LWCF Manual

Guidelines/Application for Local Agencies Participating in the Land and Water Conservation Fund Program in Indiana

Indiana Department of Natural Resources
Division of Outdoor Recreation

2017

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Foreword

These guidelines explain the current administration of the Land and Water Conservation Fund (LWCF) grant program for park and recreation boards in Indiana. If this is an older version of the LWCF manual, please check our website, http://www.in.gov/dnr/outdoor/4071.htm for updates. This federal program is administered at the state level by the Department of Natural Resources, Division of Outdoor Recreation. The program provides 50% reimbursement grants to assist park and recreation boards in acquiring and developing outdoor recreation areas for public use. To be eligible in Indiana for LWCF funds you must be a legally established park board and have a current 5-year park and recreation master plan on file in the Division of Outdoor Recreation. The minimum grant amount awarded is $10,000 and the maximum grant amount is $200,000.

This publication describes the requirements for participation in the program, application procedures, and other steps involved in completing, operating and maintaining LWCF assisted sites and facilities. Directions for preparing the application are found in Chapters 2 and 3. Please refer to the application checklist at the end of Chapter 3 (page 36) for assistance in submission of all required items. ***Pay particular attention to the rating criteria in Chapter 2 (page 23). The rating criteria are the most important component of the application!*** Answer each criteria element thoroughly and include documentation to support your replies. The rating criteria within this current manual supersede any previous criteria from former grant rounds or manuals. The Appendix contains the forms required to be submitted with original signatures for a complete application. Be sure to copy the forms from the manual on the website so that you will have a current and complete manual on file.

The guidelines are designed to be a step–by–step administrative manual which should be used for the duration of the project. It is wise to review the entire manual and then concentrate on the chapters as they apply to each stage of your project. Chapters 5 and 6 explain the procedures for land acquisition and development. Chapter 8 explains the long term requirements of the park board and closeout procedures. All land acquired or developed with LWCF money is protected in perpetuity for outdoor recreation use. If a park board cannot fulfill the terms and conditions of the LWCF grant program, then an application should not be submitted.

It is hoped that the material presented will answer many questions about the program. Applicants are strongly encouraged to meet with the Division of Outdoor Recreation grants section to discuss their potential project several months prior to the application submittal. The Grants Staff is interested in your comments and suggestions on improving the usefulness of this manual. If further information or clarification is needed, please contact:

State and Community Outdoor Recreation Planning Section
Division of Outdoor Recreation
Department of Natural Resources
402 W. Washington St., Room W271
Indianapolis, Indiana 46204-2782
Phone (317) 232-4075 Fax (317) 233-4648 www.in.gov/dnr/outdoor

Grant Timeline

ONE PAPER COPY OF THE ENTIRE GRANT APPLICATION, WITH ORIGINAL SIGNATURES, MUST BE COMPLETED, CLEARLY POSTMARKED BY JUNE 1, 2017, AND SENT TO THE DIVISION OF OUTDOOR RECREATION. IF YOU PLAN TO HAND DELIVER THE APPLICATION, IT NEEDS TO BE AT OUR OFFICE BY 4:30 PM ON JUNE 1st.

June - July 2017 - State application review, additional information period, site visits, evaluate, rate, and rank projects

August - September 2017 - State approval

January 2018 - June 2018 - Grantee and/or State compile necessary information needed to obtain National Environmental Protection Act (NEPA) environmental clearance, National Historic Preservation Act (NHPA) Section 106 historical and archaeological clearance, and other clearances as necessary. Forward the above-mentioned material to appropriate DNR divisions and the National Park Service to receive Federal approval.

Summer 2018 - Federal approval

Grantee obtain a full appraisal done by a general certified appraiser with federal appraisal experience (for land acquisition projects).

Grantee submit detailed architectural/engineering plans for ADA review by the Division of Outdoor Recreation.

Grantee obtain any necessary construction permits or clearances. *All necessary clearances, plans, and permits must be completed before development commences.*

Summer - Fall 2018 - Grantee bid and start construction! That is, if all goes well in the above timeline. This timeline can change because of many variables, but it gives you an idea of the time it will take to get a project to the development stage.

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Chapter One

Partnership for Parks: Summary of the LWCF Program

The LWCF Program

The Land and Water Conservation Fund (LWCF) Act was established in 1965 and amended under Public Law 88–578; Title 16, U.S.C 4601-4 et seq), to continue for a period of 50 years through 2015. The program has received a three-year renewal in the Consolidated Appropriations Act of the 2016 fiscal year (FY). The Act established a grant fund to assist state and federal agencies in meeting present and future outdoor recreation needs. The Act accomplished this purpose by:

1. Providing funds for the acquisition of land for recreation on federal fish and wildlife areas, national parks, national forests, recreation areas, and for the operation and development of national parks.

2. Authorizing federal assistance to states for planning, acquisition, and development of outdoor recreation facilities through a grants program. In turn, the states may transfer the funds to local units of government to acquire land and/or develop outdoor recreation facilities.

Through state law, the Indiana Department of Natural Resources has the authority to administer the program in Indiana. This LWCF Manual sets forth the guidelines, conditions, and terms of the local program.

Source of LWCF Funds

Revenue to finance the LWCF program is provided largely from Outer Continental Shelf mineral receipts. The amount available for state grants is determined by the annual Congressional appropriation process. This amount is supplemented by a guaranteed amount set aside each year in a special treasury account from other qualified off-shore revenues pursuant to the Gulf of Mexico Energy Security Act, Public Law 109-432.

Federal Allocation of Funds

The Land and Water Conservation Fund program is authorized to receive up to $900 million per year from the above sources. Each year Congress appropriates funds for the program, usually well below the authorized level.

The annual appropriation is divided between federal agencies and the states. Federal agencies receive not less than 40% of the appropriation, with the remainder going to the states. The state's

allocation is divided among the 53 states and territories based on need, with each state guaranteed a minimal amount. Most states share their allocation with local units of government, as Indiana does.

Indiana's State and Local Shares

Indiana has generally ranked eleventh or twelfth among the states in the amount of federal dollars received through this program. The annual state allocation is divided between state projects and local park and recreation board requests. Since 1965, Indiana has received $90 million, about half of which has been awarded to local sponsors and the other half invested in state projects.

The ratio of money reserved for state and local projects is determined by the Department of Natural Resources director. The state's share of the funds has been used to acquire land and/or develop outdoor recreation facilities for state parks, fish and wildlife areas, forests, recreation areas, and nature preserves.

Over 170 Indiana park and recreation boards have obtained grants. Their participation in the program has meant an increase in local park acreage and recreation facilities such as trails, ball fields, tennis courts, picnic areas, and playgrounds for Indiana's citizens.

Over 300,000 acres of land have been acquired for local and state parks through the program and hundreds of public recreation facilities have been built or improved. Since the federal funds are matched equally by local or state contributions, the LWCF program has generated a total investment of over $180 million in Indiana parks since 1965.

Since the grant funds are made available through an annual appropriation from Congress, the funding amount varies each year. Potential project sponsors should check the funding outlook with the Grants Section prior to preparing an application. The exact amount Indiana will receive is not known until the allocation is announced, which may be one to two months into the federal fiscal year. The federal fiscal year begins on October 1, so the amount of the apportionment will not usually be known until late fall or early winter.

Types of Projects

A grant may be provided for the acquisition of land and/or construction of outdoor recreation facilities. Development projects may include the building of new and/or renovation of existing facilities. Only acquisition or development done after federal approval of a grant is eligible for funding. The project must provide a site or facilities for public outdoor, rather than indoor, recreation. For a detailed explanation of eligible types of projects, refer to Chapters Two, Five, and Six.

Project Costs

Grant Amounts

The Land and Water Conservation Fund is a 50% matching, reimbursing federal assistance program. Local applicants may request a minimum of $10,000 and a maximum of $200,000 in

LWCF assistance for one project per year.

Local Matching Share

The federal funds are matched equally with local funds or in–kind contributions for the completion of a project. The project sponsor must have the local share available at the time of application. The local share may include tax sources, bond issues, Federal Revenue Sharing, Community Development Funds, Farmers Home Administration Loans or force account contributions. The donated value of cash, land, labor, equipment, and materials may also be used. No federal funds other than those listed above may be used to match a LWCF grant. To be eligible, all project expenditures, including donations, must take place after the project is approved. Chapter Three covers project costs in more detail.

Reimbursement

The project sponsor will not receive a cash grant at the time of project approval. Instead, the park board must pay the bills and then request reimbursement for half of the expenses incurred. Reimbursement requests may be periodically submitted during the project period to return funds to the sponsor for work completed. The billing procedures are explained in Chapter Seven.

Federal Administration

The National Park Service (NP S), within the U.S. Department of the Interior, administers the program at the federal level. This is the federal agency which ultimately receives all project applications and amendments for final approval. Indiana's Land and Water Conservation Fund projects are submitted to the Midwest Regional Office in Omaha, Nebraska.

All park and recreation board contacts will be made with the state grants staff, rather than the National Park Service. Local project sponsors will rarely see a federal officer except during occasional site inspections. All NPS correspondence and directives are sent to the state for transmittal to the local agencies. Federal correspondence will not be sent directly to a local agency.

The major responsibilities of the NPS with the Land and Water Conservation Fund Act are:

1. To allocate the grants to the states,

2. To review and approve statewide comprehensive outdoor recreation plans,

3. To review and approve project applications submitted by the states on behalf of state and local governmental units.

The LWCF program was initially operated in the Department of the Interior by the Bureau of Outdoor Recreation (BOR), which was created in 1962 to provide leadership, research, and coordination in the nation's outdoor recreation effort. In 1978, the BOR was reorganized as the Heritage Conservation and Recreation Service (HCRS), which conducted the program until the agency was discontinued in 1981. The LWCF grants function was then transferred to the National Park Service.

In addition to the Land and Water Conservation Fund, the NPS handles several other federal programs, including: Historic Preservation, Surplus Federal Property, Urban Park and Recreation Recovery Act, Natural Heritage Resource Program, and portions of the National Wild and Scenic Rivers and National Trails Systems. For information about these programs, contact NPS at:

National Park Service - Midwest Regional Office
601 Riverfront Drive
Omaha, Nebraska 68102-4226
(402) 661-1736

State Administration

The Indiana Department of Natural Resources (DNR) administers the LWCF program through its Division of Outdoor Recreation. The Division of Outdoor Recreation contains two sections. The State and Community Outdoor Recreation Planning (SCORP) Section is involved in state outdoor recreational planning, special studies, and grants administration. The state's LWCF responsibilities are handled by the SCORP Section.

The Streams and Trails Section administers the Indiana Rivers Preservation Act and implements long distance hiking, bicycling, snowmobiling trails and two State Recreation areas for mainly Off-Highway vehicle use.

Statewide Comprehensive Outdoor Recreation Plan (SCORP)

In order to be eligible for participation in the LWCF program, the state must prepare a comprehensive outdoor recreation plan. Indiana’s first plan, A State Master Plan for Acquisition and Development, was prepared in 1964. Since then, the Department of Natural Resources, has maintained a continual planning program which not only includes a state plan, but also specific studies related to various outdoor recreation interests in the state. The state plan includes goals and objectives for meeting the State’s outdoor recreation needs. These goals and objectives are the result of various studies and meetings conducted by a Plan Advisory Committee over a five year period. They are used to establish funding priorities for rating local projects. The priorities are discussed in Chapter 2.

Grants Administration

Grant coordinators within the Division of Outdoor Recreation's SCORP Section are responsible for the daily administration of the Land and Water Conservation Fund projects including:

1. Review of project applications,
2. Rating projects to determine rank for funding,
3. Preparation and submission of applications to the NPS for final approval,
4. Project site inspections,
5. Monitoring compliance with federal regulations,

6. Processing reimbursements to project sponsors,

7. Keeping project sponsors current on any changes in regulations or procedures,

8. Post-completion follow up to insure project sites are properly operated and maintained.

All questions regarding the Land and Water Conservation Fund program should be directed to the Grants Staff by calling 317–232–4075.

Several other divisions within the Department of Natural Resources may review certain segments of grant applications. Construction in the floodway or alteration of a lake shoreline must be permitted by the Division of Water. Appraisals are reviewed and approved by the Division of Land Acquisition. The Division of Historic Preservation and Archaeology reviews projects for their impact on archaeological and historic resources. Various types of technical assistance related to natural resource analysis of a particular park site are also available to park agencies by Department staff. The Divisions of Forestry, Fish and Wildlife, and Nature Preserves most frequently provide these services. The Director of the Department of Natural Resources is the State Liaison Officer for the Land and Water Conservation Fund. All legally binding documents between the State and Federal governments are signed by the State Liaison Officer or the Alternate State Liaison Officers.

Chapter Two

How to Apply for Funding: Eligibility and Project Selection

Eligibility

Local units of government participating in the LWCF (Land and Water Conservation Fund) program are required to provide matching funds for the project, properly administer the project through completion, and operate and maintain the site after completion. Before a town, township, city, or county can participate in the LWCF program, it must meet two eligibility requirements:

1. The local unit must establish a public park and recreation board according to Indiana law.

2. The board must have a current five–year park and recreation master plan approved by the Department of Natural Resources.

Forming a Park and Recreation Board

Only park and recreation boards which are established under Indiana law may submit an application for projects. If the local unit does not have a park board, one must be established by ordinance. Indiana's park and recreation law can be found in the Indiana Code under Title 36. Consult your board attorney for specific wording of the ordinance.

Prior to establishing a park and recreation board, local units are urged to consider the alternatives for providing park and recreation sites, facilities, and services for their residents.

In some cases, existing city or county park boards are willing to extend services to smaller towns or unincorporated areas in rural townships, avoiding duplication of services. Questions about creating a park and recreation board can be directed to the SCORP Staff in the Planning Section.

In Indiana, there are various statutes which enable the creation of a town, city, or county park and recreation board. In some counties, township park boards are authorized. The most common state statute is the Indiana Park and Recreation Law (I.C. 36–10–3), originally passed in 1955 and amended several times since. In 1981, The Indiana General Assembly re-codified all park and recreation statutes and placed them under Title 36 of the Indiana Code. This law is recommended, since it provides the board with a sound organizational structure and a broad range of powers and duties. Copies of the law are available from the Division of Outdoor Recreation and online at http://www.in.gov/dnr/outdoor/2603.htm under the" How to Form a Park and Recreation Board" link.

Once the park and recreation board has been established, the board should submit a certified copy of the ordinance which created the board to the SCORP Staff for review and approval. Be sure to include a list of the members and a permanent mailing address with the ordinance. The

ordinance is reviewed for legality and will be retained on file in the Division of Outdoor Recreation.

If the ordinance is amended, revised, or repealed, the Division of Outdoor Recreation should receive the changes for its files. A list of officers and the board's permanent mailing address will also be kept on file, so changes should be sent as needed to keep the state's information current.

Park and Recreation Master Plan and Amendments

Long and medium–range park and recreation planning is a major responsibility of every park board. To this end, park and recreation boards are required to complete five–year park and recreation master plans. These plans often take several months to complete and an approved plan must be on file prior to the board applying for funding. A new plan must be prepared every five years in order to maintain the board's eligibility for participation in the LWCF program.

Planning Guidelines for Five Year Parks and Recreation Master Plans explains the Department of Natural Resources' planning requirements for communities. The guide is available from the Division of Outdoor Recreation and online at http://www.in.gov/dnr/outdoor/2603.htm

Final drafts of master plans or plan amendments are due January 15th of the year in which the park and recreation board will be applying for grant assistance. Submittal of the master plan by January 15th allows time for state review. Final revisions of the plan are due by April 15th of each year. Upon approval of a plan or amendment, a park board receives five years of eligibility to participate in the LWCF program. A board may apply for funds only during the years that it is eligible. Park boards may submit amendments to plans as needed during the five–year eligibility period. Final drafts of amendments are also due by April 15th.

Types of Applications

A project application may consist of the acquisition of land for a park and/or the development of recreation facilities at a park. Support facilities (roads, lighting, utilities, restrooms, parking areas, etc.) are eligible for assistance only when accompanied by outdoor recreation development within the project. An application which consists only of park support facilities will not be considered. Support facilities are evaluated in the rating formula according to the recreation activities/facilities served.

Renovation projects will be accepted only for facilities which are worn out due to use or age; can no longer meet health, safety, or accessibility standard; or are outdated because of the changing needs of the community. Repairs associated with routine maintenance, or renovation caused by vandalism or poor maintenance, are not eligible for funding.

Grant Application Process

Applications for a Land and Water Conservation Fund grant progress through several steps. These steps may be summarized as:

1. Items to be completed by the sponsor prior to submission,

2. Various state and federal reviews,

3. Procedures to follow after project approval,

4. Project completion procedures,

5. Post–completion responsibilities.

The first two steps, including project approval are discussed in the balance of this chapter. Chapter Three covers the grant application documentation. In Chapters Four through Seven, the project implementation steps are explained. The project completion procedures and long–term obligations are included in Chapter Eight.

Pre-submission Procedures

Prior to the submission of a grant application, the park and recreation board must obtain all maps, preliminary plans, cost estimates, and other information necessary for the application as outlined in Chapter Three. A Natural Resources Conservation Service (NRCS) review of prime farmland impact may be needed.

The board must provide public notification and opportunity for public input on the project through at least one public meeting or survey. If the project involves construction in a floodway, it must be stated clearly to those attending.

Before submitting the application, it is highly recommended that the park and recreation board should discuss the project with the Grants Staff of the SCORP Section. A pre-application conference or telephone conversation concerning the project may point out specific items which need to be included or further documented in the application.

Application Period

Grant application forms are available in the Appendix (page 108) and through the state forms catalog online https://forms.in.gov/Download.aspx?id=10697. Updated versions of the manual are available by the first of March each year. Project applications must be submitted by June 1st of the applicable year. If June 1st falls on a Saturday or Sunday, applications must be postmarked or delivered to our office by 4:30 p.m. the following Monday, which will be either June 2nd or 3rd.

State Review

All project applications are reviewed for completeness and additional information is requested, if necessary. Site inspections by the Grants Staff along with representatives of the park board are also conducted during this time period.

The Grants Staff will review applications to confirm that they are in accord with the eligibility requirements specified in the *LWCF Manual.* The staff will also verify that the proposed project is included in the park and recreation board's five–year master plan and meets a priority need in the current Indiana outdoor recreation plan.

Project sponsors will be reviewed for their operation and maintenance abilities and previous grant performance. Site inspections are conducted by the Grants Staff before grants are awarded, while projects are under construction, and regularly after completion.

Park Boards/Agencies will be informed if poor maintenance conditions are observed and then given a reasonable period of time to correct the problems. If follow–up inspections reveal unsatisfactory conditions, the park agency may not be allowed to submit grant applications until the problems are corrected.

Similarly, previous project sponsors will be evaluated on their past performance in administering grants. Agencies which have not performed satisfactorily on previous grants will be advised not to apply until a reasonable solution to the agency's performance problems is found. Examples of poor past performance may include:

1. Grant projects requiring time extensions due to the inability of the project sponsor to get the project done,

2. Cost overruns caused by the sponsor's inability to get the project started after project approval,

3. Sponsors' unwillingness to follow bidding, purchase, and construction requirements,

4. Sponsors' continued noncompliance with the program's rules and regulations.

The intent is not to penalize agencies that have encountered unavoidable construction and land acquisition problems. The evaluation of past performance is directed at agencies which have inadequate administrative abilities causing project delays.

Project applications from park boards failing to meet the previously discussed conditions shall be returned, unrated. Project sponsors who encounter difficulties will be requested to correct the problems prior to submitting new grant applications. New applicants that have never received previous grants are assumed to have adequate administrative and operational abilities.

Project Rating

If fund requests do not exceed the amount available, the project applications will be processed on a first–come, first–served basis. Usually, the requests exceed the amount of funds available, and the project applications must be rated for funding priority. Only those applications which are complete and submitted by park boards that have their share of the project costs available will be rated. Project sponsors may be asked to withdraw a project which has not been adequately prepared or has too many unresolved issues.

The Rating Criteria is the most important component of the grant application. These criteria are used to evaluate projects for funding and are based on public input stated in the Statewide Comprehensive Outdoor Recreation Plan and staff recommendations. Grant applicants should address this section carefully and thoroughly, and should demonstrate to the greatest extent possible how the proposed project relates to the Rating Criteria. Staff recommendations for funding will be prepared based on the point scores earned through this exercise. Therefore, it is critical that applicants prepare thorough and detailed responses to all of the Rating Criteria when

completing the application. Projects with the highest scores are selected and recommended by the Director of the Department of Natural Resources to the National Park Service (NPS) for federal approval. Grant submittals which do not rate high enough for funding will be returned upon request of the applicant. Unfunded applications may be revised and resubmitted in a future grant round. The Rating Criteria can be found at the end of this chapter.

State Approval

The list and ranking of project applicants is reviewed by the Director of the Department of Natural Resources. Projects must be reviewed by the Director of the Department of Natural Resources before being recommended to the NPS for approval, even if federal funds are adequate to cover all applications and rating is not necessary. The park board president will be notified once the project has received state approval.

Reviews and Preparation for Federal Submittal

Selection of projects for funding at the state level means that the Department of Natural Resources will reserve funds for those projects pending final approval by the federal government. The Grants Staff will submit LWCF applications to the Division of Historic Preservation and Archaeology for review. Permits for construction in the floodway must also be secured, if necessary, by the grantee after environmental reviews have been completed.

Division of Outdoor Recreation staff may request additional documentation from park boards in order to complete the applications for federal submittal. Projects are sent to the National Park Service when all reviews have been completed and additional information has been received.

Federal Approval

The approval announcement may be made by the U.S. Senators or Representatives for your district. The Division of Outdoor Recreation will also notify the project sponsor of the approval. The Local Project Agreement (signed by the director of the DNR and the park board) will be sent to the park board along with other approval documents.

After Federal approval of the project, the park board can purchase land, finalize project plans and specifications (must be approved by DNR), and advertise for bids. ACQUISITION OF LAND OR CONSTRUCTION OF FACILITIES MAY NOT BEGIN UNTIL FEDERAL APPROVAL IS OBTAINED. If a project is started prior to federal approval, it may be declared ineligible for funding and the grant will be terminated.

Minimum Project Criteria

1. Applications must be postmarked no later than the specified deadline.

2. Additional information requested by the Division of Outdoor Recreation concerning the application must be received prior to rating the project.

3. The park board must have its matching share of the project available prior to project rating.

4. Operation and maintenance procedures and previous grant administration performance of the applicant must be adequate.

5. The project must be eligible to receive Land and Water Conservation Funds according to the federal and state criteria for the program.

6. The project must meet a need documented in either the park board's approved five–year master plan or a priority need in the State's *SCORP*.

Annual Allocation of Funds

The Director of the Department of Natural Resources will determine the state and local shares of Indiana's annual apportionment. The determination is based on the estimated amount of funds the State will receive at the start of the federal fiscal year which begins on October 1st. Generally, the apportionment Indiana receives is allocated to local park and recreation boards.

Distribution System

The distribution system determines certain categories of project requests and sets the grant request limits. The percent of the annual allocation available for local applications is also part of the system. These procedures assist in the equitable distribution of funds to a large number of project applicants.

Funding Limits

Park boards may submit one grant application per year (any previous awarded projects that are currently active must be in good standing). The minimum grant amount that may be requested is $10,000 (representing 50% reimbursement of a total project cost of $20,000). The maximum grant amount that may be requested is $200,000 (representing 50% reimbursement of a total project cost of $400,000). A project may cost more than $400,000, but the maximum grant amount will still be $200,000.

Unfortunately, demand for federal and state grant money administered through the Department of Natural Resources Division of Outdoor Recreation for acquisition and development projects far exceeds currently available funds. The DNR is committed to a fair distribution of funding throughout the state in order to assist as many locally sponsored park and trail projects as possible.

Therefore, for each grant program administered by Outdoor Recreation we are implementing a limit of two phases of funding in an eight-year period per site.

A local sponsor who has already successfully applied for funding of a site may apply for a third phase, but the request will be considered for funding only after we have reviewed all other grant applications. Should adequate funding be available in that fiscal years grant round, the third-phase project would be eligible for funding. A two-phase project site will be allowed to compete equally with other applicants eight years from the date of the first phase approved for a grant. This restriction applies only to specific sites within a local sponsor's jurisdiction. Application for sites other than a two-phase site will be eligible. This restriction may be

rescinded should federal and state grant funding substantially increase.

Open Project Selection Process

Rating Factors

The Rating Criteria consists of factors which were determined through the SCORP. It is extremely important that applicants prepare thorough and detailed responses to all of the Rating Criteria when completing the application. The Rating Criteria is the main tool used to evaluate all applications for LWCF funding. Any project scope item that is mentioned in the criteria should be reflected in the cost breakdown and have appropriate documentation to ensure receipt of points.

Rating criteria begins on next page.

Land and Water Conservation Fund
Project Rating Criteria

2017

I. More Land for Outdoor Recreation and Conservation

The project will provide more land for outdoor recreation and conservation. Land acquisition projects must include a description of how the project will be used and/or developed within two years of taking title to the property. Grant reimbursement and future eligibility are contingent on compliance with these terms. The project may receive points in each of the following categories:

1) A) Acquisition of land (must be at least 2 acres) in which at least 25% of the total project cost is land acquisition.

25% or greater (10 points) ___

OR

B) Acquisition of land is 1% to 24% of the total project cost and is an integral part of the project.

1% to 24% (5 points) ___

2) Project is within an urban area. Urban areas are defined by the U.S. Census Bureau as those populations and territories within the boundaries of Urban Areas and the urban portion of places outside of Urban Areas with a decennial population of 2,500 or more. (Please supply a U.S.G.S. 1:24,000 topographic map with the site location)

The Division of Outdoor Recreation will determine these points internally.

Urban area (4 points) ___

3) Project acquires woodlands that are a minimum of 1 acre, 120 feet wide and 10% tree covered. Written documentation from a qualified professional (e.g. District Forester, Arborist, Botanist, Landscape Architect, etc.) and photos are required.

