zoo Facilities

Outdoor display facilities at zoological parks are eligible to receive LWCF assistance provided they portray a natural environmental setting that serves the animals' physical, social, psychological, and environmental needs; and are compatible with the activities of the recreationist. Support facilities to serve the needs of the recreationist, such as walkways, landscaping, comfort facilities, parking, etc. are also eligible.

#### Support Facilities

LWCF assistance may be available for a variety of infrastructure that may be integral to the functioning of eligible recreation facilities. Examples include, but are not limited to:

- Facilities required for the reasonable use and engagement of an area. Examples include roads, parking areas, utilities, restrooms, sanitation systems, simple cabins or trail hostels, warming huts, shelters, visitor information centers, kiosks, interpretive centers, bathhouses, permanent spectator seating, walkways, pavilions, snack bar stands, and equipment rental spaces.
- Operations and maintenance facilities that support recreation resources, such as maintenance buildings, storage areas, administrative offices, dams, erosion control projects, fences, sprinkler systems, and directional signs.

Beautification projects that provide a more attractive public environment are eligible. This may include general landscaping, the clearing or restoration of areas which have been damaged by natural disasters; the screening, removal, relocation or burial of overhead power lines; the dredging and restoration of publicly owned recreation lakes or boat basins, and measures necessary to mitigate negative environmental impacts.

Roads whose primary use is to serve an outdoor recreation facility or area are allowable. Such roads can be either within a recreation area or outside of it, but they must be owned or adequately controlled by the agency sponsoring or administering the park or recreation area and cannot be part of an existing state, county, or local road system. All grant improved facilities must be included within the LWCF boundary.

Equipment required to make a recreation facility initially operational is allowable.

Energy conservation infrastructure, including solar energy systems, earth berms, window shading devices, energy lock doors, sodium vapor lights, insulation, windmills, on-site waterpower systems, bioconversion systems, and facilities required for the conversion of existing power systems to coal, wood, or other energy-efficient fuels are eligible.

### **Combination Projects**

Funds are available for projects that combine acquisition and development.

## **INELIGIBLE PROJECTS**

### **Acquisition**

- Acquisition of historic sites and structures, except if the applicant clearly demonstrates that the acquisition is primarily for outdoor recreation purposes and that the historic aspects are an integral component of the primary recreation purpose(s).
- Acquisitions of museums and sites to be used for museums or primarily for archeological excavations.
- Acquisition of land to help meet a public school's minimum site size requirement.
- Acquisition of areas and facilities to be used *solely* for game refuges or fish production purposes. Such areas and facilities may be eligible if they are open to the public for general compatible recreation, or if they directly serve priority public outdoor recreation needs.
- Acquisition of areas with railroad "hardware," trestles, stations, yards, and the like will not receive LWCF assistance if they are to be used to support commercial train operations.
- Acquisition of sites containing lodges, hotels, motels, restaurants, and similar elaborate indoor facilities that are to be operated by the project sponsor or a concessionaire to provide food and/or sleeping quarters will not receive LWCF assistance.
- Acquisition of agricultural land primarily for preservation in agricultural purposes will not receive LWCF assistance.
- Acquisition of Federal surplus property unless legislatively authorized in a specific situation.

### **Development**

- Facilities designed primarily for professional, semi-professional, intercollegiate, or interscholastic arts or athletics.

- *Mobile* recreation units including play mobiles, skate mobiles, swim mobiles, show wagons, puppet wagons, and porta-bleachers.
- Support facilities which contribute primarily to public indoor activities such as meeting rooms, auditoriums, libraries, study areas, restaurants, lodges, motels, luxury cabins, food preparation equipment, kitchens, and equipment sales areas.

## APPLICATION SUBMISSION & EVALUATION

### APPLICATION REQUIREMENTS

All applications **MUST** be submitted through the [Submittables](#) portal.

Applicants are encouraged to do each of the following, prior to starting an LWCF grant application:

- Review Alaska's [Statewide Comprehensive Outdoor Recreation Plan \(SCORP\)](#). Special attention should be paid to Section A, which describes current outdoor recreation themes.
- Contact various agencies (ADF&G, USFWS, EPA, DEC, etc.) to determine potential impacts to the environment and wildlife.
- Post public notice of the potential project in your area and elicit, track, and respond to public comments. Retain copies of this information as you will be asked to provide it in your application package.
- Contact the [State Historic Preservation Office \(SHPO\)](#), in writing, with information on your project and [request a Section 106 determination](#) as to any effects on cultural or historic properties.

*Most importantly*, potential applicants are urged to contact DPOR staff during the earliest stages of planning. Staff can help assess whether an LWCF grant is a good option for a project and, if a grant is pursued, help to develop application strategies.

The initial screening of applications will confirm the presence or absence of basic elements:

- Both the applicant and project must meet the eligibility requirements of the most current NPS LWCF [Federal Financial Assistance Manual](#).
- Applications must be complete and submitted by the deadline.
- Adequate control and tenure of lands must be established, including the project site as well as lands within the approved project boundary. Control and tenure may be demonstrated by:
  - fee simple ownership of all project lands without encumbrances;
  - a lease from the Federal government with a remaining term of 25 years or more at the time the grant is awarded that is not revocable at will;
  - Leased from one public agency to another for 25 years or more, if safeguards are included to adequately ensure the perpetual use requirement contained in the LWCF Act.

### PROJECT EVALUATION & SELECTION

The second phase of assessment involves evaluation of the project itself. The third and final phase includes award recommendations by the SLO and final project approval by the NPS. The process is as follows:

- Initial review by DPOR grants staff.

