



## LAND & WATER CONSERVATION FUND

### 2018 Sponsor Fiscal Briefing And Reference Guide

*City of Beaufort 45-01122*  
*Waterfront Park Relieving Platform Improvements*



# LWCF REFERENCE GUIDE

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## Land & Water Conservation Fund Grant Program

**State Liaison Officer** Justin Hancock, Director, Recreation, Grants & Policy  
**Alternate State Liaison Officer** Amy Blinson, Grant Programs Manager

**Address:** South Carolina Department of Parks, Recreation & Tourism  
Recreation, Grants & Policy Division  
Edger A. Brown Building  
1205 Pendleton Street  
Columbia, South Carolina 29201

Telephone: (803) 734-1376 Fax: (803) 734-0670

The South Carolina Department of Parks, Recreation and Tourism is an equal opportunity employer and through its programs does not discriminate against anyone based on color, race, national origin, or handicap. Likewise, all participants in the Land and Water Conservation Fund program will comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990. Anyone believing he or she has been discriminated against should contact the agency in Columbia at (803) 734-0171.

### *Note to User:*

This notebook is provided to assist you with administering your Land and Water Conservation Fund grant. The included materials address the areas of most frequent concern to grant sponsors. This is a compilation of materials excerpted from various sources. It is in no way complete and the user should not expect to find the answers to all questions through use of it. If you have questions about the program, please call **Amy Blinson at (803) 734-1658**.

Throughout this notebook the user will find the term "the State" used. You, as the sponsor/sub-recipient of these grant funds through the State of South Carolina, may substitute your agency's name in most cases where this term is used.

The following abbreviations will appear frequently in this notebook:

**LWCF** - The Land and Water Conservation Fund  
**NPS** - National Park Service  
**SCPRT** or **PRT** - South Carolina Dept. of Parks, Recreation and Tourism



South Carolina Department of  
Parks, Recreation & Tourism

**Henry McMaster**  
Governor

**Duane N. Parrish**  
Director

November 20, 2018

Mr. William A. Prokop  
Beaufort City Manager  
1911 Boundary Street  
Beaufort, SC 29902

Re: 2018 Land and Water Conservation Fund Project  
Waterfront Park Relieving Platform Repairs, #45-01122

Dear Mr. Prokop:

The SC Department of Parks, Recreation and Tourism has received approval from the National Park Service for the City of Beaufort's Land and Water Conservation Fund (LWCF) project. We are now ready to proceed with the next step, which is the Fiscal Briefing.

Per my conversation with Linda Roper, I would like to meet on Monday, November 26 at 1:00 pm for the briefing. Any staff that will be involved in the grant's administration, including procurement, should attend.

Please remember that project costs are eligible only if they are incurred after the Project Agreement has been signed. Sponsors cannot be reimbursed for work done prior to the Agreement Date.

If you have further questions, please call me at 803-734-1658.

Sincerely,

A handwritten signature in black ink, appearing to read "Amy Blinson".

Amy Blinson  
Alternate State Liaison Officer

Cc: Linda Roper

## 2018 LWCF FISCAL BRIEFING HIGHLIGHTS

- Grant Agreement:
  - Please sign all copies and return one copy to PRT and keep the other for your records
  
- Bid Process:
  - You **must** use the State's procurement policies, unless you can demonstrate ahead of time that your own policies are more restrictive.
  
- Utilities:
  - No overhead wires, either existing or new, are allowed on LWCF projects, only underground. If you have existing overhead lines on your site, you must remove or bury them before this project can be closed and your final funds drawn down.
  
- Site must meet ADA requirements
  
- Things to be done **prior to** being reimbursed:
  - Review your approved project budget – Do not submit items that are not in your approved grant budget
  - Provide documentation to PRT that the LOU has been incorporated into your deed. Please do not assume on previously LWCF-assisted parks that the LOU was ever recorded.
  - Document proper bidding procedures that follow State Procurement Guidelines
  - Submit cover letter to PRT requesting reimbursement
  - Complete Summary reimbursement
  - Provide copies of all invoices
  - Provide copies of all cancelled checks
  - Provide appropriate documentation for in-kind services
  
- Final reimbursement:
  - Must have an inspection by PRT staff
  - Provide copies of "As Builts" or a final lay-out of the improvements, with improvements labeled
  - LWCF acknowledgement sign on be on site
  - Submit a new 6(f)3 map if there have been any changes during the grant

# LAND AND WATER CONSERVATION FUND

## ADMINISTRATIVE GUIDELINES FOR PROJECT SPONSORS





SC DEPARTMENT OF PARKS, RECREATION & TOURISM  
RECREATION, GRANTS & POLICY DIVISION  
1205 PENDLETON STREET  
COLUMBIA, SC 29201  
(803) 734-1658

The South Carolina Department of Parks, Recreation & Tourism (SCPRT) is an equal opportunity employer and through its programs does not discriminate against anyone based on color, race, national origin or disability. Likewise, all participants in the Land and Water Conservation Fund program will comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the American Disabilities Act of 1990.





## SECTION I: INTRODUCTION

This Administrative Guideline is provided to assist in the administration and management of your Land & Water Conservation Fund (LWCF) grant and the project facility described in the scope of your project agreement.

The following sections of this Guideline summarize the procedures to follow to successfully administer your grant. Please contact the Office of Tourism & Recreation Development staff for any additional guidance you may need regarding your grant and/or the Land and Water Conservation Fund Program.

### Federal Approval and the Project Agreement

You should have received a copy of your fully executed Project Contract Agreement. Carefully review the wording of your Agreement. The Agreement is a contract between the State of South Carolina and your governmental organization that stipulates the terms and conditions of your grant award, the project scope and the specific beginning and ending dates of your grant. A copy of the terms and conditions of the Project Agreement is included in your Guideline booklet and should be retained there as a working reference. The signed copy along with the 6(f)(3) map should be filed with your permanent legal records since it dedicates the area to recreational use in perpetuity.

Any changes in the Project Agreement require prior approval from SCPRT and the National Park Service. Your Project Agreement also contains the grant number and title of your project. These officially identify the project at both the state and the federal level. All correspondence should reference the grant number and title you have been assigned on your Project Agreement. The dollar amount of your grant is also specified in the project agreement. This is the **maximum** amount of your costs that you may receive for reimbursement.

### Starting the Project

You may begin with the acquisition/renovation/development of your project **only after** receipt of the fully executed Project Agreement signed by SCPRT and your governmental agency. The project must be started within six (6) months of the beginning dated of the grant period found on the Project Agreement. Projects not started within six months are subject to withdrawal so that another agency that is ready to begin a project may be able to utilize the LWCF funds.

### Notice of Limitation of Use Statement

All LWCF projects must incorporate either into the body of the recorded deed or recorded as an addendum to the deed, the "Notice of Limitation of Use" statement listed in Section II of this Guideline. No reimbursements will be made until a copy of the recorded deed with the included language is received by SCPRT, so you may wish to start early on this process.

### General Public use

All projects must result in an increase in outdoor recreation opportunities. At project completion, all aspects listed in the project agreement scope must be open and useable by the general public without reliance on another phase of the project being completed. All LWCF-assisted sites must be programmed, operated and maintained in a manner that encourages public participation. LWCF sites must be open to all persons regardless of race, color, religion, age, sex, residence or ability level.

**All property acquired and/or developed with LWCF assistance must be restricted in perpetuity to public outdoor recreation!**

Such lands cannot be converted to any other use without the written approval of the Secretary of the Interior, and only with the substitution of other properties of at least equal fair market value and reasonable equivalent usefulness and location (Section 6(f)(3) of the LWCF Act of 1965, as amended). See Section II, page 2 for the required

language to be incorporated or recorded into the deed or attached as an addendum to it.

### Project Performance Period

The LWCF program is a reimbursement program. You must be able to pay in full all costs accrued during the project performance period; and then bill the Federal government for reimbursement up to, and not to exceed, 50% of your project-related eligible costs. All work to be accomplished under the terms of the grant agreement must be completed and the final payment made to your agency within the grant period. To be eligible for reimbursement, all eligible project costs, including invoices and contracts, must be dated and incurred within the grant period identified in the project agreement (except for pre-agreement planning costs that have been approved by SCPRT prior to award). Any cost not identified in the cost estimate or the "Project Scope" of the Project Agreement is not eligible for reimbursement. Additional information on eligible project costs is located in Section II.

### Overhead Power Lines

All new and/or existing overhead power lines within the project boundary area must be relocated or placed underground. These costs are eligible if they have been included in the cost estimate or Project Agreement. Additional information on overhead power lines is located in Section II.



## SECTION II: GENERAL PROJECT ADMINISTRATION

Once the project agreement has been signed by SCPRT and a fully executed Project Agreement has been returned to your agency, you may begin your project. Please read all sections of this Guideline carefully before beginning your project since your actions, procedures, and documentation must comply with Federal Land and Water Conservation Fund Regulations throughout the project. Failure to follow these guidelines may jeopardize reimbursement of your costs.

Guidelines in this section deal with general project administration and are to be utilized in your project, whether you will be acquiring land or developing facilities. Additional guidelines specific to development or acquisition projects follow in Sections III and IV.

Many of these items are covered in more detail in other sections of this guide, so please study the entire guide before beginning your project.

As you plan your recreation facility and prepare for construction, keep in mind that all Federally funded projects must be made accessible to and usable by persons with disabilities. All projects must meet ADA Standards and must be constructed in conformance with the Uniform Federal Accessibility Standards (UFAS).

### Dedication of Land: Limitation of Use Statement

When you accept an LWCF grant, you should be aware that **your recreation facility must remain restricted to public outdoor recreation use in perpetuity**. This means that you may not convert any area within your 6(f)(3) project boundary to other than **outdoor** recreation use without prior approval from the National Park Service and SCPRT. This means you may not build gyms, recreation centers, community centers, indoor swimming pools or any other indoor facilities on the 6(f)(3) restricted property. SCPRT should be notified in advance of any planned change in usage to assure that a conversion is not taking place. Since this commitment is legally binding, you should be sure that there is no potential conflict with future plans for the area.

All projects that have received LWCF funding must incorporate either into the body of the recorded deed or recorded as an addendum to the deed the "Notice of Limitation of Use" statement listed below:

#### NOTICE OF LIMITATION OF USE

**This property has been acquired or developed with Federal financial assistance provided by the National Park Service of the Department of the Interior in accordance with the Land and Water Conservation Fund act of 1965, as amended. Pursuant to a requirement of that law, this property may not be converted to other than public outdoor recreation uses (whether by transfer, sale or in any other manner) without the express written approval of the Secretary of the Interior. The Secretary shall approve such conversion only if he finds it to be in accord with the then existing comprehensive statewide outdoor recreation plan and only upon such conditions as he deems necessary to assure the substitution of other recreation properties of at least equal fair market value and of reasonably equivalent usefulness and location.**

## Utility Lines

In general, overhead utility lines are discouraged on park and recreation lands because of safety and aesthetic considerations. If you plan to develop a recreation facility funded through LWCF that includes lighting for night use, please keep in mind that all new wiring must be placed underground. If your project involves placing recreation facilities where overhead utility wires now exist within the project boundary, these wires must be removed and placed underground as well. In no case shall mass recreation use areas (swimming, picnicking, baseball fields, etc.) be located under electric wires.

## Financial Management Systems

The financial management systems of grant recipients must meet the following standards:

Financial Reporting - Accurate, current, and complete disclosure of financial results of financially assisted activities must be made in accordance with the financial reporting requirements of the agreement for each LWCF project grant;

Accounting Records - Maintain records, which adequately identify the source and application of funds provided for financially assisted activities. These records must contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income;

Internal Control - Effective control and accountability must be maintained for all recipient cash, real and personal property, and other assets. Recipients must adequately safeguard all such property and must assure that it is used solely for authorized purposes;

Budget Control - Actual expenditures or outlays must be compared with budgeted amounts for each grant;



Allowable Costs - Applicable US Office of Management and Budget (OMB) cost principles, federal agency program regulations, LWCF Manual, and the agreement scopes of work will be followed in determining the reasonableness and allowability of costs;

Source Documentation - Accounting records must be supported by such source documentation as checks, paid bills, payrolls, time and attendance records, contract, and agreement award documents;

Separate Project Accounts - Separate project accounts shall be established and identified by the assigned LWCF project number.

#### Single Audit Act

In accordance with the provisions of the US Office of Management and Budget's Circular No. A-133 (Revised June 26, 2007) - "Audits of States, Local Governments, and Non-Profit Organizations", nonfederal entities that expend financial assistance of \$500,000 or more in Federal awards will have a single or a program-specific audit conducted for that year. Nonfederal entities that expend less than \$500,000 a year in Federal awards are exempt from Federal audit requirements for that year, except as noted in Circular No. A-133.

**This audit is in addition to any state and local audits required, and aside from any other requirements.**

All governments must maintain records of assistance and provide access to such records for federal and state monitoring agencies for three years. Federal assistance includes monies received directly from a state agency or other financial assistance received indirectly through the state or other sources.

#### Grant Records

Financial management records, contract plans, specifications, and supporting documents pertinent to your grant must be retained by your organization for **three (3) years** from the date you submit your final expenditure report on the project.

However, if any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the three-year period, then the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular three-year period, whichever is later. Records may be microfilmed for retention and storage. The grant agreement and boundary map must be kept in perpetuity, as they are permanent records showing dedication of the project area in perpetuity.

#### Access to Records

You must provide access to records pertinent to your grant to SCPRT, the National Park Service, the Controller General of the United States or any of their authorized representatives for purposes of audits, examinations, excerpts, and transcripts for as long as the records are retained.

#### Flood Insurance

The Flood Disaster Protection Act requires that you obtain flood insurance for your project if it is in a designated special flood hazard area. Evidence that you have obtained flood insurance must be provided to SCPRT prior to receiving your final reimbursement. Flood insurance must be carried on your project throughout its useful life. The amount of insurance required must equal:

1. The total development cost of the insurable facility, or
2. The maximum coverage available for a particular type of facility, whichever is the smaller of the two.

#### Quarterly Performance Reports

A performance report for each grant shall be submitted quarterly. Quarters are January-March, April-June, July-September, and October-December. Reports are due by the 30<sup>th</sup> of the following month. (E.g. April 30 is the deadline for the 1<sup>st</sup> quarter.) Quarterly Reports are required for reimbursement of the grant and must be submitted with each payment reimbursement requests if the report had not been submitted for the

previous quarter. A copy of the report form is located in the Miscellaneous Section of the manual.

### Amendments

In unusual circumstances, you may find that you need to revise an element of your project agreement. Revisions may be considered if you send a written request outlining the changes to SCPRT. The amendment must be approved by SCPRT and NPS. The following types of amendments will be considered:

**Time Extensions** - Construction on development projects must be initiated within six months of the date of federal grant approval. Projects are expected to be completed within the two-year grant period. Project extensions will be granted only under extreme circumstances beyond the control of the project sponsor. In these instances, a written request must be made to SCPRT at least 45 days prior to your project expiration date. The request must include a justification for the time extension and your plans for completing the project within that time.

**Change in Project Scope** - Any deviations in the proposed facilities or the site to be acquired constitute a change. When requesting a change in the scope of a project, you must submit a written request to SCPRT that includes a justification of the proposed changes, cost estimates, and a revision of your development map.

### Project Cancellation

Either your organization or SCPRT may withdraw your project from the LWCF grant program. You can withdraw your grant prior to receiving any reimbursements by making a written request to SCPRT. Once a partial reimbursement has been made, the grant cannot be withdrawn. A request to delete the remaining proposed facilities can be made to SCPRT if the facilities already constructed under the grant result in a viable and usable recreation area.

### Conflict of Interest

No officer, agent, or employee of the project sponsor who exercises any functions or responsibilities in the review or approval of the performance of this project shall participate in any decision relating to this project which would affect their personal or pecuniary interest, directly or indirectly.

### Lobbying

Grant recipients may not use federally appropriated funds to influence or lobby for grants, federal contracts, and other financial transactions. Grantees receiving grant awards in excess of \$100,000 must file a "Certification Regarding Lobbying" form if one was not filed at the time of application.

### School District Projects

The recreation facilities constructed must be for joint use between a school and the general public. An LWCF grant cannot be used to build facilities for the sole purpose of meeting the physical education and athletic needs of a school. The hours that a facility is open to the general public use must be clearly posted at each facility. Exclusive school use of a facility for instruction and competition is permitted as long as the public is given a reasonable opportunity to use the facility; hours of use must be approved by SCPRT and the National Park Service.

### Eligible and Ineligible Matching Funds

Eligible local matching funds include, but are not limited to, donated materials, labor and equipment, general revenues, general obligation bonds, revenue bonds, park tax levy, etc. Community Development Block Grants (CDBG) and general revenue sharing are local match sources of federal money. The use of federal funds, other than CDBG funds and general revenue sharing monies, cannot serve as your local matching share.

### Public Use and Fees

All lands acquired or developed with LWCF assistance must be made available to the public during reasonable periods of time. At a minimum, the park itself is expected to be open and available for public use during daylight hours throughout the year. Facilities must be kept open and available for public use except at those times when seasonal differences in climate make such use inappropriate. All facilities acquired or developed with LWCF assistance must be open to both residents and non-residents. Preferential reservations or annual permit systems solely for local residents are prohibited. Reasonable differences in admission and other fees may be maintained on the basis of residence. Fees charged to non-residents cannot exceed twice those charged for residents of your community. When there is no charge for residents, non-resident fees cannot exceed fees charged for residents at comparable public facilities that have a fee charge.

### LWCF Signage at the Project Site

All areas developed or acquired with LWCF assistance must have a sign that acknowledges federal and state participation in the project. The sign notifies the public that the site is dedicated to outdoor recreation use and is available to the public without discrimination. The sign should be displayed in an area where it will receive maximum public exposure. See Section VI for further details.

### Compliance Inspections

SCPRT and NPS personnel will inspect your project at five year intervals to ensure that it is being operated in compliance with all terms and conditions of the project agreement. During an inspection, your project will be evaluated for use, maintenance of the site and facilities, management, evidence of discrimination, and signing. You will be notified if there is any violation of the project agreement. You will be required to correct any identified problems.

### Development of Compatible Facilities

Prior approval must be obtained from SCPRT before construction of compatible facilities at an LWCF project site is initiated. A written request accompanied by a development map showing the location of the proposed facility and existing improvements should be submitted to SCPRT. Indoor facilities (i.e. gymnasiums, recreation centers, community centers, indoor swimming pools, etc.) are not allowed on LWCF-assisted property.

### Conversion from Recreation Use

The LWCF Act prohibits the conversion of any property acquired or developed with LWCF monies to uses other than outdoor recreation without prior approval from SCPRT and the National Park Service. If all practical alternatives have been evaluated and you find you must convert the project to other than recreation use, you must request permission to start the conversion process from SCPRT first. It is normal for conversion approval to take a year or more.

### Project Accessibility

As you plan your recreation facility and prepare for construction, keep in mind that all federally funded projects must be made accessible to and usable by persons with disabilities. All projects must meet ADA Standards and must be constructed in conformance with the Uniform Federal Accessibility Standards (UFAS). You are also obliged by South Carolina State Access Code to construct facilities that meet ADA requirements (1997 Code of South Carolina, Chapter 5 Article 3, Construction of Public Buildings for Access by Handicapped Persons). Following project completion, the facilities must be maintained with this accessibility in mind. Alteration of facilities, which would prevent accessibility, is prohibited. Uniform Federal Accessibility Standards should be used in future construction or renovation on this site.



## SECTION III: ADMINISTRATION OF ACQUISITION PROJECTS

Once you have received federal approval of your project, you can begin negotiations for the land you want to acquire. The acquisition of the property must occur within the grant period stipulated in your project agreement. Normally you will be given one year to complete the acquisition. An appraisal that complies with the Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA) must be submitted to SCPRT **before** the acquisition of property begins. Title to the property cannot be transferred until federal approval has been received and the requirements described below have been met.

### Acquisition Procedures

All acquisition projects must comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 P.L. 91-646, as amended, (the Uniform Act). In order to comply with this Act, you must complete the following steps before title to the property may be transferred: Note: there are a few exceptions for 100% donations.

1. Notice to Owner – As soon as feasible, the owner must be notified of your interest in the real property and the basic protections, including your obligation to secure an appraisal before initiation of negotiations.
2. Appraisal – Before initiation of negotiations, an acceptable appraisal must be obtained to establish the fair market value of the property. The owner must be given an opportunity to accompany the appraiser during his inspection of the property. Your appraisal must be consistent with the Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA).

You will be given a deadline, generally two to three months following approval of your project, to complete the appraisal. Failure to meet the established deadline could jeopardize the grant award. Your appraisal must have been completed



within twelve (12) months of the anticipated date of sale. If this deadline is not met then it must be updated prior to the sale.

Your appraisal must be sent to SCPRT, who will send it to a review appraiser to determine that the value of the property is substantiated by appropriate documentation. The cost of this review is not eligible for reimbursement.

An appraisal is not required at this point if the owner is donating the property and releases you from this obligation, or you determine that an appraisal is unnecessary because the valuation problem is uncomplicated and the fair market value is estimated at \$2,500 or less, based on a review of available data. You will be required, prior to project approval, to establish the value of the donation for matching purposes.