Woodland acquisition (3 points) ___

4) Project acquires riparian areas. Riparian areas are considered those naturally vegetated areas associated with a lake or stream. Photos are required.

Acquisition of riparian area (3 points) ___

5) Wetlands:

A.) Project acquires and protects wetlands. Wetland areas must contain wetland plants, soils, and hydrology. Documentation & photos are required.

Wetlands (3 points) ___

B.) Wetland is considered an outstanding priority type: muck flats, sinkhole swamps, sinkhole ponds, sands flats, seep springs, marl beaches, dune and swale, sedge meadows, wet prairies, fens, bogs, pannes, forested swamps and cypress swamps.

Outstanding priority type wetlands (2 points) ___

Documentation from DNR's Division of Nature Preserves or appropriate authority substantiating either of these claims must be included to receive points.

6) The acquisition of lands is located in a county deficient in all 3 LOS Acre Categories (as defined by the State Comprehensive Outdoor Recreation Plan, SCORP, pg. 63). Deficient Indiana counties include: Adams, Allen, Blackford, Boone, Carroll, Clinton, Decatur, Dekalb, Elkhart, Floyd, Grant, Hamilton, Hancock, Hendricks, Howard, Jay, Johnson, Knox, Madison, Marion, Marshall, Ohio, Rush, Shelby, Tippecanoe, Tipton, Vanderburgh, White and Whitley.

Deficient counties (2 points) ___

7) The following counties are listed as "critical counties" by the SCORP in recreation acreage and also have population growth rates in excess of 1.74% (SCORP pgs. 70-71). Counties include Allen, Bartholomew, Boone, Decatur, Elkhart, Floyd, Hamilton, Hancock, Hendricks, Johnson, Marion, and Tippecanoe.

Critical counties (1 point) ___

II. Preserving Resources

This category is designed to promote projects that protect, preserve, and/or enhance natural resources. Mitigation of impacts resulting from the project's implementation will not be eligible for points. Application must include detailed documentation to support each affirmative response. Acceptable documentation can include, but is not limited to, letters from scientists (i.e. wildlife biologists, ecologists, fisheries biologist, etc.) and/or articles from reputable science journals and web sites. We will use the supporting documentation to evaluate your project.

Natural Resources

This subcategory supports projects that protect, preserve or enhance natural resources. The resource must be located within the boundaries of the project to be eligible for points.

1) The project purposefully protects and preserves existing significant natural areas/features through site design and/or management plan.

Significant areas/features (3 points) ___

2) The project protects a listed state endangered, threatened, special concern or rare species or federally threatened or endangered species on a permanent or seasonal basis. (Provide documentation from the Division of Nature Preserves and/or acceptable resource.)

State or federal threatened/endangered species (2 points) ___

3) The project restores/enhances fish habitat or wildlife habitat/native plant communities. (Provide a management plan and document expenses in cost breakdown.)

Fish or wildlife habitat (4 points) ___

4) The project protects or enhances water quality. (Provide a management plan and document expenses in cost breakdown.)

Water quality (2 points) ___

5) The project utilizes high post-consumer content recycled products or materials. (e.g., asphalt, concrete, metal, plastic, glass, rubber, etc.) Document recycled content supported by manufacturer's literature and list expenses in the cost breakdown.

Recycled materials (2 points) ___

6) The project utilizes alternative energy sources (e.g., solar, wind, geothermal, etc.) and/or energy savings measures. Provide manufacturer's literature and list expenses in the cost breakdown.

Alternative energy/Energy Savings (2 points) ___

III. Recreational Development

Trail Development

1) The project will develop a trail at least ½ mile in length.
(Sidewalks and short walking paths are not eligible for points.)

Trail (7 points) ___

Recreation Facilities

2) The project provides facilities for boating, fishing, and/or beach swimming.

Boating, fishing or beach swimming facility (3 points) ___

3) The project provides a swimming pool, spray park or water park.

Pool, spray park, or water park facility (3 points) ___

4) The project provides for renovation or rehabilitation of existing park facilities, is a minimum of 10% of the Total Project Cost, and is clearly outlined in the cost breakdown.

Renovation of park facilities (2 points) ___

5) The project provides support facilities. Costs for the support facilities must be clearly outlined in the cost breakdown (e.g., restrooms, concession buildings, maintenance facilities, etc).

Support facilities (2 points) ___

6) The project receives 2 points each for developing a facility specifically for the following:

Camping facilities (Class AA, A, B, or C) (2 points) ___
Playground (2 points) ___
Outdoor sports facilities (2 points) ___

Outdoor Recreation Facilities Total (6 points possible) ___

IV. Addressing Local Need

These criteria are intended to support applicants in addressing their local recreational needs.

1) Proposed land acquisition and/or park development is identified in needs analysis and/or priorities and action schedule of applicant's master plan. Documentation including page number in plan and method of determination must be provided.

Facility identified in master plan (5 points) ___

2) No other like recreational facility exists in the jurisdiction of the applicant. Support for facility must be documented in the park board's master plan, letters of support, or petitions, etc.

No other like facility in jurisdiction (1 point) ___

3) No other like recreational facility exists in the county in which the project is located. Support for facility must be documented in the park board's master plan, letters of support, or petitions, etc.

No other like facility in county (1 point) ___

V. First Time Recipient

1) This is the first LWCF grant awarded for the park site. **(1 point) ___**

2) This is the first LWCF grant awarded for the park board. **(2 points) ___**

3) This is the park board's first and only park (awarded one time only). **(2 points) ___**

Points Summary

I) More Land for Outdoor Recreation and Conservation

1. Fee simple acquisition _____ 5 or 10 points possible ___
2. Urban area land acquisition _____ 4 points possible ___
3. Woodland acquisition _____ 3 points possible ___
4. Riparian area acquisition _____ 3 points possible ___
5. Wetland acquisition
   A.) Acquire wetlands _____ 3 points possible ___
   B.) Priority type _____ 2 points possible ___
6. Deficient counties _____ 2 points possible ___
7. Critical counties _____ 1 point possible ___

II) Preserving Resources

Natural resources

1. Significant area/feature _____ 3 points possible ___
2. Threatened/endangered _____ 2 points possible ___
3. Fish and wildlife habitat _____ 4 points possible ___
4. Water quality _____ 2 points possible ___
5. Recycled materials _____ 2 points possible ___
6. Alternative energy/Energy savings _____ 2 points possible ___

III) Recreational Development

Trail development

1. Trail development _____ 7 points possible ___

Recreational Facilities

2. Boating, fishing, beach swimming facilities _____ 3 points possible ___
3. Pool, spray park, water park facilities _____ 3 points possible ___
4. Renovation _____ 2 points possible ___
5. Support facilities _____ 2 points possible ___
6. Outdoor Recreation Facilities _____ 6 points possible ___

IV) Addressing Local Need

1. Facility identified in master plan _____ 5 points possible ___
2. No other like recreational opportunity (jurisdiction) _____ 1 point possible ___
3. No other like recreational opportunity (county) _____ 1 point possible ___

V) First time recipients

1. First to park site _____ 1 point possible ___
2. First to park board _____ 2 points possible ___
3. First to park board's only park _____ 2 points possible ___

Total Points Possible = 78 Points ___

Chapter Three
Writing the Grant Application

Grant applications for the Land and Water Conservation Fund are submitted to Division of Outdoor Recreation, State and Community Outdoor Recreation Planning Section. This chapter includes specific instructions for filling out the forms, plus a description of the various other attachments that must be submitted with the application. Application forms are included in the Appendix. When submitting your application make copies of the appropriate forms. Be sure to copy the forms from your manual so you maintain a complete manual. A checklist of items needed for all project applications can be found at the end of this chapter. Applicants are encouraged to call the grants staff as questions arise when preparing an application. *Be sure to keep a copy of the grant documents exactly as they were submitted for your files.*

Application Form

The form is entitled *Grant Application* and all items should be answered as completely and clearly as possible. Follow the example as indicated in the Appendix (page 111).

Program Narrative

The Program Narrative should be written in narrative form and include the following elements:

1. Project Description - Indicate in detail how the land will be acquired, a description of the development proposed, the type of park (neighborhood, community, block), and the type of users expected (inner city, weekend, youth, senior citizens), giving as much specific information about the project as possible.

2. Pre-agreement Costs - The only costs which may be incurred prior to federal approval of the grant are preparation of the grant application, archaeological investigations and architectural and engineering services (be sure to include these fees on the application form). If the park board has signed a contract with an architectural and engineering firm or incurred other preliminary expenses, include the following information:

    a. Name of firm performing the work and contact person

    b. Address and telephone number of firm

    c. Date, scope, and amount of contract

    d. Amount of expenses incurred or paid up to the date of application

NOTE: If the park board signs a contract for architectural or engineering work after submitting the application, but prior to federal approval of the project, the information requested previously should be submitted to the Division of Outdoor Recreation

3. Accessibility: Facilities developed with LWCF assistance must be accessible to persons with disabilities. Describe how the project will be designed in an accessible manner for persons with disabilities, in conformance with the Architectural Barriers Act of 1968, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990. Site and building plans submitted with the project must reflect these designs. (A further description of the accessibility requirements can be found in Chapters Four and Six.)

4. Overhead Wires and Other Environmental Intrusions - Overhead wires are not allowed on LWCF assisted sites. Telephone lines, power lines, and others crossing over the park must either be buried or otherwise disposed. Describe the removal or relocation of all existing overhead wires and other environmental intrusions on the site. Include a statement that all future power lines will be buried, including those to be constructed as part of the project. This information is needed to ensure that sponsors understand their obligations for compliance with the federal policy on environmental intrusions. A copy of that policy has been included in the Appendix (page 106). All power lines must also be identified on the site plan.

5. Public Participation - With increased public awareness and concern for government management and spending, it has become more apparent that there must be public input beginning with the initial planning of a project. Park boards must actively solicit opinions and suggestions from local elected officials, state legislators, special interest groups, and the general public for potential projects. This information must be included to prove that public input was actively sought as part of the project application. This must be in the form of at least one public meeting and may also include a survey questionnaire. Be to inform the general public that your park board is applying for the federally funded Land and Water Conservation Fund (LWCF)

    a. Public Meeting - A news article discussing the project and giving the date(s) of the special meeting(s) should be enclosed with a brief description of the meeting, including the number of persons attending, and their general comments, both positive and negative. If the project involves construction in a floodplain, this must be clearly stated in the news article and/or release.

    b. Survey Questionnaire - In this case, the methodology used to construct, distribute and collect the results, as well as a final tabulation of the questionnaire responses should be included. Most projects will generate some negative comments. Negative comments should be mitigated or it should be shown that negative comments were taken into consideration when planning the project.

6. Other Federal or State Assistance - Describe any other federal or state source of assistance which has been given, is pending, or promised for any work within the boundaries of the park or recreational site affected by this request. Specifically, the

following information is needed:

a. Federal Domestic Assistance Catalogue number (if applicable),

b. Type of assistance,

c. Amount of funding,

d. Relationship to this request.

7. Projects Involving Land Acquisition - If the project includes land acquisition, list the number of individuals, families, farms and businesses to be relocated, if any.

8. Archaeological, Historical, and Architectural Review - The historical, archaeological, architectural or cultural significance of the site, should be briefly described in this section.

Application Attachments

To be considered for funding, the application must be accompanied by the following supplemental attachments.

Cost Breakdown

One copy of a cost breakdown must be submitted with each project application. The cost breakdown should show all of the acquisition and development for which reimbursement will be requested (up to and no more than the $400,000 total project cost per grant project). The total project cost shown on the cost breakdown must match the figures listed on the *Grant Application* form. A sample cost breakdown is in the Appendix (page 144).

Evidence of Local Funds

The park and recreation board must have its 50% share of the project costs available for the project at the time the application is submitted. The type of documentation varies according to the source of funds as explained below.

1. Appropriations, Bond Issues, Other Federal Funds and In-kind (Force account) Contributions. One copy of a statement from the fiscal officer must certify these funds will be available in the park board's budget when the project will take place. This statement may be in letter form and signed by the fiscal officer. The letter must state exactly how much is available, its source, and then be included as an attachment to the grant application.

   In the case of a bond issue, the park board's attorney should provide a letter explaining the steps through which the bond issue has already progressed and a schedule for remaining action to take place. A bond issue must be completed up to the point of bond sale at the time of application. If bonds will provide the local share of a project, the bond issue should cover the entire project cost, rather than only the sponsor's 50%. This

will enable the park board to complete the project if LWCF monies are not obtained and to pay the project expenses, since LWCF grants are provided on a 50% reimbursing basis.

2. Donations - If the park and recreation board is to receive gifts of cash, land, labor, equipment or materials from a private individual, non-governmental agency, private organization or business, a letter of intent to donate from each donor must accompany the application. The value of each gift must be stated at the time of application.

    a. Cash gifts are counted at the donor's stated amount.

    b. Land donations are based on real estate appraisals as explained in Chapter Five.

    c. For general unskilled labor donations, the fiscal officer must certify the wage rate paid to entry-level park department laborers. This rate is then applied to the pledged number of hours to be contributed. If donors of labor are employed in a skilled trade, time spent doing the particular trade may be valued at their employment wage rate. Either their employers or they (if self-employed) need to verify their rate per hour on company letterhead.

    d. Major construction equipment use rates may be established according to the guidelines referred to in Chapter Six.

    e. Materials may be valued by the lower of at least two quotes from commercial suppliers of similar items.

3. Cash Flow - Although only 50% of the project costs are required to be documented in the project application, the park and recreation board must have more than this amount available. Since the Land and Water Conservation Fund is a reimbursing program, the Board must first pay the bills and then submit a billing for reimbursement. For a land acquisition project, the park and recreation board must purchase the parcel and then submit a billing, thus requiring the board to have the total purchase amount of each parcel available. For a development project, billings may be submitted as often as monthly; however, it is advised that the board have available at least 70% of the total costs in order to pay the final costs of the project. The park and recreation board may need to borrow from another account or obtain a short-term loan in order to pay the last project costs before billing for final reimbursement. Sponsors are urged to contact the State Board of Accounts if questions arise concerning the procedures for borrowing funds on short-term basis.

Rating Criteria Information

The *Rating Criteria* is the single most important part of the grant application since it will determine which projects receive funding. Project sponsors must provide detailed information which will be used to evaluate each rating factor. The factors are extremely important and should be answered completely. Applicable evidence of responses should be reflected in the cost breakdown and through additional material. The *Rating Criteria* can be found in Chapter Two.

In choosing which project to submit for LWCF funding, park boards are encouraged to select their top three to five priorities from the five-year master plan, and then evaluate each according to the rating formula. Priority projects may be combined for each park site. After the points have been tallied, the park sites will fall into a rank order. The project which rates the highest should be submitted. This method will ensure the project being submitted will be the best candidate for funding from among the many priorities identified in your master plan.

Project Proposal Assurances

This form is signed by the park board president, attested by the board secretary, and indicates the park and recreation board's willingness to comply with all of the program regulations and requirements. These details are explained in Chapters Four and Eight of this manual. Disregard of the program regulations could result in the local board having to return all federal funds invested in the project. This form must be signed and submitted after DNR approval. A copy of the *Project Proposal Assurances* is included in the Appendix (page 133).

Assurance of Compliance - Civil Rights Act of 1964 – Title VI, Rehabilitation Act of 1973, Age Discrimination Act of 1975

To ensure park and recreation boards comply with these laws, each project application must be accompanied by a signed *Assurance of Compliance* form (page 131). The form must have the original signature of the park board president. A copy of this form is included in the Appendix. The Act requires that Land and Water Conservation Fund sponsors "may not, directly or through contractual or other arrangements on the grounds of race, color, gender, national origin, age, or disability, deny an individual any service, financial aid, or benefit provided under the program." A detailed explanation of federal grant recipient's responsibilities is included in Chapter Four and in the Appendix. Park boards should read the assurance carefully before applying for funds.

Photographs, Maps, Site and Building Plans

The following items must be submitted with the application (several of these may be incorporated into one map):

1. Topographical Map - Each project application must be accompanied by a scaled U.S.G.S. topographical map which delineates the exact location of the project site. The map should show sufficient detail to allow a person unfamiliar with the area to find the project site without having to ask directions.

2. Boundary Map - Enclose a plat map showing the exterior boundaries of the area to be acquired or developed. *The site dimensions and survey coordinates should be clearly identified as should easements, rights-of-way, etc.* This map will be used to determine the 6(f) boundary of the park.

3. Base Map - All items on the base map should be accurately labeled and keyed into a legend. Base maps for acquisition and development projects should show the existing site before the project is implemented. See information in the Appendix (page 150).

4. Photographs - Clear photos (preferably digital) keyed to a site plan of the project area should be submitted. Be sure to include photos of all existing buildings, structures, recreation facilities and natural site features. A 360° view of the project should be easily attainable from the photos and map.

5. Acquisition and/or Development Plan - All acquisition and development in the LWCF project, including the location of every item listed on the cost breakdown, should be identified on this plan.

6. Building Plan - Applications should be accompanied by one copy of a preliminary design or architectural concept for each building, shelter and other structure to be constructed or acquired as part of the project. The plans should be drawn to scale and show sufficient detail to depict how the facility is, or will be, constructed to for accessibility to people with disabilities.

Easements

In addition to identifying all easements on the base map, the easement documents must be submitted for review with the application. This includes permanent or temporary easements for access, transportation, utility rights-of-way, scenic preservation, etc.

Property Deed(s)

The deed(s) and/or lease(s) for the land to be developed must also be submitted with the application. Refer to Chapters Five and Eight for criteria for land leased (1) to the park board and (2) by the park board to another entity for operation of the park. For land acquisition projects, property deed(s) for the tracts to be acquired must accompany the application.

Environmental Assessment

The environmental effects of a project submitted for Land and Water Conservation Fund assistance are evaluated through the preparation of an assessment report on the intended action. In 1969, the National Environmental Policy Act was passed to ensure a uniform national policy on evaluating the environmental impacts of federal and federally-funded projects. The Act requires the preparation of an impact report for federally-funded projects which may result in significant adverse effects to the environment. All Land and Water Conservation Fund projects must have some basic environmental data to determine the impact of the proposed action. The documentation supplied in the *Environmental Assessment* will determine whether a more detailed *Environmental Impact Statement* will need to be prepared.

All projects applications must be accompanied by two copies of the environmental assessment entitled *Environmental Assessment*, which includes four sections:

1. The proposed action,

2. Alternatives to the proposed action,

3. Environmental impacts of the proposed action,

4. Listing of agencies and persons consulted.

It is very important the information provided is accurate and objective. Deceptive or incorrect analysis of potential impacts could lead to the withdrawal of federal funds from the project, repayment of already reimbursed funds, and court action against the project sponsor. The following suggestions will assist in the preparation of this report:

1. Keep the environmental information free of project justification and personal bias. The project presumably is fully justified elsewhere in the documentation.

2. Do not rely on the generalities. The specific facts are essential. General statements and all allegations should always be supported and quantified where possible.

3. Liberal use of maps, sketches, and related graphics to help explain the project are of great value. Pictures (particularly aerial photographs) can reduce lengthy narrative materials.

4. Writing style should be kept clear and concise. Adverse impacts should be addressed as fairly as the beneficial impacts.

An outline for the *Environmental Assessment* is in the Appendix (page 112). The directions are broad to cover all types of projects and in most cases the answers to the various elements will be short. For most projects, the *Environmental Assessment* should be no longer than ten pages.

Farmland Review

If the proposed project involves the acquisition and/or development of land which will be taken out of agricultural production, this issue must be discussed in the *Environmental Assessment.* The county Natural Resources Conservation Service (NRCS) office should be contacted for a determination on the status of the site as prime farmland. The NRCS agent will visit the site and prepare a statement indicating what percentage of the site, if any, is prime farmland. The NRCS will use this information to keep track of the loss of prime farmland. This letter needs to be submitted as an attachment to the *Environmental Assessment.*

Land Acquisition Projects

Supplemental Acquisition Form

One copy of the *Supplemental Acquisition Form* must be submitted for all projects involving land acquisition. The form is located in the Appendix (page 152).

Appraisals

One copy of an appraisal compliant with the Uniform Appraisal Standards for Federal Land Acquisitions (also known as the “Yellow Book”) or a Statement of Value made by a certified general appraiser with federal experience must be submitted for each parcel of land to

be acquired. See Chapter Five for additional information regarding the appraisal and Statement of Value guidelines. If a Statement of Value is submitted with the application, the park board should hire the same appraiser to complete the full appraisal later. This should help maintain consistency in land value determinations. Park boards should consult the Indiana Department of Natural Resources, Division of Land Acquisition, at (317) 232-4050 regarding appraiser and appraisal criteria before selecting the individual to conduct the work.

Just Compensation and Option(s) to Purchase

In some cases, project sponsors may choose to execute an option to purchase property before the project application is approved. While options are not required, project sponsors should be aware of federal land acquisition policies as explained in Chapter Five. If an option has been signed, submit one copy of the document along with the required *Statement of Just Compensation and Offer to Purchase* or a *Waiver of Right to Just Compensation* if applicable.

Escrow Agreement(s)

If the project sponsor plans to or has placed the land in escrow with a third party, submit one copy of the escrow agreement with the application.

Relocation Plan

Submit the relocation plan for land acquisition projects which will involve moving owners and/or tenants from their dwellings, businesses, or farm operations. Elements of the relocation plan are explained in Chapter 5.

Development Projects

Certification for Development Projects

If the site was acquired by the park board after September 2, 1971, without federal assistance, either of two certifications must be provided:

1. That at the time of acquisition and any relocation, planning had not been initiated by the park board to obtain LWCF assistance for the project.

2. That the park board followed the federal procedures under P.L. 9 1-646, the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act, to the extent possible under State law, including the acquisition procedures and provision of relocation services and benefits to any displaced person.

Chapter Six explains these requirements in more detail.

LWCF Grant Application Checklist

All grant applications must include the following items in A & B. After State approval the items in Section C will be required as necessary. Place "y" for yes, "n" for no, or "n/a" for not applicable next to each item. Each no response must be justified via a written explanation. Original signatures are required on all documents unless otherwise noted.

Part A: All Projects

___1. Eligibility

- ___ copy of ordinance establishing the park board under current Indiana law
- ___ project meets a general need in an approved five-year park and recreation master plan

___2. Application form, signed by the park board president (Appendix, page 108) Ensure preliminary/pre-agreement costs are included if applicable.

___3. Cost breakdown showing the total cost of every scope item (not to exceed the total project amount, grant+match, of $400,000). (Appendix, page 144) *Be sure to include all criteria items for which you are trying to score points.*

___4. Evidence of local funds from fiscal officer or pledges from donors.

___5. Program narrative including:

- ___ project description (if the grant project is part of a larger project clarify this and describe each separately)
- ___ describe all eligible pre-agreement costs
- ___ accessibility (in conformance with the Architectural Barriers Act of 1968 and Section 504 of the Rehabilitation Act of 1973)
- ___ overhead wire burial or removal
- ___ public participation
- ___ other federal or state funding
- ___ historical, archaeological, architectural information
- ___ relocation of tenants, businesses, or homeowners (acquisition only)

___6. U.S.G.S. Topographic Map, Boundary Map, and Base Map

___7. Preliminary/conceptual development and/or building plans drawn to scale which include all acquisition and development (Also label current facilities; parcel acreage(s); and all current easements, right of ways, reversionary interests…).

___8. Color photos (preferably digital) showing the general features of the site keyed to a map.

___9. Environmental Assessment (Appendix, page 112). For new acquisition and development projects. *Development projects only, in existing park, qualify for Categorical Exclusion*

and only Section 106 needed.

___ description of proposed action

___ alternatives to the proposed action

___ environmental impacts of the proposed action

___ list of agencies and others consulted

___ farmland review

___10. Project Rating Criteria. Address each criteria individually with complete responses and supporting documentation. (Chapter 2, pages 22-26)

___11. Civil Rights Act of 1964, Title VI, Assurance of Compliance form (Appendix, page 131).

___12. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions. One signed form (Appendix, page 133).

Part B: Land Acquisition Projects

___13. Supplemental acquisition form (Appendix, page 152)

___14. Statement of value for each parcel being acquired

___15. Option(s) to purchase, if applicable

___16. Escrow agreement(s)

___17. Relocation plan for displaced businesses, owners, or tenants

Part C: *After State Approval*

___18. NEPA Coordination and Section 106 Historical/Archaeological Review (see Appendix, pages 145-148)

___19. Detailed architectural/engineering plans for all development, with particular attention to ADAAG guidelines.

___20. Easement document(s) for all utilities, transportation, etc.

___21. Full appraisal for each parcel being acquired with LWCF grant

___22. Property Deed for each parcel being acquired

___23. U.S. Army Corps Permit. One copy of the application to or permit from the U.S. Army Corps of Engineers for construction in the floodway, floodplain, or wetland, where applicable.

___24. Water Permit(s). One copy of the application to or permit from the DNR Division of Water and/or the Indiana Department of Environmental Management.

Chapter Four
Grant Approval

The Approval Process

State Recommendation

The park board will be notified after the Director of the Department of Natural Resources has reviewed the applications and recommended those projects that will be sent on for Federal approval. If your application was not recommended for funding, the Grants Staff can review the rating formula with you and explain why points were awarded in some cases and not in others. Hopefully, the application can be improved before it is submitted again.

After State recommendation, project sponsors will be requested to send additional information as noted on the checklist in the previous chapter. Coordination with several agencies for NEPA, including local and State (SHPO) coordination for Section 106, will need to be completed (DNR Division of Outdoor Recreation will coordinate with Tribes for Section 106). The additional information is needed to meet the Federal grant application requirements for complete applications.