- A review committee will score and rank all eligible project applications according to the rating and selection criteria described in the SCORP and OPSP. Based on the accumulated points that result from the scoring or rating process, those projects which fall within the available LWCF monies will be recommended for funding.
- The DPOR Director/State Liaison Officer has the authority to accept the committee's ranked recommendations or to make changes to ranking or funding allocations, if desired.
- DPOR will submit applications to the NPS for final approval.
- The NPS will evaluate each recommended project for completeness and notify DPOR of all approved projects. A funding agreement will be drafted for signatures.

**Important:** Every application must be approved by DPOR and NPS. Being selected for funding by the DPOR does not assure project approval at the Federal level: NPS approval is a separate process.

Furthermore, the applicant may not take title to project lands (acquisition) or begin construction (development) until Federal (NPS) approval is granted and a State-local agreement has been executed.

Federal approval normally takes between one and four months, depending on the degree of environmental clearance, but may take longer depending on the capacity of the NPS. *It is important that project work is not done until the final agreements are signed: expenses incurred before issuance of a grant agreement will not be reimbursed by the DPOR or NPS.*

Upon project approval, successful applicants will be notified of the deadlines which pertain to their project (receipt of plans, proof of physical development, etc.). Each subrecipient will be required to meet all appropriate deadlines. *If there is no progress on the project **within 12 months after approval**, the project's funds may be de-obligated and the grant cancelled.*

## **PROJECT ADMINISTRATION**

### **AGREEMENTS**

Subrecipients, also referred to as sponsors, must administer the project according to the grant conditions and assurances. These provisions are included in the funding agreement.

Each subrecipient will be required to execute a legal agreement with DPOR covering the terms of the LWCF program. Breach of this agreement may result in the de-obligation of funds. Subrecipients found in breach of their agreement may also be rendered ineligible for future LWCF grants, at the discretion of the SLO and NPS.

### **PRE-AWARD COSTS**

Unless previously approved by DPOR or NPS, any costs incurred by the subrecipient prior to the execution of the State-local agreement (other than pre-planning costs and those costs necessary to draw and check the plans and specifications) will not be reimbursed by DPOR and will not be considered as part of the project cost.

### **AMENDMENTS**

During the execution of a project there may be unforeseen delays, changes in specifications, or rising costs of labor and supplies. As work progresses, it may be necessary or desirable to alter the scope of the project by adding, deleting, or modifying aspects of the project.

When such changes are necessary, the subrecipient must notify DPOR as soon as possible in writing, clearly indicating the changes needed to the budget or scope of work. DPOR will notify the NPS and submit an amendment for approval. Given the volume of LWCF projects under its purview, the NPS may not always be able to act in advance of the change or upon the subrecipient's desired timeline. When changes to a project are necessary, any costs incurred prior to their approval are done so at the subrecipient's risk.

### **PROCUREMENT STANDARDS**

Projects or portions thereof may be undertaken through contracts in accord with the procurement standards and guidelines set forth in 2 CFR Part 200 and 43 CFR Part 12. This includes the procurement of supplies, equipment, construction, and services.

All procurement transactions, whether by sealed bids or negotiation, and without regard to dollar value, shall be conducted in a manner that provides maximum open and free competition consistent with this section.

### **BIDDING AND CONTRACTS**

Contract construction must adhere to all applicable Federal and State laws. Contracts for construction will be awarded through the subrecipient's established competitive bidding process.

If there is none, the State bidding process must be followed. Please refer to the [State of Alaska Administrative Manual](#) for more information.

### **BUILD AMERICA, BUY AMERICA COMPLIANCE**

Effective January 13, 2023, as required by Section 70914 of the Bipartisan Infrastructure Law (also known as the Infrastructure Investment and Jobs Act), P.L. 117-58, none of the funds under a federal award that are part of a Federal financial assistance program for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products and construction materials used in the project are produced in the United States, unless subject to an approved waiver.

The requirements of this section must be included in all subawards, including all contracts and purchase orders for work or products under this program. Recipients of an award of Federal financial assistance are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:

- All iron and steel used in the project are produced in the United States
- All manufactured products used in the project are produced in the United States
- All construction materials are manufactured in the United States

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project.

The Buy American preference does not apply to equipment and furnishings such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

#### *Waivers*

When necessary, subrecipients may contact DPOR staff to see if any waivers are applicable, in cases such as product non-availability, unreasonable cost, or in the public's best interest. If you believe that one of these potential waivers may apply to your project, please contact DPOR staff for further assistance.

For further information on the Buy America preference, please visit this [link](#).

## **COST PRINCIPLES**

### **FINANCIAL RESPONSIBILITY**

The subrecipient shall be responsible for the financial management of projects. Appropriate internal controls must therefore be adopted and implemented so that the project is conducted in the most efficient and economical manner possible. A financial manager or supervisor must be appointed and will be responsible for all financial management of the project.

#### *Failure to Comply with Federal and State Laws and Regulations*

Pursuant to 2 C.F.R. § 200.339, if the State determines that a subrecipient has violated or failed to comply with applicable federal laws, regulations, and/or grant terms and conditions that govern the program and the financial federal assistance awards issued under it, the State may impose additional conditions consistent with 2 C.F.R. § 200.208 to remedy the non-compliance. Failure to remedy non-compliance may result in the State:

- temporarily withholding payment of federal funds
- disallowing costs
- suspending or terminating the award
- initiating suspension or debarment proceedings
- withholding of future funds
- withholding of future projects

If you have any questions or concerns about this, please contact DPOR grants staff for further clarification.