3. Establishment and Offer of Just Compensation – Before the initiation of negotiations, the Agency shall establish an amount, which it believes is just compensation for the real property. The amount shall not be less than the approved appraisal of the fair market value of the property, taking into account the value of allowable damages or benefits to any remaining property. Promptly thereafter, the Agency shall make a written offer to the owner to acquire the property for the full amount believed to be just compensation. The offer must include a summary statement showing the basis for the offer of just compensation which shall include:
  - a. A statement of the amount offered is just compensation. In the case of a partial acquisition, the compensation for the real property to be acquired and the compensation for damages, if any, to the remaining real property shall be separately stated.
  - b. A description and location identification of the real property and the interest in the real property to be acquired.
  - c. An identification of the buildings, structures, and other improvements (including removable building equipment and trade fixtures) which are considered to be part of the real property for which the offer of just compensation is made. Where appropriate, the statement shall identify any separately held ownership interest in the property, e.g., a tenant-owned improvement, and indicate that such interest is not covered by the offer.

4. Acquisition at Less than Just Compensation – Only in unusual circumstances will real property be acquired at less than established just compensation as determined, at the minimum, by an approved appraiser.

Property acquired by Donations: Nothing in the regulations is to be construed to prevent or deter a property owner from making a full or partial donation of property. In those circumstances involving a partial donation, documentation must include evidence that the owner has been provided with a statement of just compensation. The letter must be dated and include a legal description of the property to be donated. See Section V for matching requirements for donated property.

5. Statement of Difference in Value – The negotiated price may exceed the appraised or fair market value of the property. Any amount paid to the property owner in excess of 50% of the appraised value is not normally eligible for reimbursement. In these cases, you must provide a detailed and documented statement justifying the difference in value.
6. Title Insurance – following transfer of title, you must secure Title Insurance or an Attorney's Opinion of Title. These documents must state that title to the property has been transferred to your organization.
7. Relocation – You are responsible for compliance with relocation provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act if there is a displacement of any individual, farm, or business as a result of the acquisition. Relocation payments are generally eligible costs if they are incorporated as part of your project scope, and you may submit these expenses with a reimbursement request. You must supply evidence that displaced owners and tenants have been made aware of their relocation rights.
8. Leases or Easements - Acquisitions of interests in lands and waters of less than fee simple title **are not allowed** unless the sponsor is a state agency. Leases are permitted from a federal agency or a FERC-regulated entity only on a long-term basis of 25 years or more. Leases must include some provision for meeting the perpetual use requirement. In addition, the lease cannot be revocable at the will of

the lessor. The lease/easement agreement must be approved by SCPRT prior to signing.

#### Acquisition of Structures

You may also acquire structures that are to be used to support outdoor recreation activities or are to be demolished. In order to use LWCF assistance to acquire structures to be adapted for outdoor recreation use (an interpretive center, concession stand, etc.), you must receive prior approval from SCPRT and the National Park Service.

#### Deed Restrictions

Deed restrictions and reversionary clauses are allowable if they do not detract from the intended recreational use of the property. Deed restrictions and reversionary clauses are subject to the approval of SCPRT and the National Park Service.

#### Development of Acquired Lands

If you acquire land with your grant, **you are required to develop it within two (2) years** unless special permission for delayed development is obtained from NPS through SCPRT. During the period between acquisition and development, the site should be open for appropriate public recreation use. Allowable improvements include comfort stations, concession stands, maintenance buildings, visitor information centers, interpretive centers, bathhouses, walkways, roads, parking, utilities, lighting, and signs, as well as outdoor recreation facilities. Construction of compatible structures, such as community centers and gymnasiums, may be allowed on the site; however, prior approval must be obtained from NPS through SCPRT. Requests for approval must be sent to SCPRT before any such construction is begun. Be aware that all facilities built on the project site must be accessible and should conform to Uniform Federal Accessibility Standards. Installation of overhead wires within the project boundary is prohibited.

### Interim Non-Recreation Uses of the Project Site

Lands acquired with L&WCF assistance are restricted in perpetuity to public outdoor recreation use. In some cases, development may be delayed and temporary non-recreation use may be allowed. SCPRT and NPS must approve any plan for interim non-recreation use **prior** to acquisition of the property. No plan for interim non-recreation uses will be approved after acquisition. When such uses are allowed, the use must be phased out within three (3) years of the date of acquisition.

### Eligible and Ineligible Costs

To be eligible for reimbursement of acquisition costs, each property must be acquired within the grant period unless a waiver of retroactivity was obtained. An acquisition has taken place on the date when you have instituted the earliest of the following events:

- a. You accept a deed or lease.
- b. You make full payment for a property.

Appraisal and appraisal review costs, legal fees, boundary surveys, and title insurance fees, etc. are **NOT** eligible costs. The cultural resource survey costs are eligible incidental costs. See the Eligible Cost Chart in Section V for more details on costs.

### Reimbursement Process

Section V of the Guideline sets out guidelines on reimbursement procedures. It will be necessary to provide SCPRT with one copy of the documentation listed on the reimbursement checklist provided in Section V with your request for reimbursement. Once these documents have been reviewed and approved by SCPRT, your reimbursement request will be processed for payment.



**STATEMENT OF JUST COMPENSATION AND WRITTEN OFFER TO PURCHASE**

Project Number \_\_\_\_\_

Tract Number \_\_\_\_\_

Landowner's Name \_\_\_\_\_

Pursuant to the Land and Water Conservation Fund Act of 1965  
\_\_\_\_\_  
(Acquiring Agency) \_\_\_\_\_ is now in the process of  
acquiring private property necessary for the dedication of park and open space land.  
Title records indicate that you are the record owner of real property located in the State  
of South Carolina, County of \_\_\_\_\_, City of \_\_\_\_\_,  
more particularly described as follows: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Since your property is within the project area, it is necessary to acquire the property for  
this project. We are prepared to commence negotiations with you for the purchase of  
your property subject to any existing Easements or Restrictions of record and accepting  
and reserving the following interests which will not be acquired and for which no value is  
included in our estimate of just compensation:

\_\_\_\_\_  
\_\_\_\_\_

In compliance with Section 301 of the Uniform Relocation Assistance and Real Property  
Acquisition Policies Act of 1970, Public Law 91-646, an estimate of just compensation in  
the amount of \$\_\_\_\_\_ has been made for the interest to be acquired in the  
above described property. This amount is based upon a state-approved appraisal  
prepared for the acquiring agency and is not less than the appraiser's opinion of fair  
market value which he determined after a personal inspection of your property, at which

time, you or your representative(s) were given the opportunity to accompany the appraiser. The appraisal takes into consideration the location of your property, its highest and best use, current land sales of properties similar to your property and other indicators of values, i.e.,

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Just compensation includes amounts for the land, improvements, severance, if any, and other elements as follows:

LAND	_____
IMPROVEMENTS:	_____
Buildings	_____
Structures	_____
DAMAGE TO THE REMAINDER	_____
OTHER	_____
TOTAL	_____

Any increase or decrease in the market valuation caused by the public improvement or project for which the property is to be acquired, or by the likelihood that the project would be acquired for such improvement or project, other than that due to physical deterioration within the reasonable control of the owner, has been disregarded in making the determination of just compensation.

WRITTEN OFFER TO PURCHASE  
(Not Applicable for Full or Partial Donation of Property)

\_\_\_\_\_ (*Acquiring Agency*) hereby offers you the full fair market value as stated above for the described property.

\_\_\_\_\_  
Signature (*Landowner*)

\_\_\_\_\_  
Signature (*Authorized Agent –  
Representing Project Sponsor*)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

WAIVER OF JUST COMPENSATION

Date: \_\_\_\_\_

That they are owners of the following described real estate: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

That they are familiar with the fact that said real estate was recently independently appraised by \_\_\_\_\_ to have a fair market value in the amount of \$ \_\_\_\_\_ and that they have reviewed said appraisal;

That they are aware of all provisions of the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 (Public Law 91-646);

And that all rights to such act are hereby waived by the owners of the above described tract of land;

That notwithstanding the aforesaid appraisal, the owners agree to sell said real estate to the city of \_\_\_\_\_, South Carolina for the sum of \$ \_\_\_\_\_ and that the difference between said selling price and the fair market value of such property shall constitute a contribution to the city of \_\_\_\_\_, South Carolina.

Further affiant sayeth not.

Witnessed by:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature of Owner

\_\_\_\_\_  
Title

\_\_\_\_\_  
Typed or Printed Name of Owner(s)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date





## **SECTION IV: PROCUREMENT**

### General Information

Once the project agreement is fully executed, you may begin development or renovations. The LWCF Act specifies that development projects consists of basic outdoor recreation facilities to serve the general public provided that funding of such a project is in the public interest and in accord with the current SC Statewide Comprehensive Outdoor Recreation Plan (SCORP). In all cases, the project must be a logical unit of work to be accomplished in a specific time frame. At project completion and for Final Reimbursement to occur, the project must be open and fully useable by the public and meet ADA requirements.

Development costs are first incurred at the start of actual physical work on the project site (such as ground clearing, beginning of construction, etc.) and continue through the period the work is completed. Costs are not incurred at an earlier time when contracts are signed, funds obligated, or at a later time when the ensuing bills are paid.

Project sponsors must use the State's procurement procedures unless they can document that their written policies exceed the State's requirements. A brief overview of the State's procurement procedures is below:

### **State Procurement Purchase Procedures**

### **Important Grant Payment Information**



**STOP & READ BEFORE BEGINNING YOUR PROJECT!**

## Procurement Procedure Requirements

In order to receive reimbursements, grantees are required to follow and provide documentation of procedures for the purchase of materials, equipment and contract services associated with any awarded grant.

Project Sponsors must follow South Carolina's established State Procurement Guidelines. Ensuring compliance with State Procurement Guidelines is the sole responsibility of the Project Sponsor.

Failure to follow established procurement guidelines will result in reimbursement request being deemed ineligible for reimbursement (no exceptions).

### Purchases less than \$50,000.00:

The following small purchase procedures must be utilized by Grantees in conducting procurements that are up to fifty thousand dollars in actual or potential value.

*Procurement requirements must not be artificially divided by Project Sponsors so as to constitute a small purchase pursuant to this section.*

**Purchases not in excess of \$2,500.00** - Small purchases not exceeding two thousand five hundred dollars may be accomplished without securing competitive quotations if the prices are considered reasonable. The purchasing office must annotate the purchase requisition: "Price is fair and reasonable" and sign.

The purchases must be distributed equitably among qualified suppliers.

**Purchases from \$2,500.01 to \$10,000.00** - Solicitation of written quotes from a minimum of three qualified sources of supply must be made and documentation of the quotes attached to the purchase requisition for a small purchase over two thousand five hundred dollars but not in excess of ten thousand dollars.

Project Sponsors must provide proof of solicitation that includes the date of solicitation, business names and addresses for each qualified supply source. Any project specifications provided to vendors must be included with the proof of solicitation. Project Sponsors must wait a minimum of seven calendar days from the date of the solicitation before determining a supply source to be non-responsive. Quotes may only be considered valid for 30 calendar days from the date of the quote submission, unless otherwise specified in the quote submission.

The award must be made to the lowest responsive and responsible sources.

**Purchases from \$10,000.01 to \$50,000.00** - Written solicitation of written quotes, bids, or proposals must be made for a small purchase over ten thousand dollars but not in excess of fifty thousand dollars.

The solicitation must include all procurement specifications and scope of work, if applicable. The procurement must be advertised at least once in the South Carolina Business Opportunities publication or through a means of central electronic advertising as approved by the designated board office. Bidders must be provided reasonable time to prepare their bids, no less than fourteen calendar days for construction projects and seven calendar days for all other procurements.

*Please note: SCPRT recommends allowing at least twenty-one calendar days for construction procurements and at least fourteen calendar days for all other procurements.*

A copy of the written solicitation and written quotes must be attached to the purchase requisition.

The award must be made to the lowest responsive and responsible source or, when a request for proposal process is used, the highest-ranking offeror.

Transactions greater than \$50,000.00

*Unless otherwise provided by law and approved by SCPRT, all procurement transactions greater than \$50,000.00 must be awarded by competitive sealed bidding. If a Project Sponsor intends to utilize an alternate delivery method, the Project Sponsor must notify SCPRT and obtain a written determination of approval prior to solicitation.*

**Competitive Sealed Bidding (Invitation for Bids)** - Competitive Sealed Bidding is the default method of procurement for transactions greater than \$50,000.00 in which formal competitive sealed bids are processed and award is based on low bid only.

**Bid Solicitation** - Formal solicitations must be developed. The Invitation for Bids must clearly define all project specifications, including scope of work, delivery or performance schedule, and inspection and acceptance requirements. Bid responsiveness must be determined based on the specifications provided in the Invitation for Bids.

All sealed bid solicitations must be advertised in South Carolina Business Opportunities (SCBO) or a means of central electronic advertising as approved by SCPRT. Adequate notice of the Invitation for Bids must be given at a reasonable time before the date set forth in it for the opening of bids, no less than fourteen calendar days for construction projects and seven calendar days for all other procurements.

Please note: SCPRT recommends allowing at least twenty-one calendar days for construction procurements and at least fourteen calendar days for all other procurements.

**Receipt of Sealed Bids** - Sealed written bids must be received by a designated date and time. All bids, including modifications, received before the time of opening must be kept secure and unopened. Prior to bid opening, information concerning the identity and number of bids received should not be shared with actual bidders, potential bidders or any third party not directly involved in the procurement transaction.

**Pre-Bid Conferences** - Pre-bid conferences may be conducted. The conference should be held long enough after the Invitation for Bids has been issued to allow bidders to become familiar with it, but sufficiently before bid opening to allow consideration of the conference results in preparing their bids. Notice of the conference must be included in the notice of the solicitation.

Nothing stated at the pre-bid conference shall change the Invitation for Bids unless a change is made by written amendment. A potential bidder's failure to attend an advertised pre-bid conference will not excuse its responsibility for estimating properly the difficulty and cost of successfully performing the work, or for proceeding to successfully perform the work without additional expense.

Pre-bid conferences may not be made mandatory *without written justification by the Project Sponsor* that the unique nature of the procurement requires a mandatory pre-bid conference and assurance that a mandatory pre-bid conference will not unduly restrict competition. Project sponsors should submit to SCPRT a copy of the pre-bid conference sign-in sheet along with other required procurement documentation.

**Solicitation Modifications/Amendments** - Every effort should be made to anticipate changes in solicitation requirements prior to the date of opening. The Project Sponsor must notify all prospective bidders of any modification or cancellation of solicitation requirements by posting the Solicitation Amendment on the same electronic site as the original Bid Solicitation. Actual and potential bidders must be allowed adequate time to change their bids following the posting of a solicitation amendment. Project sponsors may need to adjust the bid opening date to allow bidders sufficient time to change their bids.

**Bid Opening** - Bids must be opened publicly in the presence of one or more witnesses, at the time and place designated in the Invitation for Bids.

Bids must be accepted unconditionally without alteration or correction, except as otherwise authorized in the State's Procurement Code. After bid opening, changes in bid prices or other provisions of bids prejudicial to the interest of the State or fair competition is not be permitted.

**Bid Tabulation** - All bids must be entered into a tabulation sheet signed, dated and witnessed. The amount of each bid, and other relevant information as may be specified by regulation, together with the name of each bidder, must be tabulated. The tabulation must be open to public inspection at that time. After evaluation of all bids, award must be made to the lowest responsive and responsible bidder.

**Discussions with Bidders** - As provided in the Invitation for Bids, discussions may be conducted with apparent responsive bidders for the purpose of clarification to assure full understanding of the requirements of the Invitation for Bids. All bids, in the procuring agency's sole judgment, needing clarification must be accorded that opportunity.

Clarification of a bidder's bid must be documented in writing by the procurement officer and must be included with the bid. Documentation concerning the clarification must be subject to disclosure upon request as required by S.C. Code §11-35-410.

**Bid Award & Notice of Award** - Unless there is a compelling reason to reject bids as prescribed by regulation, notice of an award or an intended award of a contract to the lowest responsive and responsible bidders whose bid meets the requirements set forth in the Invitation for Bids must be given by posting the notice at a location specified in the Invitation for Bids.

For contracts with a total or potential value greater than \$50,000 but less than \$100,000, notice of the award of a contract must be given by posting and must be sent to all bidders responding to the solicitation on the same day that the notice is posted.

For contracts with a total or potential value of \$100,000 or more, notice of an intended award of a contract must be given by posting the notice for ten days before entering into a contract and must be sent to all bidders responding to the solicitation on the same day that the notice is posted. The posting date must appear on the face of all these notices. If no award protests are received within ten days after notice is given, an agency may enter into a contract.

Please note: SCPRT recommends notifying all bidders via email in order to ensure timely notice of award or intent to award.

When only one response is received, the notice of intent to award and the delay of award may be waived.

Before the posting of the award, the procuring agency may negotiate with the lowest responsive and responsible bidder to lower his bid within the scope of the Invitation for Bids.

**Bid Award Protests** - The Invitation for Bids and the notice must contain a bidder's right to protest. Any actual bidder who is aggrieved in connection with the intended award or award of a contract shall protest to the appropriate procuring agency within ten days of the date award or notification of intent to award.

An award protest pursuant must be in writing and must be received by the appropriate procuring agency within the ten-day time limit. At any time after filing a protest, but no later than fifteen days after the date award or notification of intent to award is posted, whichever is earlier, a protestant may amend a protest that was first submitted within the time limits. A protest, including amendments, must set forth both the grounds of the protest and the relief requested with enough particularity to give notice of the issues to be decided.



In the event of a timely protest, the Project Sponsor shall not proceed further with the solicitation or award of the contract until ten days after a protest decision is posted.

**Cancellation of Invitation for Bids Prior to Award** - When it is determined prior to the notification of intent to award or issuance of an award, whichever is earlier, but after bid opening, that the requirements related to the solicitation specifications have not been met, the Invitation for Bids shall be canceled. Acceptable reasons for cancellation of Invitation for Bids include revised scope of work; supplies, services or construction being procured are no longer necessary; or all otherwise acceptable bids are at unreasonable prices. The reasons for cancellation, supported with documentation sufficient to satisfy an external audit, must be made a part of the project file.

If the Invitation for Bids is canceled prior to bid opening, bids must be returned to the bidders.

As a general rule after bid opening, an Invitation for Bids should not be canceled and re-advertised due solely to increased quantities of the items being procured. Award should be made on the initial Invitation for Bids and the additional quantity required should be treated as a new procurement.

**Bid Correction & Withdrawal** - Correction or withdrawal of inadvertently erroneous bids before bid opening may be permitted in accordance with State Procurement Regulations. After opening, bids must not be corrected or withdrawn. All decisions to permit the correction or withdrawal of bids must be documented by a written determination of appropriateness made by the Project Sponsor and a written statement from the respective bidder.

## **Certified Minority Owned Businesses**

*All Project Sponsors shall take appropriate and reasonable steps to make a good faith effort to provide Minority Business Enterprises (MBE) with the maximum opportunity to compete for and perform contracts for Undiscovered SC projects receiving aid through this program. Project Sponsors recipients shall not discriminate on the basis of race, color, sex or national origin, in the awarding of solicitations.*

A Directory of Small or Minority-owned businesses may be found on the South Carolina Division of Small and Minority Business Contracting and Certification website:  
<http://osmba.sc.gov/>



## **SECTION V: REIMBURSEMENT PROCEDURES**

### Reimbursement Summary and Process

Payment is made on a reimbursement basis. Up to 90% of the grant may be reimbursed for eligible expenditures prior to project completion. Payments may be submitted at any time for a completed phase of construction, but no more than once a month.

A payment request is made by preparing and submitting one copy of the Billing Account Form (see page 6). This form will be used for both Acquisition and Development Projects. In addition, the appropriate support documents must be submitted with the payment request as provided on the Reimbursement Checklists (see pages 11-12). A copy of the completed Checklist is required along with the other required documents.

For Acquisition Projects, any relocation payments must be supported by appropriate forms as required under the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970.

Once a reimbursement request has been approved, it will take from 30-60 days for you to receive payment. A carefully prepared reimbursement request will help SCPRT to process your request quickly.

**NOTE: Reimbursements will not be accepted until the "Limitation of Use" statement has been incorporated into the deed and a copy has been submitted to SCPRT.**

#### A. Partial Reimbursement

You may submit reimbursement requests for your project costs during the construction process. Reimbursements will not be made unless accompanied by a Quarterly Progress Report (see Page 10).

No reimbursement will be made for less than \$5,000. No more than 90% of the total project costs will be reimbursed until the project is completed and a determination made at final inspection that project construction meets all requirements.

B. Final Reimbursement

A request for final reimbursement may be made only after all facilities/components listed in the project scope of the grant agreement are complete and in place and the required LWCF sign is in place. All project components must be completed in accordance with Federal, State and Local requirements and the project is usable by the general public. Upon receipt of the Final billing the project is considered "closed" and an on-site inspection will be scheduled. Any unexpended funds are reverted to the Federal Government.

C. Final Site Inspection

SCPRT staff will conduct an on-site inspection of your project prior to processing your final reimbursement request. The purpose of the inspection is to ensure that the terms of the project agreement are met and that all construction has been completed. In addition, any facilities built with help from a grant will be inspected to ensure that they are ADA accessible. Any necessary corrections must be made before final reimbursement will be made.