Federal Approval

The park and recreation board will be notified after the National Park Service has approved the grant. Grant recipients will usually be contacted by their U.S. Senator(s) or Congressman. The NPS and DNR will issue news releases to the local media. In addition, a project agreement will be sent to the Park Board. The agreement should be signed and dated by the park board as indicated on the form. The agreement should be sent back to the Division of Outdoor Recreation. Upon final project approval by the National Park Service, the agreement will be signed by the Director of the Department of Natural Resources, the Commissioner of the Department of Administration, the Director of the Budget Agency, and the Attorney General. A copy of the fully signed agreement will be returned to the park board once the project has been federally approved.

Project Agreement

The project agreement is a state contract entered into by the Indiana Department of Natural Resources and the local park board. The agreement will provide information required for project correspondence and will describe the responsibilities of the State and of the park and recreation board. Please read the agreement carefully. There are many pieces of important information included.

The project number will be assigned on the agreement. It is given for federal/state identification purposes. This 7 digit code number has an 18-00 prefix. The project title will also

be assigned. The project title is to be used on all project correspondence.

Under clause 1, Purpose of Agreement, the amount of the grant is stated. The LWCF grant amount may not exceed 50% of the total project cost. The cost breakdown submitted with the application will be attached to the agreement.

Clause 2, Term, covers the approval and expiration dates for the grant. The approval date is the date of the last State signatory. Any work begun before this date, other than those identified as pre-agreement costs, will not be reimbursed. The expiration date is when the project must be completed. All work must be finished by this time to be eligible for reimbursement.

The project scope identifies the elements included in the project proposal as approved by the federal agency. Only those items will be eligible for reimbursement. If the project sponsor needs to make revisions, the grants coordinator should be contacted before those revisions are made. State and sometimes federal approval must be granted before revised work can be started if LWCF reimbursement will be requested.

Other sections of the contract identify specific elements incorporated into the project agreement, such as the *National Environmental Policy Act of 1969, Order of Precedence, and other requirements.*

General Provisions

The *General Provisions* are divided into three major parts. Part I gives the definitions for the abbreviated terms used in the provision assurances. Parts II and III are the provision assurances for acquisition, development and maintenance of projects. These assurances incorporate maintenance of property for public outdoor recreation use, nondiscriminatory practices, federal regulations for bidding and contract compliance, project processing, record maintenance, eligible project costs and many other requirements. A copy of these provisions will be sent to project sponsors along with the *Project Agreement* for approved projects. The provisions are an integral part of the project agreement and must be followed throughout project administration. The *General Provisions* may be found beginning on page 99 of the Appendix.

Nondiscrimination

Project sponsors must comply with the nondiscrimination obligations imposed by federal laws upon states, communities, and organizations who acquire and/or develop facilities for general public use. The major acts concerning nondiscriminatory practice for which compliance guidelines have been issued by the Interior Department are Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Age Discrimination Act of 1975, and the Architectural Barriers Act of 1968.

Assurance of Compliance

The Assurance of Compliance (Appendix, page 131) explained in Chapter Three is signed by the park board as part of a grant application. This agreement states that the park board will comply with Title VI of the 1964 Civil Rights Act.

The Act states that:

"No person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

According to the federal interpretation, when a project sponsor receives federal funds, the entire park and recreation system becomes subject to the obligations imposed by Title VI of the Act. The Act requires that agencies take affirmative measures to insure that all facilities and programs within their control be open to the general public regardless of race, color, or national origin. Discrimination is not permitted. Slightly higher fees may be charged to people living outside the jurisdiction of the park board, but the fee may be no more than double that for residents.

The following is a summary of the conditions for Title VI. Project sponsors must carefully study and follow the guidelines to insure compliance with all federal regulations.

1. Prohibited Discriminatory Practices

a. Any difference in quality, quantity, or the manner in which the benefit is provided,

b. Segregation or separate treatment in any part of the program,

c. Restriction in the enjoyment of any advantages, privileges or benefits provided to others,

d. Different standards or requirements for participation,

e. Methods of administration which would defeat or substantially impair the accomplishment of the program objectives,

f. Discrimination in any activity or program conducted in a facility built in whole or part with federal funds,

g. 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,

h. Restriction in the method and/or means used to advise persons of benefits and services provided to others.

2. Complaints

Any person(s) who believes discrimination exists in a federally-assisted program because of race, color, or national origin has the right to make a complaint to the officials responsible for that program.

a. Prompt investigations will be made of complaints received.

b. If discrimination is found, negotiation and persuasion will first be used in an effort to eliminate the prohibited practices.

c. Should these efforts fail, federal assistance may be terminated or discontinued after a fair hearing.

d. Other means authorized by law, including court action, may also be used to enforce nondiscrimination.

No park agency or person may intimidate, threaten, coerce, or discriminate against any individual because he or she has made a complaint, testified or assisted in Title VI investigation, proceeding, or hearing. The park board must notify the Department of the Interior's office for Equal Opportunity or the National Park Service within five days upon receipt of a complaint.

3. Compliance Reports

Records and other information designed to show the extent of compliance with Title VI agreements must be maintained by park departments and reports sent to the Interior Department and Division of Outdoor Recreation, as requested. A park board is also required to inform participants and other interested persons of the provisions of Title VI regulations and of their applicability to the federal assistance program.

4. Reviews

The Department of the Interior and the state may conduct reviews prior to awarding grants, during trips to visit the agency's project site, and after the project has been finished. Reports, publications, and other records may be reviewed in the course of these compliance reviews.

5. Compliance under Title VI

Title VI regulations provide the necessary framework for protecting the rights guaranteed to the park agencies and to the public under federally-assisted programs. Compliance will first be sought by affirmative and voluntary means whenever possible. In addition, the regulations allow the federal government to make pre-grant, field and follow-up reviews; complaint investigations; informal adjustments; and when necessary, more formal proceedings in the court system.

6. 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:

a. 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 by signing a document which states

their intent to comply with the Act.

b. Submittal of pre-award information when requested.

c. Minority and female representation on appointed park, advisory, planning, and review boards and committees. Exclusion of minorities and women could be considered discriminatory. Inclusion guarantees a voice in the planning, acquisition, and development of projects and programs by citizens from all backgrounds.

d. Equal emphasis of program administration and program distribution (recreational, cultural, etc.) and maintenance quality of facilities regardless of location. 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.

e. 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, or national origin to use programs and facilities.

f. Use of pictures of minorities, women and integrated use facilities, in brochures, pamphlets, and other informational material. 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.

g. 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.

h. Equal compensation and assistance for those displaced in the course of a land acquisition program whether they are majority or minority landowners.

Several practical steps should be considered as a means of implementing the above measures. Racial/ethnic and gender data should be collected by the recipient to determine if all persons are benefiting from the federally-assisted program. Identification of persons of 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.

Consideration should be given to minority and female enterprises as a means of distributing the benefit of a federally-assisted program. Programs of a historical nature should take into consideration contributions made by minority groups and women.

Affirmative action posters must be posted on project sites.

The following paragraph is an example of a Title VI Notification Clause. The Office for Equal Opportunity requires that all program materials, brochures, program or course applications, sign-up sheets, contracts signed by private organizations for park use, rental contracts for concession stands and or all other lease or contracts, contain such a clause. While all the information contained in this paragraph must be included, the park board may rewrite

this clause to conform to its individual style.

Model Title VI Notification Clause

This park board has received Land and Water Conservation Funds. Under Title VI of the 1964 Civil Rights Act, the U.S. Department of Interior prohibits discrimination on the basis of race, color, national origin, age or disability. If you believe that you have been discriminated against in any program, activity, or facility, or you desire further information regarding Title VI, please write to:

The Office for Equal Opportunity
U.S. Department of the Interior
Office of the Secretary
Washington, D.C. 20240

Accessibility for Persons with Disabilities

The Architectural Barriers Act of 1968, Section 504 of the Rehabilitation Act of 1973 (as amended), and the Americans with Disabilities Act of 1990

Three federal acts provide the basis for assuring that discrimination against persons with disabilities does not occur.

The Architectural Barriers Act of 1968 requires that parks which are acquired or developed with federal assistance be designed so their facilities are accessible to persons with disabilities. All LWCF projects must be constructed to provide for accessibility by users with disabilities.

Section 504 of the Rehabilitation Act of 1973 (as amended) states that: "No otherwise qualified individual with a disability in the United States, as defined in section 705 (20) of this title, shall, solely by reason of his or her disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receiving Federal financial assistance."

The Act emphasizes accessibility for persons with disabilities to programs, activities, and services. It also applies to employment practices of the recipient agency and some related contractual and user groups' services and practices. As part of the Five-Year Park and Recreation Master Plan, the park board signs a form which states that they agree to comply with the Architectural Barriers Act of 1968, Section 504 of the Rehabilitation Act of 1973 (as amended), and the Americans with Disabilities Act of 1990. The following is a summary of the guidelines:

1. Persons Covered - "Person with a disability" means anyone who has a physical or mental impairment that substantially limits one or more major life activities. "Major life activities" are defined as functions such as caring for one's self, performing manual tasks, walking, seeing, speaking, hearing, breathing and learning. Drug and alcohol abusers are also covered by Section 504, except when current use of drugs or alcohol prevents them

from performing the duties of their jobs or poses an immediate threat to public safety or property.

2. Program Accessibility - All programs and activities provided by the park board must be accessible to and otherwise qualified individual with a disability on a "system-wide" basis, even those not directly receiving federal aid. An "otherwise qualified individual with a disability" is one who meets the eligibility requirements for program participation or receipt of services. This means that persons with disabilities must be able to participate in each type of program or activity at a minimum of one location within the park board's jurisdiction. For example, if the park department offers guitar classes at five locations in a city, at least one of those classes must be accessible to persons with disabilities.

   Accessibility may be provided by several methods, including redesigning equipment, structural changes to a facility, moving programs to accessible locations, providing aids for persons with disabilities, and home visits. Thus program accessibility does not mean that every facility must be made structurally accessible or must require physical modification.

   For agencies with fewer than fifteen full or part-time employees, if the situation arises, after consultation with a person with a disability who wants park and recreation services, that no alternative exists to provide access other than structural adaptations, the person may be referred to other providers of services whose facilities are accessible. Such referrals may be made however, only with advance approval by the Director of the Department of the Interior's Office for Equal Opportunity.

3. Employment Practices - The park board must ensure that its employment practices are nondiscriminatory. Written nondiscrimination policies should include persons with disabilities. Discrimination against "qualified" individuals is prohibited. A "qualified person with a disability" is one who, with "reasonable accommodation," can perform the essential functions of the job. Reasonable accommodation must be provided to employees with disabilities and applicants, unless it creates "undue hardship."

   Examples of accommodations may include (but are not limited to) facility access, modified work schedules, job restructuring, and permitting work to be done at home or other locations. All applicants and employees must be informed that discrimination on the basis of disability is prohibited. The park board must be aware of their responsibility for effective communication with people who have visual, auditory, mental, and/or learning impairments. Employees also need to be notified of when, where, and how to file employment complaints alleging disability discrimination. The board must adopt grievance procedures for prompt and equitable resolution of complaints. A wide range of employment practices are covered by Section 504 and the Americans with Disabilities Act.

4. Self-Evaluation and Transition Plan - The park board must conduct a self-evaluation of all its programs, activities, services, facilities, employment practices, and policies to ensure compliance with Section 504. The evaluation must be done in consultation with interested persons, including persons with disabilities or organizations representing persons with disabilities, and report the areas examined, problems identified, and remedial steps to be

taken. If the park board employs fifteen or more full or part-time employees, the results of this evaluation must be maintained on file for public inspection for three years after completion.

5. Public Notification - The park board is to notify its employees and the public of the availability and accessibility of its programs and services, its policy of nondiscrimination, and procedures for filing complaints. This can be accomplished through its program publications, posters, the media and recruitment materials. Appropriate steps must be taken to communicate with persons with impaired vision or hearing, learning disabilities, or who are mentally retarded.

   The public must be informed that the board receives federal financial assistance from the Department of the Interior, and thus federal law prohibits discrimination on the basis of disability in the board's programs and activities. The explanation must also state that if any individual feels he or she has been discriminated against or desires further information regarding the Department of the Interior's nondiscrimination requirements, the person may write to:

   Director - Office for Equal Opportunity
   U.S. Department of the Interior
   Washington, D.C. 20240

6. Extension of Compliance to Others - If the park board gives, leases, or transfers real property, it must put a covenant in the agreement transferring the property that discrimination on the basis of disability will not occur. This obligates the recipient or the transferee, for the period during which the real property is used for the purpose for which it was extended, to operate in a nondiscriminatory manner.

   When the board has a contract, subcontract or agreement with concessionaires or organizations (such as health maintenance organizations, insurance agencies, or labor unions), nondiscrimination clauses must be included in the contractual documents and ensure that the organizations do not discriminate on the basis of disability in services to employees and job applicants.

7. Administrative Requirements - Agencies employing fifteen or more full or part-time employees must designate one person as being a Section 504 Coordinator, responsible for compliance with the Act. Such agencies must also adopt grievance procedures for the prompt and equitable resolution of disability discrimination complaints.

   Park boards should keep on file sufficient documentation to demonstrate compliance with Section 504 for federal review purposes. The Department of the Interior's, Office for Equal Opportunity will periodically perform on-site and desk audit periodic reviews of local grant recipients. The Division of Outdoor Recreation staff may also request evidence of compliance for review purposes. Park boards are expected to resolve any noncompliance voluntarily; however, available federal sanctions include withholding or terminating federal funds and judicial enforcements.

Project Sequence

Before the project can receive federal approval, the park board must complete the NEPA and Section 106 Historical Review process. Once federal approval is received, the park board must submit a full appraisal done by a certified general appraiser with federal experience (for land acquisition projects only), obtain any necessary permits (i.e. Local, Division of Water, Army Corps of Engineers, etc.), and submit detailed plans and a bid packet to the Division of Outdoor Recreation.

After these items are completed, the park board can begin negotiations and purchase the land, advertise for bids, sign contracts, and start construction. Donations of land, materials, equipment and labor for the project may be accepted after the grant is federally approved. Cash gifts may be received both before and after project approval. For acquisition projects, the board should follow the procedures in Chapter Five. For development projects, the board should refer to the construction guidelines in Chapter Six. Please note which permits must be secured prior to construction. Progress billings may be submitted after the project is approved and eligible costs are incurred. Chapter Seven explains billing procedures and the items needed before federal funds can be reimbursed. During the project period, the Grants Staff will make periodic inspections to insure that the development is consistent with the project application. A project officer from the National Park Service may also inspect the project. The primary contact person is usually notified prior to these inspections and invited to accompany the inspecting officers.

If changes occur or problems are encountered during the project period, your grants coordinator should be contacted immediately. As indicated previously, changes may result in a need to amend the project in order to reimburse the park board for changes in the project which were not in the initial grant application.

Amendments

During the project period, various situations may result in changes or deviations from the *Project Agreement.* An amendment is necessary to alter the signed agreement. Changes that commonly necessitate an amendment are increases or decreases in the project scope or an extension of the project period.

Changes in Project Scope

Only those items approved for the project are eligible for federal assistance. Similarly, facilities must be constructed in the same location as designated on the site plan submitted with the application. Due to unforeseen changes in project costs or revisions in the plans for the park, certain items may have to be added or deleted from the project after it is approved. These changes may require approval by the National Park Service. In the case of adding an item to the project, construction on that item cannot begin until the amendment is approved. The amount of federal assistance specified on the *Project Agreement* may not be increased for that particular project. Costs incurred above this amount must be paid by the local agency.

All changes in the projects scope should be consistent with the intent of the original application. If the application specified picnic area development, a swimming pool could not be

added by an amendment; however, additional picnic tables, grills, or a shelter could be added. All changes must be justifiable and the need for change must be documented by correspondence with the Division of Outdoor Recreation, accompanied by revised cost estimates, construction drawings, and site plans.

Project Period Extensions

All acquisitions and development must take place within the project period, which is identified in the *Project Agreement.* The agreement is sent to the projects sponsor after the project has received federal approval. For most projects, the target date for project completion will be based on a four-year project period. If the project cannot be completed during the period identified on the agreement, a request may be submitted for a time extension. The request must justify why the project cannot be completed before the expiration date. Justifications should include a time schedule for completing the remaining items. Work performed after the project has expired will not be eligible for federal assistance. Final payments of work done during the project period can be made after the project has expired. These payments should document that the work had been completed before the project period expired.

Projects may be extended for one year if the request is justifiable. This extension should enable the work to be completed. Projects needing additional time will normally receive an extension only once.

Project Agreement Amendments

The sponsoring park and recreation agency initiates the amendment by submitting a request for the change to the Grants Coordinator assigned to your project. This request should include all project revisions desired, including cost estimates, maps or design plans, and justification of the need for changes. It is recommended that the Grants Coordinator be contacted prior to submittal of the amendment request. The staff member will be able to provide advice on the feasibility of an amendment approval. An amendment for a change in project scope can be requested any time prior to the construction of the added item or acquisition of the added tract. An amendment for an extension of time should be submitted at least sixty days before the project is scheduled to expire.

It is essential that amendment requests be kept to a minimum. Amendments may cover items that could not be anticipated in the original project. Major deviations from the original project will not be accepted. It is the responsibility of the park and recreation board to thoroughly determine the scope of the project prior to the submission and, upon approval, carry through with that project.

If approved, two copies of the *Amendment to the Project Agreement* will be sent to the park board for signature. After official state signatures are obtained, one copy of the executed document will be returned to the park board so that both agencies will have signed amendments for their files.

Project Completion

After completion of the LWCF project, the Grants Staff will conduct a final inspection. The federal agency may also make a final inspection, but this inspection may not take place until later. If the project has been completed in accord with the *Project Agreement*, the final billing can be processed. Additional documentation will be needed for the final billing as indicated in Chapters Seven and Eight.

For a project to be considered completed and ready for final billing, a permanent Land and Water Conservation Fund sign must be displayed on the site as described in Chapter Eight.

The final billing should be submitted within sixty days of the date of completion or expiration date, whichever comes first. This procedure will enable both the park board and Grants to complete the final project data and terminate administrative procedures as soon as possible. Further long-term obligations regarding project sites are explained in Chapter Eight.

Checklist for Amendments

Listed below are specific items to be included in submitting amendment requests.

For changes in project scope:

___1. One (1) copy of a revised cost breakdown showing the cost of items completed and the estimated cost of work yet to be done, including the items to be added to the project.

___2. For buildings being revised or added to the project, three (3) copies of the floor plans and elevation diagrams.

___3. Three (3) copies of a revised site plan, showing the locations of the facilities to be added or plat map showing the location of the additional land to be purchased.

___4. One (1) copy of a justification for the revisions, which may be included in the transmittal letter.

For project period extensions:

___1. One (1) copy of a time schedule showing the dates the remaining project items are to be completed.

___2. One (1) copy of a justification for the project period extension, which may be included in the transmittal letter.

Chapter Five
Criteria for Land Acquisition Projects

Site Selection for a Grant Application

An acquisition project would include the purchase of a specified portion of land for outdoor recreation purposes. A project may involve the acquisition of land to create a new park or expand an existing park. A project may also consist of the acquisition of land for more than one park if the parks are connected. An example of a multi-site acquisition project is the purchase of land for a trail connecting neighborhood parks or parcels for access points along a river to create a greenbelt park corridor. Do not acquire any land until federal approval has been obtained.

In determining the boundaries of a project, the sponsor should take into account human considerations, including the socioeconomic effects of the acquisition and subsequent development on owners and tenants in the adjacent area, in addition to other factors. If a partial taking would leave an owner with an uneconomic remnant, the park board must offer to acquire the entire property. Keep in mind that once acquired with Land and Water Conservation Fund assistance, land must remain in public outdoor recreation use forever. A copy of the deed with LWCF encumbrance language must be submitted to the DNR after the property is acquired. The Federal Protection for Outdoor Recreation language shown in the Appendix on page 142 can be used as the encumbrance language.

Eligible Types of Acquisition

The types of acquisition that are eligible for assistance include, but are not limited to:

1. Water–Oriented Recreation Sites – Areas with frontage on rivers, streams, lakes, estuaries, and reservoirs; water bodies themselves; land for creating water impoundments; and areas that provide special recreation opportunities, such as floodplains and wetlands.

2. Natural and Scenic Areas – Natural areas, preserves and outstanding scenic areas, including areas adjacent to scenic highways, where the objective is to preserve the scenic or natural values, including areas of physical or biological importance and wildlife areas. These areas must be open to the general public for outdoor recreation use to the extent that the natural attributes of the areas will not be seriously impaired or lost.

3. Community Parks – Land within cities and towns for day–use picnic areas, neighborhood playgrounds, areas adjacent to school playgrounds and competitive nonprofessional sports facilities, as well as more generalized parklands.

4. County Parks – Sites in rural areas serving county and regional recreational uses, such as

camping, hiking, hunting, fishing and picnicking.

5. Linear Parks – Land which forms a greenbelt corridor for recreational use, such as an abandoned railroad line for a multi–purpose trail, or a series of access points to a river for boating and fishing.

6. Existing Recreational Facilities – Privately owned facilities, such as swimming pools, golf courses and youth camps, which will no longer be operated by the private sector. Park and recreation boards considering the acquisition of land and/or facilities which are in recreation use should determine the nature and intent of that use. The acquisition of an area or facility which is operated for public recreation is only eligible for LWCF assistance if it can be documented that the facility will be lost to recreation use if it is not acquired by the park and recreation board. Real property with recreational improvements may also be eligible for a project if it has not been available for public use or if it's primary purpose has not been for recreation.

7. Structures – The acquisition of structures on property is only allowed if the use will be for outdoor recreation, support of outdoor recreation activities or the structures have no value and are demolished to enable recreational development to take place. Project proposals must list all improvements and their proposed use or disposition.

Ineligible Types of Acquisition

Generally, LWCF assistance will not be made available for:

1. Historic Sites and Structures – Exceptions may be made only when it is demonstrated clearly that the acquisition is primarily for outdoor recreation purposes and that the historic aspects are secondary to the primary recreation uses.

2. Museums – Sites to be used for museums or primarily for archaeological excavations.

3. School Sites – Land to help meet a public school's minimum site size requirement, as established by state or local regulations.

4. Professional Facilities – Areas and facilities to be used primarily for semi–professional and professional arts and athletics.

5. Fish and Wildlife Sites – Areas and facilities to be used solely for game refuges or fish production purposes will not receive LWCF assistance; however, such areas and facilities may be eligible if they will be open to the public for general compatible recreation, or if they directly serve priority public outdoor recreation needs.

6. Indoor Facilities – Areas to be used mainly for the construction of indoor facilities and areas where existing indoor recreation facilities, if left in place, will leave insufficient area at the site for the development of outdoor recreation facilities to justify the cost of the acquisition.

7. Railroads – Railroad hardware, trestles, stations, yards, and the like if they are to be used

for the commercial operation of railroad trains. Some railroad hardware is reimbursable when it is necessary for recreation; for instance, a trestle may be used as a bridge for the trail.

8. Lodging Structures – Sites containing luxury lodges, motels, cabins, and similar elaborate facilities which are to be operated by the park board or a concessionaire to serve recreationists with food and sleeping quarters.

9. Farmland – Agricultural land primarily for preservation in agricultural purposes. Limited agricultural land use is eligible; however, only in the event it supports outdoor recreation such as demonstration farms, wildlife management or hunting.

Early Acquisition

The park board may want to guarantee that land will be available for purchase after grant approval. This might occur when the property is on the market for sale or a donor wants to give the land within a given time period for tax purposes. The property may be reserved for the park board by: (1) having a private third party acquire and hold title to the land, (2) placing the title in escrow, or (3) securing an option to purchase at a later date.

A third party could be an individual, private business, private educational institution, not–for–profit organization, or other similar *private* entity. It may not be a public agency. Under certain circumstances, special permission may be obtained from the Department of the Interior for the park board to take title to land prior to grant approval. This section explains these alternatives.

Options to Purchase

The park board may execute an option to purchase the property, to prevent the land from being sold prior to the approval of a project. The option may include special terms or conditions which govern whether or not the buyer will purchase the land. For example, one condition could be the availability of funds or financing. An option is unacceptable if it is exercised prior to project approval, unless it specifies that acceptance is contingent on the availability of Land and Water Conservation Fund money so that the date of the project approval would be the exercise date.

If an option is signed prior to federal approval of the project, then it should extend until Fall so it may be exercised after the grant is approved. Since competition for funds is usually intense, park boards may find it helpful to negotiate an option which can be extended at no cost for a second year. This could enable the project to compete for funds a second time if it were not approved the first year.

The purchase price stated in an option must be the amount negotiated after the land has been appraised and the fair market value offered to the landowner as explained in the section on negotiated purchases. Only one payment toward the property may be made under an option. A maximum of 10 percent of the approved appraised value of the property may be paid at the time the option is transacted. This amount should be applied as part of the purchase price of the

property.

Any additional payments made prior to grant approval may make the acquisition ineligible. It is important to keep documentation of the option payments which are required for reimbursement later. Project sponsors are encouraged to consult with the Grants Staff before negotiating an option to insure the eligibility of reimbursement on the land acquisition under the option conditions.

Escrow Agreements

A landowner may want to transfer title to the land by a certain date to avoid paying taxes. The park board may not be in position to accept immediate title to the property since project applications usually receive federal approval late spring or early summer of the following application. In such instances, the warranty deed can be held "in escrow" by a third party, usually a bank, foundation or not–for–profit organization. An escrow agreement may state that acceptance of title by the park board is contingent upon federal approval of the Land and Water Conservation Fund project or may indicate a date after which title may be transferred to the park board if federal funds are not received. The important factor is that title must not be transferred until the project is approved.

Since the transaction is not actually completed and recorded while the land is in escrow, the landowner is still subject to taxes on the property during the escrow period. The park board should consult with its attorney about the responsibility of the board to pay the taxes.

Waiver of Retroactivity

The value of land purchased or donated prior to federal grant approval is not normally eligible for reimbursement. Exceptions may be made only when immediate action is necessary and the time necessary to process an application would result in losing an opportunity to acquire a significant piece of property. If this situation arises, a park board may obtain special approval, called a "waiver of retroactivity", to take title to the property prior to project approval.