### **ACCOUNTING**

Adequate daily records must be kept on the project and billings must be completely supported by documentation. Copies of all documentation must be forwarded to DPOR with each billing cycle and will be included in the project's permanent file. *All records will be thoroughly audited by the appropriate State and Federal agencies.* The subrecipient must utilize accounting procedures that ensure proper accounting and disbursement of grant monies paid. Those procedures should be based on generally accepted accounting standards and auditing principles. At a minimum, these procedures must accomplish the following:

- Implementation of reasonable checks and balances regarding various administrative activities, such as serial numbers on vouchers (where prudent), distribution of duties among employees in such a way as to decrease opportunities for fraudulent activities, procedural safeguards, property inventory controls, and other precautions.
- Establish separate accounts and supporting documentation for the project. Each project account should be identified by the number assigned to the project by DPOR.
- Identification of all receipts in sufficient detail to show the dates and sources of such receipts.
- Itemization of all supporting records of project expenditures in sufficient detail to show the

exact nature of expenditures.

- Cross-referencing of each expenditure with the supporting purchase order, contract, contract change order, voucher, bill, etc. These supporting documents should contain the signature of the official authorized to approve such expenditures.
- Maintenance of adequate records (e.g., employee time sheets) that clearly demonstrate authorization by the appropriate officials.
- Maintenance of payroll vouchers for salaries and wages. If payroll voucher forms are not used, a statement should be prepared at the end of each pay period showing the names of employees, the number of hours worked on the project, the gross amount of salary earned by each, and on which part of this project each worked during that pay period. This statement must be verified by the official responsible for the project and approved by the appropriate authority.
- Identification of invoices or vouchers with project number, account number, date, and expense classification.
- When payment is by check, the canceled check should be properly identified and filed.
- When cash disbursements are made, they must be supported by receipts.
- At any time during the project, the State may review the project records, to confirm that the records are both current and adequately maintained. The applicant shall promptly submit such reports and documentation as the State may request.

## **PROJECT COSTS**

### **Determining Amount of Costs**

Project costs eligible for assistance shall be determined by the criteria set forth in this manual and in 2 CFR Part 200. The rates, practices, rules, and policies of the subrecipient consistently applied, shall determine the costs of each item charged to a project. In instances where the subrecipient has no such bias, that of the State shall apply.

### **Ceiling on amount of cost items**

The amount of each item of cost that may be matched from the LWCF shall not exceed the subrecipient's actual cash outlay for that item, or the fair market value of the item, whichever is less. An exception could be land acquired at a price in excess of appraised value and supported by an adequate statement on difference of value.

### **Ceiling on total matching share from the fund**

The total matching amount made available for an approved project shall not exceed the approved support ceiling. The support ceiling is defined as the approved federal share, based on the applicant's original estimate of the project costs. The original grant agreement determines the match percentage, based on the Federal award amount. The Federal percentage cannot change once the grant agreement is in place, unless an amendment is requested and approved. The grant amount can be increased if LWCF funds are available, and the match will also be increased based

on the increased federal funding approved.

### **Allowable Costs**

The basic statement regarding the principles and standards for determining costs applicable to this grant program can be found in 2 CFR Part 200. Examples of allowable costs, including those costs used as match, may include but are not limited to:

**Pre-award project planning** - It is recognized that some costs must be incurred before a proposed project can be submitted to the NPS with the required descriptive and cost data. Pre-award planning costs may be eligible for retroactive approval, but these costs ***must*** be detailed in the project application, including when they were incurred.

For development projects, the costs of site investigation and selection, site planning, feasibility studies, preliminary design, environmental review and other federal and State compliance, preparation of cost estimates, preparation of construction drawings and specifications, and similar items necessary for project proposal preparation may be eligible for assistance, although incurred prior to project approval.

Similar costs may be allowable for acquisitions, although there are specific exceptions for acquisition grants, such as costs relating to appraisals, surveys, and some other incidental costs to the purchaser.

**Personnel Services** - Assistance may be provided for the personnel services of those employees and supervisors directly engaged in the execution of a project. Assistance will be provided according to the proportion of time spent on a project based on time and effort (T&E) reporting.

**Fringe Benefits** - Fringe benefits, which are regularly provided to employees by the subrecipient, are legitimate personnel service costs and are eligible for LWCF reimbursement.

**Consultant Services** - In those cases where the assistance of a specialist consultant is required for a project, a share of the cost may be borne by LWCF funds. No consultant fee may be paid to any Federal, State, or subrecipient's employee unless such a payment is specifically agreed to by the NPS.

**Equipment Usage** - Assistance might be made available for equipment used in the conduct of a project and/or the purchase price of equipment required to make a facility initially operational. This type of assistance will be determined on a case-by-case basis.

**Supplies and Material** - Supplies and materials may be purchased for a specific project or may be drawn from central stock.

**Travel** - The cost of transportation, lodging, subsistence, and related items are allowable when

incurred by people in travel status on official business related to the project.

**Information and Interpretation Costs** - LWCF funds may be used for signs, displays, dioramas, and other interpretive facilities designed to convey either informational or navigational information related to the project.

**Construction** - Allowable construction costs include all necessary construction activities, from site preparation to the completion of a structure.

**Administrative and Supporting Expenses** - Assistance will be available for a wide range of administrative and support expenses incurred directly or indirectly on behalf of a project, consistent with the standards stated in 2 CFR Part 200. Allowable items include, but are not limited to:

Accounting	Motor pools
Auditing	Payroll preparation
Bonding	Personnel administration
Budgeting	Procurement services
Central stores	Taxes
Communication expenses	Deed restrictions
Disbursing services	

**Costs of Purchase of Real Property and of Interest in Real Property** - Federal assistance may be used to pay a share of the fair market value of real properties and of interests in real property purchased by the subrecipient when determined by the NPS to be capital costs. Incidental costs relating to acquisition are not eligible per the LWCF Act (54 U.S.C. § 200305(e)(2)(A)). However, interest expenses awarded by the court as part of just compensation for acquisition in eminent domain situations may be matched. Also, costs allowed pursuant to Section 211 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 U.S.C. § 4601 et seq.), may be matched.