D. Documentation

Documentation will be required with your reimbursement request. If you provided some of these documents to SCPRT previously, duplicate copies are not needed. You should retain a copy of ALL documentation sent to SCPRT for your files, and your files are to be maintained for three (3) years after project close-out. Not all documents will be applicable to every project.

Matching Funds

The Sponsor must have an assured source of eligible matching funds to meet the cost of the Project. The formula is 50%/50%; one applicant dollar to one federal dollar. The applicant may match its share of costs with money, services, or real property. The only

federal grants eligible as a Match for this program are Community Development Block Grants (CDBG).

Projects involving use of donated real property as all or part of the Matching share must meet the federal appraisal standards. These standards can be found at the U.S. Department of Justice website, at <http://usdoj.gov/enrd/land-ack/>.

Since this is a reimbursement program, Project Sponsors are expected to finance the entire Project. Fifty percent of the actual expenditures, not to exceed the grant amount, will be reimbursed for Project costs.

#### Eligible Costs

In order for costs to be eligible for reimbursement, they must meet the following conditions:

Costs must be incurred within the project period. This is the date identified on your grant agreement. The exception to this is pre-approval planning costs or land acquired under a waiver of retroactivity. Project costs must relate directly to the recreation facilities identified in the project scope of your agreement. Non-Construction costs can not exceed 12% of the total grant amount. You may contact SCPRT regarding eligibility of costs you have questions about. See the "Eligible Costs Chart" for allowable cost guidelines.

## LWCF ELIGIBLE COSTS CHART

COSTS	EXPLANATION
Non-Construction Costs	<ul style="list-style-type: none"> <li>• Costs including project planning (excluding grant writing costs), architectural &amp; engineering fees, etc. Cost up to 12% of the grant amount may be eligible for reimbursement.</li> </ul>
Personnel or Employee Services	<ul style="list-style-type: none"> <li>• Must be computed according to the Sponsor's normal wage or salary scales, and on the actual time spent on Project</li> <li>• Must not exceed Sponsor's established rates for similar positions</li> <li>• Time and attendance records must describe work performed, be identified to the Project, and be signed by the employee and his supervisor.</li> <li>• Fringe benefit costs (i.e. vacations, holidays, sick leave, insurance, retirement plans, social security contributions) that are regularly provided to employees by the participant shall be computed in proportion to the time spent on a Project.</li> <li>• Overtime in excess of normal work periods may be charged when the participant has an established overtime policy, and the basic work period was devoted to the same Project.</li> <li>• The cost of a supervisor may be included when he spends all or a measurable percentage of time on a Project.</li> <li>• When one department or agency performs work for another organization in the same State or public agency, the costs may be shared by the fund.</li> </ul>
Consultant Services	<ul style="list-style-type: none"> <li>• Consultants must be paid by the customary method and rate of the participant, whether by per diem, salary, fee for services, or other method.</li> <li>• Consultants may be reimbursed for travel and other expenses.</li> <li>• Consultant fees may not be paid to employees unless specifically agreed to by the State and National Park Service (NPS).</li> </ul>
Equipment	<ul style="list-style-type: none"> <li>• The Sponsor may only charge the cost of the actual use of the equipment during the time it is being used for project purposes.</li> <li>• The Sponsor may use the SC Department of Transportation's equipment rental rates as a guide.</li> <li>• If equipment is purchased rather than rented, the Project shall be credited with the residual value (market value) to the equipment at project completion.</li> <li>• The equipment use charges must be made in accordance with the Sponsor's normal accounting practices</li> <li>• Equipment use reports or other source documents must describe the work performed, be identified to the project, and be signed by the operator and supervisor (in case of use reports).</li> <li>• Maintenance and repair costs necessary for upkeep of equipment during project use are allowable, as long as they are not covered by user fees or similar fee arrangements.</li> </ul>
Supplies and Materials	<ul style="list-style-type: none"> <li>• May be purchased for specific project, or may be drawn from central stock if claimed costs are no higher than those the Sponsor would pay.</li> <li>• The Sponsor may only claim those costs directly related to the project.</li> <li>• Supplies and materials purchased with the intent of constructing a piece of equipment, a structure, or elements of a structure may be charged either as supplies and materials or capitalized, according to the participant's normal policy.</li> </ul>
Travel	<ul style="list-style-type: none"> <li>• Travel necessary to the execution of a project, carried out within the policies and procedures of the participant.</li> <li>• Travel record must be maintained.</li> </ul>
Information/Communication Costs	<ul style="list-style-type: none"> <li>• Information activities related to a Project, including information and direction signs at the entrances of recreation areas, and at other necessary sites throughout the area.</li> <li>• Communications costs such as telephone services, telegrams, postage, that are identified with and closely related to the execution of the project.</li> </ul>

Construction	<ul style="list-style-type: none"> <li>• Allowable construction activities, from site preparation (including demolition, excavation, grading, and the like) to completion of a structure.</li> <li>• Construction may be accomplished either through a contract with a private firm or by use of the participant's own personnel and equipment (force account)</li> </ul>
Acquisition Costs	<ul style="list-style-type: none"> <li>• Capital expenditures for Acquisition of real property, easements, and other rights and interest in real property when the cost is incurred within the approved project period.</li> <li>• Tenure of such interest shall be for perpetuity, in order for the expenditures to be matched.</li> </ul>
Relocation Costs	<ul style="list-style-type: none"> <li>• Costs resulting from displacement of a person/business</li> <li>• The Sponsor shall comply with state Relocation Act and federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.</li> <li>• Relocation must be listed as a separate item in the Project Scope and the Sponsor Contract.</li> <li>• Relocation costs must be incurred within the project period.</li> </ul>
Other Expenditures	<ul style="list-style-type: none"> <li>• Premiums on hazard and liability insurance to cover personnel and property directly connected with the project.</li> <li>• Lease or rental charges on equipment or space for the project are allowable when the Sponsor determines that such an arrangement is the most efficient and economical.</li> <li>• Transportation costs for moving equipment or personnel to the site of a project are allowable if not otherwise covered.</li> </ul>
Indirect Costs	<ul style="list-style-type: none"> <li>• Costs incurred to meet administrative and other overhead expenses, if they are reasonable, are supported by adequate documentation, and are allocated equitably.</li> <li>• Indirect costs customarily charged to projects by the participant, allocated in accordance with generally accepted accounting practices.</li> <li>• The indirect cost rate must be previously approved by an appropriate federal agency.</li> </ul>





**REIMBURSEMENT FORM**  
**REIMBURSEMENT CHECKLIST**  
**QUARTERLY REPORT FORM**





## INSTRUCTIONS FOR COMPLETING THE LWCF PROJECT ACCOUNT FORM

(Please type or print legibly)

This sheet is a continuous listing of the costs incurred by your project. A separate document is not needed for each billing. Use the column provided to indicate to which billing a cost refers. If you have any questions, please contact the SCPRT project consultant assigned to work with you on your project.

PROJECT NUMBER – enter the number assigned to your project as shown on your project agreement.

PROJECT SPONSOR – enter the name of the political subdivision (city, county, or school district) requesting grant reimbursement.

PROJECT TITLE – enter the official title of your project as shown on your project agreement.

PROJECT PERIOD – enter the beginning and ending date of your project as shown on your project agreement or most recent amendment.

DATE – all invoices should be listed in chronological order on the "Project Account". Enter the date shown on each invoice. In situations where your employees work on the project, enter the beginning and ending date shown on their time sheet. The same procedure should be followed when listing a contractor's monthly or periodic statement.

For land acquisition project enter the date of the transfer of title. Enter related land acquisition costs (options, partial payments, appraisal review services, and relocation costs) in the order in which they occur.

INVOICE NUMBER – enter the number or show the invoice as assigned by the vendor or contractor. If an employee's time sheet or other invoice is being listed which does not contain a number, please write NONE on this line.

For land acquisitions the number of the general warranty deed or invoice numbers of appraisal review services should be entered.

VENDOR – enter the name of the individual or company from whom the goods or services have been purchased. When listing work performed by your own employees, enter the name of each employee. For land acquisitions enter the name of the land donor, seller, or relocatee.

ITEM DESCRIPTION / HOW USED – you should briefly describe what has been purchased. This may be taken directly from the invoice. Refer to your project agreement to insure that each cost is eligible for reimbursement. Items not shown in the project agreement or subsequent amendments are not eligible for reimbursement. Your description should indicate how each item purchased was used to complete a specific facility listed in your project agreement. If an invoice contains a list of materials, which were used to construct several items, each item should be shown.

Land acquisitions should describe how they relate to the project. Normally, this can be done by referring to an identifying tract number. Other land transactions, such as option payments, partial payments, appraisal review costs, and relocation payments should also be listed.

AMOUNT PAID – enter the amount you actually paid. If a portion of the invoice was paid and reimbursed under a previous billing, list only the amount for which you are currently asking for reimbursement.

CHECK NUMBER – enter the number of the check used to pay each cost. If more than one check was used, include a list of the check numbers.

BILLING NUMBER – indicate the billing number you want each cost assigned.

## **LAND DEVELOPMENT PROJECTS Reimbursement Checklist**

Reimbursement for the actual costs of items specified in the project agreement may be requested before the entire project has been completed. However, we ask that requests be limited to a reasonable number. One copy of each of the following documents must accompany your request if it applies to your particular project.

- 1. Billing Account Form
- 2. Copies of invoices: Invoices must be identified as to the project number and work element to which it pertains.
- 3. Cancelled check showing payment to the landowner (front & back); it is helpful to if the check is attached to the appropriate invoice in the billing package.
- 4. Progress Report
- 5. As-Completed Site Map – two copies of the “As-Completed” site map should be submitted with your Final Reimbursement request. This is only applicable if it varies from the original submitted site map.
- 6. Flood Insurance – when flood insurance is required, evidence that the insurance has been purchased is necessary (such as a copy of the policy).

**ALSO**, for all construction and vendor contracts which are in excess of \$10,000, the following must be submitted:

Note: Bid Ad and Bid Tabulation is required only when project is competitively bid.

- 1. Evidence that the contract was competitively bid (Newspaper ad with affidavit of publication).
- 2. Tabulation of bid received.
- 3. Copy of signed awarded contract.
- 4. Copy of change orders (if necessary).

## **LAND ACQUISITION PROJECTS Reimbursement Checklist**

Please complete and include one copy of this checklist along with the required reimbursement documentation to SCPRT. Once these documents have been reviewed and approved by SCPRT, your reimbursement request will be processed for payment.

**At the initiation of negotiations and prior to actual transfer of title, the following items must be obtained:**

- 1. Letter of intent to donate (if applicable).
- 2. Appraisal documentation including review material and written approval of the appraisal report.
- 3. Documentation showing that the owner or his/her designated representative has been given an opportunity to accompany the appraiser during his inspection of the property.
- 4. Written offer to purchase – a statement from the city to the landowner offering to purchase his / her property for its appraised value.
- 5. "Statement of Just Compensation" signed by the landowner.
- 6. "Waiver of Just Compensation" signed by the landowner (if applicable).
- 7. Statement of difference in value if purchase price is greater than the approved appraisal of fair market value.

**Upon completion of the acquisition and the subsequent transfer of ownership, the project sponsor must submit:**

- 8. Evidence of title. For example, general warranty deed or special warranty deed (with recorded Limitation of Use Statement included)
- 9. Title insurance or an attorney's opinion of title vested in the name of the project sponsor.
- 10. Cancelled check showing payment to the landowner (front & back).
- 11. Appraisal review notice.
- 12. Cancelled check showing payment to the review appraiser (front & back).
- 13. Site Location Map
- 14. Property Plat Map
- 15. Relocation assistance and payment documentation (if applicable):
  - a. Evidence that occupants of property acquired were furnished adequate information explaining their eligibility to relocation assistance and payments at the time of initiation of negotiation.
  - b. Relocation plan, advisory services program and appeals procedure, if appropriate.
  - c. Relocation and assistance claims forms and supporting documentation, if appropriate.

**Land & Water Conservation Fund**  
**Quarterly Progress Report Form**

PROJECT SPONSOR: \_\_\_\_\_ PROJECT #: \_\_\_\_\_

PROJECT TITLE: \_\_\_\_\_

QUARTERLY PERIOD for Year: \_\_\_\_\_  
\_\_\_\_\_ Jan.-March                      \_\_\_\_\_ July-September  
\_\_\_\_\_ Apr.-June                        \_\_\_\_\_ Oct.-December

PROJECT SCOPE: \_\_\_\_\_

DATE PROJECT BEGAN: \_\_\_\_\_

PROGRESS: (State project scope elements begun and/or completed.)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

STATUS: (Explain what remains to be done.) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

EXPECTED COMPLETION DATE: \_\_\_\_\_

COMMENTS: \_\_\_\_\_  
\_\_\_\_\_

DATE: \_\_\_\_\_ SIGNED: \_\_\_\_\_

TITLE: \_\_\_\_\_

PHONE : (    ) \_\_\_\_\_



## **SECTION VI: PROJECT COMPLETION AND CLOSEOUT**

When your project is completed, please use the following grant closeout procedures:

### Date of Completion

The date of completion is the date when all project work is completed, or the date of the grant agreement/amendment expiration, whichever comes first. Notify SCPRT at least thirty (30) days prior to project completion, so that a final inspection can be scheduled.

### Project Billings

Project billings and the final reimbursement request should be prepared as soon after project completion as possible, but not later than 90 days after completion. All project billings must be submitted to SCPRT at least (30) days prior to the expiration date of the project agreement or amendment.

### As-Built Site Map

If your project scope or the location of project elements have been amended or are different in any way from the original boundary and development maps, then you must provide revised maps and an "as-built" site plan with your final billing.

### Signing

An LWCF sign must be permanently displayed in an area where it is visible to the general public. See page 9 of this section for details regarding guidelines and placement of signs.

### Single Audit Act

In addition to annual audit report submittals to SCPRT, you are required by federal regulation to submit an audit at the end of your fiscal year following project completion. This audit must also be conducted and reported in compliance with the Single Audit Act. *See Section II, page 4 for detailed Audit information.*

## OBLIGATIONS OF LWCF RECIPIENTS FOLLOWING PROJECT COMPLETION

### Dedication of Land

Any land which is acquired or developed with a federal matching grant through the LWCF must be restricted to outdoor recreation use in perpetuity. If even a small portion of an existing park was developed with LWCF monies, the entire park may be dedicated to outdoor recreation, depending on the approved 6(f)(3) project boundary. Any proposed change in land use within the 6(f)(3) boundaries, such as construction of enclosed structures (including recreation centers), construction of underground sewer, water or other utility lines, lift stations, city streets, etc. must receive prior approval through the SCPRT and the National Park Service, or the sponsor may create an unauthorized conversion situation.

### Utility Lines

Agreements entered into for the LWCF project specifically prohibit the installation of overhead utility lines for any purpose within the park boundaries. This includes the lighting of even those facilities not directly funded with LWCF assistance.

### Public Use

All lands which are acquired or developed with LWCF must be made available to the general public during reasonable periods of time. At a minimum, the park itself is expected to be open and available for public use during daylight hours throughout the year. Facilities must be kept open and available for public use except at those times when seasonal differences in climate make such use inappropriate.

### Fees

All facilities acquired or developed with LWCF assistance must be open to both residents and nonresidents. Preferential reservations or annual permit systems solely for local residents are prohibited. Reasonable differences in admission and other fees

may be maintained on the basis of residence. Fees charged to nonresidents cannot exceed twice those charged to residents of your community. When there is no charge for residents, nonresident fees cannot exceed fees charged for residents at comparable public facilities that have a fee charge.

#### Development of Acquired Land

Unless special permission for delayed development is granted at the time of acquisition, all lands acquired with LWCF assistance must be developed for recreational use within two years of the date of acquisition. In the interim between acquisition and development, the property must be open for those public recreation purposes that the land is capable of supporting or that can be achieved with minimum public investment.

#### Maintenance

All facilities and property acquired or developed with LWCF must be maintained and operated in such a manner as to ensure maximum operating life of facilities and an attractive, inviting environment. This includes general maintenance, litter control, and prompt repair of damage due to vandalism or other causes.

#### Inspections

Final reimbursement for development projects will not be made until your project has had a final inspection. Your project will be evaluated for adherence to your development plans, maintenance and the assurance that all facilities are accessible to people with disabilities. Also, it will be re-inspected once every 5 years by SCPRT to assure compliance with LWCF regulations.

#### Civil Rights Act of 1964

In accordance with Title VI of the Civil Rights Act of 1964, no person may be excluded from participation, be denied the benefits of, or be otherwise subject to discrimination in the use of property or facilities acquired or developed with LWCF monies on grounds of race, color, or national origin. Once LWCF assistance is used to develop or acquire a

park site, the entire recreation system is covered by the Civil Rights Act. The following actions should be taken in order to comply with civil rights regulations:

- a. You should prominently post Title VI posters at the recreation sites throughout your system.
- b. A nondiscrimination policy statement and Title VI complaint procedures must be included in all printed material distributed to the public. Sample verbiage is included at the end of this section.
- c. Representation of minorities and women as parks' employees and on advisory park boards is recommended.
- d. Maintenance and development of park sites in minority areas should be equal to maintenance and development of sites in majority areas.
- e. Contracts with private organizations (i.e., concessionaires) must contain language assuring compliance with Title VI.
- f. If assistance is provided to private organizations, these organizations must sign Title VI assurances.
- g. The bylaws of private organizations that use public recreation facilities must contain language ensuring that they are in compliance with Title VI.

#### ADA Information

All facilities developed using LWCF funds must be designed and constructed to be accessible to and usable by people with disabilities, as stipulated by P.L. 90-480, the Architectural Barriers Act of 1968.

Past and present recipients of federal Land and Water Conservation Fund monies are required to comply with Section 504 of the Rehabilitation Act of 1973. Section 504 requires nondiscrimination on the basis of disabilities in programs and activities receiving or benefiting from federal financial assistance. The Act further prohibits discrimination in employment and in the operation of programs and activities receiving or benefiting from federal assistance.

Physically and mentally disabled persons must be afforded equal opportunity to a project sponsor's facilities, programs, activities and services when viewed in their

entirety. People with disabilities cannot be denied the benefits of or be kept from participating in any recipient's programs or activities because existing facilities are inaccessible to or unusable by the disabled person.

Section 504 does not mandate the wholesale alteration of existing facilities or the construction of new facilities just to accommodate the disabled. Whenever methods other than facility renovation and construction are successful in achieving program accessibility, the time and expense of facility renovation and construction may be avoided. However, in instances where renovation or construction is the only means possible of making a program or activity accessible, then Section 504 mandates that such changes be undertaken.

Following project completion, the sponsoring agency is obligated to assure that renovation and new construction on this site(s) is built in compliance with the Uniform Federal Accessibility Standards. This applies to all construction regardless of the source of funding.

#### Conversion from Recreation Use

Section 6(f)(3) of the Land and Water Conservation Fund Act (LWCF) states that property acquired or developed with LWCF assistance shall not be converted to other than public outdoor recreation uses without the prior approval of the Secretary of the Interior. If a conversion of use is approved, the recreation properties converted must be replaced with recreation properties of at least equal fair market value and of reasonably equivalent usefulness and location. To obtain the Secretary's approval, one must request a conversion through SCPRT and justify the need for such action with appropriate documentation. To provide such documentation, you must address each of the following and submit the information to SCPRT:

1. A statement must be prepared which indicates the reason for converting the land and justifies the need for doing so. It must indicate that all practical alternatives to the conversion were evaluated and rejected on a sound basis;

2. Replacement property must be identified. Land in public ownership that has already been designated for recreational use may not be used as replacement property.
3. The fair market value of the property to be converted (valued at its highest and best use) and the property proposed for replacement must be established. Both parcels of property must be of at least equal fair market value, as established by a state-approved appraisal. See Section III for appraisal requirements.
4. The property proposed for replacement must be of reasonably equivalent usefulness and location as that being converted. It must constitute or be part of a viable recreation area and generally, must be administered by the same political jurisdiction as the converted property.
5. The replacement property must meet eligibility requirements for LWCF assisted acquisition. To be eligible for such assistance, properties must be appropriate for use as areas dedicated to outdoor recreation.
6. An environmental evaluation must be successfully completed. The evaluation process requires preparation of an environmental assessment for both the property to be converted and the replacement property. It must focus on the environmental losses incurred as a result of converting one property and those gained because of acquisition of the replacement parcel.
7. A determination must be made as to whether the proposed action will affect properties listed in or eligible for listing in the National Register of Historic Places. Such determination must include a cultural resource survey of the converted and the replacement property. The survey must be completed by a qualified archaeologist prior to the approval of a conversion.
8. The proposed replacement facility must be subjected to the Intergovernmental Review Process.
9. A site map which shows the location of both parcels of property relative to the sponsor must be submitted.
10. 6(f)(3) boundary maps must be drawn for both parcels. The maps must be drawn to scale and be accompanied by the legal description of the properties.
11. A conceptual development map indicating how the replacement property will be developed must be submitted for review.

The conversion of park lands to other than outdoor recreation use should be pursued only if no other alternatives exist. A conversion request is expensive, not easily

completed and it usually takes over a year for final approval to be received from the National Park Service.