To request a waiver of retroactivity, submit the following:

1. justification for the early acquisition,
2. location and site maps, and
3. an environmental assessment of the proposed park.

The Division of Outdoor Recreation will forward the request to the National Park Service for approval. The federal government must approve the waiver of retroactivity before the land can be acquired.

If a waiver is given, the land value will be eligible for assistance only if a LWCF grant is later approved. Granting a waiver is only an acknowledgement of the need for immediate action; it does not imply a qualitative approval of the project. The retroactive costs are incurred at the applicant's risk, since the granting of a waiver does not in any way insure approval of the

grant request. A project for land acquired under a waiver may only be submitted for federal approval within one year of when the waiver is given. Waivers should be obtained only when absolutely necessary. Other means of preserving the value of the land, such as escrow agreements and having private third entities hold title are preferred.

State and Federal Acquisition Policies

The Department of the Interior and the State of Indiana require procedures for the acquisition of property that are fair, consistent, and directed toward giving the property owner the full measure of compensation authorized by law, promptly, with a minimum of inconvenience, and without prolonged negotiation or costly litigation. All acquisitions must conform to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S .C. 4601 et seq.).

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 prescribes policies and procedures to insure fair, equitable, and uniform treatment of persons whose land is acquired by federal and federally-assisted programs. The provisions of the Act apply to the acquisition of all real property for, and the relocation of all persons displaced by, projects which received Land and Water Conservation Fund assistance. The Act applies regardless of whether Land and Water Conservation Fund assistance is used for acquisition or development. For example, a park board cannot knowingly circumvent the federal law by acquiring the land with local funds and not follow the regulations of the Act and then apply for development funds in a later project. For all development projects, proof must be supplied that the project site was acquired in accord with P.L. 9 1–646 if the land was acquired after September 2, 1971. This is explained in more detail for development projects in Chapter Six.

There are two major sections to the law: policies regarding the acquisition of land and relocation benefits to landowners. Each section will be discussed separately in this chapter. The acquisition procedures explained in this chapter should be read with extreme care. If the procedures are not followed, the park board could encounter severe problems in being reimbursed regardless of the method of acquisition.

Appraisals

The park board should contract a state certified general appraiser preferably with previous federal experience to appraise an acquisition. The appraisal must be completed in accord with the Uniform Appraisal Standards for Federal Land Acquisition policies. This document can be downloaded at http://www.justice.gov/enrd/land-ack/Uniform-Appraisal-Standards.pdf. Once complete the appraisal is then transmitted to the Department of Natural Resources for review and approval. Do not acquire land until the appraisal is approved by the Department of Natural Resources.

There are two sets of criteria for completing an appraisal. The Waiver Valuation may be used for land whose estimated value is less than $25,000; and the formal appraisal is required for land value of $25,000 or more.

If the Department of Natural Resources determines an appraisal is unnecessary because the valuation problem is uncomplicated and the estimated value of the real property is

$10,000 or less based on a review of available data, the State may unilaterally waive the appraisal and instead prepare a waiver valuation per 49 CFR 24.102(c)(2)(ii). The Department of Natural Resources may raise the waiver valuation cap up to $25,000 provided the acquiring agency offers the owner the option to have an appraisal, and the owner elects to have the agency prepare a waiver valuation instead. Thus, the Department of Natural Resources may increase the $10,000 cap to $25,000 with the consent of the landowner.

The person preparing the waiver valuation must have sufficient understanding of the local real estate market to be qualified, and shall not have any interest, direct or indirect, in the real property being valued for compensation. Further guidance on waiver valuations can be found on the Federal Highway Administration's Website.

Averaging the values of two or more appraisal reports to estimate the fair market value of a property is unacceptable and does not meet the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act. Although State laws may require a park agency to prepare more than one appraisal report, only the appraisal which represents the value to be offered to the landowner should be submitted for LWCF project purposes.

Please inform your appraiser that federal Land and Water Conservation Fund monies will be used and that he or she needs to adhere to the Uniform Appraisal Standards for Federal Land Acquisition policies. This document can be downloaded at http://www.justice.gov/enrd/land-ack/Uniform-Appraisal-Standards.pdf .

It is important that the appraisal answer all items completely. The report should be submitted in narrative form, include separate sections for each major item, have maps, pictures, and a full listing of comparable sales. The landowner must be given the opportunity to accompany the appraiser on their inspection of the property.

For the grant application, one copy of either the appraisal or an appraiser's statement of value must be submitted. A statement of value is an appraiser's letter stating the value of the property which establishes the land value for the project application. It is recommended that the same appraiser be hired to do the full appraisal later if a statement of value is submitted with the project application. Reimbursement will be based on the value in the approved appraisal.

The following is a list of common shortcomings of appraisals which will result in rejection.

1. In almost all cases of a partial acquisition, the appraisal must include a before and after valuation.

2. All appraisals must include a valid legal description of the area being appraised.

3. Color photographs of the subject and comparable sales are required.

4. The definition of market value used must be from the Uniform Appraisal Standards for Federal Land Acquisitions.

5. The definition of highest and best use and the determination of "larger parcel" must be pursuant to the Uniform Appraisal Standards for Federal Land Acquisitions.

6. An adjustment grid with the subject and comparable sales is required.

7. A narrative explanation of all adjustments is required.

8. Typographical errors and/or poor or incorrect terminology may result in the appraisal being rejected.

9. The appraisal must address the current intended use and user.

10. Location maps are required and at least one map that reflects the subject property in relation to all comparable sales.

An appraisal, if competently compiled by a qualified person, should be an acceptable estimate of property value. It cannot be assumed to be an absolute statement of value. The approved appraisal value is the floor value for establishing the amount of just compensation which must be offered to the owner at the initiation of negotiations. The negotiations between a willing seller and a willing buyer will sometimes set a price that is higher than the appraisal, and this market place value must be considered with the appraised value in establishing the reasonable limits of LWCF assistance.

Methods of Acquiring Land

Negotiated Purchases

This section outlines specific procedures under the Uniform Relocation Assistance and Real Property Acquisition Policies Act to follow in acquiring land through negotiated purchases involving LWCF assistance. The following steps must be followed by the park board in negotiating with the landowner.

1. Make initial contact with the seller to see if the land will be available for sale. At this point the price should not be negotiated since the purchase amount must be based on an appraisal.

2. Determine whether the owners or tenants will be eligible for relocation assistance. Booklets are available which explain relocation assistance and can be given to the landowner or tenant. The property residents must be advised of their rights to relocation assistance.

3. Have the land appraised by a certified general appraiser with federal “Yellow Book” experience, giving the landowner an opportunity to accompany the appraiser. Qualified appraisers can be located using Indiana’s online search for licensed professionals available at https://mylicense.in.gov/EVerification/. Enter only information for License Type (choose “Certified General Appraiser”), Status (choose “Active”), and County or City, State, and/or zip code. The landowner must be given the opportunity to accompany

the appraiser on his or her inspection of the property.

4. Submit the appraisal to the Grants Staff. The Department of Natural Resources' Division of Land Acquisition has a review appraiser on staff to confirm that the Uniform Relocation Assistance and Real Property Acquisition Policies Act and the Land and Water Conservation Fund guidelines have been met. At this point, the park board will know the fair market value of the property to be acquired.

5. Inform the owner in writing of the value of the property based on the results of the appraisal and offer to purchase the property for this price. It is not necessary to show the appraisal itself to the landowner. Also, inform the landowner of their eligibility for relocation benefits. The authorized agent of the park and recreation board and the property owner must sign *Statement of Just Compensation and Written Offer to Purchase* letter, which should indicate the appraised value of the property. Contact your state grant coordinator to obtain the appropriation just compensation letter.

6. Based on the written offer at the appraised value, the final selling price may be negotiated. If the purchase price is more than the appraised value, additional documentation explaining the difference in value will be needed, as explained later in this section. If the price is less than the appraised value, the acquisition is called a "bargain sale", and a *Waiver of Right of Just Compensation* must be signed by the landowner as explained in the section on bargain sales. At this point, the park board may sign an option to purchase if desired. Contact your state grant coordinator to obtain the appropriation waiver of just compensation letter.

A grant application may be submitted during any of the above steps to acquire the land. *The appraisal, however, must have been submitted and approved prior to Step 5. Again, the land can only be acquired during the approved project period to be eligible for reimbursement of acquisition costs. The above procedure is mandatory and must be followed for all negotiated purchases.*

Park boards should be aware that state regulations, which apply to acquisition by public agencies for which federal funds are not provided, follow the same sequence of steps, except that the Department of Natural Resources does not review local documentation. The state also stipulates relocation benefits for landowners and tenants.

Purchases Higher than Appraised Value

When the park board believes that the negotiated price is an adequate indication of market value, yet it is higher than the approved appraised value, a detailed and well documented statement on this difference with all pertinent appraisal documents should be submitted. This statement should explain why the appraisal may not reflect the true value and what steps the park board took to establish the true value. This statement should include a history of negotiations, documenting discussions of price between the landowner and the park board. The statement may indicate the importance of the proposed purchase as opposed to other alternative sites, or other justification regarding the need to purchase the subject property at a higher amount. If the National Park Service agrees that the negotiated price represents a

reasonable estimate of the property value, that amount can be eligible for assistance if sufficient funds are available in the grant. This statement is to be submitted with the billing for the property.

Contract Sales

Sometimes a seller or purchaser desires to spread payments for a tract of land over several years. “Contract Sales”, where installment payments are made over a specified period of time at the end of which the buyer receives title, are not acceptable for LWCF projects. In the event that payments are not paid when due, the seller could foreclose and regain complete ownership of the land. Thus the federal and local funds would have been spent with nothing to show for the expenditure. Another reason is the deed and legal ownership of the land is retained by the seller until the last payment property value is made.

Reimbursement of costs incurred cannot be made until the land is paid for in full and title is received. Consequently, if the payments for the land were spread over several years, the participant could not receive reimbursement for any payments until all payments were made.

A suggested acceptable alternative is to subdivide a tract into smaller parcels. The park board may acquire full title to each parcel individually and receive reimbursement as each is acquired. This does not jeopardize the investment of public funds and improves the cash flow of the project sponsor. Assistance for separate parcels may need to be applied for in different grants over a period of years, depending upon the cost and timing of the acquisition.

Condemnation

Project sponsors should begin each land purchase by following the steps for a negotiated purchase. If an agreement does not appear possible after a reasonable period of negotiation, the project sponsor may undertake condemnation proceedings. Condemnation should not be advanced or delayed in order to induce an agreement on price.

The value of land acquired through condemnation will be based on a court award. Reimbursement will be based on the court judgment, including interest expenses awarded by the court as part of just compensation, up to the approved amount of the grant. It is important that the case go through all proceedings, and ultimately, a court award. If the purchase price is negotiated out of court, reimbursement will be based on an appraisal completed in accord with the requirements set forth by the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, unless the National Park Service approves a higher negotiated price based on justification supplied by the project sponsor.

In condemnation cases, the park board must follow state law for condemnation procedures, and the landowners/tenants must still be informed of their rights to relocation benefits and the negotiated purchase steps be followed until the case is entered in court.

Land Donations

The value of a land donation from a private individual or organization can be used as part of or all of the sponsor’s share of the project cost. The donated value may be matched with federal

funds for the acquisition of adjacent land or development on the donation or an adjacent site. A letter of intent to donate the property to the park board from the landowner must accompany the project application.

A written *Offer to Purchase* and a *Statement of Just Compensation* are not necessary when acquisition is by full donation. The act of donation itself precludes the necessity for these documents, which relate only to negotiated purchases and bargain sales. Relocation benefits must still be offered to owners and tenants for donations as well as purchases.

For land donations valued at $25,000 or more, a formal appraisal is required. A Waiver Valuation may be acceptable when the land has a value less than $25,000, the appraisal problem is uncomplicated, and the land owner consents to this method of valuation. The appraisal is then transmitted to the Department of Natural Resources for review and approval. After approval, the fair market value will be the basis for the value of the land donation.

One copy of either the appraisal or a *Statement of Value* must be submitted with the LWCF grant application. If a statement of value is submitted, it is recommended that the appraiser providing the statement be hired, if the project is approved, to complete the full narrative appraisal. Since a land donation may constitute all or part of the local matching share of a project, it is important that the land value be established early, to enable the park board to take full advantage of the donated land value and at the same time prevent the project sponsor from having to provide additional local funds if the land value is later found to be less than anticipated.

Land donations are not directly reimbursed instead they are credited to the grant account when acquired. When appropriate documentation is submitted acknowledging the transfer of land to the park board, a letter acknowledging the credit for the land will be sent to the park board. If the land donation has met the amount of the local match the future development costs will be reimbursed at 100%. For example, a park board has been awarded a $200,000.00 LWCF grant. Their local match is a donated parcel of land appraised at $200,000.00 and they plan to spend $200,000.00 to develop their new park. When they receive title to the parcel, the board will submit the property deed to their grant coordinator. Then, the coordinator will issue a letter acknowledging that the local match of $200,000.00 has been credited to the grant. In the future when the board submits a billing request for the $200,000.00 in development costs they will be reimbursed at 100%.

Bargain Sale

In some cases, a landowner may be willing to sell real property for less than the full market value, but is not able to donate the entire value of the land. A bargain sale involves the partial donation and partial purchase of a tract of land. The difference between the sale price and the appraised fair market value is considered donated land value. This value may be used as part or all of the local matching share of the project. The appraisal requirements for full donations also apply to bargain sales. Under the Uniform Relocation Assistance and Real Property Acquisition Policies Act, the park board is required to offer the landowner the full appraised value of the land. When the lesser sale price is negotiated the owner must sign a *Waiver of Right to Just Compensation* letter.

A waiver of entitlements under the Act by property owners or displaced persons will be approved only in fully–documented cases where the reasons for the waiver are explained. The purpose of the Act is to insure that each displaced person and property owner receives a just and equitable settlement through purchase price and payment of relocation expenses. Few landowners would voluntarily accept an amount less than their entitlement, although in some instances landowners may be willing to accept less than the appraised value for their property. In such instances, the landowner must sign a waiver which includes the following information:

1. That the owner has been fully informed of his or her rights and benefits under 42 U.S.C. 4601 et seq.

2. That the acquiring agency has provided a written *Statement of Just Compensation and Offer to Purchase* for the appraised property value (state the amount.)

3. That the owner is satisfied with the negotiated price, even though it is less than the appraised fair market value.

4. That he or she elected to waive entitlement to the relocation benefits (including the dollar amount by category of moving expenses, payments for replacement housing, incidental expenses, etc.)

5. A statement setting forth fully the reasons for accepting a lesser amount than the appraised value offered by the local agency or for waiving relocation benefits.

The appropriate type of just compensation statement must accompany the billing for the property. Contact your state grant coordinator for just compensation letter guidance specific to your project.

Land Purchased from Another Public Agency

Land may be purchased from another public agency. The cost to the park board of land purchased from another public agency may be eligible for matching funds, subject to the following conditions.

1. The land was not originally acquired by the other agency for recreation, nor has it been so managed while in public ownership.

2. No federal assistance was involved in the original acquisition by the other agency, except Community Development or Revenue Sharing Funds.

3. The selling agency is required by law to receive payment for land transferred to another public agency. Examples would be public school land that can be used for non–school purposes only through payment to the school agency, or excess State prison lands that can be transferred to local government use only on a purchase basis. The support ceiling will be based on the price paid by the project sponsor for the property or the fair market value, whichever is less. In some instances the selling agency may be permitted a choice between various state laws which would set the selling price at different levels depending upon which law is chosen by the agency. For example, various laws may

apply which would allow the agency to transfer the real property to another public agency for fair market value, for reimbursement of paid taxes, as a donation, or for other consideration. LWCF assistance will be limited to the minimum amount for which the property could be transferred legally and only in those instances for which there is an attorney general's opinion or established case law.

4. The requirement of appraisal, history of conveyances, and evidence of title are the same as other purchases.

5. If the selling agency is Federal, fair market value must be paid.

Exchange of Real Property

Land owned and administered by the park and recreation board may be traded for more valuable land administered by another public agency or land owned by a private party. The amount of Fund assistance will be based on the amount of cash, if any, that must be paid by the park and recreation board in addition to the land conveyed, subject to appraisal requirements. Both parcels must be adequately appraised.

For example, the park and recreation board exchanges a property appraised at $10,000 for a privately owned property appraised at $12,000, and pays the difference of $2,000 cash. The amount to be reimbursed is 50% of $2,000 or $1,000. If the other party is a public agency, items (1) through (5) above for purchase from another public agency apply.

Relocation Assistance

Relocation Benefits

A resident on residential, business, or farm property to be acquired may be eligible for relocation assistance. This resident, who can be either a landowner or a tenant, may be reimbursed for expenses incurred in moving from the purchase property to a new dwelling. The purpose of providing relocation benefits is to enable a property resident to move to a new residence or business location without undue personal hardship.

These costs are based on maximum and minimum schedules specified in the Law. Relocation costs are to be paid for moving expenses, replacement of business or housing, search, closing and other costs the occupant may incur while moving into another dwelling or relocating a business.

Landowners are also entitled to reimbursement of certain incidental expenses incurred in conveying title. These costs may be incurred even though no one was living on the property at the time of the purchase. These costs include:

1. Recording fees, transfer taxes, revenue stamps, notary fees, or similar expenses.

2. Penalty costs for prepayment of pre-existing recorded mortgages as may be required to convey a clear title.

3. The pro rata portion of real property taxes which would apply to the period after the date title vests in the government or the effective date of possession by the government, whichever is earlier.

Often these costs are paid by the park board when the land is acquired. Payment of these costs should be documented at the time of billing. When a park board determines that the land proposed for purchase may involve relocation, the Grants Staff should be contacted for brochures, forms, and guidelines for procedures and in determining costs.

It is essential that landowners be informed of relocation benefits. They must also receive payment unless the benefits are voluntarily waived.

Relocation Plan

A relocation plan shall be developed for projects where land acquisition will cause displacement of persons from their dwellings, business, or farm operations. The relocation plan shall be undertaken during the planning phase of the project, but prior to the initiation of land acquisition negotiations for the project. Based on this plan, the project sponsor should proceed with a project only after it has been determined that within a reasonable period of time prior to displacement, decent, safe and sanitary replacement housing will be available. Then information brochures and forms for claiming costs should be distributed to the persons to be relocated. A relocation plan must include:

1. The number of individuals, families, businesses, farms, and non-profit organizations to be relocated.

2. The availability of decent, safe, and sanitary replacement housing within the financial means of the individuals and families being relocated;

3. The estimated total cost of payments to displaced persons for all benefits under 42 U.S.C. 4601 et seq. for replacement housing; and

4. The estimated cost of administering required relocation services to displaced persons.

The relocation plan may be coordinated with the Department of Housing and Urban Development and other agencies performing relocation in the area. A park and recreation board may contract with a city relocation agency, such as the Community Development Department, or a private firm to handle relocation services. The plan must be submitted with the project application. Relocation costs should be part of the cost estimates for the project. Payments to relocated persons are eligible to be reimbursed on a 50% basis.

Appeals

Although technical assistance is available through the Department of Natural Resources, the project sponsor will be responsible for all negotiations with landowners or tenants concerning relocation benefits. These persons relocated have the right to appeal the determination of the amounts they are eligible to receive and need to be informed in writing of their right to appeal. Formal appeals may be submitted by relocated individuals to the Department of Natural

Resources. Department staff will review all data concerning the calculation of relocation payments. If the person is still dissatisfied, a hearing will be scheduled. The applicant shall be given a full opportunity to be heard at the appeal hearing. After the hearing, the result may still be appealed through the judicial review of the Indiana Court System. Appeals will not be heard by the Department of the Interior.

Waiver of Relocation Benefits

As indicated in the land acquisition section on bargain sales, tenants and landowners may waive their rights to relocation benefits. In such instances a waiver must be signed. Work with your state grant coordinator to obtain the appropriate documentation for waiver of relocation benefits.

On September 2, 1971, Indiana became eligible to participate in the federal relocation law. As provided in Indiana Public Law No. 97, page 445 of the 1971 Acts of Indiana, public agencies must pay relocation assistance to persons displaced by acquisition of their property for public improvements. Any land purchased by a park board, whether or not federal assistance is involved, is subject to paying relocation benefits; however, project sponsors may decide that federal land acquisition regulations are too restrictive and may decide to purchase the property with local funds and then submit a development project application in a subsequent year.

Circumvention of the federal or state land acquisition procedures will jeopardize the eligibility of a future development projects. The federal law specifies that such a deliberate refusal to follow the proper land acquisition procedures will make all future development projects ineligible for federal assistance.

Land Acquisition Costs

Eligible Costs

Costs eligible for reimbursement in an acquisition project are:

1. Purchase of real property through negotiated purchase or condemnation.

2. Real property acquired by donation from a private individual or organization will be credited towards the park board's match.

3. Incidental and relocation costs only as allowed by the *Uniform Relocation Assistance and Real Property Acquisition Policies Act.*

4. Acquisition of land from another public agency at the lowest cost allowed by law.

5. The difference in value between property exchanged for a tract of land having greater value.

Ineligible Costs

Costs ineligible for reimbursement in an acquisition project include:

1. Boundary surveys, appraisals, title search(es), legal fees, fines, and penalties paid by the park and recreation board.

2. The value of real property donations required by law or ordinance (mandatory dedication).

3. Incidental costs relating to real property acquisition and interests in real property unless allowable under the Uniform Relocation Assistance and Real Property Acquisition Policies Act.

4. Taxes for which the park and recreation board would not have been liable to pay.

5. Damage judgments arising out of acquisition whether determined by judicial decision, arbitration, or otherwise.

6. The value of, or expenditure for, lands acquired from the United States at less than fair market value.

Date When Costs Are Incurred

Confusion often arises in acquisition projects on the exact date when costs are incurred. To be eligible for matching assistance, costs must be incurred within the project period (from the date of federal approval to the date of project expiration). Acquisition costs are incurred on the date when the earliest of any of the following transactions take place:

1. Park board accepts deed or other appropriate conveyance.

2. Park board makes full payment for the property.

3. Park board makes first payment in a series of spaced or time payments.

4. Park board makes the first or full payment as stipulated in an option agreement. (The cost of the option, if included as part of the purchase price, is an allowable cost.)

5. Park board makes first partial or full payment to an escrow agent.

PROJECT SPONSORS SHOULD NOT ACCEPT TITLE TO THE PROPERTY UNTIL AFTER THE APPRAISAL HAS RECEIVED APPROVAL. The appraised value must be confirmed by either the DNR or the Federal Government otherwise, if there is a difference between the price paid and the approved appraised value, the park board may not be able to recover their funds.

Transfer of Title

According to Indiana statutes, land is considered as transferred on the date when the warranty deed is accepted by the previous landowner and the park board. If reimbursement will be requested for the cost of acquisition, the deed cannot be signed by the seller/donor and buyer until after the project has been approved by the Federal Government *and* the appraisal has been

approved.

Property Rights, Control, and Tenure

Adequacy of Title

For lands included in a project proposal, the project sponsor must have title or adequate control and tenure of the project area in order to provide reasonable assurances that a conversion to a use other than public outdoor recreation will not occur. Copies of the property titles or other appropriate documents must be submitted as part of a project's documentation.

The most common method of acquiring property is by fee simple title. This is the preferred method of acquisition since it gives the holder an absolute right to the property within limitations imposed by state or federal law.

Title to land may be conveyed by warranty or quit claim deed to the park and recreation board. Neither the State of Indiana nor federal government will obtain title to a local area or facility acquired with LWCF assistance. The project sponsor must submit a description of the character and nature of the title received before requesting reimbursement. This evidence of title must include the property deed and either a written opinion from the park board's attorney on the adequacy of title or a title insurance policy. A survey may be required when there is reasonable doubt about the exact location of the boundary or size of the tract being acquired. The project sponsor is responsible for quieting claims against title and for replacing property found to have defective title with other properties of equivalent value, usefulness, and location, as approved by the Department of the Interior.

Reservations, Adverse Rights, and Deed Restrictions

Oil, gas, mineral, or other reservations and rights held by others are permissible only if it is determined that recreation purposes and the environment would not be adversely affected. Such reservations and adverse rights must be described in the narrative of the project proposal, and how they will be dealt with to avoid impacting recreation and the environment.

Often landowners desire to specify restrictions in the property deed. The most frequent example would be that the land can only be used for park purposes. If a deed restriction for park purposes indicates the grantor's intent and does not provide for reversion of title upon failure to comply with the grantor's wishes, the condition may be acceptable. In certain situations a landowner may retain a life estate, under which he or she retains while living. Beware that deed restrictions can severely limit the highest and best use of land, and therefore limit its value. In donations, "park only" restrictions should be removed prior to appraisal, since the land will be dedicated for outdoor recreational use in perpetuity by the LWCF Act.

Land which has a reversionary clause in the deed whereby the landowner could repossess the property if it ceased to be used solely for the purpose specified in the deed may make the project ineligible, since the LWCF Act requires that the land must be held in outdoor recreational use in perpetuity. If a reversionary clause in the deed specifies that the land must be developed for a specific purpose, even though the project includes that type of development, the project may be

ineligible. A development project to construct a facility on land with a reversionary clause in the deed may also be ineligible, even though the land may have been acquired without federal funds. Federal approval is required to acquire or develop land with reversionary clauses or outstanding interests in the property deeds. The Grants Staff should be consulted prior to submitting a project application involving deed clauses and restrictions.

If at a later date the rights to subsurface reservations or other deed restrictions adversely affect recreation use of the land or facilities, the park board will be responsible for acquiring property of equivalent usefulness, location, and value.

Outstanding property rights may affect the value of land. Examples include mineral rights, transportation rights–of–way, utility easements, and other deed restrictions. An appraiser should be fully aware of, and take into consideration, the legal description of the property and, where appropriate, the effect of the loss of these rights on its value.