The value of such properties or interests should be proposed by the State. Steps should be taken to ensure actions to identify property for acquisition do not cause inflation of property values and thereby increase the cost of the project.

Although a subrecipient may pay a greater amount, LWCF assistance will generally be computed on the fair market value as determined by an acceptable appraisal.

Capital expenditures for acquisition of eligible leases, easements, and other rights and interests in real property are eligible for LWCF assistance.

**Cost of Real Property Purchased from Other Public Agencies** - The actual cost to the subrecipient for land purchased from another public agency may be eligible for matching assistance, subject to the following conditions:

- a. The land was not originally acquired by the other agency for recreation.
- b. The land has not been managed for recreational purposes while in public ownership.

- c. No federal assistance was provided in the original acquisition (by the other agency) to facilitate the basic project being funded by LWCF assistance, unless the federal assistance was provided by an eligible supplemental program.
- d. The selling agency is required by law to receive payment for land transferred to another public agency. Examples are public school land that can be used for non-school purposes only through payment to the school agency; or excess state prison lands that can be transferred to local government use only on a purchase basis. The support ceiling will be based on the price paid by the subrecipient for the property or the fair market value, whichever is less. In some instances, the selling agency may have multiple legal options for selling the property. For example, various applicable laws may allow the agency to transfer the real property to another public agency for either fair market value, for reimbursement of unpaid taxes, as a donation, or for other consideration. In such a situation, where multiple sale options exist, LWCF assistance will be limited to the minimum amount for which the property could be transferred legally and only in those instances for which there is an attorney general's opinion or established case law.
- e. The requirements for appraisal, history of conveyances, and evidence of title are the same as normal purchases.
- f. If the selling agency is federal, fair market value is paid.

**Real Property Acquired by Donation** - The value of real property donated to the subrecipient, by private organizations or individuals, will be eligible for match, as determined by an appraisal. Donations required by law or regulation are ineligible as the project sponsor's matching share. The acquired land cannot be subject to any restrictions that might limit its intended public recreation use.

**Master Planning** - Master planning of a recreation area (in whole or part) can be used as match only as part of a development project; and only if the project includes actual development whose cost is at least equal to that of the master plan.

**Miscellaneous Allowable Costs** -

- a. Payment of premiums on hazard and liability insurance to cover personnel and property directly connected with the project.
- b. Costs to the subrecipient for work performed by another public department or agency are allowable. This includes the costs of services provided by central service-type agencies to the subrecipient's departments and need not be supported by a transfer of funds between the departments involved.
- c. The costs of space in privately owned buildings used for the benefit of the project is allowable, subject to the conditions stated in 2 C.F.R. Part 200, §§ 306 and 434. Also, subrecipients may be compensated for the use of buildings, capital improvements, and equipment through use allowances or depreciation.
- d. If the local government or tribal organization has a NICRA applicable to land acquisition or development costs, then indirect expenses may also be allowable.

## Non-Allowable Costs

Examples of non-allowable expenditures may include, but are not limited to:

- Ceremonial or entertainment expenses.
- Expenses for publicity.
- Bonus payments of any kind (i.e., bonuses).
- Charges for contingency reserves or other similar reserves.
- Charges in excess of the lowest responsive bid, when competitive bidding is required by the NPS or the sponsor, unless the NPS agrees in advance to the higher cost.
- Charges for deficits or overdrafts.
- Taxes for which the organization involved would not have been liable to pay.
- Interest expenses, except those awarded by the court as part of just compensation for acquisition in eminent domain situations.
- Charges incurred contrary to the policies and practices of the organization involved.
- Consequential damage judgments arising out of acquisition, construction, or equipping of a facility, whether determined by judicial decision, arbitration, or otherwise. Consequential damages are damages, to adjoining property owned by other people, which are caused by noise, lights, vibration etc.
- Incidental costs relating to acquisition of real property and of interests in real property, unless allowable under the Uniform Act (42 U.S.C. § 4601 et seq.).
- Operation and maintenance costs of outdoor recreation areas and facilities
- The value of, or expenditures for, lands acquired from the United States at less than fair market value.
- Cost of discounts not taken.
- Equipment to be used for the maintenance of outdoor recreation areas and facilities, including, but not limited to, automotive equipment, tractors, mowers, other machinery, and tools.
- Employee facilities, including residences, appliances, office equipment, furniture, and utensils.
- Donations or contributions made by the sponsor, such as to a charitable organization.
- Salaries and expenses of the Office of the Governor, or of the chief executive of a political subdivision, or of the State legislature, or other similar local governmental bodies.
- Fines and penalties.
- Any excess of cost over the Federal contribution under one grant agreement is unallowable under other grant agreements.
- Any losses arising from uncollectible accounts and other claims, and related costs.
- Legal and professional fees paid in connection with raising funds.
- Payments for lobbying in connection with the awarding, extension, continuation,

renewal, amendment, or modification of an individual LWCF grant or the LWCF program generally.

## **SPONSOR FINANCIAL OBLIGATIONS**

### **Matching Share**

A match of at least 50% is required on all LWCF projects. Federal funds may not be used as a match unless specifically authorized in that fund's legislation.

LWCF assistance shall not exceed 50 percent of total eligible project costs. The subrecipient will pay all costs accrued during the project period, in full. Reimbursement for the federal share is made through DPOR and is provided on a reimbursement basis. Projects initially funded at less than 50 percent matching share may not be amended to increase the federal share without an increase in project scope and increase in total project cost.