#### Life of Facilities: Obsolescence

If a facility developed with LWCF assistance has reached the end of its useful life, your obligation to maintain the facility has ended and it may be removed from the project site. SCPRT should be notified so that the facility can be deleted from the project scope. However, you must continue to operate the project in accordance with the rules and regulations contained in the project agreement and restrict the property to outdoor recreation purposes in perpetuity.

#### Construction Easement

In some instances, it may be possible to avoid the conversion process by the granting of a temporary construction easement. For example, a utility company may wish to cross your project where no existing easements occur. If the company needs only temporary access to the site for construction purposes, and if the area altered by the construction can readily be restored to its original appearance and no permanent easement is required, the conversion process may be avoided. You must send a letter of request with justification to this office. Individual situations will be considered by SCPRT and the National Park Service after careful review of the project.

**Note:** All new electric (under 15KV) and telephone wires must be placed underground. Installation of overhead wires is not allowed under an easement situation; such a project would require a conversion process.

Acknowledgement of LWCF Assistance - The National Park Service requires suitable permanent public acknowledgement of LWCF assistance at all project sites. When significant acquisition or development projects over \$500,000 are initiated, to the extent feasible, appropriate standardized temporary signing shall be located on or near the affected site. Upon termination of temporary signing, permanent signing shall be

installed. Temporary signing is not required for acquisition projects if permanent signing immediately follows the purchasing of the site. Unless precluded by local sign ordinances, temporary signs shall be no less than 2 feet by 3 feet.

At project completion, you must provide a Land and Water Conservation Fund sign that will be permanently displayed at the site. This sign will satisfy federal government requirements for permanent public acknowledgement of federal financial assistance in your park. It assures that park areas and facilities have been forever dedicated to outdoor recreation and will be available for public use without discrimination. Costs related to project acknowledgement are allowable costs as part of the initial capital investment, and may be shared by LWCF assistance. Replacement costs as a part of project operation and maintenance are not allowable. *See the Miscellaneous Section of the Guidelines for Logo Usage details and sign purchasing information.*

If your park has been purchased with LWCF assistance, or if during the LWCF-assisted development the entire park was delineated as the project site, it may be appropriate to place this sign at or near the existing entrance. If your project involves the development of a single large facility, such as dock or large picnic shelter, you may display this sign in conjunction with the particular facility funded. In cases where a park has received several LWCF grants, one sign posted at the park entrance will adequately acknowledge all federal financial assistance received. Please assure sign placement in an area where it will receive maximum public exposure. The retention and maintenance of suitable public signing is the project sponsor's responsibility.

The National Park Service encourages use of the LWCF symbol as a part of the acknowledgement of LWCF assistance at entrances to outdoor recreation sites, at other appropriate on-site locations, and in folders and park literature. While the symbol may not be altered, such considerations as method of sign construction, size and placement are matters for determination by the State. The acknowledgement of LWCF assistance will be checked during the compliance inspections conducted once every five years in perpetuity.



## **SECTION VII**

### **Additional Related Information**

**LAND AND WATER CONSERVATION FUND  
PROJECT AGREEMENT GENERAL PROVISIONS**

**Part I - Definitions**

- A. The term "NPS" or "Service" as used herein means the National Park Service, United States Department of the Interior.
- B. The term "Director" as used herein means the Director of the National Park Service, or any representative lawfully delegated the authority to act for such Director.
- C. The term "Manual" as used herein means the Land and Water Conservation Fund Grants Manual (NPS-34).
- D. The term "project" as used herein means a single project, a consolidated grant, a project element of a consolidated grant, or project stage which is subject to the project agreement.
- E. The term "State" as used herein means the State or Territory which is a party to the project agreement, and, where applicable, the political subdivision or public agency to which funds are to be transferred pursuant to this agreement. **Wherever a term, condition, obligation, or requirement refers to the State, such term, condition, obligation, or requirement shall also apply to the recipient political subdivision or public agency, except where it is clear from the nature of the term, condition, obligation, or requirement that it is to apply solely to the State. For purposes of these provisions, the terms "State," "grantee," and "recipient" are deemed synonymous.**
- F. The term "Secretary" as used herein means the Secretary of the Interior, or any representative lawfully delegated the authority to act for such Secretary.

**Part II - Continuing Assurances**

The parties to the project agreement specifically recognize that the Land and Water Conservation Fund assistance project creates an obligation to maintain the property described in the project agreement consistent with the Land and Water Conservation Fund Act and the following requirements.

Further, it is the acknowledged intent of the parties hereto that recipients of assistance will use moneys granted hereunder for the purposes of this program, and that assistance granted from the Fund will result in a net increase, commensurate at least with the Federal cost-share, in a participant's outdoor recreation. It is intended by both parties hereto that assistance from the Fund will be added to, rather than replace or be substituted for, State and local outdoor recreation funds.

- A. The State agrees, as recipient of this assistance, that it will meet the following specific requirements and that it will further impose these requirements, and the terms of the project agreement, upon any political subdivision or public agency to which funds are transferred pursuant to the project agreement. The State also agrees that it shall be responsible for compliance with the terms of the project agreement by such a political subdivision or public agency and that failure by such political subdivision or public agency to so comply shall be deemed a failure by the State to comply with the terms of this agreement.
- B. The State agrees that the property described in the project agreement and the signed and dated project boundary map made part of that agreement is being acquired or developed with Land and Water Conservation Fund assistance, or is integral to such acquisition or development, and that, without the approval of the Secretary, it shall not be converted to other than public outdoor recreation use but shall be maintained in public outdoor recreation in perpetuity or for the term of the lease in the case of leased property. The Secretary shall approve such conversion only if it is found to be in accord with the then existing comprehensive statewide outdoor recreation plan and only upon such conditions deemed necessary to assure the substitution of other recreation properties of at least equal fair market value and of reasonably equivalent usefulness and location. This replacement land becomes subject to Section 6(f)(3) protection. The approval of a conversion shall be at the sole discretion of the Secretary, or his designee. Prior to the completion of this project, the State and the

Director may mutually alter the area described in the project agreement and the signed and dated project boundary map to provide the most satisfactory public outdoor recreation unit, except that acquired parcels are afforded Section 6(f)(3) protection as Fund reimbursement is provided.

In the event the NPS provides Land and Water Conservation Fund assistance for the acquisition and/or development of property subject to reversionary interests with full knowledge of those reversionary interests, conversion of said property to other than public outdoor recreation uses as a result of such reversionary interest being exercised is approved. In receipt of this approval, the State agrees to notify the Service of the conversion as soon as possible and to seek approval of replacement property in accord with the conditions set forth in these provisions. The State further agrees to effectuate such replacement within a reasonable period of time, acceptable to the Service, after the conversion of property takes place. The provisions of this paragraph are also applicable to: leased properties acquired and/or developed with Fund assistance where such lease is terminated prior to its full term due to the existence of provisions in such lease known and agreed to by the Service; and properties subject to other outstanding rights and interests that may result in a conversion when known and agreed to by the Service.

- C. The State agrees that the benefit to be derived by the United States from the full compliance by the State with the terms of this agreement is the preservation, protection, and the net increase in the quality of public outdoor recreation facilities and resources which are available to the people of the State and of the United States, and such benefit exceeds to an immeasurable and unascertainable extent the amount of money furnished by the United States by way of assistance under the terms of this agreement. The State agrees that payment by the State to the United States of an amount equal to the amount of assistance extended under this agreement by the United States would be inadequate compensation to the United States for any breach by the State of this agreement. The State further agrees, therefore, that the appropriate remedy in the event of a breach by the State of this agreement shall be the specific performance of this agreement.
- D. The State agrees to comply with the policies and procedures set forth in the Land and Water Conservation Fund Manual. Provisions of said Manual are incorporated into and made a part of the project agreement.
- E. The State agrees that the property and facilities described in the project agreement shall be operated and maintained as prescribed by Manual requirements.
- F. The State agrees that a permanent record shall be kept in the participant's public property records and available for public inspection to the effect that the property described in the scope of the project agreement, and the signed and dated project boundary map made part of that agreement, has been acquired or developed with Land and Water Conservation Fund assistance and that it cannot be converted to other than public outdoor recreation use without the written approval of the Secretary of the Interior.
- G. Nondiscrimination
  - 1. By signing the LWCF agreement, the State certifies that it will comply with all Federal laws relating to nondiscrimination as outlined in the Civil Rights Assurance appearing at Part III-I herein.
  - 2. The State shall not discriminate against any person on the basis of residence, except to the extent that reasonable differences in admission or other fees may be maintained on the basis of residence as set forth in the Manual.

### Part III - Project Assurances

#### A. Applicable Federal Circulars

The State shall comply with applicable regulations, policies, guidelines and requirements including OMB Circular A-102 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments), 43 CFR Part 12 (Administrative and Audit Requirements and Cost Principles for Assistance Programs, Department of the Interior), A-87 (Cost Principles for State and Local Governments), and A-133 (Audits of State and Local Government) as they relate to the application, acceptance and use of Federal funds for this federally assisted project.

#### B. Project Application

1. The Application for Federal Assistance bearing the same project number as the agreement and associated documents is by this reference made a part of the agreement.
2. The State possesses legal authority to apply for the grant, and to finance and construct the proposed facilities. A resolution, motion or similar action has been duly adopted or passed authorizing the filing of the application, including all understandings and assurances contained herein, and directing and authorizing the person identified as the official representative of the State to act in connection with the application and to provide such additional information as may be required.
3. The State has the ability and intention to finance the non-Federal share of the costs for the project. Sufficient funds will be available to assure effective operation and maintenance of the facilities acquired or developed by the project.

#### C. Project Execution

1. The project period shall begin with the date of approval of the project agreement or the effective date of a waiver of retroactivity and shall terminate at the end of the stated or amended project period unless the project is completed or terminated sooner in which event the project shall end on the date of completion or termination. For project elements added to a consolidated grant, the project period will begin on the date the project element is approved.
2. The State shall transfer to the project sponsor identified in the Application for Federal Assistance or the Description and Notification Form all funds granted hereunder except those reimbursed to the State to cover administrative expenses.
3. The State will cause work on the project to be commenced within a reasonable time after receipt of notification that funds have been approved and assure that the project will be prosecuted to completion with reasonable diligence.
4. The State will require the facility to be designed to comply with the Architectural Barriers Act of 1968 (Public Law 90-480) and DOI Section 504 Regulations (43 CFR Part 17). The State will be responsible for conducting inspections to insure compliance with these specifications by the contractor.
5. The State shall secure completion of the work in accordance with approved construction plans and specifications, and shall secure compliance with all applicable Federal, State, and local laws and regulations.
6. In the event the project covered by the project agreement, including future stages of the project, cannot be completed in accordance with the plans and specifications for the project; the State shall bring the project to a point of recreational usefulness agreed upon by the State and the Director or his designee.
7. The State will provide for and maintain competent and adequate architectural/engineering supervision and inspection at the construction site to insure that the completed work conforms with the approved

- plans and specifications; that it will furnish progress reports and such other information as the NPS may require.
8. The State will comply with the terms of Title II and Title III, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646), 94 Stat. 1894 (1970), and the applicable regulations and procedures implementing such Act for all real property acquisitions and where applicable shall assure that the Act has been complied with for property to be developed with assistance under the project agreement.
  9. The State will comply with the provisions of: Executive Order 11988, relating to evaluation of flood hazards; Executive Order 11288, relating to the prevention, control, and abatement of water pollution, and Executive Order 11990 relating to the protection of wetlands.
  10. The State will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, Public Law 93-234, 87 Stat. 975, approved December 31, 1976. Section 102(a) requires the purchase of flood insurance in communities where such insurance is available, as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes, for use in any area that has been identified as an area having special flood hazards by the Flood Insurance Administration of the Federal Emergency Management Agency. The phrase "Federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance.
  11. The State will insure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of the project are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities, pursuant to 40 CFR, Part 15.20 and that it will notify the NPS of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be utilized in the project is under consideration for listing by the EPA. The State agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970. The State further agrees to insert this clause into any contract or subcontract in excess of \$100,000.
  12. The State will assist the NPS in its compliance with Section 106 of the National Historic Preservation Act of 1966 as amended (16 U.S.C. 470), Executive Order 11593, and the Archaeological and Historic Preservation Act of 1966 (16 U.S.C. 469a-1 et seq.) by (a) consulting with the State Historic Preservation Officer on the conduct of investigations, as necessary, to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to effects (see CFR Part 800.8) by the activity, and notifying the Federal grantor agency of the existence of any such properties, and by (b) complying with all requirements established by the Federal grantor agency to avoid or mitigate adverse effects upon such properties.
  13. The State will comply with Executive Order 12432, "Minority Business Enterprise Development as follows:
    - (1) Place minority business firms on bidder's mailing lists.
    - (2) Solicit these firms whenever they are potential sources of supplies, equipment, construction, or services.
    - (3) Where feasible, divide total requirements into smaller needs, and set delivery schedules that will encourage participation by these firms.
    - (4) For any project involving \$500,000 or more in grant assistance (except for projects involving acquisition only) the State or recipient shall submit, prior to the commencement of construction and every fiscal year quarter thereafter until project completion, reports documenting the efforts to hire minority business firms. These reports, SF 334, will be submitted one month following the end of each fiscal quarter (i.e., January 31, April 30, July 31, and October 31) to the appropriate National Park Service Regional Office.

- (5) The Department of the Interior is committed to the objectives of this policy and encourages all recipients of its grants and cooperative agreements to take affirmative steps to ensure such fairness.

The National Park Service Regional Offices will work closely with the States to ensure full compliance and that grant recipients take affirmative action in placing a fair share of purchases with minority business firms.

14. The State will comply with the intergovernmental review requirements of Executive Order 12372.

**D. Construction Contracted for by the State Shall Meet the Following Requirements:**

1. Contracts for construction shall comply with the provisions of 43 CFR Part 12 (Administrative and Audit Requirements and Cost Principles for Assistance Programs, Department of the Interior).
2. No grant or contract may be awarded by any grantee, subgrantee or contractor of any grantee or subgrantee to any party which has been debarred or suspended under Executive Order 12549. By signing the LWCF agreement, the State certifies that it will comply with debarment and suspension provisions appearing at Part III-J herein.
3. In accordance with the "Stevens Amendment" (to Section 623 of the Treasury, Postal Service and General Government Appropriations Act), for procurement of goods and services (including construction services) having an aggregate value of \$500,000 or more, the amount and percentage (of total costs) of federal funds involved must be specified in any announcement of the awarding of a contract.

**E. Retention and Custodial Requirements for Records**

1. Financial records, supporting documents, statistical records, and all other records pertinent to this grant shall be retained in accordance with 43 CFR Part 12 for a period of three years; except the records shall be retained beyond the three-year period if audit findings have not been resolved.
2. The retention period starts from the date of the final expenditure report for the project or the consolidated project element.
3. State and local governments are authorized to substitute microfilm copies in lieu of original records.
4. The Secretary of the Interior and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the State and local governments and their subgrantees which are pertinent to a specific project for the purpose of making audit, examination, excerpts and transcripts.

**F. Project Termination**

1. The Director may temporarily suspend Federal assistance under the project pending corrective action by the State or pending a decision to terminate the grant by the Service.
2. The State may unilaterally terminate the project or consolidated project element at any time prior to the first payment on the project or consolidated project element. After the initial payment, the project may be terminated, modified, or amended by the State only by mutual agreement.
3. The Director may terminate the project in whole, or in part, at any time before the date of completion, whenever it is determined that the grantee has failed to comply with the conditions of the grant. The Director will promptly notify the State in writing of the determination and the reasons for the termination, together with the effective date. Payments made to States or recoveries by the Service under projects terminated for cause shall be in accord with the legal rights and liabilities of the parties.

4. The Director or State may terminate grants in whole, or in part at any time before the date of completion, 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 grantee shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The NPS may allow full credit to the State for the Federal share of the noncancelable obligations, properly incurred by the grantee prior to termination.
5. Termination either for cause or for convenience requires that the project in question be brought to a state of recreational usefulness agreed upon by the State and the Director or that all funds provided by the National Park Service be returned.

**G. Lobbying with Appropriated Funds**

The State must certify, for the award of grants exceeding \$100,000 in Federal assistance, that no Federally appropriated funds have been paid or will be paid, by or on behalf of the State, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding, extension, continuation, renewal, amendment, or modification of this grant. In compliance with Section 1352, title 31, U.S. Code, the State certifies, as follows:

*The undersigned certifies, to the best of his or her knowledge and belief, that:*

*(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.*

*(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.*

*(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify accordingly.*

*This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.*

**H. Provision of a Drug-Free Workplace**

In compliance with the Drug-Free Workplace Act of 1988 (43 CFR Part 12, Subpart D), the State certifies, as follows:

*The grantee certifies that it will or continue to provide a drug-free workplace by:*

*(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;*

*(b) Establishing an ongoing drug-free awareness program to inform employees about:*

- (1) *The dangers of drug abuse in the workplace;*
- (2) *The grantee's policy of maintaining a drug-free workplace;*
- (3) *Any available drug counseling, rehabilitation, and employee assistance programs; and*
- (4) *The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;*

(c) *Making it a requirement that each employee to be engaged in the performance of a grant be given a copy of the statement required by paragraph (a);*

(d) *Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:*

- (1) *Abide by the terms of the statement; and*
- (2) *Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;*

(e) *Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;*

(f) *Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted;*

- (1) *Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or*
- (2) *Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;*

(g) *Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).*

The State must include with its application for assistance a specification of the site(s) for the performance of work to be done in connection with the grant.

#### **I. Civil Rights Assurance**

*The State certifies that, as a condition to receiving any Federal assistance from the Department of the Interior, it will comply with all Federal laws relating to nondiscrimination. These laws include, but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-1), which prohibits discrimination on the basis of race, color, or national origin; (b) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), which prohibits discrimination on the basis of handicap; (c) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et. seq.), which prohibits discrimination on the basis of age; and applicable regulatory requirements to the end that no person in the United States shall, on the grounds of race, color, national origin, handicap or age, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity conducted by the applicant. THE APPLICANT HEREBY GIVES ASSURANCE THAT it will immediately take any measures necessary to effectuate this agreement.*

*THIS ASSURANCE shall apply to all aspects of the applicant's operations including those parts that have not received or benefited from Federal financial assistance.*

*If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Applicant by the Department, this assurance shall obligate the Applicant, or in the case of any transfer of such property, any transferee, for the period during which it retains ownership or possession of the property. In all other*



cases, this assurance shall obligate the Applicant for the period during which the Federal financial assistance is extended to it by the Department.

*THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Applicant by the Department, including installment payments after such date on account of applications for Federal financial assistance which were approved before such date.*

*The Applicant recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this assurance, and that the United State shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Applicant, its successors, transferees, assignees, and subrecipients and the person whose signature appears on the grant agreement and who is authorized to sign on behalf of the Applicant.*

**J. Debarment and Suspension**

***Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions***

*(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:*

*(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;*

*(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission or embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statement, or receiving stolen property;*

*(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and*

*(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.*

*(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.*

The State further agrees that it will include the clause "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions" appearing below in any agreement entered into with lower tier participants in the implementation of this grant. Department of Interior Form 1954 (DI-1954) may be used for this purpose.

***Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions***

*(1) The prospective lower tier participant certifies, by submission of this application that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.*

*(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this application.*

## Equal Opportunity Through Title VI

### SUMMARY OF RIGHTS GUARANTEED BY TITLE VI

The code of Federal Regulations, Title 43, Part 17, which effectuates the provisions of Title VI in the Department of the Interior's federally-assisted programs provides that:

"A recipient under any program to which this part applies may not, directly or through contractual or other arrangements, on the grounds of race, color, sex, or national origin, deny an individual any service, financial aid, or benefit provided under the program."

Additionally, the preceding paragraph is interpreted to provide further that, when Federal assistance is extended to any part within a system, the entire system - including those parts not receiving Federal assistance - is subject to the obligations and prohibitions imposed by Title VI of the 1964 Civil Rights Act and the provisions of the Code of Federal Regulations, Title 43, Part 17.

### PROHIBITED DISCRIMINATORY PRACTICES INCLUDE:

- Any difference in quality, quantity or the manner in which the benefit is provided.
- Segregation or separate treatment in any part of the program.
- Restriction in the enjoyment of any advantages, privileges or other benefits provided to others.
- Different standards or requirements for participation.
- Methods of administration which would defeat or substantially impair the accomplishment of the program objectives.
- Discrimination in any activity or program conducted in a facility built in whole or part with Federal funds.
- Discrimination in any employment resulting from a program established primarily to provide employment or in any employment in a program where employment tends to affect the service and benefit rendered.
- Restriction in the method and/or means used to advise persons of benefits and services provided to others.

### COMPLIANCE UNDER TITLE VI

Title VI regulations provide the necessary framework for protecting the rights guaranteed

to the recipients and to ultimate beneficiaries under federally assisted programs. Compliance will first be sought by affirmative and voluntary means whenever possible.

### COMPLIANCE REPORTS

Records and other information designed to show the extent of compliance with Title VI agreements must be maintained by recipients and reports sent to program administrators as requested. A recipient is also required to inform subrecipients, the ultimate beneficiaries' participants and other interested persons of the provisions of Title VI regulations and of their applicability to the Federal assistance program.

### REVIEWS

Pre-award, field, and follow-up reviews will be conducted by designated officials to ensure compliance by recipients of Federal assistance. Recipients who conduct subrecipient or transferee programs are responsible for ensuring that their subrecipients comply with the provisions of Title VI. Reports, publications, and other records may be reviewed in the course of these compliance reviews.