Development on Land Acquired with LWCF Assistance

Outdoor Recreation Uses

Areas acquired may serve a wide variety of outdoor recreation activities including, but not limited to walking for pleasure, sight–seeing, swimming and other water activities, fishing, picnicking, nature study, boating, hunting, shooting, camping, horseback riding, bicycling, hiking, skiing, and other outdoor activities.

Acquisitions Involving Compatible Uses

Non–recreation uses that are compatible with and secondary to recreation such as water conservation, timber management, grazing, and other natural resource uses may be carried out within a project area. Such uses must be clearly described in project proposals.

Also, some types of recreation facilities that are not eligible for LWCF assistance may be built with local monies on LWCF project sites if they are approved prior to construction by the State and National Park Service. Such facilities should not cause a 6 (f) conversion, as explained in Chapter Eight.

Future Development Conditions

It is not necessary that the future development be carried out with LWCF assistance or that the proposed unassisted development receives prior approvals so long as it is in accord with the purposes for which the acquisition was made. Once the land is acquired, it must always be used for public outdoor recreation purposes.

On land where federal LWCF funds were reimbursed on the acquisition, certain regulations for the development of facilities must be followed. All facilities must be accessible for users of all abilities, especially persons with disabilities. The construction of facilities which will compete with those provided by the private sector should generally be avoided. Chapter Six explains other development requirements, such as state and federal permits and approvals, which need to be obtained for construction projects.

Acquisition for Delayed Development

LWCF assistance may be available to acquire property for which the development of outdoor recreation facilities is planned at a future date. In the interim, between acquisition and development, the property should be open for those public recreation purposes which the land is capable of supporting or which can be achieved with minimum public investment. Non–recreation uses such as agriculture occurring on the property at the time of acquisition may only continue for a short duration which will be determined on a case-by-case basis by the Division of Outdoor Recreation in conjunction with the National Park Service. In such cases, *the project sponsor will not receive reimbursement on the acquisition until the non–recreation use is terminated.*

The acquired land must, at a minimum, be open and available for public outdoor recreational use prior to close out of the project. The site must be signed, operated, and maintained for public use. The project application must include:

1. Written request to continue the non-recreation use during the interim period.

2. Assurance that any income received by the project sponsor for the non-recreation use will be used for future park development.

3. Assurance that the non-recreation use will be terminated as determined by the Division of Outdoor Recreation and the National Park Service.

4. Why immediate acquisition of the property is necessary.

5. What facilities will be developed and when such development will occur. Minimal accommodation for public use will include parking, signage, and open space.

6. What, if any, non-recreation uses will be continued on the property and when such uses will be terminated.

7. The type of public recreation access that will be provided during the interim period.

This policy does not prevent the continuation or introduction of non-recreation uses such as timber management, grazing, and other natural resource uses, not including agriculture. These must be clearly described in the project application, compatible with and secondary to the outdoor recreation uses intended for the property and approved by the National Park Service.

Summary of Acquisition Procedures

The following steps apply to all acquisitions; steps 4, 5, and 6 may be omitted for full donations.

1. Make contact with landowner regarding availability of the property and secure permission to appraise. Obtain information on the owner's and any tenant's eligibility for

relocation benefits.

2. Have the land appraised according to the Uniform Appraisal Standards for Federal Land Acquisitions ("Yellow Book") by a state certified general appraiser. The landowner must be given the opportunity to accompany the appraiser.

3. Submit the appraisal for approval by the Department of Natural Resources.

4. Offer to purchase the property for the approved appraised value using a *Statement of Just Compensation and Offer to Purchase* letter obtained from your state grant coordinator. Also inform the landowner and any tenants of their eligibility for relocation benefits.

5. Negotiate the selling price.

    a. If the owner wishes to donate part of the land's value, the acquisition will be considered a bargain sale and the owner needs to sign a *Waiver of Right of Just Compensation* letter. Similarly, if a person to be relocated does not want reimbursement for relocation expenses, that person needs to sign a similar waiver for these benefits.

    b. In cases where the sale price is negotiated higher than the appraised value, a *Statement of Difference in Value* may be submitted to the Department of Natural Resources as justification for the higher price. LWCF assistance may be provided for the increased amount, but is not guaranteed.

    c. If the property is obtained through eminent domain, the court award will be the basis for the LWCF assistance.

6. An option to purchase may be obtained once the price has been determined for a negotiated purchase.

7. Federal grant approval and a Categorical Exclusion (Chapter 2) must be received by this point unless a *Waiver of Retroactivity* has been obtained or the title will be put into escrow.

8. Obtain title insurance or an abstract opinion, and then title to the land. The park board will pay for the land, closing, and incidental acquisition costs and any relocation benefits.

9. A reimbursement request for the federal LWCF half of the acquisition costs may be then submitted to the Grants Staff once the proper LWCF perpetuity in public outdoor recreation language has been recorded with or in the deed at the county courthouse and submitted to the IDNR.

Chapter Six

Site Development and Facility Construction

Considerations for a Development Grant

A development project may consist of new construction or the renovation of a facility or group of related facilities designed to provide opportunities for public outdoor recreation on lands or waters owned by the park and recreation board. Projects must meet the needs of local citizens, be attractive, safe, and compatible with the site's natural features.

Once developed, a project must remain in public outdoor recreation use for the life of the facility. In addition, the land on which the facilities were constructed falls under the jurisdiction of the Land and Water Conservation Fund Act which specifies that the land must remain an outdoor recreation site in perpetuity. The deed to the site must be re-filed or an attachment filed with the LWCF encumbrance language and a copy sent to the IDNR. Any proposed changes in the use of the site or facility must receive prior approval from the Department of Natural Resources and in some cases, the National Park Service.

Site Location, Control, and Tenure

Facilities may be built only on park sites under the control and tenure of the park and recreation board. If the land is owned by another city or county department or local governmental unit, the title must be transferred to the park board. If it is owned by the city or county in general, and the ordinance establishing the park board does not vest control of the property in the park board, the appropriate city or county body must pass an ordinance vesting control of the site in the park board.

Eligible Types of Development

Development projects that are eligible for assistance include, but are not limited to, the following:

1. Boating – Facilities for motor boating, sailing, canoeing, kayaking, rowing, and other boating activities. These facilities may include docks, berths, launching ramps, breakwaters, mechanical launching devices, boat lifts, storage spaces, sewage pumpout facilities, fuel depots, and excavated boat basins and channels. Marinas must be operated in accord with the *Federal Marina Policy* in the Appendix (page 121).

2. Camping – Tent and trailer sites, tables, fireplaces, restrooms, information stations, snackbars, and utility outlets. Cabins and group camp dormitories of simple austere

design to serve groups on a “first come, first served” basis may also qualify.

3. Energy Conservation – Solar energy systems, earth berms, window shading devices, energy lock doors, metal halide lights, insulation, and other energy efficient design methods and materials. Additionally, power systems which maximize a facility’s use of renewable or non–polluting energy resources such as windmills and water power systems may also be eligible as support facilities.

4. Exhibit Facilities – Arboretums, outdoor nature exhibits, nature interpretive centers, community gardens, certain types of zoo facilities, and other similar developments. Exhibit facilities will not be funded if the primary function is for academic, historic, economic, entertainment, or other nonrecreation purposes. This restriction includes fairgrounds, archaeological research sites, and others.

5. Fishing and Hunting – Trails, fishing piers and access points, initial clearing, planting of forage and cover, stream improvements, wildlife management areas, fish hatcheries, etc.

6. Picnicking – Family and group picnic shelters, tables, fireplaces, grills, and trash receptacles.

7. Renovated Facilities – Extensive renovation or redevelopment to bring a facility up to standards of safety, quality, and attractiveness suitable for public use. Renovations are most often made to meet public health and safety requirements. Renovation projects are not eligible if the facility’s deterioration is due to inadequate maintenance during the reasonable life of the facility.

8. Spectator Facilities – Amphitheaters, bandstands and modest seating areas related to playfields and other eligible facilities. Spectator facilities may not be primarily for professional, semi–professional, or interscholastic events. Bleachers or modest seating areas are encouraged near recreation facilities.

9. Sports and Playfields – This includes a wide variety of sport facilities, including fields for baseball, softball, soccer, football, basketball, tennis courts, outdoor racquetball courts, golf courses, equestrian arenas, running tracks, playgrounds, and tot lots.

10. Sport Shooting – Examples include rifle/pistol ranges, trap/skeet fields and archery ranges. If the project proposes the construction and/or renovation of a shooting/archery range for general public use, funding should be sought through the Shooting Range grant program. Contact the Division of Outdoor Recreation for details.

11. Swimming – Swimming beaches, outdoor pools, wading pools, spray pools, wavemaking pools, lifeguard towers, bathhouses, and other similar facilities. Some indoor pools are eligible as outlined under Eligible Sheltered Facilities. Contact the Division of Outdoor Recreation for details.

12. Trails – Funds are available for development and marking of overlooks, turnouts and trails for nature walks, hiking, bicycling, horseback riding, exercising, skiing, snowmobiling, OHV's and other trail activities.

13. Winter Sport Facilities – Such as cross country ski trails, downhill ski runs, jumps, lifts, slopes, and snowmaking equipment. Also included are facilities for ice skating, tobogganing, iceboating, sled runs, ice hockey rinks, and warming shelters.

14. Support Facilities for Outdoor Recreation – Includes entrance and circulation roads, fences, utilities, sanitation systems, dams, erosion control works, maintenance structures, parking areas, rest-room buildings, concession stands, walkways, operation and maintenance facilities, and others. Some landscaping equipment to make a recreation facility operational and certain materials and supplies required by the State Board of Health are eligible. Roads outside the boundaries of the park which provide access to the recreation site and are not part of a state, county, or local road system are eligible. The access corridors must be owned or adequately controlled by the project sponsor. The principle objective must be to serve the park and visitors. Relocation of power lines, dredging, and restoration of publicly owned lakes are also eligible. Support facilities must serve eligible recreation facilities. Projects which consist only of support facilities are not eligible for funding.

15. Eligible Sheltered Facilities – Swimming pool and ice skating rinks located in areas which meet the federal cold climatic criteria may be enclosed partially or completely to protect them against cold weather conditions and to significantly increase recreation opportunities. The amount of funds available for sheltered facilities is limited, but project sponsors may use their own funds and enclose a facility after receiving approval from the State and the National Park Service. The size of the shelter must not exceed that required to enclose the facility and necessary support facilities, for the specified recreational activities.

Ineligible Types of Development

The types of development that are ineligible for assistance include, but are not limited to:

1. Amusement Facilities – Such as carousels, Ferris wheels, children's railroads, pioneer towns, livestock and produce exhibits, commemorative exhibits, and convention facilities.

2. Facilities Exclusively for Persons with Disabilities – Development of outdoor recreation facilities and/or support facilities to be used *exclusively* by persons with disabilities.

3. Housing – Construction of, and/or furnishings for, employee residences. Construction or renovation of lodges, motels, luxury cabins, or non–austere cabins.

4. Historic Preservation – Restoration or preservation of historic structures.

5. Interpretive Facilities – Development of facilities which go beyond interpreting the project site and its immediate surrounding area.

6. Mobile Recreation – Such as playmobiles, swimmobiles, show wagons, puppet

wagons, and portable bleachers.

7. Professional Activities – Development of areas and facilities to be used primarily for semi–professional or professional arts and athletics, such as professional types of outdoor theaters or performance areas.

8. Sheltered Facilities – Enclosures which convert an outdoor facility such as a basketball court or picnic shelter into an indoor facility.

9. School Athletic Facilities – Development of school athletic facilities, such as stadiums or running tracks for interscholastic athletics. Athletic fields with grandstands or more bleacher seating than would normally be required for park and recreation department athletic programs. Facilities needed to meet the physical education and athletic program requirement of a school or facility that will be used more than 50% of the time by the schools.

10. Support Facilities – Facilities such as roads and sewer systems developed to exclusively serve ineligible facilities. Roads which are part of state, county, or local road systems extending beyond or through the boundaries of the project area. Projects which consist of only support facilities and do not include recreational development.

11. Zoo – Facilities at a zoo for indoor displays, or interpretive areas, and permanent housing which are not displayed in an outdoor setting.

In general, the construction of ineligible recreation facilities on land purchased with Land and Water Conservation Fund assistance will not be permitted unless all of the following conditions are met:

1. They are financed by other than LWCF monies.

2. They are compatible with the outdoor recreation uses of the area.

3. Approval is obtained from the IDNR's Division of Outdoor Recreation *and* Federal Government prior to construction.

Eligible Development Costs

Professional Services

Consultants for LWCF projects may be hired through the competitive bidding process. A scope of services desired by the park board needs to be prepared and normal advertisement procedures followed. The park board should request proposals from firms and select several of those submitting proposals for an interview. Firms should be selected based on their professional qualifications, experience, and quality of past performance. Hiring the lowest bidder is not required; however, a written explanation of the process used in hiring a consultant must be submitted to the grants section with the contract. During the negotiation process, all bidders must be treated equally and given the same opportunities to revise their bids. Park boards should consult with their attorney regarding hiring a consultant according to I.C. 5–16–

11 and other applicable laws.

Federal regulations will not allow payment of consulting fees on a percent of the construction contract basis. The consultant may be paid according to: (1) fixed price, (2) hourly basis, (3) daily basis, or (4) actual expenses incurred. The contract must specify the payment method.

Consulting fees may not be paid to federal, state or project sponsor's employee unless such a payment is specifically agreed to by the IDNR and the NPS.

Typical eligible consultant costs include: feasibility studies, site planning, Environmental Assessment preparation, cost estimates, archaeological work, and construction plans and specifications. Costs incurred for designing facilities not developed in the project are ineligible. Pre-agreement costs necessary to prepare the application are eligible and must be identified in the project application. If a consultant is hired after the application is submitted, the project sponsor must notify the Grants Staff.

Construction

Allowable construction costs include all necessary construction activities, from site preparation (including demolition, excavation, grading, etc.) to the completion of a facility. Construction may be carried out through a contract with a private firm, by use of the park and recreation board's own personnel and equipment (force account), or by in–kind contributions. Regulations regarding these three types of construction are explained in this chapter.

Contract Construction Wages

Wage rates established for construction project employees in contracts over the State threshold must equal the prevailing wage rate for the area. Since those rates change periodically, a new State Wage Rate Scale must be requested and included in the specifications when construction is bid in a LWCF project.

The LWCF program is not subject to the *Davis Bacon Act,* so contractors are not bound to construction wage rates established by the U.S. Department of Labor, unless other federal funds subject to the *Davis Bacon Act* are used as the local share. To obtain the current prevailing wage rate scale for an area, please contact:

Indiana Department of Labor
Wage & Hour Division
402 W. Washington Street, Room 195
Indianapolis, IN 46204
Telephone: 317–232–2673

Supplies and Materials

Supplies and materials may be purchased for a specific project or may be drawn from a central stock. The former should be charged to a project at their actual price, less discounts, taxes, rebates, etc. and the latter should be charged at cost under any recognized method of

pricing which is consistently applied. Incoming transportation charges are a part of these costs. Eligible project supplies are those needed for the construction of a project such as trash bags for clearing away debris along a route for a new trail. Supplies needed for the operation and maintenance of a facility are not eligible. Examples include paper towels, toilet tissue, cleansers, soap and others.

Equipment

The cost of renting equipment to construct a facility is generally eligible for LWCF matching assistance. The cost of purchasing equipment may also be eligible, but sponsors must provide the grants coordinator with information which clearly shows that it is more economical to purchase an item than to lease it. These items might include air compressors, concrete equipment, pumps, tools, etc.

Permanent recreational equipment, installed as part of the site facilities, is eligible for matching assistance. Examples would include life guard stands, bicycle racks, picnic grills, and trash receptacles. Equipment such as bases for a softball field or tennis and soccer nets, which are necessary to make a facility initially operational, are also eligible. Only the first of such items may be claimed for reimbursement.

Information and Interpretation

Fund assistance may share the costs of providing information directly related to a project, as distinguished from publicity. These may include: signs giving information and directions at the entrances of recreation areas and other necessary places throughout the project site; display boards; dioramas; interpretive facilities for the explanation of items of interest; and other facilities required to explain the site and bring it to public attention.

Methods of Developing Facilities

Development of a project site may be by contract, force account, in–kind contribution, or a combination of these methods. The method(s) which will be used must be indicated in the *Program Narrative* as part of the grant application. The procedures regarding each of these construction methods are explained below.

Contract

The most common method of developing an area is by contract because the project sponsor is assured that the construction will be completed by a designated date according to predetermined work standards.

The Federal Government requires that competitive, open bidding be undertaken for all federally assisted contracts in excess of $100,000, unless this requirement is waived by the federal agency. State law requires that all construction over $150,000 be competitively bid, also. All construction associated with a Land and Water Conservation Fund project which exceeds $100,000 must be competitively bid, as required by federal law. It is recommended that the park board contact their city attorney for the most up-to-date information, since these laws periodically change. Please note that the total contract, rather than the amount of federal

assistance, shall be the governing factor in determining whether contracts or subcontracts exceed $100,000.

Park and recreation boards must inform bidders that Land and Water Conservation Fund monies will be used to assist in the park development, and that all relevant requirements will apply. It is preferable to include this information in the bid invitations or in notices released prior to bid invitations.

If an architectural or engineering firm prepares the specifications, make sure their standard contractual statements do not conflict with state or federal requirements. Conflicts may include termination terms, breach of contract, and types and amounts of bonds required.

The contracts must be written in such a way that the construction specifications, including the state contract provisions, are incorporated into the scope of the contract. Failure to follow these procedures will jeopardize reimbursement for the project.

A copy of all plans and construction specifications, including addenda must be submitted to the DNR grants coordinator for approval prior to advertising for bids. In addition, copies of the bid tabulation summary sheet and all construction contracts must be submitted within fifteen days after award of the contract. Change orders to the contract should first be cleared with the DNR grants coordinator before the change order is negotiated.

The contract award should be made to the individual or firm whose bid is most advantageous to the park and recreation board. Contracts must be awarded to responsible contractors or suppliers who have the ability to perform successfully under the terms and conditions of the contract. Consideration should be given to such matters as contractor integrity, record of past performances, financial and technical capability, and accessibility to the necessary resources.

When the park and recreation board considers the lowest bidder unqualified, incapable, or not responsible, the next lowest bidder may be awarded the contract. If a no–bid contract is awarded by the board, or a contract is awarded to other than the lowest bidder, a letter of justification for this action must be sent to the grants coordinator with the bid summary. Department of Natural Resources approval must be obtained prior to awarding the contract in these two cases.

Force Account

The second method which may be utilized to develop a project site is through force account. A park and recreation board may choose to use its own employees, equipment, or materials in the development of facilities, rather than contract with an outside company.

Force account cannot be used to circumvent a competitive bidding process. Federal law requires that all construction over $100,000 be competitively bid. The Federal Government does not limit the amount of work which can be done by force account, so in accordance with State law, all force account work on LWCF projects must cost no more than $100,000. Further interpretation of the Indiana laws regarding this issue should be directed to the State Board of Accounts at (317) 232-2521.

If a park and recreation board plans to claim force account costs, this intent must be stated in the application documentation and in the explanation of any subsequent project amendment requests. The Appendix contains a *Force Account Labor Form* (page 137) which is completed by the laborer and confirmed by the project manager. This statement is needed to certify the rate and number of hours the laborer worked on the project.

In–kind Contributions

LWCF assisted facilities may also be developed by in–kind contributions which might consist of labor, equipment, materials, and supplies donated to the park and recreation board by private organizations or individuals. In–kind contributions are eligible in a project only to the extent that there are additional acquisition and/or development costs to be met by the federal assistance requested for that project. These must be fully described and explained in the project proposal.

The donation is either the value of the donation or the cash spent by the sponsor for additional acquisition or development, whichever is less.

Example: Land valued at $10,000 is donated to the park board and they proceed to develop the property for recreational use. Development costs will be $6,000. The total project value is therefore $16,000 and the matching share would be $8,000. But because only $6,000 was actually spent, and since a grant in excess of that would constitute a profit to sponsor, the federal share is reduced accordingly.

Sponsor's share (amount of the $10,000 donated development applied to the project) $ 6,000

LWCF Assistance .....$ 6,000

Total $12,000

Both the Division of Outdoor Recreation and the National Park Service must agree on the park and recreation board's method of valuing in–kind contributions of goods and services before project approval for such contributions to be considered as part or all of the board's matching share. Unexpected donations which occur after project approval may also be eligible for reimbursement if requested by the park board and agreed to by the State. The procedures for determining the value of in–kind contributions from private sector sources are as follows:

1. Valuation of Volunteer Services – Volunteer services may be contributed by professional and technical personnel, consultants, and skilled or unskilled labor. Each hour of volunteer service may be counted as part of the park and recreation board's matching share if the service is an integral and necessary part of an approved project. The records of in–kind contributions of personnel services must include time sheets containing the signature of the person whose time is contributed and of their supervisor verifying that the record is accurate. The *Donated Labor Form* in the Appendix (page 139) may be used for this purpose.

   The value of donated personal services should be figured at the rate paid to an entry level laborer. Sponsors must contact the local fiscal officer (clerk–treasurer, comptroller, or

county auditor) and ask for a letter specifying the amount paid to general laborers, and from that information calculate the value of the donated service. If the donor is professionally skilled in the trade or service being provided, such as an electrician installing the electrical wiring or a plumber connecting the water supply, the rate this individual is paid in their trade may be claimed for matching assistance. A letter from the donor's employer, on company letterhead, must document this rate. The method for determining donated labor must be calculated in the project application and documentation substantiating the wage rate to eventually be claimed must be provided. Chapter Seven gives more detail on the required documentation.

2. Valuation of Donated Supplies, Materials and Equipment – The value of supplies, materials, and equipment which are donated should be reasonable and not exceed the current market prices at the time they are received for the project. Records of in–kind contributions must indicate the fair market value by listing the comparable prices from other vendors or the amount paid by the donor.

3. Valuation of Loaned Equipment – Occasionally, equipment used in the construction of a park will be loaned to the project sponsor. The sponsor may claim the value of equipment used as an in–kind contribution to the sponsor's share of project costs. The computation of equipment use rates can be based on the rates of local suppliers. These rates must be documented on company letterhead. In order to receive reimbursement, project sponsors must supply documentation signed by the donor stating: the date(s); number of hours used per date; the type and model number of the equipment used; price per hour or day; and total cost claimed as a donation.

4. Valuation of Other Donations – Other donations received by the board specifically for and in direct benefit to the project may be accepted as part of a local agency's matching share, provided that the values of these donations are adequately supported and permissible under the law. Such donations must be reasonable and properly justifiable.

Project Reviews

Another step in processing a project requires the submission of the project plans and the specifications to various agencies for the appropriate reviews. This section discusses the major reviews required for the development projects. Occasionally, one review may cause the need for another review by an agency not listed in this section.

Fire Prevention and Building Safety Review

If a park and recreation board proposes the development of a new building or alterations to an existing building, the plans and specifications for the new construction must be sent to the Department of Fire and Building Services for review at least one month before the bids are to be let or construction started. These plans are to be prepared by an architect or engineer registered in the State of Indiana or under his or her other direct supervision. Sponsors completing projects in Marion County must submit four sets of plans and specifications; all other sponsors need to submit only three. The Department will distribute copies of the plans to the State Board of Health if necessary. For more information, a park and recreation board may

write to the following address:

Indiana Department of
Fire and Building Services
402 W. Washington St., Rm. E 246
Indianapolis, IN 46204
Telephone: 317–232–6422

Applicants should expect to pay a fee for this review.

Water Pollution Review

If a park and recreation board proposes construction of a sanitary sewer system, including additions or alterations to existing systems, plans and specifications must be submitted directly to the Indiana State Board of Health for review and issuance of a construction permit. Such projects include public buildings, restrooms, dump stations for campgrounds, pools, bathhouses, etc. The plans submitted must show all water supply lines and where those lines connect into existing systems. Copies of the permit application forms, and additional information related to these requirements may be obtained from:

Indiana State Dept. of Health
Division of Sanitary Engineering
2 North Meridian Street
Indianapolis, IN 46204
Telephone: 317–233-7173

If there is a question as to whether a project will require a permit, be sure to call before project construction begins. Applicants can expect to pay a fee to obtain a permit.

Division of Water Review

Construction in the 100 year floodplain or alterations to the shoreline or bed of a public fresh water lake requires a permit from the IDNR's Division of Water. Such construction may include fills, buildings, dams, excavations, bridges, piers, or levees. It also includes recreation development such as picnic shelters, ballfields, tennis courts, fishing ponds, swimming areas, or picnic and playground equipment.

Indiana Department of Natural Resources
Division of Water
402 West Washington Street, Room W262
Indianapolis, IN 46204
Telephone: 317-232-4160

https://secure.in.gov/apps/dnr/dnr_water_application_ia

Applicants should expect to pay a fee for this review.

Flood Insurance

The Federal Flood Disaster Protection Act of 1973 (P.L. 93–234), requires the purchase of flood insurance for certain types of facilities constructed in the floodplain. Indiana regulations apply to existing developments as well. Communities affected by designated flood hazard areas as determined by the Department of Housing and Urban Development and later by the Federal Emergency Management Agency, will initially be required to join the flood hazard insurance program. Project sponsors may wish to contact their city/county executive or the Division of Water regarding the community's status in the flood insurance program and the eligibility of existing park structures for insurance.

Army Corps of Engineers

Section 404 of the Federal Water Pollution Control Act, Amendments of 1972 gave the U.S. Army Corps of Engineers regulatory responsibilities to maintain certain water quality in our nation's navigable waters. A 1975 court case mandated that the Corps' authority be expanded to regulate the disposal of dredged or fill material in all water of the United States. Thus, anyone proposing construction that will involve the discharge of dredged or fill material will be required to obtain a Corps of Engineers' permit.

Along with the discharge of material which has been dredged or excavated from any waters of the United States, the following additional types of activities are regulated by this program: site development fills for recreational, industrial, commercial, residential, and other uses; causeways or road fills; dams and dikes; artificial islands; property protection and/or reclamation devices such as riprap, groins, seawalls, breakwater, bulkheads and fills; beach nourishment; levees; sanitary landfills, and backfill required for the placement of structures such as sewage treatment facilities.