### **Applicability of Donations**

The NPS encourages the donation of cash and in-kind contributions, including real property, to subrecipients by private parties. The value of the in-kind contributions may be used as all or part of the subrecipient's share of the project cost. For this to occur, the method of valuation and charges for volunteer services, material, and equipment must be documented and approved by the State, prior to the donations being applied to reimbursement requests. The following are specific procedures for placing a value on in-kind contributions from private organizations and individuals, in accordance with 2 C.F.R. § 200.434:

- Valuation of volunteer services. Volunteer services may be furnished by professional and technical personnel, consultants, and other skilled and unskilled labor. Each hour of volunteered service may be counted as matching share if the service is an integral and necessary part of an approved project. Records of in-kind contributions shall include time sheets containing the signatures of the person whose time is contributed and of the supervisor verifying that the record is accurate.
- Rates for volunteer services. Rates for volunteers should be consistent with the regular rates for comparable work. If no comparable work is available as a reference, the rate should be set against general rates for similar work in the subrecipient's region or market. When donating services, an individual's time will be valued at the general laborer rate, unless the individual is professionally skilled, trained, or certified in the work being performed (e.g., plumbers, masons, accountants, lawyers, or others with specialized knowledge). In such a case, the volunteer rate will be the normal rate typically charged for such work.
- Volunteers employed by other organizations. When an employer other than the subrecipient furnishes the services of an employee, these services shall be valued at the employee's regular rate of pay (exclusive of fringe benefits and overhead cost), provided these services are of the same skill for which the employee is normally paid.
- Valuation of materials. The value of donated materials included in the matching share should

be reasonable and should not exceed current market prices at the time they are charged to the project. Records of in-kind contributions of material shall indicate the fair market value by listing the comparable prices and vendors.

- Valuation of donated real property. The value of donated real property shall be established by an independent appraiser in accordance with the UASFLA. The State must review and approve donation appraisals. The NPS will spot-check (administrative review) appraisal reports for adequacy and consistency (see Chapter 4 of the LWCF Federal Financial Assistance Manual).
- Valuation of donated equipment. The hourly rate for donated equipment shall not exceed its fair-rental value. Hourly rates in the annual editions of Rental Compilation, Rental Rate Guide, or similar publications may be used. Such publications are usually available from contractor associations. The subrecipient's records of in-kind contributions of equipment shall include schedules showing the hours and dates of use and the signature of the operator of the equipment.
- Valuation of other charges. Other necessary charges (such as equipment use charges incurred as an indirect benefit to the project on behalf of the sponsor) may be accepted as match, provided they are permissible under the law, are reasonable and properly justifiable, and are adequately supported with documentation.
- Documentation. The basis for determining various charges must be documented, must include the value of the donation, and must be approved by the State prior to the request for payment.
- Limits of the valuation. Federal assistance may not result in a profit of unexpended cash to the State or local government. In-kind contributions of real property donations are eligible only to the extent that there are additional acquisition and/or development costs to be met. The amount of donation that is matchable is the value of the donation or the amount of cash spent by the sponsor for additional acquisition or development, whichever is less.
- Multi-site land donations. To be eligible for matching assistance, in-kind contributions are generally applicable to a single project site.

## **RECORD RETENTION**

Financial records, supporting documents, statistical records, and all other records pertinent to this grant shall be retained indefinitely. Copies of any new records must be forwarded to DPOR with each bill submitted, for inclusion in the project's permanent file.

## POST-COMPLETION ADMINISTRATION

This section summarizes the requirements for maintaining sites and facilities in public outdoor recreation use, in perpetuity; and to assure that sites developed with LWCF assistance remain accessible to the public. These post-completion responsibilities apply equally to each area or facility for which LWCF assistance was obtained, regardless of the specific amount or type of LWCF contribution.

Responsibility for compliance and enforcement of these requirements rests with the State for both State and locally sponsored projects (36 C.F.R. § 59.1) and must remain consistent with the contractual agreement between NPS and the State. The LWCF boundary map and/or other project documentation (as approved by the NPS per 36 C.F.R. § 59.1) will define the geographic scope of these obligations. For more information, please refer to: the LWCF Act at 54 U.S.C. § 200301 et seq.; 36 C.F.R. Part 59; and 2 C.F.R. § 200.316.

## OPERATIONS AND MAINTENANCE

Property acquired or developed with assistance from the LWCF shall be operated and maintained as follows:

- The property shall be maintained to appear attractive and inviting to the public.
- Sanitation and sanitary facilities shall be maintained in accordance with applicable health standards.
- Facilities must comply with all State and Federal legislation (e.g., 42 U.S.C. § 6901 et. seq., National Institute for Occupational Safety and Health) as required; including signage posted in visible public areas, statements in public information brochures, and/or other requirements deriving from relevant regulations.
- Properties shall be kept reasonably safe for public use. Fire prevention and other safety activities shall be maintained for proper public safety.
- Buildings, roads, trails, and other structures and improvements shall be kept in reasonable repair throughout their estimated lifetime to prevent undue deterioration and to encourage public use.
- The facility shall be kept open for public use at reasonable hours and times of the year, according to the type of area or facility.
- A posted LWCF acknowledgement sign shall remain displayed at the project site pursuant to Chapter 7 of the LWCF Federal Financial Assistance Manual and 2 C.F.R. § 200.316).

## AVAILABILITY TO USERS

1. Discrimination on the basis of race, color, national origin, religion, or sex. Pursuant to Title VI of the 1964 Civil Rights Act, property acquired or developed with LWCF assistance shall be open to entry and use by all persons regardless of race, color, national origin, religion, or sex who are otherwise eligible. Title 43, Part 17 (43 C.F.R. Part 17),

effectuates the provisions of Title VI. The prohibitions imposed by Title VI apply to park or recreation areas benefiting from federal assistance and to any other recreation areas administered by the entity receiving the assistance.