### COMPLAINTS

Any person(s) who believe discrimination because of race, color, sex, or national origin exists in a federally assisted program have the right to challenge such discrimination by making a complaint to the officials responsible for that program.

- Prompt investigations will be made of complaints received.
- If discrimination is found, negotiation and persuasion will first be used in an effort to eliminate the prohibited practices.
- Should these efforts fail, Federal assistance may be terminated or discontinued after a fair hearing.
- Other means authorized by law, including court action, may also be used to enforce nondiscrimination.

No recipient or other person may intimidate, threaten, coerce, or discriminate against any individual because he has made a complaint, testified or assisted in a Title VI investigation, proceeding or hearing. Program officials must notify Interior's Office for Equal Opportunity or the Interior bureau or office, which provides Federal assistance within five days upon receipt of a complaint.

## AFFIRMATIVE MEASURES

The following, although not all-inclusive, are considered as basic affirmative measures necessary to bring recipients of Federal assistance and their operations into compliance with Title VI.

- Signed assurance of Title VI compliance (Applicants for Federal assistance should be aware of the provisions of the 1964 Civil Rights Laws and are required to ensure compliance prior to receiving Federal assistance.)
- Submittal of pre-award information when requested by the Federal office administering the Federal assistance.
- Minority and female representation on appointed planning, review and advisory boards and commissions. (Exclusion of minorities and women could be considered discriminatory. Inclusion guarantees a voice in the planning, acquisition, and development of projects and programs.)
- Equal emphasis of program administration and program distribution (recreational, cultural, etc.) and maintenance quality of facilities whether they are located in majority or in minority areas.
- Development and implementation of an affirmative action plan to remedy past and present deficiencies in the employment, training, and promotion potential of minorities and women.
- A system for reporting and processing alleged complaints of discrimination.
- Placement of equal opportunity statements on posters, brochures, and other informational material inviting all persons regardless of race, color, sex, or national origin to use programs and facilities.
- Use of pictures of minorities and women, and integrated use of facilities, in brochures, pamphlets, and other informational materials. (Exclusion could be considered discriminatory and inclusion provides tangible evidence that all are welcome and encouraged to use programs and facilities, which receive Federal assistance.)
- Printed information about programs, sites, and facilities in non-English languages where there are appreciable numbers of people who do not speak or read English.
- Equal compensation and assistance for those displaced in the course of a land acquisition program whether they be majority or minority landowners.

Several practical steps should be considered as a means of implementing the above mentioned affirmative measures. Racial/ethnic and sex data should be collected by the recipient to determine, if in fact, all persons are benefiting from the federally assisted program. Identification of persons by different races should be done on a visual basis only. Programs and employment opportunities should be advertised and made available to minority groups and women. Summer employment programs should be conducted in cooperation with colleges, which have a relatively large percentage of minorities (persons of color) and women. Consideration should be given to minority and female enterprise as a means of distributing the benefit of a federally assisted program. Programs of an historical nature should take into consideration contributions made by minority groups and women.

## General Compliance

All projects must comply with the applicable Federal statutes, regulatory requirements and policies including but not limited to:

- The National Environmental Policy Act of 1969, as amended (P.L. 91-190, 42 U.S.C. 4321 et. Seq.).
- The Clean Air Act, as amended (42 U.S.C. 7609).
- The Clean Water Act (33 U.S.C. Secs.1288, 1314, 1341, 1342, 1344, Executive Order 11988, Floodplain Management).
- Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977).
- Executive Order 11288, concerning prevention, control and abatement of water pollution.
- The Flood Disaster protection Act of 1973 (12 U.S.C. Sec.24, 1701-1 Supp.) (42 U.S.C. Sec 4001 et. Seq.).
- Executive Order 11988, Floodplain Management.
- Executive Order 11296, Evaluation of Flood Hazard in Locating Federally Owned or Financed Buildings, Roads, and other Facilities and in Disposing of Federal Lands and Properties.
- Federal Act for Protection and Restoration of Estuarine Areas (P.L. 90-454).
- Wild and Scenic Rivers Act of 1968 (P.L. 90-542) (16. U.S.C. 1274 et. Seq.).
- Coastal Zone Management Act of 1972 (P.L. 92-583) (16 U.S.C. Sec 1451, 1456).
- The Rivers and Harbor Act of 1899 (33 U.S.C. Sec. 401 et. Seq.).
- Executive Order 11990, Protection of Wetlands.
- The Fish and Wildlife Coordination Act (16 U.S.C. Sec. 661, 662).
- The Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et. Seq.).
- The Antiquities Act of 1906 (16 U.S.C. Sec. 431).
- The Archeological and Historic Preservation Act of 1974, as amended (P.L. 93-291, 16 U.S.C. Sec 469 a-1).
- The National Historic Preservation Act of 1966, as amended (P.L. 88-655, 16 U.S.C. Sec 470 et. seq.).

- Executive Order 11593, Protection and Enhancement of the Cultural Environment.
- Federal-Highway Act of 1973 (P.L. 93-87).
- Architectural Barriers Act of 1968 (P.L. 90-480).
- Section 504, The Rehabilitation Act of 1973, as amended, (P.L. 93-112).
- Uniform Relocation Assistance and Real Property Acquisitions Policy Act of 1970 (P.L. 94-646).
- Title VI of the Civil Rights Act of 1964, PL 88-352, 42 U.S.C. Secs. 2000d to 2000d-4).
- Executive Order 11246, Equal Employment Opportunity.
- Office of Management and Budget Circular A-102. Provides uniform administrative requirements for grants-in-aid to State and local governments.
- Office of Management and Budget Circular A-87. Identifies cost principles applicable to grants and contracts with State and local governments as they relate to the application, acceptance and use of Federal funds.
- Power Plant and Industrial Fuel Use Act of 1978 (P.L. 95-620)
- Executive Order 12185, Conservation of Petroleum and Natural Gas.
- Executive Order 12372, Intergovernmental Review of Federal Programs.
- Office of Management and Budget Circular A-133. Implements the Single Audit Act of 1984 (P.L. 98-502).
- Executive Order 12432, Minority Business Enterprise Development.
- Emergency Wetlands Resources Act of 1986 (P.L. 99-645).
- Land and Water Conservation Fund Program of Assistance to States; Post-Completion Compliance Responsibilities (36 CFR Part 59).
- Nonprocurement Debarment and Suspension (43 CFR 12.100-.510).
- Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) and implementing regulations (29 CFR 5).
- Restrictions on Lobbying with Appropriated Funds (P.L. 101-121 Sec 319) (31 U.S.C. Sec. 1352).
- The Drug-Free Workplace Act of 1988 (P.L. 100-690) (41 U.S.C. 701 et. Seq.).
- Other applicable statutes, executive orders and regulations as may be promulgated from time to time.

## Procurement Standards

1. Project Performance by Contract. Projects or portions thereof may be undertaken through contracts in accord with the procurement standards and guidelines set forth in Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, [43 CFR Part 12.1 - .52](#). This includes the procurement of supplies, equipment, construction and services.
2. Procurement Standards.
  - a. Procedures. Grantees and sub-grantees **will use their own procedures** which reflect applicable State and local laws provided that the procurements conform to the requirements of [43 CFR Part 12.1 - .52](#). **If the grantee does not have their own procurement policy, then they shall follow the State's procurement policies.**
    - (1) Contracting With Small and Minority Firms, Women's Business Enterprise and Labor Surplus Area Firms.
      - a. Affirmative steps must be taken by the project sponsor to assure that small and minority businesses and women's business enterprises are utilized when possible. Affirmative steps shall include:
        - i. Including qualified small and minority businesses on solicitation lists.
        - ii. Assuring that small and minority businesses are solicited whenever they are potential sources.
        - iii. When economically feasible dividing total requirements into smaller tasks or quantities so as to permit maximum small and minority business participation.
        - iv. Where the requirement permits, establishing delivery schedules which will encourage participation by small and minority business.
        - v. Using the services and of the Small Business Administration, the Office of Minority Business Enterprise of the Department of Commerce and the Community Services Administration as required.
        - vi. If any subcontracts are to be let, requiring the prime contractor to take the affirmative steps in paragraph [1] through [5] above.
    - (2) Project sponsors are encouraged to procure goods and services from labor surplus areas.
    - (3) Contract Provisions. The contract provisions referenced as stated, except that the provisions of [43 CFR Part 12.36\(i\)\(5\)](#), concerning the Davis-Bacon Act do not apply to the LWCF program.



## Post-Completion Responsibilities

### A. Operation and Maintenance.

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

1. The property shall be maintained so as to appear attractive and inviting to the public.
2. Sanitation and sanitary facilities shall be maintained in accordance with applicable health standards.
3. Properties shall be kept reasonably safe for public use. Fire prevention, lifeguard, and similar activities shall be maintained for proper public safety.
4. 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.
5. 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.

### B. Availability to Users.

1. Discrimination on the Basis of Race, Color, National Origin, Religion, or Sex. Under 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, or national origin, who are otherwise eligible. The Code of Federal Regulations, Title 43, 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 State agency or local agency receiving the assistance. Discrimination is also prohibited on the basis of religion or sex.
2. Discrimination on the Basis of Residence. Section 6(f)(8) of the LWCF Act provides that, with respect to property acquired 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.

Fees charged to nonresidents cannot exceed twice that 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.

These provisions apply only to the recreation areas described in the project agreement. Nonresident fishing and hunting license fees are excluded from these requirements.

3. Discrimination on the Basis of Handicap. [Section 504 of the Rehabilitation Act of 1973](#) requires that no qualified person shall on the basis of handicap, be excluded from participation in, be denied benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance. [The Americans with Disabilities Act of 1990](#) (P.L. 100-336) simply references and reinforces these requirements for Federally-assisted programs.
4. Reasonable Use Limitations. Project sponsors may impose reasonable limits on the type and extent of use of areas and facilities acquired or developed with Fund assistance when such a limitation is necessary for maintenance or preservation. Thus, limitations may be imposed on the numbers of person using an area or facility or the type of users, such as "hunters only" or "hikers only." All limitations shall be in accord with the applicable grant agreement and amendments.

**Circular No. A-133**  
**Revised to show changes published in the**  
***Federal Register* June 27, 2003 and June 26, 2007**

**Audits of States, Local Governments, and Non-Profit Organizations**

Accompanying *Federal Register* Materials:

-- Audits of States, Local Governments, and Non-Profit Organizations June 30, 1997

-- Revision published June 27, 2003

This revision: (1) increased the dollar threshold for the audit requirement; and (2) made changes regarding determination of cognizant and oversight agencies for audit.

-- Revision published June 26, 2007

This revision: (1) replaced the term "reportable conditions" with "significant deficiencies" to conform with current auditing standards; and (2) updated report submission requirements. Definition of "significant deficiencies" and "material weaknesses" are as defined in generally accepted auditing standards issued by the American Institute of Certified Public Accountants (AICPA) and *Government Auditing Standards* issued by the Government Accountability Office.

[Note: The June 27, 2003 revisions: (1) increased the dollar threshold for the audit requirement, and (2) made changes regarding determination of cognizant and oversight agencies for audit. The June 26, 2007 revisions make changes to (1) to replace the terms "reportable conditions" with "significant deficiencies" to conform with changes in auditing standards; and (2) reporting submission requirements.

In several places, the Circular includes guidelines for the reporting of "significant deficiencies" and "material weaknesses." These terms are to be used as defined in generally accepted auditing standards issued by the American Institute of Certified Public Accountants (AICPA), and *Government Auditing Standards* issued by the Government Accountability Office.]

Circular No. A-133

Revised to show changes published in the Federal Registers  
of June 27, 2003 and June 26, 2007

Audits of States, Local Governments, and Non-Profit Organizations

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Audits of States, Local Governments, and Non-Profit Organizations

1. Purpose. This Circular is issued pursuant to the Single Audit Act of 1984, P.L. 98-502, and the Single Audit Act Amendments of 1996, P.L. 104-156. It sets forth standards for obtaining consistency and uniformity among Federal agencies for the audit of States, local governments, and non-profit organizations expending Federal awards.

2. Authority. Circular A-133 is issued under the authority of sections 503, 1111, and 7501 et seq. of title 31, United States Code, and Executive Orders 8248 and 11541.

3. Rescission and Supersession. This Circular rescinds Circular A-128, "Audits of State and Local Governments," issued April 12, 1985, and supersedes the prior Circular A-133, "Audits of Institutions of Higher Education and Other Non-Profit Institutions," issued April 22, 1996. For effective dates, see paragraph 10.

4. Policy. Except as provided herein, the standards set forth in this Circular shall be applied by all Federal agencies. If any statute specifically prescribes policies or specific requirements that differ from the standards provided herein, the provisions of the subsequent statute shall govern.

Federal agencies shall apply the provisions of the sections of this Circular to non-Federal entities, whether they are recipients expending Federal awards received directly from Federal awarding agencies, or are subrecipients expending Federal awards received from a pass-through entity (a recipient or another subrecipient).

This Circular does not apply to non-U.S. based entities expending Federal awards received either directly as a recipient or indirectly as a subrecipient.

5. Definitions. The definitions of key terms used in this Circular are contained in § .105 in the Attachment to this Circular.

6. Required Action. The specific requirements and responsibilities of Federal agencies and non-Federal entities are set forth in the Attachment to this Circular. Federal agencies making awards to non-Federal entities, either directly or indirectly, shall adopt the language in the Circular in codified regulations as provided in Section 10 (below), unless different provisions are required by Federal statute or are approved by the Office of Management and Budget (OMB).

7. OMB Responsibilities. OMB will review Federal agency regulations and implementation of this Circular, and will provide interpretations of policy requirements and assistance to ensure uniform, effective and efficient implementation.

8. Information Contact. Further information concerning Circular A-133 may be obtained by contacting the Financial Standards and Reporting Branch, Office of Federal Financial Management, Office of Management and Budget, Washington, DC 20503, telephone (202) 395-3993.

9. Review Date. This Circular will have a policy review three years from the date of issuance.

10. Effective Dates. The standards set forth in §\_\_.400 of the Attachment to this Circular, which apply directly to Federal agencies, shall be effective July 1, 1996, and shall apply to audits of fiscal years beginning after June 30, 1996, except as otherwise specified in §\_\_.400(a).

The standards set forth in this Circular that Federal agencies shall apply to non-Federal entities shall be adopted by Federal agencies in codified regulations not later than 60 days after publication of this final revision in the *Federal Register*, so that they will apply to audits of fiscal years beginning after June 30, 1996, with the exception that §\_\_.305(b) of the Attachment applies to audits of fiscal years beginning after June 30, 1998. The requirements of Circular A-128, although the Circular is rescinded, and the 1990 version of Circular A-133 remain in effect for audits of fiscal years beginning on or before June 30, 1996.

The revisions published in the *Federal Register* June 27, 2003, are effective for fiscal years ending after December 31, 2003, and early implementation is not permitted with the exception of the definition of *oversight agency for audit* which is effective July 28, 2003.

Augustine T. Smythe  
Acting Director

The revisions published in the *Federal Register* June 26, 2007, are effective for fiscal years ending on or after December 15, 2006.

Rob Portman  
Director

Attachment

PART\_\_ --AUDITS OF STATES, LOCAL GOVERNMENTS, AND NON-PROFIT ORGANIZATIONS

Subpart A--General  
Sec.

- \_\_\_ .100 Purpose.
- \_\_\_ .105 Definitions.

Subpart B--Audits

- \_\_\_ .200 Audit requirements.
- \_\_\_ .205 Basis for determining Federal awards expended.
- \_\_\_ .210 Subrecipient and vendor determinations.
- \_\_\_ .215 Relation to other audit requirements.
- \_\_\_ .220 Frequency of audits.
- \_\_\_ .225 Sanctions.
- \_\_\_ .230 Audit costs.
- \_\_\_ .235 Program-specific audits.

Subpart C--Auditees

- \_\_\_ .300 Auditee responsibilities.
- \_\_\_ .305 Auditor selection.
- \_\_\_ .310 Financial statements.
- \_\_\_ .315 Audit findings follow-up.
- \_\_\_ .320 Report submission.

Subpart D--Federal Agencies and Pass-Through Entities

- \_\_\_ .400 Responsibilities.
- \_\_\_ .405 Management decision.

Subpart E--Auditors

- \_\_\_ .500 Scope of audit.
- \_\_\_ .505 Audit reporting.
- \_\_\_ .510 Audit findings.
- \_\_\_ .515 Audit working papers.
- \_\_\_ .520 Major program determination.
- \_\_\_ .525 Criteria for Federal program risk.
- \_\_\_ .530 Criteria for a low-risk auditee.

Appendix A to Part \_\_ - Data Collection Form (Form SF-SAC).

Appendix B to Part \_\_ - Circular A-133 Compliance Supplement.

Subpart A--General  
§ \_\_.100 Purpose.

This part sets forth standards for obtaining consistency and uniformity among Federal agencies for the audit of non-Federal entities expending Federal awards.

§ \_\_.105 Definitions.

Auditee means any non-Federal entity that expends Federal awards which must be audited under this part.

Auditor means an auditor, that is a public accountant or a Federal, State or local government audit organization, which meets the general standards specified in generally accepted government auditing standards (GAGAS). The term auditor does not include internal auditors of non-profit organizations.

Audit finding means deficiencies which the auditor is required by § \_\_.510(a) to report in the schedule of findings and questioned costs.

CFDA number means the number assigned to a Federal program in the Catalog of Federal Domestic Assistance (CFDA).

Cluster of programs means a grouping of closely related programs that share common compliance requirements. The types of clusters of programs are research and development (R&D), student financial aid (SFA), and other clusters. "Other clusters" are as defined by the Office of Management and Budget (OMB) in the compliance supplement or as designated by a State for Federal awards the State provides to its subrecipients that meet the definition of a cluster of programs. When designating an "other cluster," a State shall identify the Federal awards included in the cluster and advise the subrecipients of compliance requirements applicable to the cluster, consistent with § \_\_.400(d)(1) and § \_\_.400(d)(2), respectively. A cluster of programs shall be considered as one program for determining major programs, as described in § \_\_.520, and, with the exception of R&D as described in § \_\_.200(c), whether a program-specific audit may be elected.

Cognizant agency for audit means the Federal agency designated to carry out the responsibilities described in § \_\_.400(a).

Compliance supplement refers to the Circular A-133 Compliance Supplement, included as Appendix B to Circular A-133, or such documents as OMB or its designee may issue to replace it. This document is available from the Government Printing Office, Superintendent of Documents, Washington, DC 20402-9325.

Corrective action means action taken by the auditee that:

- (1) Corrects identified deficiencies;
- (2) Produces recommended improvements; or
- (3) Demonstrates that audit findings are either invalid or do not warrant auditee action.

Federal agency has the same meaning as the term agency in Section 551(1) of title 5, United States Code.

Federal award means Federal financial assistance and Federal cost-reimbursement contracts that non-Federal entities receive directly from Federal awarding agencies or indirectly from pass-through entities. It does

not include procurement contracts, under grants or contracts, used to buy goods or services from vendors. Any audits of such vendors shall be covered by the terms and conditions of the contract. Contracts to operate Federal Government owned, contractor operated facilities (GOCOs) are excluded from the requirements of this part.

Federal awarding agency means the Federal agency that provides an award directly to the recipient.

Federal financial assistance means assistance that non-Federal entities receive or administer in the form of grants, loans, loan guarantees, property (including donated surplus property), cooperative agreements, interest subsidies, insurance, food commodities, direct appropriations, and other assistance, but does not include amounts received as reimbursement for services rendered to individuals as described in § \_\_\_\_.205(h) and § \_\_\_\_.205(i).

Federal program means:

- (1) All Federal awards to a non-Federal entity assigned a single number in the CFDA.
- (2) When no CFDA number is assigned, all Federal awards from the same agency made for the same purpose should be combined and considered one program.
- (3) Notwithstanding paragraphs (1) and (2) of this definition, a cluster of programs. The types of clusters of programs are:
  - (i) Research and development (R&D);
  - (ii) Student financial aid (SFA); and
  - (iii) "Other clusters," as described in the definition of cluster of programs in this section.

GAGAS means generally accepted government auditing standards issued by the Comptroller General of the United States, which are applicable to financial audits.

Generally accepted accounting principles has the meaning specified in generally accepted auditing standards issued by the American Institute of Certified Public Accountants (AICPA).

Indian tribe means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation (as defined in, or established under, the Alaskan Native Claims Settlement Act) that is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Internal control means a process, effected by an entity's management and other personnel, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

- (1) Effectiveness and efficiency of operations;
- (2) Reliability of financial reporting; and
- (3) Compliance with applicable laws and regulations.

Internal control pertaining to the compliance requirements for Federal programs (Internal control over Federal programs) means a process--effected by

an entity's management and other personnel--designed to provide reasonable assurance regarding the achievement of the following objectives for Federal programs:

- (1) Transactions are properly recorded and accounted for to:
  - (i) Permit the preparation of reliable financial statements and Federal reports;
  - (ii) Maintain accountability over assets; and
  - (iii) Demonstrate compliance with laws, regulations, and other compliance requirements;
- (2) Transactions are executed in compliance with:
  - (i) Laws, regulations, and the provisions of contracts or grant agreements that could have a direct and material effect on a Federal program; and
  - (ii) Any other laws and regulations that are identified in the compliance supplement; and
- (3) Funds, property, and other assets are safeguarded against loss from unauthorized use or disposition.