Applications for a permit under this program may take up to six months to be approved. Project sponsors are urged to contact the applicable district office of the Corps of Engineers well in advance of the application deadline, so that processing of the project is not delayed. Applications for permits should be submitted to one of the three offices listed below, depending on the location of the project. See map here: http://www.in.gov/idem/wetlands/2340.htm

The Louisville U.S. Army COE
Regulatory Division
P.O. Box 59
Louisville, KY 4040 1-0059
Phone: 502-315-6733
FAX: 502-315-6677
http://www.lrl.usace.army.mil/

U. S. Army Corps of Engineers
Detroit District
PO Box 1027
Detroit , MI 48231
Phone: (313) 226-2218
http://www.lre.usace.army.mil/

U.S. Army Corps of Engineers
Regulatory Branch
231 LaSalle Street Suite 1500
Chicago, IL 60604
Phone: (312) 846-5530
FAX: (312)353-4110
E-Mail: lrcregweb@usace.army.mil

Division of Outdoor Recreation Review

Another review required for all development projects is a review of the plans, specifications, and contracts by the grants coordinator. The project will be reviewed for compliance with federal accessibility regulations. State regulations regarding bidding procedures must be adhered to. The project will be reviewed for compliance with the scope of the project as written in the *Project Agreement.* Sponsors needing additional information regarding this review should contact their grants coordinator at the following address:

Indiana Dept. of Natural Resources
Division of Outdoor Recreation
402 W. Washington Street, Room 271
Indianapolis, IN 46204
Telephone: 317–232–4075
Fax: 317-233-4648
www.in.gov/dnr/outdoor

Other Considerations Regarding Development

In addition to the types of development costs and methods of developing facilities, there are other factors which may be considered for a Land and Water Conservation Fund development project. These considerations are explained as follows.

Private Facility Competition

Throughout the planning stages of a project, a park and recreation board should be careful not to create a competitive situation with private outdoor recreation facilities. In those instances where a community's recreation needs are being adequately met through private investment, proposals that will compete with privately financed and operated developments already providing identical or similar recreation opportunities should be avoided. If such a situation will result from a LWCF assisted project, it must be explained in the project application.

Design of Facilities for Persons with Disabilities

The National Park Service (NPS) requires that all facilities developed with assistance from the Land and Water Conservation Fund must be designed in conformance with Section 504 of the Rehabilitation Act of 1973 and the Architectural Barriers Act of 1968. These Acts ensure

that structures financed with Federal funds are designed and built accessible for persons with disabilities. Project sponsors should consider the needs of persons with disabilities in every park's design. Project sponsors are encouraged to refer to the American's with Disabilities Act and Architectural Barriers Act Accessibility Guidelines (ADAABAAG) for design standards. Using universal design is preferred because it addresses the needs of all citizens.

The Access Board is an independent Federal agency responsible for developing and maintaining accessibility guidelines and standards which can be downloaded from their website www.accessboard.gov or requested from:

The Access Board
1331 F Street, NW, Suite 1000
Washington, DC 20004-1111
(800) 872-2253 (v) (800) 993-2822 (TTY)
email: info@access-board.gov

Temporary Signage

Project sponsors are required to display signs identifying the use of Land and Water Conservation Funds on project sites. Permanent signs must be installed on all project sites after projects are completed, as explained in Chapter Eight. During the project period a temporary sign must be erected for all development projects.

LWCF signs are to be posted for development projects at the time construction action is initiated. The temporary sign must remain until the project is completed and a permanent sign is installed. In the case of combination projects, temporary signs will be installed at the time of the development is initiated, with the sign acknowledging both acquisition and development.

Publicizing an acquisition project, by the installation of signs, may adversely affect land negotiations. Therefore, a temporary sign is optional. The display of dollar amounts for acquisition projects is optional since it may jeopardize land negotiations. In all cases, a permanent sign must be displayed after the land has been acquired.

Temporary signs are to be similar to the illustration on the permanent signs. Unless precluded by local sign ordinances, the sign shall be large enough to read when posted at a reasonable location. The name of the sponsoring park board should be noted and the second line identifies the type of recreation project; acquisition, development, or both. The sign should be painted in contrasting but not obtrusive colors. The cost of constructing the temporary sign is eligible for matching assistance.

Acquisition Requirements Affecting Development

In order to prevent the circumvention of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601 et seq.), which is explained in Chapter Five, a provision in the law mandates compliance with the Act for future development projects.

If the proposed development project will be built on land that was acquired within the past five years, assurances must be given that the Uniform Relocation Assistance and Real Property Acquisition Policies Act was observed, even if no federal money was used to purchase the land, unless the local agency can document that planning to obtain LWCF assistance had not been initiated at that time. Documentation might include the time initial contacts were made with the state Grants Staff regarding a project submission, or the receipt of Land and Water Conservation Fund requirements. Assurances must be given that (42 U.S.C. 4601 et seq.) was followed.

Documentation needed to verify that proper land acquisition procedures were followed might include evidence that the landowner was offered and/or paid the appraised value for the property. Many project sponsors have used Land and Water Conservation Funds, Community Development Funds, or another federal assistance program to acquire park property. In such instances, adherence to the federal law would be relatively easy to document. As part of the *Program Narrative* of the application, the project sponsor is asked to indicate when the land for the park was purchased. If the park land was purchased within the last five years, the Grants Staff will advise the project sponsor on the type of documentation that will be needed.

It must be remembered that all lands acquired after September 2, 1971, are subject to the requirements of P.L. 9 1–646 if future federal funds for development are contemplated. Project sponsors that disregard proper land acquisition procedures will jeopardize future development grants.

Chapter Seven

Obtaining Reimbursement

Reimbursement

After the National Park Service has approved the project and reserved LWCF monies and the appropriate permits, approvals, plans etc. have been obtained; the park and recreation board may take title to the land or begin development. The grant funds will be made available to the park board on a reimbursement basis. In order to receive the money reserved for the project, a billing must be submitted to your grants coordinator. The staff will process this information and transmit the billing request to the NPS. It takes a minimum of five weeks for the park board to receive reimbursement. *As of July 1, 2006 the State of Indiana Auditor requires electronic funds transfer to reimburse grant programs.*

Cash Flow

Since the grant program is administered as a reimbursement process rather than an immediate grant, project sponsors must first pay the bills and then request 50% reimbursement. During the more active periods of the project work, the project sponsor may encounter times when the cash flow for expenses increases and the reimbursements are not returned in time to assist in the bill payments. In those instances, the park and recreation board may have to transfer funds among its own accounts or request a short term loan from another city account, such as the city utilities. These transfers are permissible; however, the clerk–treasurer or auditor must be aware of the proper Board of Accounts procedure to follow. Remember that the project must be correctly entered in the park board budget in order for an interdepartmental transfer to occur. The total amount of the project costs must be appropriated in the budget, although half of this amount can be shown as coming from federal funds rather than local tax sources.

Figure 1

Billing #	Costs Incurred	Reimbursement Request	Project Balance
-			$100,000
1	$60,000	$30,000	70,000
2	20,000	10,000	60,000
3(final)	20,000	10,000	50,000
Totals	100,000	50,000	

For example, if a park board were to receive a $50,000 grant for a $100,000 project, the reimbursement cycle could progress as in Figure 1.

Incurred Costs

To be eligible for matching assistance, costs must be incurred within the project period. The park and recreation board may not take title to land or begin development until after the project has been approved by the National Park Service. The only costs incurred before project approval that are eligible for reimbursement are professional services, archaeological services, and grant application preparation fees which were documented as pre-agreement costs in the project application. Other pre-agreement costs are not eligible for matching assistance.

Costs incurred after the project has expired are ineligible for assistance. Items added to a project by a change in scope amendment must be approved before costs may be incurred for the items.

Reimbursing Land Donations

When land donations are part of an LWCF project scope, the rate of reimbursement will be greater than the typical 50%. Land donations are not directly reimbursed instead they are credited to the grant account when acquired. If the land donation has met the amount of the local match the project development costs will be reimbursed at 100%. For example, a park board has been awarded a $200,000.00 LWCF grant with a total project cost of $400,000.00. Their local match is a donated parcel of land appraised at $200,000.00 and they will spend $200,000.00 to develop their new park. When they receive title to the parcel and the LWCF encumbrance language has been added to the deed, the grant coordinator can reimburse their development costs at 100%.

If the donated land value does not meet the total amount of the local match, billing requests will be reimbursed at a ratio based on the grant award to the remaining development costs. For example, the park board has a $400,000.00 total project cost with a $200,000.00 grant award. If their donated land value equals $100,000.00 they will spend $300,000.00 on development costs. Therefore, reimbursements will be based on the ratio of the grant award to the remaining total project cost, which in this example is two-thirds.

Billing #	Donated Land Value Credit	Costs Incurred	Grant Reimbursement at 2/3	Project Balance
-	-	-	-	$400,000
1 (partial)	$100,000	$210,000	$140,000	$90,000
2 (final)	-	$90,000	$60,000	0
Totals	$100,000	$300,000	$200,000	

Income Generated on Project Site

Income earned by the project sponsor during the project period from sources other than the intended recreation use will either be used to reduce the total project cost (thus reducing the grant by 50% of the earned income), or for additional acquisition or development at the site.

Examples of such income include the sale or rental of structures, the sale of timber or crops, and the lease or rental of the land. Income from user fees or concessionaire operations related to the recreational facilities is not included. An explanation of all anticipated types of income must accompany the project application. The income may have to be deducted from project reimbursements and appropriate documentation submitted to indicate the amount being deducted.

After the project period, any income from the extraction of subsurface minerals or the sale of structures or improvements acquired with LWCF assistance must be used to (1) reduce future LWCF grants to the park board, or (2) to further outdoor recreation acquisition or development at the project site or another park operated by the park board. The use of such income shall be approved by the state and National Park Service in a formal agreement.

Billing Submittal

Separate billings must be submitted on each project for which a park board has a LWCF grant. These billings should be numbered consecutively, beginning with number one. Billings may be submitted monthly; however, project sponsors are encouraged to submit billings on a quarterly basis. The federal amount of each billing should total at least ten percent of the LWCF grant amount, with the exception of the final billing.

Billing Documentation

There are several types of documentation which must be submitted with each billing. All billings are submitted on the *Grant Billing Form* (Appendix, page 135), accompanied by various supporting documents depending upon the type of project. One copy of the billing form is submitted with each reimbursement request. A blank form is in the Appendix, and copies may be made for subsequent billings. Billing forms may also be obtained in electronic format by contacting the Grants Staff.

Acquisition Projects

A billing request for acquisition costs should include the following items:

1. Claim Vouchers – One copy, front and back, of itemized claim vouchers. Claim vouchers must be certified (signed) by the authorized board members and the proper city or county officials. The project name and number should be specified on the claim vouchers. The warrant number of the check payment should also be entered on the vouchers.

2. Cancelled Checks – One copy, front and back, of the cancelled check corresponding to each claim voucher.

3. Warranty Deeds – Two copies of the recorded warranty deed for each parcel transferring title land to the park and recreation board.

4. Statement of Just Compensation and Offer to Purchase – Two copies of the *Statement of*

Just Compensation and Offer to Purchase Form, signed by the former landowner of a negotiated purchase or bargain sale acquisition. Contact your state grant coordinator for the proper form.

5. Waiver of Just Compensation –Two copies of the *Waiver of Just Compensation Form* signed by the former landowner for a bargain sale acquisition. Contact your state grant coordinator for the proper form.

6. Court Award – Two copies of the court award indicating the land value if the acquisition is by condemnation.

7. Relocation Information – One copy of the relocation forms and supporting data. Special forms for computing the relocation costs are available from the Grants Staff.

8. Closing statements – One copy of the closing statement or other documentation showing that incidental expenses were paid by the board whether or not federal reimbursement is being requested.

Development Projects

A billing for development costs should include the following items:

1. Invoices – One copy of invoices from firms or individuals performing work, supplying materials or equipment for the project. The project name and number should be specified on invoices. The eligible costs should be identified if items which are not part of the project are included.

2. Claim Vouchers – One copy, front and back, of itemized claim vouchers corresponding to the invoices. The claim vouchers must be certified (signed) by the authorized park and recreation board members and the proper city or county officials. The project name and number should be specified on both claim vouchers. If the claim voucher contains items which are not part of the federal project, all eligible items need to be identified. The eligible items should be designated with the project number. This designation should be made at the time the claim voucher is prepared.

   Park and recreation boards are tax exempt and therefore, cannot be reimbursed for payment of sales tax. If sales tax is inadvertently included in a vendor's invoice, it should be identified as an ineligible cost and deducted from the billing.

3. Cancelled Checks – One copy, front and back, of the cancelled checks corresponding to the claim vouchers. If the check includes payment for ineligible items, the amount included in the billing should be written on the check and labeled as ineligible.

4. Force Account Information – If force account costs are claimed in a development billing, the following types of information are required.

   a. Payroll – One copy of the board's payroll for the time period for which force account costs are being claimed. The names of those individuals for which

force account cost are claimed should be circled.

b. Cancelled Checks – One copy, front and back, of the cancelled checks corresponding to the force account items. The amount paid for eligible costs should be indicated on the checks by writing "Eligible Costs" across the checks and the amount.

c. Force Account Labor Form – One copy of the form (Appendix page 137), which includes a statement that the individuals for which force account costs are claimed, performed the listed work. This statement should be signed by both the employee and the park superintendent.

5. In–kind Contributions – The following documentation is required for each of these types of these contributions.

a. Donated Labor – The *Donated Labor Form,* in the Appendix (page 139), must be completed for each person donating labor for construction and signed by the donor and park board supervisor. The per hour value of the labor donations will usually have been documented in the project application by clerk–treasurer's and/or employers' letters as explained in Chapter Three. If a skilled construction person donates time and has not previously provided evidence of his or her hourly wage rate, it should be submitted with the billing.

b. Donated Materials – A letter from the donor, which briefly describes the items and indicates they were given for the park project, must be provided. To establish the value of the gift, quotations of prices for similar materials should be provided from two local commercial suppliers. The lower of the two will establish the donated value.

c. Donated Equipment – A letter from the donor, which briefly describes the equipment and its use in the project construction, must be submitted. For equipment to be installed in the park, quotations from suppliers of the purchase price of similar equipment will be the value for billing purposes. In the case of construction equipment, quotations of local rental rates from other suppliers and the donor may be used to determine the donated rate per hour. The donor's letter for construction equipment must indicate the dates, hours, and type of work performed for the project.

d. Donated Cash – Since these contributions are used to pay expenses for a project, the regular payment documentation will suffice for cash gifts.

Billing Assembly

To speed the process, billing documents should be compiled in an orderly manner. One copy of the signed *Grant Billing Form,* claim vouchers, cancelled checks, and invoices are required. It is recommended that the invoice, claim voucher, and cancelled check for each payment be stapled together separately, along with any other applicable acquisition or construction

documents as outlined earlier. For donated elements, each contribution should be listed on the billing form and the supporting evidence of value and donation indicated above should be stapled together separately.

These supporting materials for payments and gifts should be compiled into one stack with the billing form on top. A transmittal letter should identify any items on claims that were deducted due to ineligibility and provide a short summary of the project's status to date.

Although a claim or invoice may be familiar to the project sponsor, it may be highly questionable for processing by the State. Claims or invoices marked simply "paint", "lumber", "plumbing supplies" or claims which are illegibly written will be returned for further explanation. Construction materials need to be properly identified with a project scope item such as "paint for tennis court". Failure to identify all eligible costs may result in a billing process delay. In most cases, questionable items will not be reimbursed.

Final Billings

Billings may be submitted for up to ninety–five percent of the project costs prior to final billing. Reimbursement for five percent of the project costs is withheld until the project is completed and a final inspection is made by the Grants Staff.

One copy of the signed *Post Construction Certificate* (Appendix, page 141) must accompany the final billing for development projects. This form, which is in the Appendix, is completed by the supervising architect or engineer on the project. If the project did not involve a consulting architect or engineer, then the park board's engineer should inspect the project and sign the *Post Construction Certificate.* The final billing should be submitted to your grants coordinator within sixty days of the project completion or expiration, whichever comes first.

Project sponsors should expect the final billing to take longer to process than progress billings, and should arrange their financing accordingly. An "as built" or "as acquired" site plan which clearly delineates the completion date, property dimensions, and location of the LWCF scope items or parcels of land acquired must be submitted with the final billing. This site plan will serve as a permanent part of the record of LWCF assistance at the park, and thus must be agreed to by the Department of Natural Resources and National Park Service. The Grants Staff will work with the park board in documenting the final site plan. When the plan is mutually satisfactory to NPS, the state, and park board, the project sponsor must file the "as built/acquired" site plan and the form entitled *Federal Protection Conditions for Outdoor Recreation* with the deed (plat map) records for the project maintained by the county in the courthouse/office building. This statement explains the permanent federal protection afforded the site. Evidence that these items have been recorded must be received by the Grants Staff before the final reimbursement will be issued.

Billing Checklist

The park and recreation board president or the superintendent will want to review the billing to make sure that it has been properly assembled. These checklists have been developed to aid this review.

Acquisition Billing Checklist

_____ 1. One of the *Grant Billing Form.*
_____ 2. One copy, front and back, of the itemized claim vouchers, unless the entire acquisition is by donation.
_____ 3. One copy, front and back, of cancelled checks.
_____ 4. One copy of the recorded warranty deed.
_____ 5. One copy of the *Statement of Just Compensation and Offer to Purchase* for negotiated purchases and bargain sales.
_____ 6. One copy of the *Waiver of Right of Just Compensation* (for bargain sales).
_____ 7. One copy of the court award concerning the land value for acquisition by condemnation, if applicable.
_____ 8. One copy of the relocation forms and supporting information, if applicable.
_____ 9. One copy of the closing statement or other documentation showing that incidental expenses were paid by the project sponsor, as required.

Development Billing Checklist

_____ 1. One copy of the *Grant Billing Form.*
_____ 2. One copy of the invoices for development costs.
_____ 3. One copy, front and back, of itemized claim vouchers.
_____ 4. One copy, front and back, of cancelled check
_____ 5. One copy of the force account information, if applicable.
    a. Payroll
    b. Cancelled Checks
    c. *Force Account Labor Form*
_____ 6. One copy of the in–kind contribution information, if applicable.
    a. Donor's Letter or *Donated Labor Form*
    b. Evidence of Value
_____ 7. One copy of the *Post Completion Construction Certificate,* if a final billing.*
_____ 8. A short summary of the project's status to date.

* Before final reimbursement can be processed, the applicant must show proof that the "Federal Protection for Outdoor Recreation" attachment has been included as a covenant to the deed.

Chapter Eight
Closeout and Post Completion Responsibilities

Project Completion

The date of completion is when all work in the scope of a LWCF project has been completed, or the project expiration date occurs, whichever comes first. The project sponsor should submit the final billing and closeout documents within sixty days of the date of completion.

Upon notification of project completion, your grants coordinator will conduct a final inspection. The National Park Service may also make a final inspection, but it may not take place until a later date.

Final billing documentation is explained in Chapter Seven. Final billings must include closeout documents along with the "as built" or "as acquired" site plan. The plan must identify the work funded by the grant, completion date, boundaries of federal jurisdiction, and otherwise be similar to the site plans illustrated in Chapter Three. In some cases, there may be no changes from the site map submitted with the grant application other than labeling it with the completion date. The grants and NPS staff may need to make additional notations or revise information on the map. When the final version has been agreed upon by all parties, copies will be provided to the park board, IDNR, and NPS.

This site map becomes part of the permanent records of the IDNR and the NPS. It is also to be kept permanently in the project sponsor's public property records and available for public inspection with the project agreement. It must be identified as having been acquired or developed with Land and Water Conservation Fund assistance and also state that it must remain in public outdoor recreation use in perpetuity.

The park board must also officially record the final site plan, along with a copy of the *Federal Protection Conditions for Outdoor Recreation* found in the Appendix (page 142), with the deed records for the site which are maintained in the county courthouse/office building. The federal protection attachment explains the permanent protection provided by the LWCF Act against conversion of the park to uses other than public outdoor recreation. Evidence that these two documents have been recorded must be submitted before the final reimbursement will be returned to the park board.

In order for a project to be considered completed and ready for final billing, a permanent Land and Water Conservation Fund sign must be displayed on the site.

LWCF Acknowledgement Sign

A Land and Water Conservation Fund sign must be permanently displayed on all projects

when completed. The sign should give adequate recognition to each agency involved in the acquisition or development of the particular site, and indicate the project was a cooperative program for outdoor recreation assisted by the Land and Water Conservation Fund. The cost of constructing the sign is eligible for matching assistance and should be included in the cost breakdown with the project application.

The permanent sign should be made of materials that will withstand the elements and be placed on the park sign or gatehouse, away from vandals. The size of these signs may vary, but they should not be smaller than the example shown on page 159. For those park and recreation boards which do not desire to design and construct their own signs, vinyl signs are available for purchase by contacting:

Indiana Park and Recreation Association
P.O. Box 3906
Carmel, IN 46082
Telephone: 317-573-4035
Fax: 317-573-3991
Email: info@inpra.org

Audits and Record Retention

In addition to the documents submitted to the State, copies of all construction plans, specifications, bid advertisements, bid tabulations, contracts, and change orders must be retained by the park board for a period of three years, commencing after the final reimbursement has been received, or until audit findings have been resolved. Records regarding acquisition projects should also be kept, particularly a history of negotiations with the landowner. All accounting records and project data are subject to State and Federal audit. The Federal Government reserves the right to question any item for which reimbursement was received until an audit is made. All park and recreation board files are subject to audit by the State Board of Accounts, which reviews fiscal procedures for state and federal compliance.

The State Board of Accounts is required to audit all local units. If federal funding has been received, the audit must meet the requirements of Office of Management and Budget (OMB) *Circular A–128.* Federal assistance will be examined in detail and any negative findings will be highlighted. A copy of the audit report must be sent to the Grants Staff for project records. Negative findings will be handled on a case–by–case basis. Negative findings must be resolved before any future grants will be approved. Audit requirements are stated in the *Project Agreement.*

Inspections

Upon project completion, a final inspection will be made by the DNR Grants Staff prior to authorization of the final reimbursement. Completed projects are inspected periodically by the Division of Outdoor Recreation and copies of the inspection report are sent to the park board. These inspections are made to ensure that 1) the site is being used for the purposes intended, 2) the park is attractive and properly maintained, 3) the area is accessible and open to the general

public, 4) a Land and Water Conservation Fund sign is posted at the site, and 5) there appears to be adequate staff to ensure proper safety and servicing to the facilities. It must be emphasized that neither the State of Indiana, nor the Federal Government, has any desire to become involved in the daily operation and maintenance of a funded facility. The operation and maintenance requirements are no more restrictive than those desired by the taxpayers for the park they have helped to finance.

Operation and Maintenance

Property acquired or developed with Fund assistance must be properly operated and maintained for general public use. The site should appear attractive and inviting to the public. Proper sanitation and sanitary facilities should be maintained in accord with health standards. The site should be maintained for safe public use. Buildings, roads, trails, and other improvements should be kept in reasonable repair throughout their lifetime to prevent undue deterioration and to encourage public use. Evidence of vandalism should be repaired as quickly as possible.

General Public Use

The park should be open for general public use at reasonable hours and times of the year according to the type of area or facility. Property acquired or developed with federal assistance shall be open to entry and use by all persons regardless of race, color, religion, gender, national origin, age, disability or place of residence. The park cannot be restricted for use by only certain residents. A higher user fee may be charged to out–of–city or out–of–county residents, but it may be no more than 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 at comparable State or local public facilities. Reservation, membership, or annual permit systems 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.

Project sponsors may impose reasonable limits on the type and extent of use of areas and facilities acquired or developed with LWCF assistance when such a limitation is necessary for the protection of the site. Thus, limitations may be imposed on the number of persons using an area or facility or the types of use, such as “hunters only” or “hikers only”. All limitations shall be in accord with the grant agreement and amendments.

Facilities may also be scheduled for use by private groups, such as a ballfield for a Little League or shelter for a family reunion. Such a reservation system cannot be used to the extent that a facility is reserved for the exclusive use by special interest groups and is never available during general use hours for the public at large. Permits for the use of facilities must be in accord with federal nondiscrimination provisions.

Nondiscrimination Audits

The Department of the Interior, Office for Equal Opportunity periodically conducts desk and

on–site audits of local park agencies which have received LWCF assistance. The reviews involve compliance with Title VI of the Civil Rights Act and Section 504 of the Rehabilitation Act, as explained in Chapter Four and the Appendix beginning on page 131. An audit may take place long after a project has been completed since grant recipients must comply with the nondiscrimination provisions forever. Project sponsors are responsible for voluntary compliance with any audit findings which need to be resolved.

Perpetual Park Use

Property acquired or developed with assistance from Land and Water Conservation Fund must be retained and used for public outdoor recreation in perpetuity. Any property so acquired or developed shall not be wholly or partly converted to other than public outdoor uses without the approval of the Secretary of the Interior. Land acquired or developed with Fund assistance cannot be sold or converted into non-park uses, such as for public roads, schools, libraries, or overhead utility corridor.

Indoor recreation facilities may be constructed with local funds on Fund assisted land as long as the facility development is compatible with outdoor recreation uses. Such facilities must be brought to the attention of the Division of Outdoor Recreation prior to their construction.

In general, compatible indoor recreation facilities will be permitted as long as the amount of land converted to indoor recreation use is only a small portion of the total park area. Construction of non-recreational buildings, such as a fire station or a city hall will not be allowed since the land would be converted to non-recreation use. All future development on LWCF assisted land must be designed to be accessible to persons with disabilities even if federal assistance was not requested nor used for the development.