2. Discrimination on the basis of residence. The Prohibition of Discrimination within the LWCF Act (54 U.S.C. § 200305(i)) provides that, with respect to property acquired and/or developed with LWCF assistance, discrimination on the basis of residence, including preferential reservation, membership, or annual permit systems is prohibited except to the extent that reasonable differences in admission and other fees may be maintained on the basis of residence. This prohibition applies to both regularly scheduled and special events (36 C.F.R. § 59.4(a)).

Fees charged to nonresidents cannot exceed twice the amount charged to residents. Where there is no charge for residents, but a fee is charged to nonresidents, nonresident fees cannot exceed fees charged for residents at comparable State or local public facilities. Reservation, membership, or annual permit systems available to residents must also be available to nonresidents and the period of availability must be the same for both residents and nonresidents. Subrecipients are prohibited from providing residents with the option of purchasing annual or daily permits while at the same time restricting nonresidents to the purchase of annual permits only (36 C.F.R. § 59.4(c)). These provisions apply to the whole recreation area within the LWCF boundary. Non-resident fishing and hunting license fees are excluded from these requirements (36 C.F.R. § 59.4(c)).

3. Discrimination on the basis of disability. Section 504 of the Rehabilitation Act of 1973 mandates that no qualified person shall, based on disability, be excluded from participation in, be denied benefits of, or otherwise be subjected to discrimination under any program or activity that receives or benefits from federal financial assistance. The Americans with Disabilities Act of 1990 (Public Law 100-336) references and reinforces these requirements for federally assisted programs.
4. Reasonable use limitations. Subrecipients may impose reasonable limits on the type and extent of use of areas and facilities acquired and/or developed with Fund assistance when such a limitation is necessary for maintenance or preservation. Thus, limitations may be imposed on the number of people using an area or facility or the type of users, such as "hunters only" or "hikers only." All limitations shall be in accordance with the applicable grant agreement and amendments.

## **LWCF ACKNOWLEDGEMENT SIGNS**

Consistent with 2 C.F.R. § 200.316, permanent signs shall be installed, acknowledging the involvement of the LWCF program at the site. The sign must be continuously maintained at the site, and its presence should be confirmed during the post-award site inspection. DPOR will provide subrecipients with LWCF signage at no extra cost, and this signage is available upon request.

## CONVERSIONS OF USE

Property acquired or developed with LWCF assistance shall be retained and used for public outdoor recreation. Any property so acquired and/or developed shall not be wholly or partly converted to anything other than public outdoor recreation without the approval of NPS, pursuant to the LWCF Act (54 U.S.C. § 200305(f)(3)) and conversion requirements outlined in regulations (36 C.F.R. § 59.3). The conversion provisions of the LWCF Act, attendant regulations, and these guidelines apply to each area or facility for which LWCF assistance is obtained, regardless of the relative extent of participation by the program in the assisted area or facility and consistent with the contractual agreement between NPS and the State.

Responsibility for compliance and enforcement of these provisions rests with the State for both State and locally sponsored projects (36 C.F.R. § 59.1). The responsibilities cited herein are applicable to the area depicted or otherwise described on the LWCF boundary area map and/or as described in other project documentation approved by the DOI.

However, if a conversion situation does occur, the subrecipient or anyone else that is aware of the conversion, must immediately consult with the State LWCF manager. The State and the NPS will work with the subrecipient to discuss strategies for resolution without penalty to the subrecipient.

1. Situations that trigger a conversion include:
  - a. Property interests are conveyed for private use or non-public outdoor recreation uses.
  - b. Non-outdoor recreation uses (public or private) are implemented within the project area or a portion thereof. These can include uses occurring on pre-existing rights-of-way and easements, or actions by a lessor.
  - c. Unallowable indoor facilities developed within the project area without NPS concurrence, such as unauthorized public facilities and/or sheltering of an outdoor facility.
  - d. Termination of the public outdoor recreation use of property acquired or developed with LWCF assistance.
  
2. Situations that might not trigger a conversion (if NPS determines certain criteria are met) include:
  1. Underground utility easements that do not impact the recreational use of the park; or utility disruptions that are restored to their original surface condition.
  2. Proposals to construct public facilities, such as recreation centers and indoor pool buildings, within an LWCF boundary area where it can be shown that there is an increased benefit to the public. These proposals are reviewed by the NPS as a “public facility request” (see Section I below). The subrecipient must notify DPOR of their intentions as soon as possible, to ensure timely completion of the necessary process.

3. Proposals for "temporary non-conforming uses," such as temporary non-recreation activities of less than a six-month duration within an LWCF boundary area.
4. Proposals to build sheltered facilities or to shelter existing facilities within an LWCF boundary area, provided they do not change the overall public outdoor recreation characteristics but do otherwise meet the sheltering criteria in Chapter 3.
5. Proposals for changing the overall outdoor recreation use of an LWCF-assisted area (see Section M of the LWCF Federal Financial Assistance Manual).

Favorable resolution of conversions is not a right afforded to the subrecipient. The NPS has the authority to disapprove conversion requests and/or to reject proposed property substitutions if it is not in accordance with the provisions of the LWCF Act. If you believe you may have a conversion, please be sure to contact DPOR Grant Staff as soon as possible.

### **OBSOLETE FACILITIES**

LWCF Act obligations cannot be discharged by declaring a facility obsolete. While recipients are not required to continue a facility's operation beyond its useful life (36 C.F.R. § 59.3(d), they are required to maintain the entire LWCF boundary area in some form of public outdoor recreation use per (54 U.S.C. § 200305(f)(3) of the LWCF Act and 36 C.F.R. § 59.1 regulations).