Loan means a Federal loan or loan guarantee received or administered by a non-Federal entity.

Local government means any unit of local government within a State, including a county, borough, municipality, city, town, township, parish, local public authority, special district, school district, intrastate district, council of governments, and any other instrumentality of local government.

Major program means a Federal program determined by the auditor to be a major program in accordance with § \_\_.520 or a program identified as a major program by a Federal agency or pass-through entity in accordance with § \_\_.215(c).

Management decision means the evaluation by the Federal awarding agency or pass-through entity of the audit findings and corrective action plan and the issuance of a written decision as to what corrective action is necessary.

Non-Federal entity means a State, local government, or non-profit organization.

Non-profit organization means:

- (1) any corporation, trust, association, cooperative, or other organization that:
  - (i) Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;
  - (ii) Is not organized primarily for profit; and
  - (iii) Uses its net proceeds to maintain, improve, or expand its operations; and
- (2) The term non-profit organization includes non-profit institutions of higher education and hospitals.



OMB means the Executive Office of the President, Office of Management and Budget.

Oversight agency for audit means the Federal awarding agency that provides the predominant amount of direct funding to a recipient not assigned a cognizant agency for audit. When there is no direct funding, the Federal agency with the predominant indirect funding shall assume the oversight responsibilities. The duties of the oversight agency for audit are described in § \_\_\_.400(b).

*Effective July 28, 2003, the following is added to this definition:*  
A Federal agency with oversight for an auditee may reassign oversight to another Federal agency which provides substantial funding and agrees to be the oversight agency for audit. Within 30 days after any reassignment, both the old and the new oversight agency for audit shall notify the auditee, and, if known, the auditor of the reassignment."

Pass-through entity means a non-Federal entity that provides a Federal award to a subrecipient to carry out a Federal program.

Program-specific audit means an audit of one Federal program as provided for in § \_\_\_.200(c) and § \_\_\_.235.

Questioned cost means a cost that is questioned by the auditor because of an audit finding:

- (1) Which resulted from a violation or possible violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the use of Federal funds, including funds used to match Federal funds;
- (2) Where the costs, at the time of the audit, are not supported by adequate documentation; or
- (3) Where the costs incurred appear unreasonable and do not reflect the actions a prudent person would take in the circumstances.

Recipient means a non-Federal entity that expends Federal awards received directly from a Federal awarding agency to carry out a Federal program.

Research and development (R&D) means all research activities, both basic and applied, and all development activities that are performed by a non-Federal entity. Research is defined as a systematic study directed toward fuller scientific knowledge or understanding of the subject studied. The term research also includes activities involving the training of individuals in research techniques where such activities utilize the same facilities as other research and development activities and where such activities are not included in the instruction function. Development is the systematic use of knowledge and understanding gained from research directed toward the production of useful materials, devices, systems, or methods, including design and development of prototypes and processes.

Single audit means an audit which includes both the entity's financial statements and the Federal awards as described in § \_\_\_.500.

State means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the

Pacific Islands, any instrumentality thereof, any multi-State, regional, or interstate entity which has governmental functions, and any Indian tribe as defined in this section.

Student Financial Aid (SFA) includes those programs of general student assistance, such as those authorized by Title IV of the Higher Education Act of 1965, as amended, (20 U.S.C. 1070 *et seq.*) which is administered by the U.S. Department of Education, and similar programs provided by other Federal agencies. It does not include programs which provide fellowships or similar Federal awards to students on a competitive basis, or for specified studies or research.

Subrecipient means a non-Federal entity that expends Federal awards received from a pass-through entity to carry out a Federal program, but does not include an individual that is a beneficiary of such a program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency. Guidance on distinguishing between a subrecipient and a vendor is provided in § \_\_\_\_.210.

Types of compliance requirements refers to the types of compliance requirements listed in the compliance supplement. Examples include: activities allowed or unallowed; allowable costs/cost principles; cash management; eligibility; matching, level of effort, earmarking; and, reporting.

Vendor means a dealer, distributor, merchant, or other seller providing goods or services that are required for the conduct of a Federal program. These goods or services may be for an organization's own use or for the use of beneficiaries of the Federal program. Additional guidance on distinguishing between a subrecipient and a vendor is provided in § \_\_\_\_.210.

Subpart B--Audits  
§ \_\_\_\_.200 Audit requirements.

(a) Audit required. Non-Federal entities that expend \$300,000 (\$500,000 for fiscal years ending after December 31, 2003) or more in a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the provisions of this part. Guidance on determining Federal awards expended is provided in § \_\_\_\_.205.

(b) Single audit. Non-Federal entities that expend \$300,000 (\$500,000 for fiscal years ending after December 31, 2003) or more in a year in Federal awards shall have a single audit conducted in accordance with § \_\_\_\_.500 except when they elect to have a program-specific audit conducted in accordance with paragraph (c) of this section.

(c) Program-specific audit election. When an auditee expends Federal awards under only one Federal program (excluding R&D) and the Federal program's laws, regulations, or grant agreements do not require a financial statement audit of the auditee, the auditee may elect to have a program-specific audit conducted in accordance with § \_\_\_\_.235. A program-specific audit may not be elected for R&D unless all of the Federal awards expended were received from the same Federal agency, or the same Federal agency and the same pass-through entity, and that Federal agency, or pass-through entity in the case of a subrecipient, approves in advance a program-specific audit.

(d) Exemption when Federal awards expended are less than \$300,000 (\$500,000 for fiscal years ending after December 31, 2003). Non-Federal

entities that expend less than \$300,000 (\$500,000 for fiscal years ending after December 31, 2003) a year in Federal awards are exempt from Federal audit requirements for that year, except as noted in § .215(a), but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and General Accounting Office (GAO).

(e) Federally Funded Research and Development Centers (FFRDC). Management of an auditee that owns or operates a FFRDC may elect to treat the FFRDC as a separate entity for purposes of this part.

§ .205 Basis for determining Federal awards expended.

(a) Determining Federal awards expended. The determination of when an award is expended should be based on when the activity related to the award occurs. Generally, the activity pertains to events that require the non-Federal entity to comply with laws, regulations, and the provisions of contracts or grant agreements, such as: expenditure/expense transactions associated with grants, cost-reimbursement contracts, cooperative agreements, and direct appropriations; the disbursement of funds passed through to subrecipients; the use of loan proceeds under loan and loan guarantee programs; the receipt of property; the receipt of surplus property; the receipt or use of program income; the distribution or consumption of food commodities; the disbursement of amounts entitling the non-Federal entity to an interest subsidy; and, the period when insurance is in force.

(b) Loan and loan guarantees (loans). Since the Federal Government is at risk for loans until the debt is repaid, the following guidelines shall be used to calculate the value of Federal awards expended under loan programs, except as noted in paragraphs (c) and (d) of this section:

- (1) Value of new loans made or received during the fiscal year;  
plus
- (2) Balance of loans from previous years for which the Federal Government imposes continuing compliance requirements; plus
- (3) Any interest subsidy, cash, or administrative cost allowance received.

(c) Loan and loan guarantees (loans) at institutions of higher education. When loans are made to students of an institution of higher education but the institution does not make the loans, then only the value of loans made during the year shall be considered Federal awards expended in that year. The balance of loans for previous years is not included as Federal awards expended because the lender accounts for the prior balances.

(d) Prior loan and loan guarantees (loans). Loans, the proceeds of which were received and expended in prior-years, are not considered Federal awards expended under this part when the laws, regulations, and the provisions of contracts or grant agreements pertaining to such loans impose no continuing compliance requirements other than to repay the loans.

(e) Endowment funds. The cumulative balance of Federal awards for endowment funds which are federally restricted are considered awards expended in each year in which the funds are still restricted.

(f) Free rent. Free rent received by itself is not considered a Federal award expended under this part. However, free rent received as part

of an award to carry out a Federal program shall be included in determining Federal awards expended and subject to audit under this part.

(g) Valuing non-cash assistance. Federal non-cash assistance, such as free rent, food stamps, food commodities, donated property, or donated surplus property, shall be valued at fair market value at the time of receipt or the assessed value provided by the Federal agency.

(h) Medicare. Medicare payments to a non-Federal entity for providing patient care services to Medicare eligible individuals are not considered Federal awards expended under this part.

(i) Medicaid. Medicaid payments to a subrecipient for providing patient care services to Medicaid eligible individuals are not considered Federal awards expended under this part unless a State requires the funds to be treated as Federal awards expended because reimbursement is on a cost-reimbursement basis.

(j) Certain loans provided by the National Credit Union Administration. For purposes of this part, loans made from the National Credit Union Share Insurance Fund and the Central Liquidity Facility that are funded by contributions from insured institutions are not considered Federal awards expended.

§ \_\_.210 Subrecipient and vendor determinations.

(a) General. An auditee may be a recipient, a subrecipient, and a vendor. Federal awards expended as a recipient or a subrecipient would be subject to audit under this part. The payments received for goods or services provided as a vendor would not be considered Federal awards. The guidance in paragraphs (b) and (c) of this section should be considered in determining whether payments constitute a Federal award or a payment for goods and services.

(b) Federal award. Characteristics indicative of a Federal award received by a subrecipient are when the organization:

- (1) Determines who is eligible to receive what Federal financial assistance;
- (2) Has its performance measured against whether the objectives of the Federal program are met;
- (3) Has responsibility for programmatic decision making;
- (4) Has responsibility for adherence to applicable Federal program compliance requirements; and
- (5) Uses the Federal funds to carry out a program of the organization as compared to providing goods or services for a program of the pass-through entity.

(c) Payment for goods and services. Characteristics indicative of a payment for goods and services received by a vendor are when the organization:

- (1) Provides the goods and services within normal business operations;

- (2) Provides similar goods or services to many different purchasers;
- (3) Operates in a competitive environment;
- (4) Provides goods or services that are ancillary to the operation of the Federal program; and
- (5) Is not subject to compliance requirements of the Federal program.

(d) Use of judgment in making determination. There may be unusual circumstances or exceptions to the listed characteristics. In making the determination of whether a subrecipient or vendor relationship exists, the substance of the relationship is more important than the form of the agreement. It is not expected that all of the characteristics will be present and judgment should be used in determining whether an entity is a subrecipient or vendor.

(e) For-profit subrecipient. Since this part does not apply to for-profit subrecipients, the pass-through entity is responsible for establishing requirements, as necessary, to ensure compliance by for-profit subrecipients. The contract with the for-profit subrecipient should describe applicable compliance requirements and the for-profit subrecipient's compliance responsibility. Methods to ensure compliance for Federal awards made to for-profit subrecipients may include pre-award audits, monitoring during the contract, and post-award audits.

(f) Compliance responsibility for vendors. In most cases, the auditee's compliance responsibility for vendors is only to ensure that the procurement, receipt, and payment for goods and services comply with laws, regulations, and the provisions of contracts or grant agreements. Program compliance requirements normally do not pass through to vendors. However, the auditee is responsible for ensuring compliance for vendor transactions which are structured such that the vendor is responsible for program compliance or the vendor's records must be reviewed to determine program compliance. Also, when these vendor transactions relate to a major program, the scope of the audit shall include determining whether these transactions are in compliance with laws, regulations, and the provisions of contracts or grant agreements.

§ .215 Relation to other audit requirements.

(a) Audit under this part in lieu of other audits. An audit made in accordance with this part shall be in lieu of any financial audit required under individual Federal awards. To the extent this audit meets a Federal agency's needs, it shall rely upon and use such audits. The provisions of this part neither limit the authority of Federal agencies, including their Inspectors General, or GAO to conduct or arrange for additional audits (e.g., financial audits, performance audits, evaluations, inspections, or reviews) nor authorize any auditee to constrain Federal agencies from carrying out additional audits. Any additional audits shall be planned and performed in such a way as to build upon work performed by other auditors.

(b) Federal agency to pay for additional audits. A Federal agency that conducts or contracts for additional audits shall, consistent with other applicable laws and regulations, arrange for funding the full cost of such additional audits.

(c) Request for a program to be audited as a major program. A Federal agency may request an auditee to have a particular Federal program audited as a major program in lieu of the Federal agency conducting or arranging for the additional audits. To allow for planning, such requests should be made at least 180 days prior to the end of the fiscal year to be audited. The auditee, after consultation with its auditor, should promptly respond to such request by informing the Federal agency whether the program would otherwise be audited as a major program using the risk-based audit approach described in § \_\_.520 and, if not, the estimated incremental cost. The Federal agency shall then promptly confirm to the auditee whether it wants the program audited as a major program. If the program is to be audited as a major program based upon this Federal agency request, and the Federal agency agrees to pay the full incremental costs, then the auditee shall have the program audited as a major program. A pass-through entity may use the provisions of this paragraph for a subrecipient.

§ \_\_.220 Frequency of audits.

Except for the provisions for biennial audits provided in paragraphs (a) and (b) of this section, audits required by this part shall be performed annually. Any biennial audit shall cover both years within the biennial period.

(a) A State or local government that is required by constitution or statute, in effect on January 1, 1987, to undergo its audits less frequently than annually, is permitted to undergo its audits pursuant to this part biennially. This requirement must still be in effect for the biennial period under audit.

(b) Any non-profit organization that had biennial audits for all biennial periods ending between July 1, 1992, and January 1, 1995, is permitted to undergo its audits pursuant to this part biennially.

§ \_\_.225 Sanctions.

No audit costs may be charged to Federal awards when audits required by this part have not been made or have been made but not in accordance with this part. In cases of continued inability or unwillingness to have an audit conducted in accordance with this part, Federal agencies and pass-through entities shall take appropriate action using sanctions such as:

(a) Withholding a percentage of Federal awards until the audit is completed satisfactorily;

(b) Withholding or disallowing overhead costs;

(c) Suspending Federal awards until the audit is conducted; or

(d) Terminating the Federal award.

§ \_\_.230 Audit costs.

(a) Allowable costs. Unless prohibited by law, the cost of audits made in accordance with the provisions of this part are allowable charges to Federal awards. The charges may be considered a direct cost or an allocated indirect cost, as determined in accordance with the provisions of applicable OMB cost principles circulars, the Federal Acquisition Regulation (FAR) (48 CFR parts 30 and 31), or other applicable cost principles or regulations.

(b) Unallowable costs. A non-Federal entity shall not charge the following to a Federal award:

(1) The cost of any audit under the Single Audit Act Amendments of 1996 (31 U.S.C. 7501 et seq.) not conducted in accordance with this part.

(2) The cost of auditing a non-Federal entity which has Federal awards expended of less than \$300,000 (\$500,000 for fiscal years ending after December 31, 2003) per year and is thereby exempted under § .200(d) from having an audit conducted under this part. However, this does not prohibit a pass-through entity from charging Federal awards for the cost of limited scope audits to monitor its subrecipients in accordance with § .400(d)(3), provided the subrecipient does not have a single audit. For purposes of this part, limited scope audits only include agreed-upon procedures engagements conducted in accordance with either the AICPA's generally accepted auditing standards or attestation standards, that are paid for and arranged by a pass-through entity and address only one or more of the following types of compliance requirements: activities allowed or unallowed; allowable costs/cost principles; eligibility; matching, level of effort, earmarking; and, reporting.

§ .235 Program-specific audits.

(a) Program-specific audit guide available. In many cases, a program-specific audit guide will be available to provide specific guidance to the auditor with respect to internal control, compliance requirements, suggested audit procedures, and audit reporting requirements. The auditor should contact the Office of Inspector General of the Federal agency to determine whether such a guide is available. When a current program-specific audit guide is available, the auditor shall follow GAGAS and the guide when performing a program-specific audit.

(b) Program-specific audit guide not available. (1) When a program-specific audit guide is not available, the auditee and auditor shall have basically the same responsibilities for the Federal program as they would have for an audit of a major program in a single audit.

(2) The auditee shall prepare the financial statement(s) for the Federal program that includes, at a minimum, a schedule of expenditures of Federal awards for the program and notes that describe the significant accounting policies used in preparing the schedule, a summary schedule of prior audit findings consistent with the requirements of § .315(b), and a corrective action plan consistent with the requirements of § .315(c).

(3) The auditor shall:

(i) Perform an audit of the financial statement(s) for the Federal program in accordance with GAGAS;

(ii) Obtain an understanding of internal control and perform tests of internal control over the Federal program consistent with the requirements of § .500(c) for a major program;

(iii) Perform procedures to determine whether the auditee has complied with laws, regulations, and the provisions of contracts or grant agreements that could have a direct and material effect on the Federal program consistent with the requirements of § .500(d) for a major program; and

(iv) Follow up on prior audit findings, perform procedures to assess the reasonableness of the summary schedule of prior audit findings prepared by the auditee, and report, as a current year audit finding, when the auditor concludes that the summary schedule of prior audit findings materially misrepresents the status of any prior audit finding in accordance with the requirements of § \_\_.500(e).

(4) The auditor's report(s) may be in the form of either combined or separate reports and may be organized differently from the manner presented in this section. The auditor's report(s) shall state that the audit was conducted in accordance with this part and include the following:

(i) An opinion (or disclaimer of opinion) as to whether the financial statement(s) of the Federal program is presented fairly in all material respects in conformity with the stated accounting policies;

(ii) A report on internal control related to the Federal program, which shall describe the scope of testing of internal control and the results of the tests;

(iii) A report on compliance which includes an opinion (or disclaimer of opinion) as to whether the auditee complied with laws, regulations, and the provisions of contracts or grant agreements which could have a direct and material effect on the Federal program; and

(iv) A schedule of findings and questioned costs for the Federal program that includes a summary of the auditor's results relative to the Federal program in a format consistent with § \_\_.505(d)(1) and findings and questioned costs consistent with the requirements of § \_\_.505(d)(3).

(c) Report submission for program-specific audits.

(1) The audit shall be completed and the reporting required by paragraph (c)(2) or (c)(3) of this section submitted within the earlier of 30 days after receipt of the auditor's report(s), or nine months after the end of the audit period, unless a longer period is agreed to in advance by the Federal agency that provided the funding or a different period is specified in a program-specific audit guide. (However, for fiscal years beginning on or before June 30, 1998, the audit shall be completed and the required reporting shall be submitted within the earlier of 30 days after receipt of the auditor's report(s), or 13 months after the end of the audit period, unless a different period is specified in a program-specific audit guide.) Unless restricted by law or regulation, the auditee shall make report copies available for public inspection.

(2) When a program-specific audit guide is available, the auditee shall submit to the Federal clearinghouse designated by OMB the data collection form prepared in accordance with § \_\_.320(b), as applicable to a program-specific audit, and the reporting required by the program-specific audit guide to be retained as an archival copy. Also, the auditee shall submit to the Federal awarding agency or pass-through entity the reporting required by the program-specific audit guide.

(3) When a program-specific audit guide is not available, the reporting package for a program-specific audit shall consist of the financial statement(s) of the Federal program, a summary schedule of prior audit findings, and a corrective action plan as described in paragraph (b)(2) of this section, and the auditor's report(s) as described in paragraph (b)(4) of this section. The data collection form prepared in accordance with



§ \_\_.320 (b), as applicable to a program-specific audit, and one copy of this reporting package shall be submitted to the Federal clearinghouse designated by OMB to be retained as an archival copy. Also, when the schedule of findings and questioned costs disclosed audit findings or the summary schedule of prior audit findings reported the status of any audit findings, the auditee shall submit one copy of the reporting package to the Federal clearinghouse on behalf of the Federal awarding agency, or directly to the pass-through entity in the case of a subrecipient. Instead of submitting the reporting package to the pass-through entity, when a subrecipient is not required to submit a reporting package to the pass-through entity, the subrecipient shall provide written notification to the pass-through entity, consistent with the requirements of § \_\_.320 (e) (2). A subrecipient may submit a copy of the reporting package to the pass-through entity to comply with this notification requirement.

(d) Other sections of this part may apply. Program-specific audits are subject to § \_\_.100 through § \_\_.215 (b), § \_\_.220 through § \_\_.230, § \_\_.300 through § \_\_.305, § \_\_.315, § \_\_.320 (f) through § \_\_.320 (j), § \_\_.400 through § \_\_.405, § \_\_.510 through § \_\_.515, and other referenced provisions of this part unless contrary to the provisions of this section, a program-specific audit guide, or program laws and regulations.

#### Subpart C--Auditees

§ \_\_.300 Auditee responsibilities.

The auditee shall:

(a) Identify, in its accounts, all Federal awards received and expended and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass-through entity.

(b) Maintain internal control over Federal programs that provides reasonable assurance that the auditee is managing Federal awards in compliance with laws, regulations, and the provisions of contracts or grant agreements that could have a material effect on each of its Federal programs.

(c) Comply with laws, regulations, and the provisions of contracts or grant agreements related to each of its Federal programs.

(d) Prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with § \_\_.310.

(e) Ensure that the audits required by this part are properly performed and submitted when due. When extensions to the report submission due date required by § \_\_.320 (a) are granted by the cognizant or oversight agency for audit, promptly notify the Federal clearinghouse designated by OMB and each pass-through entity providing Federal awards of the extension.