Retention of Outdoor Facilities

Since this program funds only outdoor facilities, they cannot be converted for permanent indoor use. For example, a picnic shelter built with Land and Water Conservation Funds cannot be enclosed to become an indoor picnic pavilion or a community center. The structure could be temporarily enclosed to become a warming house for ice skating or other winter sports activities, because this use would be as a support facility for outdoor recreation. The only exceptions to permanently enclosing facilities for indoor recreation are swimming pools and ice rinks.

Federal requirements also apply to future improvements on a LWCF assisted facilities. For example, lighting of a LWCF assisted ballfield would have to include the replacement of power lines underground. All future utility lines must be placed underground.

Project sponsors are not required to continue operation of a facility beyond its useful life; however, the LWCF Act requires that project sponsors continue to maintain property defined in the *Project Agreement* for public outdoor recreation use. If, in the judgment of the State, the facility is needed and was lost through neglect or inadequate maintenance, then replacement facilities must be provided at the current value of the original investment.

Leasing of Project Sites

A park board may provide for the operation of a site acquired or developed with LWCF assistance by leasing the facility to another party. The park board must irrevocably agree to provide suitable replacement property should the public use of the leased facility be restricted or the outdoor recreation resource be compromised.

All lease documents for the operation of LWCF assisted projects by private organizations or individuals must address the following:

1. In order to protect the public interest, the project sponsor must have the clear ability to periodically review the performance of the lessee and terminate the lease if its terms and the provisions of the grant agreement, including standards of maintenance, public use, and accessibility, are not met.

2. The document should clearly indicate that the leased area is to be operated by the lessee for public outdoor recreation purposes in compliance with provisions of the Land and Water Conservation Fund Act and implementing guidelines.

3. The document should require that the area be identified as being publicly owned and operated as a public outdoor recreation facility in all signs, literature, and advertising and the lessee be identified as such so the public will not be misled into believing the area is private. Signs should also be posted identifying the facility as open to the public.

4. The document should require that all fees charged by the lessee to the public be competitive with similar private facilities.

5. The lessee must include requirements that the lessee comply with Title VI of the Civil Rights Act and Section 504 of the Rehabilitation Act in providing equal opportunity for public use of the park facility and in the lessee's employment practices. The site must also be maintained to be accessible to persons with disabilities under the Architectural Barriers Act and the Americans with Disabilities Act.

6. The lease term must be for a limited number of years and may not be automatically renewable, since the permanent transfer of property rights is not allowed under the LWCF program.

Conversions of Use

As previously stated, property acquired or developed with assistance from the Land and Water Conservation Fund may not be converted to a non–outdoor recreation use. Section 6(f)(3) of the Land and Water Conservation Fund Act specifically prohibits such conversions without the prior approval of the U.S. Department of the Interior. Typical types of conversions are:

1. Property interests are conveyed by the project sponsor to another party for full or partial control of the land, which would result in uses other than public outdoor recreation as approved by NPS. This includes granting any control of the land, such as through easements, rights–of–way, and leases, for the construction and maintenance of a utility

line, pipeline, irrigation ditch, road, or similar facility. It applies to above and below ground impacts.

2. Non–outdoor recreation uses (public or private) are made of the project area, or a portion thereof. This could include the construction of structures or facilities by the project sponsor or others which would not be compatible with the existing outdoor recreation uses, such as fire stations, civic centers, libraries, schools, and communication towers.

   A possible exception could occur if the project sponsor, without relinquishing any control over the area, would allow another party to construct an underground utility or similar development. This would apply if the construction would not impair the present and future recreational use of the property and the surface area would be restored to allow for outdoor recreational use. A temporary construction permit must be prepared and no permanent transfer of property rights may occur.

3. Ineligible indoor recreation facilities are developed within the project area. This might occur if a facility such as a community center or indoor tennis center were built on a project site without prior federal approval. Generally, if the park site is large and sufficient outdoor recreation space will remain indoor recreation facilities may be allowed. On small sites, however, where an indoor facility would dominate the space and restrict the usability of the park for outdoor activities, such proposals will not be considered.

4. Public outdoor recreation use of property acquired or developed with LWCF assistance is terminated. This might occur, for example, if the park or facility were closed, which could be for a variety of reasons. Included would be title to the land reverting to a previous owner due to reversionary clauses in the deed or another party exercising outstanding rights which disrupt park use, which might happen with mineral extraction.

The above actions are not all–inclusive and other kinds of actions could result in a Section 6(f) conflict. The authority to make a final determination as to whether a potential section 6(f) conflict exists rests with the National Park Service.

In certain situations a conversion cannot be avoided and the approval of NPS must be sought. Land that is converted must be replaced with land of equal value, usefulness, and location. Repayment of the amount of Land and Water Conservation Fund assistance in lieu of replacement property will not be allowed, nor will construction of replacement facilities.

Conversion Prerequisites

Conversion requests will be considered by the IDNR only if the following prerequisites have been met by the park board:

1. All practical alternatives to the conversion have been evaluated and rejected on a sound basis.

2. Replacement property of equivalent value, usefulness, and location is available. The land must constitute or be part of a viable outdoor recreation area, and meet the acquisition criteria in Chapter Five. Depending upon the situation, the replacement property need not provide identical recreation experiences or be located at the same site, provided it is in a

reasonably equivalent location. It must, however, be administered by the same park board as the converted property. If LWCF funds were provided for acquisition of the original project site, the replacement property must usually be acquired from private ownership. Public land may not be used for substitution on acquisition projects unless it meets the criteria in Chapter Five, for land acquired from other public agencies. This ensures that the public recreation estate is increased as it was under the grant. This condition holds if the first acquisition was by purchase or donation.

In the case where federal LWCF assistance was provided only for the development of facilities, the replacement land may either be acquired from the private sector or be non-recreation land in other public ownership under the Chapter Five criteria, even if the other public land is transferred without cost. If the conversion is approved, the replacement land will be placed under LWCF 6(f) protection for permanent outdoor recreation use.

3. The fair market value of both the converted land and the replacement property must be established in appraisals prepared according to the appraisal criteria in Chapter 5.

   Property improvements must be excluded from all fair market value considerations for replacement property. Exceptions are allowable only in those cases where replacement property contains improvements which directly enhance its outdoor recreation utility. The appraisals must be approved by the Department of Natural Resources and National Park Service.

4. An *Environmental Assessment* must be prepared according to the format in the Appendix (beginning page 112) for both the conversion land and the replacement site. Public notification and opportunity for comment at a public meeting are a part of the assessment process, as is archaeological clearance.

5. The proposed replacement property must be in accord with the state comprehensive outdoor recreation plan.

6. Coordination with other federal agencies, including environmental and wetland reviews, must be completed prior to submittal of the proposal to the IDNR.

7. The replacement land must be acquired in accord with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601 et seq.), as explained in Chapter Five. The replacement site may not be acquired nor the original project area be converted to another use until after the IDNR and National Park Service have approved the conversion.

Conversion Proposals

The request for a conversion is submitted to the Division of Outdoor Recreation. The proposal must include:

1. A narrative explanation of the proposed conversion, alternatives considered and reasons why they were rejected.

2. Two appraisals, one for the area to be converted and one for the replacement property.

3. Location and site maps for both sites.

4. An *Environmental Assessment* addressing the replacement site, including documentation of public input and archaeological clearance.

5. Photographs of the two areas.

6. An explanation of coordination with other governmental units, especially federal agencies.

When the Grants Staff receives a conversion request, the proposal is reviewed and a field inspection made of the two sites. If the state staff concurs with the local proposal, the request will be forwarded to the National Park Service for approval.

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Land and Water Conservation Fund
Project Agreement General Provisions (12/15/2015)

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 State Assistance Program Manual.

D. The term "project" as used herein means a Land and Water Conservation Fund grant, which is subject to the project agreement and/or its subsequent amendments.

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 monies 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 pursuant to Title 36 Part 59.3 of the *Code of Federal Regulations*. 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 or the submission and approval of a conversion-of-use request as described in Section II.B. above.

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 and published post-completion compliance regulations (Title 36 Part 59 of the *Code of Federal Regulations*).

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 as they relate to the application, acceptance and use of Federal funds for this federally assisted project.

2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards;

2 CFR Parts 182 & 1401, Government-wide Requirements for a Drug-Free Workplace;

2 CFR Part 180 & 1400, Non-Procurement Debarment and Suspension, previously located at 43 CFR Part 42, "Government-wide Debarment and Suspension (Non-Procurement)";

43 CFR Part 18, New Restrictions on Lobbying;

FAR Clause 52.203-12, Paragraphs (a) and (b), Limitation on Payments to Influence Certain Federal Transactions;
2 CFR Part 25, System for Award Management (www.SAM.gov) and Data Universal Numbering System (DUNS); and

2 CFR Part 170, Reporting Subawards and Executive Compensation

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 at the date specified on 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.

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 eligible expenses derived from a current approved negotiated indirect cost rate agreement.

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, 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 or 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 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.

12. It is national policy to award a fair share of contracts to small and women- and minority-owned firms. The Department of the Interior and the National Park Service are strongly committed to the objectives of this policy and encourage all grant recipients to take affirmative steps to ensure such fairness. Positive efforts shall be made by recipients to utilize small businesses, minority-owned firms, and women’s business enterprises whenever possible. In accordance with Executive Orders 11625, 12138, and 12432, recipients shall take the following steps to further this policy:

    a) Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.

    b) Make information on forthcoming opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.

    c) Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.

    d) Encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.

e) Use the services and assistance, as appropriate, of such organizations as the Small Business Development Agency in the solicitation and utilization of small business, minority-owned firms and women's business enterprises.

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.

13. If applicable, 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 2 CFR 200.

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.

E. Retention and Custodial Requirements for Records

1. All Recipient financial and programmatic records, supporting documents, statistical records, and all other grant-related records shall be retained in accordance with 2 CFR 200.333 to .337 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.

3. State and local governments are authorized to substitute 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 at any time prior to the first payment on the project. After the initial payment, the project may be terminated, modified, or amended by the State only by mutual agreement.

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 non-cancelable

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 31 USC 1352, the State certifies, as follows:

(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 (2 CFR Parts 182 & 1401), the State 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).

I. Civil Rights Assurance (Ref: DI-1350)

The State certifies that, as a condition to receiving any Federal assistance from the Department of the Interior, it will comply with all Federal requirements relating to nondiscrimination. These include, but are not limited to: (a) Executive Order 11246, as amended; (b) Title VI of the Civil Rights Act of 1964, as amended (78 Stat. 252; 42 U.S.C. §§2000d et seq.), which prohibits discrimination on the basis of race, color, or national origin; (c) Title V, Section 504 of the Rehabilitation Act of 1973, as amended (87 Stat. 394, 29 U.S.C. §794), which prohibits discrimination on the basis of disability; (d) the Age Discrimination Act of 1975, as amended (89 Stat. 728, 42 U.S.C. §§6101 et seq.), which prohibits discrimination on the basis of age; and with all other applicable federal laws and regulations prohibiting discrimination, to the end that no person in the United States shall, on the grounds of race, color, sexual orientation, national origin, disability, religion, age, or sex, 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.

Overhead Wire and Environmental Intrusion Requirements

The following policy has been developed to provide quality outdoor recreation opportunities through the Land and Water Conservation Fund Program. While the scope of environmental intrusions is quite broad, overhead utility lines are the most frequent problem.

Overhead utility lines are a major detraction from the natural quality of many outdoor recreation areas and must be eliminated where possible. Project sponsors are expected to 1) take all reasonable steps to insure the burial, screening, or relocation of existing overhead lines at development or acquisition projects where such lines intrude upon the site's character, and 2) insure that all new electric wires under 15 KV, and telephone wires are placed underground.

The federal policy with respect to overhead wires is as follows:

1. In a grant application, all existing utility lines on or adjacent to the project site must be fully described, preferably including photos. The proposal must clearly state what action will be taken to bury, remove, reroute, screen or otherwise remedy the intrusions. If removal, burying or rerouting is not feasible, and explanation is necessary. The possibility of relocating the project to an alternate site may also be considered.

2. All Fund assisted utility installations must be placed underground unless it can be demonstrated to be technically or economically infeasible. This may result in increased cost in providing utilities at Fund assisted areas, but these costs are eligible for Fund Assistance.

3. Future utilities, installed in parks which previously received LWCF assistance, must also be placed underground unless burial is technically or economically feasible.

Other environmental intrusions should also be carefully documented and their treatment should be given the same consideration. In addition, the following guidelines should be followed closely in developing the project.

1. Existing High Voltage Wires (60 KV and above). Since in most cases burial or relocation would be excessively costly or technically infeasible, project with existing high voltage wires will be judged on an individual basis. The overall advantages and desirability of the project will be weighed against the disadvantages caused by the wires. The rationale of the final decision will be documented.

2. Proposed High Voltage Wires. On any area which has been assisted by a Land and Water conservation Fund grant, the intrusion or crossing by high voltage wires will not be permitted under the provision of the Land and Water Conservation Fund Act without prior approval of the National Park Service.

3. Existing Low Voltage electric (under 60 KV) and Telephone Wires. Before a project is approved, the possibility and feasibility of burying, screening and relocating overhead low voltage or telephone wires will be carefully explored and documented. In general, it is entirely practical to bury lines of less than 15 kilovolts. It may or may not be feasible to bury those between 15 and 60 KV. These need to be considered on an individual basis. Every effort will be made to eliminate such overhead wires. If the decision is made to approve the project, leaving the wires exposed, the record must include the justification.

4. Proposed Low Voltage Electric and Telephone Wires. When low voltage electric and telephone lines are to be installed as part of the LWCF assisted project, they are to be buried. Those under 15 KV will be buried; those between 15 and 60 KV will be buried or screened depending on the circumstances. Since, in most cases, this is no more or only slightly more expensive and almost always improves the quality of the project, exceptions to this policy are to be made only on an individual project basis and only when there is the strongest justification for making an exception. The record will include this justification.

Grant proposals will not be approved if mass recreation use (swimming, picnicking, spectators, etc.) is contemplated or proposed beneath overhead utility wires.

GRANT APPLICATION

State Form 55049 (7-12)
Approved by State Board of Accounts, 2012
INDIANA DEPARTMENT OF NATURAL RESOURCES

Interactive version online at
https://forms.in.gov/Download.aspx?id=10697

APPLICANTS GRANT INFORMATION

Type of grant *(please check one)*

- ☐ Land and Water Conservation Fund (LWCF)
- ☐ Wabash River Heritage Corridor Fund (WRHCF)
- ☐ Hometown Indiana (HI)
- ☐ Recreational Trails Program (RTP)
- ☐ Shooting Range (SR)
- ☐ Other: _____

Name of organization	Employer identification number
Name of contact person	Data Universal Number System (DUNS) number
Address *(number and street, city, state, and ZIP code)*	

Telephone number ( )	Fax number ( )	E-mail address

Name and brief description of project:

COST CLASSIFICATION

1. Preliminary expenses	$
2. Land, structures, and rights-of-way	$
3. Architectural and engineering basic fees	$
4. Relocation expenses	$
5. Construction and equipment	$
6. TOTAL *(lines 1 through 5)*	$
7. Less program income	$
8. Net project amount *(line 6 minus line 7)*	$
9. Add contingencies *(not to exceed 10%)*	$
10. TOTAL PROJECT AMOUNT	$
11. Grant Request in line 10	$
12. Applicant's share of line 10	$

METHOD OF FINANCING APPLICANT'S SHARE

1. Appropriations *(by applicant)*	$
2. Bonds	$
3. Tax levies	$
4. Donations	$
a. Land	$
b. Cash	$
c. Labor	$
d. Equipment	$
e. Materials	$
5. Federal source *(specify below)*	$
6. Force account *(specify below)*	$
7. Other *(specify below)*	$
8. TOTAL APPLICANT'S SHARE	$

Remarks:

To the best of my knowledge, information in this application is true and correct, the grant application has been duly authorized by the applicant and it will comply with all conditions of the program if funding is approved.

Signature	Date *(month, day, year)*
Printed name	Title

Application Form Instructions

Budget Information

1. Preliminary Expenses

   Enter any costs incurred prior to grant award and/or submittal. Eligible types of costs include archaeological literature searches, architectural/engineering preliminary design services, and grant application preparation services. Other costs are not eligible.

2. Land, Structures, and Rights-of-way

   State the value of all land and rights to land which will be acquired in the project, whether by negotiated purchase, condemnation, donation, or bargain sale.

3. Architectural and Engineering Basic Services

   Specify the anticipated costs for architectural/engineering design services, including project plan and specification preparation, project inspection fees, and any other necessary professional services.

4. Relocation Expenses

   Enter anticipated costs for providing relocation assistance to affected (displaced) individuals, groups, or businesses.

5. Construction and Equipment

   State the projected costs for all construction, materials, and labor costs which will be incurred in this project.

6. Total

   Add lines 1 through 5. This amount will equal the total cost for acquisition and development.

7. Program Income

   Enter the amount of income which will be generated by timber sales, cash cropping, or other revenue which will be generated by the site during the LWCF project. This must be reduced from the total on line 6.

8. Net Project Amount

   Subtract line 7 from line 6 and enter the result here.

9. Contingencies

   Do not enter any contingency amount here; include any contingencies in the appropriate cost classifications.

10. Total Project Amount

    Add lines 8 and 9 and enter the amount here. This figure must match the total project cost which is on the cost breakdown.

11. Grant Request

State the amount of LWCF assistance which will be requested for this project. This usually will be 50% of line 10. It may not exceed the grant application limit established by the Natural Resources Commission.

12. Method of Financing Applicant’s Share

    Identify the amount and source(s) of the park board's share (usually 50%). The total must equal the amount specified in the *evidence of local share* item on the application checklist. Explain details of the costs in the remarks section.

Sample Application Form

GRANT APPLICATION
State Form 55049 (7-12)
Approved by State Board of Accounts, 2012
INDIANA DEPARTMENT OF NATURAL RESOURCES

APPLICANTS GRANT INFORMATION

Type of grant *(please check one)*

- ☑ Land and Water Conservation Fund (LWCF)
- ☐ Wabash River Heritage Corridor Fund (WRHCF)
- ☐ Hometown Indiana (HI)
- ☐ Recreational Trails Program (RTP)
- ☐ Shooting Range (SR)
- ☐ Other: _____

Name of organization County Park and Recreation Board	Employer identification number 35-222906
Name of contact person Jane Smith, President	Data Universal Number System (DUNS) number 902271098

Address *(number and street, city, state, and ZIP code)*
3333 north lane, Smallville, IN 46222

Telephone number (317) 333-444	Fax number (317) 334-6655	E-mail address jsmith @smallville.in.gov

Name and brief description of project:
John Sweeney Park-Acquire 100 acres by donation and develop trails, picnic shelter, parking, natural area and fishing pier with architectural and engineering fees.

COST CLASSIFICATION

1. Preliminary expenses	$ 1,000
2. Land, structures, and rights-of-way	$ 200,000
3. Architectural and engineering basic fees	$ 15,000
4. Relocation expenses	$ 0
5. Construction and equipment	$ 184,000
6. TOTAL *(lines 1 through 5)*	$ 400,000
7. Less program income	$ 0
8. Net project amount *(line 6 minus line 7)*	$ 400,000
9. Add contingencies *(not to exceed 10%)*	$ 0
10. TOTAL PROJECT AMOUNT	$ 400,000
11. Grant Request in line 10	$ 200,000
12. Applicant's share of line 10	$ 200,000

METHOD OF FINANCING APPLICANT'S SHARE

1. Appropriations *(by applicant)*	$
2. Bonds	$
3. Tax levies	$
4. Donations	$
a. Land	$ 200,000
b. Cash	$
c. Labor	$
d. Equipment	$
e. Materials	$
5. Federal source *(specify below)*	$
6. Force account *(specify below)*	$
7. Other *(specify below)*	$
8. TOTAL APPLICANT'S SHARE	$ 200,000

Remarks:
Donated land value=100 acres at $2,000 an acre

To the best of my knowledge, information in this application is true and correct, the grant application has been duly authorized by the applicant and it will comply with all conditions of the program if funding is approved.

Signature: Jane Smith	Date *(month, day, year)*: May 22, 2016
Printed name: Jane Smith	Title: President of Park Board

Environmental Assessment

The Environmental Assessment is to be written as a narrative, descriptive statement. Each of the sections is to be identified by title with the narrative included under each section. The outline of suggested elements to include in each section is provided for your use. Do not reference an item by its letter in the narrative. For example, do not reference a code number such as "Item I. A. 1. $50, 000," but rather describe the proposal in several sentences. Persons reading the document will not have the outline to which to refer for coded statements.

I. THE PROPOSED ACTION

The first section includes a description of the proposed project and the surrounding environment.

A. Description of the Project

1. Project Proposal What is the purpose of the project? When will the project begin and end? What is the size of the project? How many acres will be acquired and/or how many phases of development are anticipated? Where is the project located? Submit a U.S.G.S map (or Xerox copy) showing the project boundaries. Submit well-labeled photos (where at, facing what direction) of the site. What is the project cost?

2. Project Type Describe in more detail the scope of the project being submitted. For acquisition include the number of tracts, method for development projects, list the facilities to be constructed. Describe in detail any secondary development which will occur (i.e. sewer lines, utilities, access roads). Describe all earth moving activities, draining, paving, filling, vegetative clearing, and/or dredging. Elaborate on any aspect affecting surface water or drainage of the project.

3. Local Needs Indicate the types of park users to be served, such as youngsters, families, senior citizens, or persons with a disability. Describe how this project meets local needs identified in the local park and recreation master plan. Reference other state, local, or regional plans in which the project is identified. Site page numbers of the plans referenced.

4. Funding Explain any previous actions or proposed actions for which other federal funding has been used or is anticipated to be used. If non-federal funds will be used, indicate the source of the local share of the project cost.

B. Description of the Environment

1. Physical Conditions Describe the site. Information which can be included in the description follows:

a. Soil conditions which might affect the site's use such as its stability, permeability or compatibility.

b. Presence of water such as streams, wetlands, lakes, ponds, or floodplain lands. Is the project located in a segment of a designated State Natural, Scenic or Recreational River? Any wetlands or areas within the 100 year floodplain need to be delineated on a site map. Data on floodplains may be obtained from Flood Information Maps currently produced by the Federal Emergency Management Agency. Some early maps were produced by the Department of Housing and Urban Development. The maps have been distributed to many local planning commissions, city engineers, county surveyors, libraries, and consultants. The information may also be obtained by sending location and site maps with a request for the site's flooding history and predictions to:

IDNR, Division of Water
402 W. Washington Street
Indianapolis, IN 46204
317-232-4160

c. Vegetation on the site: ground cover, shrubs, flowers, trees, agricultural crops, open grassland.

d. Fish and wildlife species, particularly if the site is a habitat or breeding area.

NOTE: Consulting with a local college or university biology department might be helpful in answering letters (c) and (d).

e. Special features such as location within a school park complex, reclamation area, landfill, nature preserve, unique geological area, mineral resources.

f. Man-made development such as houses, building, roads, levees, dams, utility systems, overhead transmission lines.

g. Other factors contributing to the uniqueness of the site including topography, current land use or zoning, access. Describe in detail any ecologically sensitive areas such as steep slopes, wetlands, or forests.

2. Social and Economic Conditions Describe the area surrounding the site as it relates to the project. Describe any economic conditions affected by the project.

a. Surrounding land use—Residential, commercial, farmland. Anticipated changes in this use caused by the park development.

b. Number of people and families, farms, or businesses on the site to be relocated, number of people living in the surrounding area.

c. Racial or ethnic groups and low income or depressed areas to be served.

d. Availability of and competition with other private or quasi-public outdoor recreation facilities in the area.

e. Employment opportunities caused by the project.

f. For land acquisition, the amount of taxes to be lost compared to the tax base.

g. Any management agreements with local groups to operate or maintain the park.

3. Archaeological, Architectural and Historical Conditions

a. Archaeology-mounds, cultural remains, artifacts, fossils of prehistoric animals or plants, prehistoric dwellings or villages. A letter from a qualified archaeologist must accompany the application.

b. Architecture-styles, buildings, districts or towns of architectural importance.

c. History-people, events, battles, structures, roads, museums, cemeteries, churches, districts or towns of historical importance. Indicate if the project site or any structure on or adjacent to the site is listed in the Indiana Historical Preservation Program and Survey or on the *National Register of Historic Places.*

II. ALTERNATIVES TO THE PROPOSED ACTION

This section should explain the reasonable alternatives to the proposed action described in Section I. This explanation should center upon the possible alternatives which were actually examined during the planning process, especially in the early stages. Both the beneficial and adverse environmental impacts of each alternative are to be discussed in sufficient detail to allow a realization of the long range impacts of the alternatives. The basis for rejection of each alternative should also be discussed. Alternatives could include the following:

No action (must be included in every assessment)

Postponing the action pending further study

Same development on another site

Other development on the same site

Different location of facilities on the site

Other methods of constructing facilities to serve the same purpose

Acquiring a different site

Acquisition and development of the site, rather than just acquisition

Leasing the land instead of acquiring it

Increase or decrease in the scope of the project

III. ENVIRONMENTAL IMPACTS OF THE PROPOSED ACTION

This section will be an objective discussion of the environmental impacts of the proposed action, including further related actions, if any, which are contemplated.

“Impacts” are defined as direct or indirect changes in the existing environment, whether beneficial or adverse. To the extent that it applies, the discussion will include impacts of the action, including environmental damage which could be caused by park users, upon economic, cultural aesthetic, and social conditions as well as upon the physical and biological environment.

Elements on which impacts are unknown or only partially understood should be indicated. Any off-site impacts, such as increased traffic on neighborhood roads or an increase in noise levels to surrounding area, should be described.

All impacts will be discussed in this section. This will specifically include a discussion of each adverse impact and how it will be mitigated. If the impact will not be able to be mitigated, the reason must be included.