Notwithstanding neglect or inadequate maintenance on the part of the subrecipient, a recreation area or facility may be determined obsolete if:

- reasonable maintenance and repairs are not sufficient to maintain operation
- changing recreation needs dictate a change in the type of facilities provided
- park operating practices dictate a change in the type of facilities required
- the recreation area or facility is destroyed by fire, natural disaster, or vandalism.

If, in the judgment of the State, the facility was lost through neglect or inadequate maintenance, then replacement facilities must be provided at the current value of the original investment. LWCF assistance may be provided to renovate outdoor recreation facilities that have previously received LWCF assistance if the State determines the renovation is not required because of neglect or inadequate maintenance and the State documents the project record to that effect.

### **SIGNIFICANT CHANGE OF USE**

The LWCF Act requires that subrecipients maintain the entire area (defined in the project agreement) in some form of public outdoor recreation use. State and NPS approval must be obtained prior to any change from one eligible use to another when the proposed use would significantly contravene the original plans or intent for the area, as described in the original LWCF agreement(s).

NPS approval is not required for each facility use change. Uses within an LWCF-assisted area should be viewed in the context of overall use and should be monitored in this context. For example, a change from a swimming pool (substantial recreational development) to a passive park (less intense area of limited development) or vice versa, would require NPS review and approval (36 C.F.R. § 59.3(d)). A primary NPS consideration in the review will be the consistency of the proposal with the SCORP.

## PROJECT TERMINATION, SUSPENSION, AND CLOSE-OUT

This section describes project closeout procedures in accordance with 2 C.F.R. Part 200, §§ 338 through 343.

### Termination

The termination of a project means the cancellation of federal assistance, in whole or in part, at any time prior to the date of completion. Below is a list of specific terminations and descriptions:

- Termination by the State. The State may unilaterally terminate the project at any time prior to the first payment on the project. After the initial payment, the project may be terminated, modified, or amended by the State only by mutual agreement of the State and the NPS.
- Termination for cause. The NPS may terminate any project in whole, or in part, at any time before the date of completion, whenever it is determined that the subrecipient has failed to comply with conditions of the grant. The NPS will promptly notify the State in writing of the determination, the reasons for termination, and the effective date. Payments made to States or recoveries by the NPS under projects terminated for cause shall be in accordance with the legal rights and liabilities of the parties.
- Termination for convenience. The State may terminate grants as a whole, or in part, when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated. The subrecipient shall not incur new obligations for the terminated portion after the effective date and shall cancel as many outstanding obligations as possible. An amendment to the project agreement is required for all terminations for convenience.

### Suspension

The NPS may temporarily halt Federal assistance for a project, pending corrective action by the subrecipient or pending a decision to terminate the grant by the NPS.

### Grant Closeout

The closeout of a grant is the process by which the State determines that all required work of a project and all applicable administrative actions, including financial, have been accomplished.

The following are minimum requirements of any closeout:

- During the active phase of the project, the State will make prompt payments to the subrecipient for allowable reimbursable costs until the project is administratively closed out.
- To ensure that all aspects of the funding agreement have been met, final payment will not occur until all required final reports and documents have been approved by the State.
- Administrative and financial closeout must occur within 90 days of project completion or the grant expiration date, whichever comes first.

In accordance with 2 C.F.R. § 200.316 and LWCF General Provisions (Section II.F), the subrecipient must record a lien, deed restriction, or other appropriate notice of record in the jurisdiction in which the facility is located and provide a copy to the State.

The notice will reference the grant agreement and include a copy of the boundary map to convey that the property has been acquired or developed with LWCF assistance and that it cannot be converted to other than public outdoor recreation use without the written approval of the Secretary of the Interior.

## COMPLIANCE

All LWCF projects must comply with environmental and cultural regulations to avoid impacts on resources such as historic buildings, archaeological sites, and sensitive ecological areas.

Applicants will need to provide separate documents for both the environmental effects of the project and the cultural effects. Costs associated with conducting environmental reviews are eligible for LWCF assistance (see Chapter 5.A.3.b of the LWCF Federal Financial Assistance Manual).

### **Scope of Environmental Review**

Early in the conceptual development of an LWCF proposal, applicants are strongly encouraged to document their planning and analysis process, including all efforts to reach out to the interested and affected public and agencies. The public and agencies should be invited to provide input early in the planning process and before any environmental analysis formally begins, so the applicant can clearly communicate the purpose and need for the project; and give the public and agencies an opportunity to provide information that could be useful for development of the LWCF proposal and/or consideration of the project's impacts.

### **National Environmental Policy Act (NEPA)**

NEPA requires all federal agencies and funding to consider the environmental impacts of proposed federal actions and alternatives on the human environment. NEPA is a procedural statute; it does not mandate a substantive result. Rather, the goal of NEPA is to ensure public participation and informed decision making. NEPA requires all federal agencies to:

- analyze the impacts of and alternatives to proposed “major federal actions”
- use the analysis in deciding whether to proceed with the proposed actions; and,
- involve the interested and affected public before any decision affecting the human environment is made.

The NEPA process coordinates compliance with related federal, State, and local environmental requirements as applicable. At a minimum, compliance by the State/subrecipient with the following federal laws and executive orders shall be coordinated during the NEPA process and should be integrated into the NEPA document:

### **National Historic Preservation Act (Section 106)**

Section 106 of the National Historic Preservation Act (NHPA) (54 U.S.C. § 306108) requires federal agencies to consider the effects of their undertakings on historic properties and to provide the ACHP with a reasonable opportunity to review and comment on the potential effect. The goal of consultation is to identify historic properties potentially affected by the undertaking, assess the

effects of the undertaking on historic properties, and seek ways to avoid, minimize, or mitigate any adverse effects on historic properties.