(f) Follow up and take corrective action on audit findings, including preparation of a summary schedule of prior audit findings and a corrective action plan in accordance with § \_\_.315 (b) and § \_\_.315 (c), respectively.

§ \_\_.305 Auditor selection.

(a) Auditor procurement. In procuring audit services, auditees shall follow the procurement standards prescribed by the Grants Management Common Rule (hereinafter referred to as the "A-102 Common Rule") published March 11, 1988 and amended April 19, 1995 [insert appropriate CFR citation], Circular A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations," or the FAR (48 CFR part 42), as applicable (OMB Circulars are available from the Office of Administration, Publications Office, room 2200, New Executive Office Building, Washington, DC 20503). Whenever possible, auditees shall make positive efforts to utilize small businesses, minority-owned firms, and women's business enterprises, in procuring audit services as stated in the A-102 Common Rule, OMB Circular A-110, or the FAR (48 CFR part 42), as applicable. In requesting proposals for audit services, the objectives and scope of the audit should be made clear. Factors to be considered in evaluating each proposal for audit services include the responsiveness to the request for proposal, relevant experience, availability of staff with professional qualifications and technical abilities, the results of external quality control reviews, and price.

(b) Restriction on auditor preparing indirect cost proposals. An auditor who prepares the indirect cost proposal or cost allocation plan may not also be selected to perform the audit required by this part when the indirect costs recovered by the auditee during the prior year exceeded \$1 million. This restriction applies to the base year used in the preparation of the indirect cost proposal or cost allocation plan and any subsequent years in which the resulting indirect cost agreement or cost allocation plan is used to recover costs. To minimize any disruption in existing contracts for audit services, this paragraph applies to audits of fiscal years beginning after June 30, 1998.

(c) Use of Federal auditors. Federal auditors may perform all or part of the work required under this part if they comply fully with the requirements of this part.

§     .310 Financial statements.

(a) Financial statements. The auditee shall prepare financial statements that reflect its financial position, results of operations or changes in net assets, and, where appropriate, cash flows for the fiscal year audited. The financial statements shall be for the same organizational unit and fiscal year that is chosen to meet the requirements of this part. However, organization-wide financial statements may also include departments, agencies, and other organizational units that have separate audits in accordance with §     .500(a) and prepare separate financial statements.

(b) Schedule of expenditures of Federal awards. The auditee shall also prepare a schedule of expenditures of Federal awards for the period covered by the auditee's financial statements. While not required, the auditee may choose to provide information requested by Federal awarding agencies and pass-through entities to make the schedule easier to use. For example, when a Federal program has multiple award years, the auditee may list the amount of Federal awards expended for each award year separately. At a minimum, the schedule shall:

(1) List individual Federal programs by Federal agency. For Federal programs included in a cluster of programs, list individual Federal programs within a cluster of programs. For R&D, total Federal awards expended shall be shown either by individual award or by Federal agency and major subdivision within the Federal agency. For example, the National Institutes of Health is a major subdivision in the Department of Health and Human Services.

(2) For Federal awards received as a subrecipient, the name of the pass-through entity and identifying number assigned by the pass-through entity shall be included.

(3) Provide total Federal awards expended for each individual Federal program and the CFDA number or other identifying number when the CFDA information is not available.

(4) Include notes that describe the significant accounting policies used in preparing the schedule.

(5) To the extent practical, pass-through entities should identify in the schedule the total amount provided to subrecipients from each Federal program.

(6) Include, in either the schedule or a note to the schedule, the value of the Federal awards expended in the form of non-cash assistance, the amount of insurance in effect during the year, and loans or loan guarantees outstanding at year end. While not required, it is preferable to present this information in the schedule.

§ \_\_.315 Audit findings follow-up.

(a) General. The auditee is responsible for follow-up and corrective action on all audit findings. As part of this responsibility, the auditee shall prepare a summary schedule of prior audit findings. The auditee shall also prepare a corrective action plan for current year audit findings. The summary schedule of prior audit findings and the corrective action plan shall include the reference numbers the auditor assigns to audit findings under § \_\_.510(c). Since the summary schedule may include audit findings from multiple years, it shall include the fiscal year in which the finding initially occurred.

(b) Summary schedule of prior audit findings. The summary schedule of prior audit findings shall report the status of all audit findings included in the prior audit's schedule of findings and questioned costs relative to Federal awards. The summary schedule shall also include audit findings reported in the prior audit's summary schedule of prior audit findings except audit findings listed as corrected in accordance with paragraph (b)(1) of this section, or no longer valid or not warranting further action in accordance with paragraph (b)(4) of this section.

(1) When audit findings were fully corrected, the summary schedule need only list the audit findings and state that corrective action was taken.

(2) When audit findings were not corrected or were only partially corrected, the summary schedule shall describe the planned corrective action as well as any partial corrective action taken.

(3) When corrective action taken is significantly different from corrective action previously reported in a corrective action plan or in the Federal agency's or pass-through entity's management decision, the summary schedule shall provide an explanation.

(4) When the auditee believes the audit findings are no longer valid or do not warrant further action, the reasons for this position shall be described in the summary schedule. A valid reason for considering an audit finding as not warranting further action is that all of the following have occurred:

(i) Two years have passed since the audit report in which

the finding occurred was submitted to the Federal clearinghouse;

(ii) The Federal agency or pass-through entity is not currently following up with the auditee on the audit finding; and

(iii) A management decision was not issued.

(c) Corrective action plan. At the completion of the audit, the auditee shall prepare a corrective action plan to address each audit finding included in the current year auditor's reports. The corrective action plan shall provide the name(s) of the contact person(s) responsible for corrective action, the corrective action planned, and the anticipated completion date. If the auditee does not agree with the audit findings or believes corrective action is not required, then the corrective action plan shall include an explanation and specific reasons.

§     .320 Report submission.

(a) General. The audit shall be completed and the data collection form described in paragraph (b) of this section and reporting package described in paragraph (c) of this section shall be submitted within the earlier of 30 days after receipt of the auditor's report(s), or nine months after the end of the audit period, unless a longer period is agreed to in advance by the cognizant or oversight agency for audit. (However, for fiscal years beginning on or before June 30, 1998, the audit shall be completed and the data collection form and reporting package shall be submitted within the earlier of 30 days after receipt of the auditor's report(s), or 13 months after the end of the audit period.) Unless restricted by law or regulation, the auditee shall make copies available for public inspection.

(b) Data Collection. (1) The auditee shall submit a data collection form which states whether the audit was completed in accordance with this part and provides information about the auditee, its Federal programs, and the results of the audit. The form shall be approved by OMB, available from the Federal clearinghouse designated by OMB, and include data elements similar to those presented in this paragraph. A senior level representative of the auditee (e.g., State controller, director of finance, chief executive officer, or chief financial officer) shall sign a statement to be included as part of the form certifying that: the auditee complied with the requirements of this part, the form was prepared in accordance with this part (and the instructions accompanying the form), and the information included in the form, in its entirety, are accurate and complete.

(2) The data collection form shall include the following data elements:

- (i) The type of report the auditor issued on the financial statements of the auditee (i.e., unqualified opinion, qualified opinion, adverse opinion, or disclaimer of opinion).
- (ii) Where applicable, a statement that significant deficiencies in internal control were disclosed by the audit of the financial statements and whether any such conditions were material weaknesses.
- (iii) A statement as to whether the audit disclosed any noncompliance which is material to the financial statements of the auditee.
- (iv) Where applicable, a statement that significant deficiencies in internal control over major programs were disclosed by the audit and whether any such conditions were material weaknesses.
- (v) The type of report the auditor issued on compliance for major

programs (i.e., unqualified opinion, qualified opinion, adverse opinion, or disclaimer of opinion).

- (vi) A list of the Federal awarding agencies which will receive a copy of the reporting package pursuant to § \_\_\_\_.320(d)(2) of OMB Circular A-133.
- (vii) A yes or no statement as to whether the auditee qualified as a low-risk auditee under § \_\_\_\_.530 of OMB Circular A-133.
- (viii) The dollar threshold used to distinguish between Type A and Type B programs as defined in § \_\_\_\_.520(b) of OMB Circular A-133.
- (ix) The Catalog of Federal Domestic Assistance (CFDA) number for each Federal program, as applicable.
- (x) The name of each Federal program and identification of each major program. Individual programs within a cluster of programs should be listed in the same level of detail as they are listed in the schedule of expenditures of Federal awards.
- (xi) The amount of expenditures in the schedule of expenditures of Federal awards associated with each Federal program.
- (xii) For each Federal program, a yes or no statement as to whether there are audit findings in each of the following types of compliance requirements and the total amount of any questioned costs:
  - (A) Activities allowed or unallowed.
  - (B) Allowable costs/cost principles.
  - (C) Cash management.
  - (D) Davis-Bacon Act.
  - (E) Eligibility.
  - (F) Equipment and real property management.
  - (G) Matching, level of effort, earmarking.
  - (H) Period of availability of Federal funds.
  - (I) Procurement and suspension and debarment.
  - (J) Program income.
  - (K) Real property acquisition and relocation assistance.
  - (L) Reporting.
  - (M) Subrecipient monitoring.
  - (N) Special tests and provisions.
- (xiii) Auditee Name, Employer Identification Number(s), Name and Title of Certifying Official, Telephone Number, Signature, and Date.
- (xiv) Auditor Name, Name and Title of Contact Person, Auditor Address, Auditor Telephone Number, Signature, and Date.
- (xv) Whether the auditee has either a cognizant or oversight agency for audit.
- (xvi) The name of the cognizant or oversight agency for audit determined in accordance with § \_\_\_\_.400(a) and § \_\_\_\_.400(b), respectively.

(3) Using the information included in the reporting package described in paragraph (c) of this section, the auditor shall complete the applicable sections of the form. The auditor shall sign a statement to be included as part of the data collection form that indicates, at a minimum, the source of the information included in the form, the auditor's responsibility for the information, that the form is not a substitute for the reporting package described in paragraph (c) of this section, and that the content of

the form is limited to the data elements prescribed by OMB.

(c) Reporting package. The reporting package shall include the:

- (1) Financial statements and schedule of expenditures of Federal awards discussed in § \_\_.310(a) and § \_\_.310(b), respectively;
- (2) Summary schedule of prior audit findings discussed in § \_\_.315(b);
- (3) Auditor's report(s) discussed in § \_\_.505; and
- (4) Corrective action plan discussed in § \_\_.315(c).

(d) Submission to clearinghouse. All auditees shall submit to the Federal clearinghouse designated by OMB a single copy of the data collection form described in paragraph (b) of this section and the reporting package described in paragraph (c) of this section.

(e) Additional submission by subrecipients. (1) In addition to the requirements discussed in paragraph (d) of this section, auditees that are also subrecipients shall submit to each pass-through entity one copy of the reporting package described in paragraph (c) of this section for each pass-through entity when the schedule of findings and questioned costs disclosed audit findings relating to Federal awards that the pass-through entity provided or the summary schedule of prior audit findings reported the status of any audit findings relating to Federal awards that the pass-through entity provided.

(2) Instead of submitting the reporting package to a pass-through entity, when a subrecipient is not required to submit a reporting package to a pass-through entity pursuant to paragraph (e)(1) of this section, the subrecipient shall provide written notification to the pass-through entity that: an audit of the subrecipient was conducted in accordance with this part (including the period covered by the audit and the name, amount, and CFDA number of the Federal award(s) provided by the pass-through entity); the schedule of findings and questioned costs disclosed no audit findings relating to the Federal award(s) that the pass-through entity provided; and, the summary schedule of prior audit findings did not report on the status of any audit findings relating to the Federal award(s) that the pass-through entity provided. A subrecipient may submit a copy of the reporting package described in paragraph (c) of this section to a pass-through entity to comply with this notification requirement.

(f) Requests for report copies. In response to requests by a Federal agency or pass-through entity, auditees shall submit the appropriate copies of the reporting package described in paragraph (c) of this section and, if requested, a copy of any management letters issued by the auditor.

(g) Report retention requirements. Auditees shall keep one copy of the data collection form described in paragraph (b) of this section and one copy of the reporting package described in paragraph (c) of this section on file for three years from the date of submission to the Federal clearinghouse

designated by OMB. Pass-through entities shall keep subrecipients' submissions on file for three years from date of receipt.

(h) Clearinghouse responsibilities. The Federal clearinghouse designated by OMB shall distribute the reporting packages received in accordance with paragraph (d)(2) of this section and § .235(c)(3) to applicable Federal awarding agencies, maintain a data base of completed audits, provide appropriate information to Federal agencies, and follow up with known auditees which have not submitted the required data collection forms and reporting packages.

(i) Clearinghouse address. The address of the Federal clearinghouse currently designated by OMB is Federal Audit Clearinghouse, Bureau of the Census, 1201 E. 10th Street, Jeffersonville, IN 47132.

(j) Electronic filing. Nothing in this part shall preclude electronic submissions to the Federal clearinghouse in such manner as may be approved by OMB. With OMB approval, the Federal clearinghouse may pilot test methods of electronic submissions.

Subpart D--Federal Agencies and Pass-Through Entities  
§ .400 Responsibilities.

(a) Cognizant agency for audit responsibilities. Recipients expending more than \$25 million (\$50 million for fiscal years ending after December 31, 2003) a year in Federal awards shall have a cognizant agency for audit. The designated cognizant agency for audit shall be the Federal awarding agency that provides the predominant amount of direct funding to a recipient unless OMB makes a specific cognizant agency for audit assignment.

*Following is effective for fiscal years ending on or before December 31, 2003:*  
To provide for continuity of cognizance, the determination of the predominant amount of direct funding shall be based upon direct Federal awards expended in the recipient's fiscal years ending in 1995, 2000, 2005, and every fifth year thereafter. For example, audit cognizance for periods ending in 1997 through 2000 will be determined based on Federal awards expended in 1995. (However, for States and local governments that expend more than \$25 million a year in Federal awards and have previously assigned cognizant agencies for audit, the requirements of this paragraph are not effective until fiscal years beginning after June 30, 2000.)

*Following is effective for fiscal years ending after December 31, 2003:*  
The determination of the predominant amount of direct funding shall be based upon direct Federal awards expended in the recipient's fiscal years ending in 2004, 2009, 2014, and every fifth year thereafter. For example, audit cognizance for periods ending in 2006 through 2010 will be determined based on Federal awards expended in 2004. (However, for 2001 through 2005, the cognizant agency for audit is determined based on the predominant amount of direct Federal awards expended in the recipient's fiscal year ending in 2000).

Notwithstanding the manner in which audit cognizance is determined, a Federal awarding agency with cognizance for an auditee may reassign cognizance to another Federal awarding agency which provides substantial direct funding and agrees to be the cognizant agency for audit. Within 30 days after any reassignment, both the old and the new cognizant agency for audit shall notify the auditee, and, if known, the auditor of the reassignment. The cognizant agency for audit shall:

- (1) Provide technical audit advice and liaison to auditees and auditors.
- (2) Consider auditee requests for extensions to the report

submission due date required by § \_\_.320(a). The cognizant agency for audit may grant extensions for good cause.

(3) Obtain or conduct quality control reviews of selected audits made by non-Federal auditors, and provide the results, when appropriate, to other interested organizations.

(4) Promptly inform other affected Federal agencies and appropriate Federal law enforcement officials of any direct reporting by the auditee or its auditor of irregularities or illegal acts, as required by GAGAS or laws and regulations.

(5) Advise the auditor and, where appropriate, the auditee of any deficiencies found in the audits when the deficiencies require corrective action by the auditor. When advised of deficiencies, the auditee shall work with the auditor to take corrective action. If corrective action is not taken, the cognizant agency for audit shall notify the auditor, the auditee, and applicable Federal awarding agencies and pass-through entities of the facts and make recommendations for follow-up action. Major inadequacies or repetitive substandard performance by auditors shall be referred to appropriate State licensing agencies and professional bodies for disciplinary action.

(6) Coordinate, to the extent practical, audits or reviews made by or for Federal agencies that are in addition to the audits made pursuant to this part, so that the additional audits or reviews build upon audits performed in accordance with this part.

(7) Coordinate a management decision for audit findings that affect the Federal programs of more than one agency.

(8) Coordinate the audit work and reporting responsibilities among auditors to achieve the most cost-effective audit.

(9) For biennial audits permitted under § \_\_.220, consider auditee requests to qualify as a low-risk auditee under § \_\_.530(a).

(b) Oversight agency for audit responsibilities. An auditee which does not have a designated cognizant agency for audit will be under the general oversight of the Federal agency determined in accordance with § \_\_.105. The oversight agency for audit:

(1) Shall provide technical advice to auditees and auditors as requested.

(2) May assume all or some of the responsibilities normally performed by a cognizant agency for audit.

(c) Federal awarding agency responsibilities. The Federal awarding agency shall perform the following for the Federal awards it makes:

(1) Identify Federal awards made by informing each recipient of the CFDA title and number, award name and number, award year, and if the award is for R&D. When some of this information is not available, the Federal agency shall provide information necessary to clearly describe the Federal award.

(2) Advise recipients of requirements imposed on them by Federal laws, regulations, and the provisions of contracts or grant agreements.

(3) Ensure that audits are completed and reports are received



in a timely manner and in accordance with the requirements of this part.

(4) Provide technical advice and counsel to auditees and auditors as requested.

(5) Issue a management decision on audit findings within six months after receipt of the audit report and ensure that the recipient takes appropriate and timely corrective action.

(6) Assign a person responsible for providing annual updates of the compliance supplement to OMB.

(d) Pass-through entity responsibilities. A pass-through entity shall perform the following for the Federal awards it makes:

(1) Identify Federal awards made by informing each subrecipient of CFDA title and number, award name and number, award year, if the award is R&D, and name of Federal agency. When some of this information is not available, the pass-through entity shall provide the best information available to describe the Federal award.

(2) Advise subrecipients of requirements imposed on them by Federal laws, regulations, and the provisions of contracts or grant agreements as well as any supplemental requirements imposed by the pass-through entity.

(3) Monitor the activities of subrecipients as necessary to ensure that Federal awards are used for authorized purposes in compliance with laws, regulations, and the provisions of contracts or grant agreements and that performance goals are achieved.

(4) Ensure that subrecipients expending \$300,000 (*\$500,000 for fiscal years ending after December 31, 2003*) or more in Federal awards during the subrecipient's fiscal year have met the audit requirements of this part for that fiscal year.

(5) Issue a management decision on audit findings within six months after receipt of the subrecipient's audit report and ensure that the subrecipient takes appropriate and timely corrective action.

(6) Consider whether subrecipient audits necessitate adjustment of the pass-through entity's own records.

(7) Require each subrecipient to permit the pass-through entity and auditors to have access to the records and financial statements as necessary for the pass-through entity to comply with this part.

§     .405 Management decision.

(a) General. The management decision shall clearly state whether or not the audit finding is sustained, the reasons for the decision, and the expected auditee action to repay disallowed costs, make financial adjustments, or take other action. If the auditee has not completed corrective action, a timetable for follow-up should be given. Prior to issuing the management decision, the Federal agency or pass-through entity may request additional information or documentation from the auditee, including a request for auditor assurance related to the documentation, as a way of mitigating disallowed costs. The management decision should describe any appeal process available to the auditee.

(b) Federal agency. As provided in §     .400(a)(7), the cognizant agency for audit shall be responsible for coordinating a management decision for audit findings that affect the programs of more than one Federal agency.

As provided in § \_\_.400(c)(5), a Federal awarding agency is responsible for issuing a management decision for findings that relate to Federal awards it makes to recipients. Alternate arrangements may be made on a case-by-case basis by agreement among the Federal agencies concerned.

(c) Pass-through entity. As provided in § \_\_.400(d)(5), the pass-through entity shall be responsible for making the management decision for audit findings that relate to Federal awards it makes to subrecipients.

(d) Time requirements. The entity responsible for making the management decision shall do so within six months of receipt of the audit report. Corrective action should be initiated within six months after receipt of the audit report and proceed as rapidly as possible.

(e) Reference numbers. Management decisions shall include the reference numbers the auditor assigned to each audit finding in accordance with § \_\_.510(c).

Subpart E--Auditors  
§ \_\_.500 Scope of audit.

(a) General. The audit shall be conducted in accordance with GAGAS. The audit shall cover the entire operations of the auditee; or, at the option of the auditee, such audit shall include a series of audits that cover departments, agencies, and other organizational units which expended or otherwise administered Federal awards during such fiscal year, provided that each such audit shall encompass the financial statements and schedule of expenditures of Federal awards for each such department, agency, and other organizational unit, which shall be considered to be a non-Federal entity. The financial statements and schedule of expenditures of Federal awards shall be for the same fiscal year.

(b) Financial statements. The auditor shall determine whether the financial statements of the auditee are presented fairly in all material respects in conformity with generally accepted accounting principles. The auditor shall also determine whether the schedule of expenditures of Federal awards is presented fairly in all material respects in relation to the auditee's financial statements taken as a whole.

(c) Internal control. (1) In addition to the requirements of GAGAS, the auditor shall perform procedures to obtain an understanding of internal control over Federal programs sufficient to plan the audit to support a low assessed level of control risk for major programs.

(2) Except as provided in paragraph (c)(3) of this section, the auditor shall:

(i) Plan the testing of internal control over major programs to support a low assessed level of control risk for the assertions relevant to the compliance requirements for each major program; and

(ii) Perform testing of internal control as planned in paragraph (c)(2)(i) of this section.

(3) When internal control over some or all of the compliance requirements for a major program are likely to be ineffective in preventing or detecting noncompliance, the planning and performing of testing described in paragraph (c)(2) of this section are not required for those compliance requirements. However, the auditor shall report a significant deficiency (including whether any such condition is a material weakness) in accordance with § \_\_.510, assess the related control risk at the maximum, and consider whether additional compliance tests are required because of ineffective

internal control.

(d) Compliance. (1) In addition to the requirements of GAGAS, the auditor shall determine whether the auditee has complied with laws, regulations, and the provisions of contracts or grant agreements that may have a direct and material effect on each of its major programs.

(2) The principal compliance requirements applicable to most Federal programs and the compliance requirements of the largest Federal programs are included in the compliance supplement.

(3) For the compliance requirements related to Federal programs contained in the compliance supplement, an audit of these compliance requirements will meet the requirements of this part. Where there have been changes to the compliance requirements and the changes are not reflected in the compliance supplement, the auditor shall determine the current compliance requirements and modify the audit procedures accordingly. For those Federal programs not covered in the compliance supplement, the auditor should use the types of compliance requirements contained in the compliance supplement as guidance for identifying the types of compliance requirements to test, and determine the requirements governing the Federal program by reviewing the provisions of contracts and grant agreements and the laws and regulations referred to in such contracts and grant agreements.

(4) The compliance testing shall include tests of transactions and such other auditing procedures necessary to provide the auditor sufficient evidence to support an opinion on compliance.

(e) Audit follow-up. The auditor shall follow-up on prior audit findings, perform procedures to assess the reasonableness of the summary schedule of prior audit findings prepared by the auditee in accordance with § \_\_.315(b), and report, as a current year audit finding, when the auditor concludes that the summary schedule of prior audit findings materially misrepresents the status of any prior audit finding. The auditor shall perform audit follow-up procedures regardless of whether a prior audit finding relates to a major program in the current year.

(f) Data Collection Form. As required in § \_\_.320(b)(3), the auditor shall complete and sign specified sections of the data collection form.

§ \_\_.505 Audit reporting.

The auditor's report(s) may be in the form of either combined or separate reports and may be organized differently from the manner presented in this section. The auditor's report(s) shall state that the audit was conducted in accordance with this part and include the following:

(a) An opinion (or disclaimer of opinion) as to whether the financial statements are presented fairly in all material respects in conformity with generally accepted accounting principles and an opinion (or disclaimer of opinion) as to whether the schedule of expenditures of Federal awards is presented fairly in all material respects in relation to the financial statements taken as a whole.

(b) A report on internal control related to the financial statements and major programs. This report shall describe the scope of testing of internal control and the results of the tests, and, where applicable, refer to the separate schedule of findings and questioned costs described in paragraph (d) of this section.

(c) A report on compliance with laws, regulations, and the provisions of contracts or grant agreements, noncompliance with which could have a

material effect on the financial statements. This report shall also include an opinion (or disclaimer of opinion) as to whether the auditee complied with laws, regulations, and the provisions of contracts or grant agreements which could have a direct and material effect on each major program, and, where applicable, refer to the separate schedule of findings and questioned costs described in paragraph (d) of this section.

(d) A schedule of findings and questioned costs which shall include the following three components:

(1) A summary of the auditor's results which shall include:

(i) The type of report the auditor issued on the financial statements of the auditee (i.e., unqualified opinion, qualified opinion, adverse opinion, or disclaimer of opinion);

(ii) Where applicable, a statement that significant deficiencies in internal control were disclosed by the audit of the financial statements and whether any such conditions were material weaknesses;

(iii) A statement as to whether the audit disclosed any noncompliance which is material to the financial statements of the auditee;

(iv) Where applicable, a statement that significant deficiencies in internal control over major programs were disclosed by the audit and whether any such conditions were material weaknesses;

(v) The type of report the auditor issued on compliance for major programs (i.e., unqualified opinion, qualified opinion, adverse opinion, or disclaimer of opinion);

(vi) A statement as to whether the audit disclosed any audit findings which the auditor is required to report under § \_\_.510(a);

(vii) An identification of major programs;

(viii) The dollar threshold used to distinguish between Type A and Type B programs, as described in § \_\_.520(b); and

(ix) A statement as to whether the auditee qualified as a low-risk auditee under § \_\_.530.

(2) Findings relating to the financial statements which are required to be reported in accordance with GAGAS.

(3) Findings and questioned costs for Federal awards which shall include audit findings as defined in § \_\_.510(a).

(i) Audit findings (e.g., internal control findings, compliance findings, questioned costs, or fraud) which relate to the same issue should be presented as a single audit finding. Where practical, audit findings should be organized by Federal agency or pass-through entity.

(ii) Audit findings which relate to both the financial statements and Federal awards, as reported under paragraphs (d) (2) and (d) (3) of this section, respectively, should be reported in both sections of the schedule. However, the reporting in one section of the schedule may be in summary form with a reference to a detailed reporting in the other section of the schedule.

§ \_\_.510 Audit findings.

(a) Audit findings reported. The auditor shall report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies in internal control over major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program or an audit objective identified in the compliance supplement. The auditor shall identify significant deficiencies which are individually or cumulatively material weaknesses.

(2) Material noncompliance with the provisions of laws, regulations, contracts, or grant agreements related to a major program. The auditor's determination of whether a noncompliance with the provisions of laws, regulations, contracts, or grant agreements is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program or an audit objective identified in the compliance supplement.

(3) Known questioned costs which are greater than \$10,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor shall also report known questioned costs when likely questioned costs are greater than \$10,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor shall include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

(4) Known questioned costs which are greater than \$10,000 for a Federal program which is not audited as a major program. Except for audit follow-up, the auditor is not required under this part to perform audit procedures for such a Federal program; therefore, the auditor will normally not find questioned costs for a program which is not audited as a major program. However, if the auditor does become aware of questioned costs for a Federal program which is not audited as a major program (e.g., as part of audit follow-up or other audit procedures) and the known questioned costs are greater than \$10,000, then the auditor shall report this as an audit finding.

(5) The circumstances concerning why the auditor's report on compliance for major programs is other than an unqualified opinion, unless such circumstances are otherwise reported as audit findings in the schedule of findings and questioned costs for Federal awards.

(6) Known fraud affecting a Federal award, unless such fraud is otherwise reported as an audit finding in the schedule of findings and questioned costs for Federal awards. This paragraph does not require the auditor to make an additional reporting when the auditor confirms that the fraud was reported outside of the auditor's reports under the direct reporting requirements of GAGAS.

(7) Instances where the results of audit follow-up procedures disclosed that the summary schedule of prior audit findings prepared by the auditee in accordance with § .315(b) materially misrepresents the status of any prior audit finding.

(b) Audit finding detail. Audit findings shall be presented in sufficient detail for the auditee to prepare a corrective action plan and take corrective action and for Federal agencies and pass-through entities to arrive at a management decision. The following specific information shall be

included, as applicable, in audit findings:

(1) Federal program and specific Federal award identification including the CFDA title and number, Federal award number and year, name of Federal agency, and name of the applicable pass-through entity. When information, such as the CFDA title and number or Federal award number, is not available, the auditor shall provide the best information available to describe the Federal award.

(2) The criteria or specific requirement upon which the audit finding is based, including statutory, regulatory, or other citation.

(3) The condition found, including facts that support the deficiency identified in the audit finding.

(4) Identification of questioned costs and how they were computed.

(5) Information to provide proper perspective for judging the prevalence and consequences of the audit findings, such as whether the audit findings represent an isolated instance or a systemic problem. Where appropriate, instances identified shall be related to the universe and the number of cases examined and be quantified in terms of dollar value.

(6) The possible asserted effect to provide sufficient information to the auditee and Federal agency, or pass-through entity in the case of a subrecipient, to permit them to determine the cause and effect to facilitate prompt and proper corrective action.

(7) Recommendations to prevent future occurrences of the deficiency identified in the audit finding.

(8) Views of responsible officials of the auditee when there is disagreement with the audit findings, to the extent practical.

(c) Reference numbers. Each audit finding in the schedule of findings and questioned costs shall include a reference number to allow for easy referencing of the audit findings during follow-up.

§     .515     Audit working papers.

(a) Retention of working papers. The auditor shall retain working papers and reports for a minimum of three years after the date of issuance of the auditor's report(s) to the auditee, unless the auditor is notified in writing by the cognizant agency for audit, oversight agency for audit, or pass-through entity to extend the retention period. When the auditor is aware that the Federal awarding agency, pass-through entity, or auditee is contesting an audit finding, the auditor shall contact the parties contesting the audit finding for guidance prior to destruction of the working papers and reports.

(b) Access to working papers. Audit working papers shall be made available upon request to the cognizant or oversight agency for audit or its designee, a Federal agency providing direct or indirect funding, or GAO at the completion of the audit, as part of a quality review, to resolve audit findings, or to carry out oversight responsibilities consistent with the purposes of this part. Access to working papers includes the right of Federal agencies to obtain copies of working papers; as is reasonable and necessary.

§ .520 Major program determination.

(a) General. The auditor shall use a risk-based approach to determine which Federal programs are major programs. This risk-based approach shall include consideration of: Current and prior audit experience, oversight by Federal agencies and pass-through entities, and the inherent risk of the Federal program. The process in paragraphs (b) through (i) of this section shall be followed.

(b) Step 1. (1) The auditor shall identify the larger Federal programs, which shall be labeled Type A programs. Type A programs are defined as Federal programs with Federal awards expended during the audit period exceeding the larger of:

(i) \$300,000 or three percent (.03) of total Federal awards expended in the case of an auditee for which total Federal awards expended equal or exceed \$300,000 but are less than or equal to \$100 million.

(ii) \$3 million or three-tenths of one percent (.003) of total Federal awards expended in the case of an auditee for which total Federal awards expended exceed \$100 million but are less than or equal to \$10 billion.

(iii) \$30 million or 15 hundredths of one percent (.0015) of total Federal awards expended in the case of an auditee for which total Federal awards expended exceed \$10 billion.

(2) Federal programs not labeled Type A under paragraph (b) (1) of this section shall be labeled Type B programs.

(3) The inclusion of large loan and loan guarantees (loans) should not result in the exclusion of other programs as Type A programs. When a Federal program providing loans significantly affects the number or size of Type A programs, the auditor shall consider this Federal program as a Type A program and exclude its values in determining other Type A programs.

(4) For biennial audits permitted under § .220, the determination of Type A and Type B programs shall be based upon the Federal awards expended during the two-year period.

(c) Step 2. (1) The auditor shall identify Type A programs which are low-risk. For a Type A program to be considered low-risk, it shall have been audited as a major program in at least one of the two most recent audit periods (in the most recent audit period in the case of a biennial audit), and, in the most recent audit period, it shall have had no audit findings under § .510(a). However, the auditor may use judgment and consider that audit findings from questioned costs under § .510(a) (3) and § .510(a) (4), fraud under § .510(a) (6), and audit follow-up for the summary schedule of prior audit findings under § .510(a) (7) do not preclude the Type A program from being low-risk. The auditor shall consider: the criteria in § .525(c), § .525(d) (1), § .525(d) (2), and § .525(d) (3); the results of audit follow-up; whether any changes in personnel or systems affecting a Type A program have significantly increased risk; and apply professional judgment in determining whether a Type A program is low-risk.

(2) Notwithstanding paragraph (c) (1) of this section, OMB may approve a Federal awarding agency's request that a Type A program at certain recipients may not be considered low-risk. For example, it may be necessary for a large Type A program to be audited as major each year at particular recipients to allow the Federal agency to comply with the Government Management Reform Act of 1994 (31 U.S.C. 3515). The Federal agency shall notify the recipient and, if known, the auditor at least 180 days prior to the

end of the fiscal year to be audited of OMB's approval.

(d) Step 3. (1) The auditor shall identify Type B programs which are high-risk using professional judgment and the criteria in § .525. However, should the auditor select Option 2 under Step 4 (paragraph (e)(2)(i)(B) of this section), the auditor is not required to identify more high-risk Type B programs than the number of low-risk Type A programs. Except for known significant deficiencies in internal control or compliance problems as discussed in § .525(b)(1), § .525(b)(2), and § .525(c)(1), a single criteria in § .525 would seldom cause a Type B program to be considered high-risk.

(2) The auditor is not expected to perform risk assessments on relatively small Federal programs. Therefore, the auditor is only required to perform risk assessments on Type B programs that exceed the larger of:

(i) \$100,000 or three-tenths of one percent (.003) of total Federal awards expended when the auditee has less than or equal to \$100 million in total Federal awards expended.

(ii) \$300,000 or three-hundredths of one percent (.0003) of total Federal awards expended when the auditee has more than \$100 million in total Federal awards expended.

(e) Step 4. At a minimum, the auditor shall audit all of the following as major programs:

(1) All Type A programs, except the auditor may exclude any Type A programs identified as low-risk under Step 2 (paragraph (c)(1) of this section).

(2) (i) High-risk Type B programs as identified under either of the following two options:

(A) Option 1. At least one half of the Type B programs identified as high-risk under Step 3 (paragraph (d) of this section), except this paragraph (e)(2)(i)(A) does not require the auditor to audit more high-risk Type B programs than the number of low-risk Type A programs identified as low-risk under Step 2.

(B) Option 2. One high-risk Type B program for each Type A program identified as low-risk under Step 2.

(ii) When identifying which high-risk Type B programs to audit as major under either Option 1 or 2 in paragraph (e)(2)(i)(A) or (B), the auditor is encouraged to use an approach which provides an opportunity for different high-risk Type B programs to be audited as major over a period of time.

(3) Such additional programs as may be necessary to comply with the percentage of coverage rule discussed in paragraph (f) of this section. This paragraph (e)(3) may require the auditor to audit more programs as major than the number of Type A programs.

(f) Percentage of coverage rule. The auditor shall audit as major programs Federal programs with Federal awards expended that, in the aggregate, encompass at least 50 percent of total Federal awards expended. If the auditee meets the criteria in § .530 for a low-risk auditee, the auditor need only audit as major programs Federal programs with Federal awards expended that, in the aggregate, encompass at least 25 percent of total Federal awards expended.

(g) Documentation of risk. The auditor shall document in the working



papers the risk analysis process used in determining major programs.

(h) Auditor's judgment. When the major program determination was performed and documented in accordance with this part, the auditor's judgment in applying the risk-based approach to determine major programs shall be presumed correct. Challenges by Federal agencies and pass-through entities shall only be for clearly improper use of the guidance in this part. However, Federal agencies and pass-through entities may provide auditors guidance about the risk of a particular Federal program and the auditor shall consider this guidance in determining major programs in audits not yet completed.

(i) Deviation from use of risk criteria. For first-year audits, the auditor may elect to determine major programs as all Type A programs plus any Type B programs as necessary to meet the percentage of coverage rule discussed in paragraph (f) of this section. Under this option, the auditor would not be required to perform the procedures discussed in paragraphs (c), (d), and (e) of this section.

(1) A first-year audit is the first year the entity is audited under this part or the first year of a change of auditors.

(2) To ensure that a frequent change of auditors would not preclude audit of high-risk Type B programs, this election for first-year audits may not be used by an auditee more than once in every three years.

§ .525 Criteria for Federal program risk.

(a) General. The auditor's determination should be based on an overall evaluation of the risk of noncompliance occurring which could be material to the Federal program. The auditor shall use auditor judgment and consider criteria, such as described in paragraphs (b), (c), and (d) of this section, to identify risk in Federal programs. Also, as part of the risk analysis, the auditor may wish to discuss a particular Federal program with auditee management and the Federal agency or pass-through entity.

(b) Current and prior audit experience. (1) Weaknesses in internal control over Federal programs would indicate higher risk. Consideration should be given to the control environment over Federal programs and such factors as the expectation of management's adherence to applicable laws and regulations and the provisions of contracts and grant agreements and the competence and experience of personnel who administer the Federal programs.

(i) A Federal program administered under multiple internal control structures may have higher risk. When assessing risk in a large single audit, the auditor shall consider whether weaknesses are isolated in a single operating unit (e.g., one college campus) or pervasive throughout the entity.

(ii) When significant parts of a Federal program are passed through to subrecipients, a weak system for monitoring subrecipients would indicate higher risk.

(iii) The extent to which computer processing is used to administer Federal programs, as well as the complexity of that processing, should be considered by the auditor in assessing risk. New and recently modified computer systems may also indicate risk.

(2) Prior audit findings would indicate higher risk, particularly when the situations identified in the audit findings could have a significant impact on a Federal program or have not been corrected.

(3) Federal programs not recently audited as major programs

may be of higher risk than Federal programs recently audited as major programs without audit findings.

(c) Oversight exercised by Federal agencies and pass-through entities.

(1) Oversight exercised by Federal agencies or pass-through entities could indicate risk. For example, recent monitoring or other reviews performed by an oversight entity which disclosed no significant problems would indicate lower risk. However, monitoring which disclosed significant problems would indicate higher risk.

(2) Federal agencies, with the concurrence of OMB, may identify Federal programs which are higher risk. OMB plans to provide this identification in the compliance supplement.

(d) Inherent risk of the Federal program. (1) The nature of a Federal program may indicate risk. Consideration should be given to the complexity of the program and the extent to which the Federal program contracts for goods and services. For example, Federal programs that disburse funds through third party contracts or have eligibility criteria may be of higher risk. Federal programs primarily involving staff payroll costs may have a high-risk for time and effort reporting, but otherwise be at low-risk.

(2) The phase of a Federal program in its life cycle at the Federal agency may indicate risk. For example, a new Federal program with new or interim regulations may have higher risk than an established program with time-tested regulations. Also, significant changes in Federal programs, laws, regulations, or the provisions of contracts or grant agreements may increase risk.

(3) The phase of a Federal program in its life cycle at the auditee may indicate risk. For example, during the first and last years that an auditee participates in a Federal program, the risk may be higher due to start-up or closeout of program activities and staff.

(4) Type B programs with larger Federal awards expended would be of higher risk than programs with substantially smaller Federal awards expended.

§ \_\_.530 Criteria for a low-risk auditee.

An auditee which meets all of the following conditions for each of the preceding two years (or, in the case of biennial audits, preceding two audit periods) shall qualify as a low-risk auditee and be eligible for reduced audit coverage in accordance with § \_\_.520:

(a) Single audits were performed on an annual basis in accordance with the provisions of this part. A non-Federal entity that has biennial audits does not qualify as a low-risk auditee, unless agreed to in advance by the cognizant or oversight agency for audit.

(b) The auditor's opinions on the financial statements and the schedule of expenditures of Federal awards were unqualified. However, the cognizant or oversight agency for audit may judge that an opinion qualification does not affect the management of Federal awards and provide a waiver.

(c) There were no deficiencies in internal control which were identified as material weaknesses under the requirements of GAGAS. However, the cognizant or oversight agency for audit may judge that any identified material weaknesses do not affect the management of Federal awards and provide a waiver.

(d) None of the Federal programs had audit findings from any of the following in either of the preceding two years (or, in the case of biennial audits, preceding two audit periods) in which they were classified as Type A programs:

(1) Internal control deficiencies which were identified as material weaknesses;

(2) Noncompliance with the provisions of laws, regulations, contracts, or grant agreements which have a material effect on the Type A program; or

(3) Known or likely questioned costs that exceed five percent of the total Federal awards expended for a Type A program during the year.

Appendix A to Part \_\_ - Data Collection Form (Form SF-SAC)  
[insert SF-SAC after finalized]

Appendix B to Part \_\_ - Circular A-133 Compliance Supplement  
Note: Provisional OMB Circular A-133 Compliance Supplement is available from the Office of Administration, Publications Office, room 2200, New Executive Office Building, Washington, DC 20503.





**Land & Water Conservation Fund**  
*Quarterly Progress Report Form*

PROJECT SPONSOR: \_\_\_\_\_ PROJECT #: \_\_\_\_\_

PROJECT TITLE: \_\_\_\_\_

QUARTERLY PERIOD for Year:   20  

Jan.-March

July-September

Apr.-June

Oct.-December

PROJECT SCOPE: \_\_\_\_\_

DATE PROJECT/EVENT BEGAN: \_\_\_\_\_

PROGRESS: (State project scope elements begun and/or completed.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

STATUS: (Explain what remains to be done.) \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

EXPECTED COMPLETION DATE: \_\_\_\_\_

COMMENTS: \_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_ SIGNED: \_\_\_\_\_

TITLE: \_\_\_\_\_

PHONE: (\_\_\_\_) \_\_\_\_\_

*Email to: [ablinson@scprt.com](mailto:ablinson@scprt.com) and include pictures, if any.*

# LAND & WATER CONSERVATION FUND SIGNAGE



Signs like the one pictured above may be purchased from:  
SC Department of Corrections, Sign Division  
Contact Person: David Brackett  
Phone: (803) 896-2131

**12" x 12" sign: \$11.28** (UPS shipping charges applied to orders outside Columbia area)  
Signs can be ordered directly from [psignshop@doc.sc.gov](mailto:psignshop@doc.sc.gov)



Or you may download the logo art from the National Park Service's website if you prefer to print the signs locally or incorporate the logo into another sign:  
[www.nps.gov/ncrc/programs/lwcf/pub.htm](http://www.nps.gov/ncrc/programs/lwcf/pub.htm)