Like NEPA, the NHPA is a procedural law: it requires a process of consultation but does not require a particular outcome. The Section 106 process must be completed before the NPS can finalize its NEPA compliance. If the subrecipient has prepared an EA or an EIS, a summary of the process, any mitigation measures, and findings developed as part of the Section 106 consultation process must be included in the final EA or EIS document before the NPS can sign a Finding of No Significant Impact (FONSI) or a Record of Decision (ROD).

State staff will work with applicants to complete the Section 106 process, but there are a few elements that applicants must make clear in their application:

- **Project Area**: to determine if an LWCF project will impact cultural resources, the project area must be made clear on maps. Officially called the “Area of Potential Effect” (APE), this boundary is best shown on a topographic map. If providing a topo map, be sure to include the map name. However, for the LWCF application, the project boundary can be depicted on an aerial photo, which is more easily obtained through common websites, apps, and other sources.
- **Ground-disturbing Activity**: if the project includes ground disturbance, please make clear the nature and extent of the work. Describe the length, width, and depth of the project activity. For example, if a kiosk is being installed at a trailhead, how deep will the footings go?
- **Land Use (past and present)**: Describe any past disturbances in the area. Provide information on current conditions, as well. This information need not be detailed, but DPOR staff appreciates any context that project partners might have.
- **Known Resources**: Are there cultural resources already known to be on the property? These would include archaeological sites, as well as any buildings or other objects estimated to be 50 years or older.
- **Photographs**: provide a general overview of the project area from different angles and distances. Please include photographs of known cultural resources, as described above.

### **Section 7 of the Endangered Species Act (ESA)**

The ESA (16 U.S.C. §1531 et seq.) requires a federal agency to consult with the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS) on “any action authorized, funded, or carried out by such agency” that may affect endangered or threatened species or that may result in the destruction or adverse modification of critical habitat. Thus, consistent with ESA Section 7(a)(2) the NPS must ensure that any funding authorized for LWCF purposes is not likely to result in jeopardy or adverse modification. Implementing regulations for inter-agency coordination are available at 50 C.F.R. Part 402. Applicants are encouraged to review the USFWS’s [Endangered Species Consultation Handbook](#).

Applicants are responsible for initiating the process and providing documentation to the NPS. The USFWS [Information for Planning and Consultation](#) (IPaC) system can generate an official species and critical habitat list for the “action area” (action area being defined in ESA implementing regulations as the “area to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action”). This list is considered official correspondence from the USFWS, so if there are no listed species or critical habitat in the action area, the list can be used to demonstrate that the action will have no effect on listed species or critical habitat. In such cases, compliance with the ESA would be complete. However, because IPaC does not address species for which NMFS has sole jurisdiction, further research may be required.

For projects involving in-water work in streams or rivers, with the potential to affect anadromous fish, the applicant should also check the NMFS’s [Essential Fish Habitat Mapper](#) to determine whether specific species or habitat are present under NMFS’s jurisdiction. When consulting this resource, it is important to note that there are some regions of the country for which an alternate database address is provided and should be used instead.

If there are ESA-listed species and/or critical habitat affected by the project (i.e., within the “action area”), the applicant should coordinate with the NPS about the next steps of consultation. Consultation will determine whether adverse effects to the species and/or critical habitat seem likely. If the NPS determines that the action “may affect” a listed species and/or critical habitat, it will initiate formal consultation pursuant to the ESA implementing regulations at 50 C.F.R. § 402.14(c). If a separate information package is prepared pursuant to 50 C.F.R. § 402.14(c), it must be part of any NEPA document.

### **Floodplain Management and Wetland Protection**

Due to Executive Orders [11988](#) and [11990](#), Federal agencies are to avoid, to the extent possible, the long- and short-term adverse impacts associated with modifying or occupying floodplains and wetlands. Agencies are also required to avoid direct or indirect support of floodplain or wetland development whenever there is a practical alternative.

If the LWCF project would result in an adverse impact to a Federal or State regulated floodplain or wetland, a statement of findings must be included in the EA or EIS, documenting the coordination efforts with responsible State and Federal authorities; a description of affected floodplain and wetland resources; alternatives considered to developing the floodplain and/or wetland; and actions to avoid, minimize and/or mitigate impacts.

### **Equal Employment Opportunity Act**

For all LWCF grants involving federally assisted construction contracts and subcontracts in excess of \$10,000, the recipient must comply with Executive Order [11246](#), as amended, and with the regulations of the Office of Federal Contract Compliance Programs of the Department of Labor at

41 C.F.R. Part 60-4. In determining whether Fund-assisted construction contracts exceed this dollar limit, the total amount of the contract awarded rather than the amount of federal assistance shall apply.

### **National Flood Insurance Program (NFIP)**

The Flood Disaster Protection Act of 1973 (P.L. 93-234) requires the purchase of flood insurance as a condition of receiving any Federal financial assistance, if acquisition or construction is within a community participating in the NFIP and is also situated in special flood hazard areas within those communities.

### **Intergovernmental Review System**

The State will take responsibility for seeing that all subgrantee applications recommended for NPS approval are forwarded to the State Clearinghouse for review and comment (Executive Order 12372).

### **Civil Rights Assurance**

The State, as the primary recipient of LWCF assistance, is responsible for providing assurance that the applicant and all sub-recipients will comply with all related federal civil rights requirements.

### **Minority Business Enterprise (MBE) Development**

The applicant shall comply with Executive Order 11625, 12138, and 12432 and 2 C.F.R. § 200.321. The Minority Business Enterprise Development is the federal government's policy to award a fair share of contracts to small and minority businesses, women's business enterprises, and labor surplus area firms. Subrecipients must take all necessary affirmative steps to ensure that these types of businesses are used when possible as sources of supplies, equipment, construction, and services.