> As an example, a project might include the acquisition of a parcel of farmland from which a family must be relocated. The project might also consist of the development of the site for a trail system including underground electrical, sewer and water systems; modern comfort stations and pit toilets; roads, parking lots and parking spurs; picnic tables, grills and trash cans; signs and trail markers; conversion of the existing house to a combination comfort/control station; and site improvement, seeding and landscaping.
>
> The site preparation and construction will affect the physical conditions of the site. Grading and leveling will loosen the soil and make it more vulnerable to erosion. This process will also alter the topography of the site. Vegetative cover will quite likely be removed, possibly reducing wildlife habitat. Rain water drainage patterns may be moved to a new location due to site preparation. Obviously, the number and types of man-made developments on the site will be changed. The construction of this public outdoor recreation facility will also allow for the introduction of many motor vehicles in the area which will increase the noise and pollution levels, use of and additional wear on existing local roadways.
>
> Relocation of the family to a new area will change the social conditions of the site and the surrounding area. The provision of the camping and picnicking facilities will increase the opportunity for social interaction of people in the recreational setting.
>
> Transferring the land from private to public ownership will have an impact on the economic conditions because land will be removed from the tax roles. Zoning of the land may change from agriculture to recreation. Additional employment opportunities may become available as a result of the operation and maintenance of the campground.

These environmental effects should be discussed objectively and, if possible, quantitatively. For instance, each project will probably improve the social conditions of the site and surrounding area by upgrading the public outdoor recreation opportunities available on the site. Such recreation impacts should be stated in terms of recreation area served, activity occasions provided, expected peak day use, and other applicable units of measurement that quantify the impact of the proposed action.

Indirect changes, as well as partially understood effects, should be indicated. For example, the development of a new golf course will have some impact upon the traffic load on the roads

surrounding the recreational area. The increased load and the type of vehicles should be estimated as nearly as possible. The National Park Service requires that environmental impacts be considered for the following elements.

1. Land use (project site and surrounding area) Will the project increase noise or traffic into the area that will adversely affect the surrounding residences or businesses? Will current land uses around the park change?

If the proposed project involves the acquisition and/or development of land that will be taken out of agricultural production, this issue must be discussed. The county Soil Conservation Service (SCS) office is to be contacted for a determination on the status of the site as "prime farmland". The SCS agent will visit the site and prepare a letter indicating what percentage of the site, if any, is prime farmland.

If the project does contain "prime farmland", the impact of the removal of this land from agricultural production must be discussed in the environmental impact section. The amount of farmland available in the county is the key factor in determining the impact.

If this section does not apply to the proposed project, a statement verifying no effect on agriculture is still to be included in Section III of the Environmental Analysis.

2. Fish, wildlife, and vegetation The Endangered Species Act requires all applicants seeking federal funds to consider the impact of the project on any plant or animal endangered species, this section must be addressed in all environmental documents.

A list of endangered species is available from the Division of Nature Preserves (see next document in the Appendix). The project sponsor should have a qualified person look at the site if it contains areas of undisturbed vegetation or habitat. A local naturalist, fish and wildlife biologist or other person knowledgeable about plants and animals in the area can be used to conduct a preliminary reconnaissance. The Environmental Analysis submitted should document the efforts to determine the presence of any endangered species on the site.

If there are no known endangered plants or animals, a statement to the effect is to be made. Assurances are to be given that any future development on the site will be stopped if it appears an endangered species may be affected by the action.

Other fish, wildlife, and vegetation not listed on the endangered species list may be adversely affected by the project. The loss of any habitat or breeding area should be discussed.

3. Floodplains and wetlands Direct and indirect impacts on floodplains and wetlands are to be considered. Any measures taken to minimize flood damage to property or harm to lives should be discussed. The project may be a valuable asset to the area, protecting it from other negative uses. These positive impacts can also be included. Assurances should be given that appropriate Army Corps of Engineers review and permits for construction in the floodway by the Indiana Natural Resources Commission will be obtained.

4. Geology, soils, and mineral resources Loss or preservation of unique geological formations and the effect of construction on soil conditions should be discussed. The potential or lack of

potential extraction of fuel or mineral resources is also to be included.

5. Air and water quality and resources Construction may involve a temporary decrease in air or water quality. The construction of a permanent water impoundment will obviously alter current conditions. Any construction in the floodplain should be noted and these impacts evaluated.

6. Historic/archaeological resources If there are known historic, archaeological or architectural resources, impacts on the construction need to be discussed. If none exist, a statement should be made to that effect.

7. Transportation/access/utilities Development of a park may place a strain on existing roads or utility systems. Transportation patterns may also be affected.

8. Consumption of energy resources Is the project and its development energy efficient? Do roads provide adequate access to facilities, but do not encourage needless driving? Are facilities designed to be energy efficient? Have alternative sources of energy been explored such as using solar energy to heat water for restrooms or a bathhouse?

9. Accessibility for People with Disabilities Has the project been designed to allow maximum use by persons with disabilities? Discuss design adaptations which are going to be made.

10. Future operation and maintenance Will new staff have to be hired or new maintenance equipment purchased? Do any of the facilities require special order or costly supplies? How vandal-proof are the facilities? Project sponsor must be realistic about the additional costs which are going to be needed for operation and maintenance. New parks and facilities cannot be operated for free.

IV. INDIVIDUALS AND AGENCIES WHICH REVIEWED THE PROJECT

The final section should list the individuals and agencies which were consulted during the formation of the proposal and the environmental impact assessment. This section should briefly summarize public meetings held in conjunction with the proposal and the assessment. Persons that may have reviewed the project are as follows:

City or county council

Planning Agencies

Neighborhood associations

Regional or state clearinghouses

Department of Natural Resources

Soil Conservation Service

State Board of Health

Administrative Building Council

In particular, reference studies or coordination efforts between agencies that contributed to the project.

Public notification of the preparation of any type of environmental assessment is required by Federal Regulation 40 CFR 1506.6. For most small projects, this type of notification can be done at the public meetings held in conjunction with the application process. Comments received can be included with this document or summarized as part of the public participation element section of the Program Narrative. For larger projects, the project sponsor would obtain a copy of the regulation from the Division of Outdoor Recreation. For projects involving floodplains and wetlands, the public meetings and notices of the meetings need to specifically indicate that the project is proposed for a floodplain or wetland.

Environmental Impact Statements

The majority of projects will need to complete only the Environmental Assessment. Some projects which involve major acquisitions or large developments may be required to submit a detailed Environmental Impact Statement. This statement will not generally need to be completed until after it is determined whether federal funds will be available for the project.

Projects which may need an Environmental Impact Statement could include acquisition or development under the following conditions:

1. Marshes, wetlands, unique animal or plant ecosystems, lakes, streams, or marine areas are affected significantly.

2. The acquisition of land would involve a major relocation of households and/or businesses.

3. The acquisition of significant amounts of land which would foreclose other beneficial or unique uses of land; such as "prime" agricultural land, valuable timber lands, strategic or critical mineral, water or transportation facilities.

4. The development of the project land for outdoor recreation would significantly change the use patterns of the area surrounding the LWCF assisted facility.

5. An archaeological or historical site on or eligible for nomination to the *National Register of Historical Places* would be adversely affected by the acquisition and or development project.

6. Highly controversial issues over the environmental effects of the project exist are expected.

7. The land being acquired, developed, or affected by the project contains threatened or endangered species of flora or fauna, rare minerals or a unique geologic formation.

The Division of Outdoor Recreation will supply the project sponsor with an outline for preparing an Environmental Impact Statement. Project sponsors who feel their projects might fit any of the above criteria should contact a grants coordinator in the Division of Outdoor Recreation prior to submitting an application.

A project which potentially involves significant environmental impacts would require a complete Environmental Impact Statement. The statement is reviewed by a variety of federal agencies prior to an approval or disapproval being given to the project.

Indiana's Rare Plants and Animals

A checklist of rare plants and animals in Indiana has been developed to maintain a current list of endangered and threatened species. The director of the Indiana Department of Natural Resources has the legislative authority for the conservation of endangered natural resources in Indiana. The Division of Fish and Wildlife and Division of Nature Preserves are responsible for the conservation of animals and plants, respectively, and each has developed the lists included in the publication. The Division of Nature Preserves also maintains a list of rare insects. Species are listed in alphabetical order by scientific name within each category of state classification.

Indiana Classification and Protection

Vertebrates and mollusks classified as endangered in Indiana are protected from "taking" pursuant to the Nongame and Endangered Species act of 1973 (Indiana Code 14-2-8.5) and Fish and Wildlife Administrative Rules (310 IAC 3.1-2-7). The Division of Fish and Wildlife also classified "any animal species, about which some problems of limited abundance or distribution in Indiana are known or suspected and should be closely monitored" as special concern. Plants and insects are classified as endangered, threatened or rare. Plants and insects are protected by the Nature Preserves Act (310 IAC 5-1-4,9) which prohibit the picking or molesting of trees, shrubs, vines or flowers occurring on Nature Preserves, Museum and Historic Sites, Wetland Conservation Areas, Wildlife Habitat Trust Areas, and lands owned, licensed and leased to the IDNR. State parks, state forest and state reservoir properties provide protection under 310 IAC 5-1-9, paragraph d.

Federal Classification and Protection

Species are classified as federally endangered or threatened pursuant to the Endangered Species Act of 1973 (Public Law 93-205 as amended) and are listed under 50 CFR 17.11 (animals) and 17.12 (Plants). This act prohibits the "taking" of animals listed as endangered or threatened. Federally listed plants are protected when federal funding or permits are required. The federal government also maintains a Notice of Review for Plants and Animals. The following lists include those species that are formally listed as endangered or threatened.

This is not intended to be complete listing of all restrictions applied to the protection of endangered or threatened plants and animals. To order the pamphlet please contact the:

Division of Fish and Wildlife 402 W. Washington Street Room 273 Indianapolis, IN 46204 317-232-4080	or	Division of Nature Preserves 402 W. Washington Street Room 267 Indianapolis, IN 46204 317-232-4052

http://www.in.gov/dnr/naturepreserve/4725.htm

Federal Marina Policy

Marinas which are acquired or developed with Land and Water conservation fund grants are subject to the following conditions:

1. An equitable method of allocating berth space shall be used in all marinas. Allocation methods shall include:

   a. Annual or multi-year lotteries, or

   b. Posted waiting lists where berth space is filled in the order of receipt of applications, or

   c. Another method selected by the applicant that responds to local conditions and equitably allocates space among all parties

   In each instance, adequate public notice shall be provided announcing the availability of berth space and describing application procedures. The project sponsor shall determine the most equitable method under which lease holders may compete for future berth space vacancies. The Program Narrative in the grant applications shall describe the allocation system to be used.

2. Commercial charter fishing or sightseeing boats are permissible marina lease holders due to their potential for expanding public waterfront access; however, it is not intended that these users occupy a significant number of marina berths and accordingly, project sponsors should establish reasonable limits on the number of berth spaces provided for such users.

   New Marinas receiving LWCF assistance shall also be subject to the following provisions:

3. Berth lease terms shall not be transferable to any other party.

4. Berth space for transient boaters shall be provided.

5. Marinas located in urban areas shall include specific design provisions for non-boater public access. Such access, which expands water-based recreation opportunities, may be met by providing walkways, observation points, fishing piers and/or related facilities. Limited access to the actual marina berths may be retained.

Civil Rights Act of 1964
Title VI Guidelines

1. GENERAL

A. Authority • These guidelines are issued under authority of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et. seq; Executive Order 11764; Department of Justice Regulations 28 CFR 42; and Department of Interior Regulations 43 CFR 17.

B. Purpose • (43 CFR 17.1; 28 CFR 42.401) These guidelines provide detailed information on the compliance requirements of Title VI of the Civil Rights Act of 1964 to the end that no person in the United States shall, on the grounds of race, color or national origin, be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination with respect to federally assisted programs administered by the Department of the Interior. Included in the guidelines are procedures for filing complaints and the responsibilities of the Department and its grantees in attaining compliance with the Act.

C. Definitions • (43 CFR 17.12; 28 CFR 42.402)

(1) "Act" means the Civil Rights Act of 1964, and any guidelines, rules, and regulations of the Department effectuating Title VI of this Act.

(2) "Applicant" means a qualified entity which submits an application for assistance under the Land and Water Conservation Act.

(3) "Department" means the U.S. Department of the Interior.

(4) "Director" means the Director of the Office for Equal Opportunity of the Department.

(5) "Federal Financial Assistance" means

(a) the grants and loans of Federal Funds,

(b) grants or donations of Federal property and interests in property,

(c) the detail of Federal personnel,

(d) the sale or the lease of, or the permission to use (on other than a casual or transient basis) Federal property or any interest in such property without consideration or at a nominal consideration or at a consideration which is reduced for the purpose of assisting the recipient in recognition

of the public interest to be served by such sale or lease to the recipient, and

(e) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

(6) "Primary Recipient" or "Grantee" means a State that is authorized to contract for or extend Federal financial assistance to itself or to a subrecipient for the purpose of carrying out a program of the Department.

(7) "Subrecipient" or Subgrantee" means any political subdivision or instrumentality of a State, public or private institution, or any entity or individual to whom Federal financial assistance is extended.

(8) "Compliance Reviews"

(a) "Post Award Compliance Review" means an onsite, comprehensive assessment of the Title VI compliance of an agency that has received Federal Financial assistance from the Department. Such reviews are designed to determine if programs and activities of the agency are administered and operated in compliance with the Act.

(b) "Follow-up Compliance review" means a follow-up examination of specific aspects of a grantee's Federally assisted program or activity to determine whether the grantee has resolved reported conditions of noncompliance.

(9) "Compliance Officer" means an Equal Opportunity Specialist assigned the responsibility of conducting Title VI Compliance Reviews.

(10) "Covered Employment" means employment practices covered by Title VI.

D. Covered Employment • (43 CFR 17.3(6)(c); 28 CFR 42.409) Where employment practices directly affect services to beneficiaries under a federally assisted program to which these guidelines apply, that recipient's or subrecipient's employment practices shall be subject to the nondiscrimination provisions of the Act. Enforcement of the Act with respect to covered employment practices shall not be superseded by State or Local merit systems relating to such employment practices.

2. COMPLIANCE RESPONSIBILITIES

A. OEO Responsibility • The Office for Equal Opportunity (OEO), as authorized by the Secretary of the Interior, shall assure that no person participating in a program funded in whole or in part by the National Park Service (NPS) subjected to discrimination on the basis of race, color, or national origin. This

shall be accomplished through continuing policy direction, oversight, and compliance reviews of selected recipients and subrecipients as well as technical assistance and program evaluation of NPS Regional Offices.

B. NPS Responsibility • The National Park Service as primary grantor of federal assistance for fishing access and development, has direct responsibility for assuring that the State and subrecipients are in compliance with the provisions of the Act.

The NPS shall execute its responsibilities through:

(1) providing guidance to the States in establishing an open project selection process to allocate federal assistance among applicants,

(2) notifying (OEO) of any inconsistencies with Title VI having arisen from onsite facility reviews conducted by NPS personnel, and

(3) cooperating with OEO toward seeking a satisfactory resolution of any inconsistencies found, including efforts toward seeking voluntary compliance enforcement procedures and follow-up reviews.

C. Primary Recipient Responsibility • (43 CFR 17.4) (28 CFR 42.407) The states, as primary recipients of assistance are responsible to give reasonable assurance that the applicant and all subrecipients will comply with the requirements imposed by Title VI, including methods of administration which give reasonable assurance that any noncompliance will be corrected. This shall be accomplished through:

(1) establishing an objective project selection process,

(2) providing the State Civil Rights Agency or Authority (if it exists) the opportunity to comment upon applications submitted,

(3) notifying OEO of any inconsistencies with Title VI having arisen from onsite facility reviews conducted by State Personnel (where the inconsistency cannot be corrected at the State level),

(4) cooperating with OEO toward seeking a satisfactory resolution of any inconsistencies found, including efforts toward seeking voluntary compliance, enforcement procedures and follow-up reviews, and

(5) assuring that each subrecipient/applicant is provided a copy of these guidelines.

D. Coordination of Responsibility • The Office for Equal Opportunity will periodically conduct compliance reviews of the State's administration of federal programs, including the compliance of subrecipients with the Act. OEO and NPS will provide the State, subrecipients and applicants for assistance with such technical assistance as necessary to reasonably assure compliance with the Act. Federal, State and local officials are expected to cooperate fully toward securing voluntary compliance where deficiencies in program or

facilities may be found.

3. TITLE VI COMPLAINT PROCEDURES

A. General • (28 CFR 42.408) (43 CFR 17) This section prescribes the procedures of the Department and its primary recipients with respect to the prompt processing and disposition of complaints.

B. Who May File • Any person, or specific class of persons, who believes that he or she has been subjected to discrimination as prohibited by the Act may personally, or by representative, file a complaint.

C. How, When, and Where to File • (28 CFR 42.408) All complaints filed under Title VI must be in writing, and must be signed by the complainant and/or the complainant's representative. In the event that a complaint is made in other than written form, the official receiving the complaint must instruct the complainant to reduce the complaint to writing and submit it to the OEO, Department of the Interior for prompt processing. The complaint should contain: the name, address and telephone number of the complainant; the name and address of the alleged discriminatory official or recipient; the basis of the complaint and the date of the alleged discrimination.

Complaints must be filed within 180 days from the date of alleged discrimination. The time limit for filing may be extended by the Director of the Office for Equal Opportunity. Complaints should be filed directly with the Office for Equal Opportunity, U.S. Department of the Interior, Washington D.C. 20240. In the event that complaints are received by NPS and/or recipients, such complaints shall be forwarded to the Office for Equal Opportunity within 10 days.

(1) Public Notification of Right to File a Complaint. The NPS shall be responsible for ensuring that its recipients inform the public of their right to file a complaint. Where primary recipients extend Federal assistance to subrecipients, the primary recipient shall also be responsible for ensuring that this standard is met. (28 CFR 42.405).

(a) This is to be accomplished by distribution and display of posters explaining the nondiscrimination provisions to Title VI as they apply to State and subrecipient recreation programs.

(b) NPS and its recipients shall also include information on Title VI requirements, complaint procedures, and the rights of beneficiaries in handbooks, manuals, pamphlets, and other materials which are ordinarily distributed to the public to describe the federally assisted programs or activities. Where a percentage of the population in excess of 10% (or 5,000) speaks a language other than English, the above described materials should be prepared in the appropriate language.

D. Complaint Processing • (28 CFR 42.408) (43 CFR 17.6)

(1) Acknowledgement of Complaint. The Office for Equal Opportunity shall acknowledge in writing, the receipt of every complaint within 10 days of reception. Acknowledgement letters shall be sent to the complainant, NPS and the primary recipient.

(2) Complaints Log. Recipients shall maintain a log of any Title VI complaint received. Moreover, OEO shall maintain a log of all such complaints received for processing. The purpose of the complaint log is to provide essential information and data regarding each complaint being processed by the Department. Each log must contain a case number, the complainant's name, address, and telephone number. The log must also include a description of the complaint; the date the complaint was filed and investigation completed; the disposition of the case; all other information pertinent to the complaint. (28 CFR 42.408).

(3) Routing responsibilities. When NPS or any primary or subrecipient receives a complaint, the office in receipt must log in the complaint, note the date of receipt on the complaint and maintain a confidential copy for its records. The original complaint document must be forwarded to the Office for Equal Opportunity within 10 days of receipt pursuant to Section 650.9.3C. OEO shall acknowledge its receipt and notify the recipient, as well as NPS, of the assigned case number.

(4) Determination of Jurisdiction. Upon receipt of a complaint by the Department, the Office of Equal Opportunity shall determine whether the complaint comes within the purview of the Act. When the Department lacks jurisdiction over a complaint, the Director shall refer the complaint to the appropriate State or Federal Agency that has responsibility for addressing the concern. Upon receipt of such a complaint, the OEO shall notify the NPS, recipient and complainant's representative of its actions.

E. Complaint Investigations • (43 CFR 17.6(d))

(1) Scope. Investigation shall be confined to issues and facts relevant to allegations in the complaint.

(2) Confidentiality. Complainants shall be offered a pledge of confidentiality as to their identity. This offer, if accepted, shall be binding on the investigator. Complainants shall be interviewed at all times in places which will not create risk of compromising confidentiality. Except where essential to the investigation, the investigator shall not reveal the identity of the complainant to the respondent or to any third party. If the investigator determines the necessity to reveal the complainant's permission to do so must be secured.

(3) Conduct of Investigation. Upon determination of jurisdiction by the Department, the Office for Equal Opportunity shall promptly initiate an investigation of the matter.

(4) Investigation Reports. In all instances where an investigation has been conducted, an investigation report shall be prepared, with findings and recommendations. The complainant and the agency against whom the complaint is made shall be notified in writing of the disposition of the matter.

(5) Investigation by Primary Recipients. The Director, within 10 working days of the receipt of a complaint, may authorize a primary recipient to investigate the complainant and make findings and recommendations subject to OEO approval. Upon delegation of authority by the Director, a primary recipient may investigate complaints filed against subrecipients. The investigative report will be provided to OEO within 30 days of authorization to investigate. The primary recipient may not investigate any complaint in which it, or any of its officers or employees is implicated. If at any time prior to its completion, it is determined that investigation of a complaint has been improperly conducted, the Director may withdraw the primary recipient's authority to investigate. If the complainant is dissatisfied with the findings of the investigation, the complainant may appeal the findings to OEO for its decision within 5 days of the complainant's review.

4. COMPLIANCE REVIEW PROCEDURES

A. General • 928 CFR 42.407) (43 CFR 17.6a) This section prescribes the types of compliance reviews which will be conducted periodically to ensure that the Department's public fishing programs are operated in compliance with the Act. Such reviews will cover NPS, primary recipient and subrecipient operations.

B. Compliance Review Responsibilities • (28 CFR 42.411) (43 CFR 17.5) The Office for Equal Opportunity shall periodically conduct onsite compliance reviews and desk audits of NPS primary recipients and subrecipients. Moreover, primary recipients shall review the operations of its subrecipients. These reviews shall be accomplished in accordance with Section 650.9.4E. The Office that conducts the compliance review shall prepare and issue a report on its findings and recommendations to the reviewed entity. Often the outside review is completed to assist the review entity in voluntarily complying with the Act; however, remedial action must be initiated by the recipient or subrecipient to correct the deficiency(s). Where conditions of noncompliance have been found, such conditions must be resolved by the recipient within a reasonable period of time. A copy of the report and related correspondence shall be kept on record by the office performing the review for a period of 3 years. This information shall be made available to the OEO upon request.

C. Determinations of Compliance • All determinations of compliance with the Act shall be made by the OEO. It is expected that NPS will review Title VI aspects of the program in conjunction with ongoing program reviews.

D. Selection Criteria

(1) Post Award Reviews. In the selection of recipients and subrecipients for post-award review, OEO shall base selections on such factors as:

(a) available compliance information collected from previous reviews;

(b) frequency of past compliance reviews conducted of the recipients;

(c) community racial patterns;

(d) Title VI complaints of alleged discrimination;

(e) size of the federally assisted program or activity; and

(f) amount and type of Federal assistance to the recipient.

E. Compliance Reviews •

(1) Compliance Reviews of Primary Recipients by OEO. Recipient compliance shall be based on the following:

(a) Whether the primary recipient, in allocating Federal funds, has considered the criteria set out in Section 650.9.2C in meeting the nondiscrimination provisions of Title VI.

(b) Whether the primary recipient is adequately providing Title VI information to its subrecipients and by what means (i.e. through posters and brochures). Where necessary, whether bilingual information is also available.

(c) Whether Title VI complaints received by the primary recipient are forwarded immediately to OEO.

(d) The frequency and quality of all compliance assistance provided by the primary recipient for its subrecipients.

(e) Whether Title VI compliance responsibilities have been designated to qualified primary recipient staff personnel and whether such responsibilities are being effectively executed.

(2) Compliance Reviews of Subrecipients. Subrecipient compliance with the Act shall be based on the following:

(a) Whether and by what means the subrecipient notifies the public that its programs are offered on a nondiscriminatory basis.

(i) Whether the Title VI An "Equal Opportunity for All" poster or one comparable visible in conspicuous areas on the premises.

(ii) Where mailing and/or telephone lists are used to inform the public of subrecipient programs, whether such lists are comprised of a racial and ethnic cross-section of the community.

(iii) Where necessary, whether bilingual informational materials are provided to the public.

(b) Whether racial data concerning minority participation in subrecipient programs is gathered and maintained for review, where program participation has been found to be deficient.

(c) Adherence to Title VI complaint procedures pursuant to Section 650.9.3.

(d) Whether records indicate that complaints of alleged discrimination have been received and forwarded to OEO.

(e) Where planning and advisory groups exist, whether membership includes minority representatives.

(f) Whether services and programs are comparable in minority and majority communities with respect to development and maintenance standards.

(g) Whether all persons have an equal opportunity to participate in programs and activities without discrimination or segregation by race, color or national origin. More specifically:

(i) Accessibility of facilities and services to the minority community.

(ii) Where admission fees are charged for program participation, whether such fees are equal in both minority and majority communities.

(iii) Adequacy of outreach program to the minority community.

F. If Non-Compliance is Found • (28 CFR 42.411)

(1) Voluntary Compliance Defined. Voluntary Compliance means willingness to correct conditions of noncompliance identified by complaint investigations or compliance reviews. Departmental regulations (43 CFR 17.7) require the resolution of an apparent condition of noncompliance by informal means whenever possible.

(2) Procedures for Achieving Voluntary Compliance.

(a) In every case where a complaint investigation or compliance review results in a finding of noncompliance, the Director shall notify the primary or subrecipient through certified mail of the apparent noncompliance. The notice shall clearly identify the conditions of noncompliance and offer a reasonable time to willingly comply.

(b) The Office for Equal Opportunity shall record the date the recipient received notice, and shall note and record the last day afforded the primary or subrecipient for voluntary compliance before initiating the administrative process to terminate Federal assistance.

(c) The primary or subrecipient may request a meeting for the purpose of discussing the problem areas or requirement for compliance. The principal investigator will accompany the Director or his designated representative to the meeting for the above stated purpose.

(d) The Director or his designee shall approve the primary or subrecipient's voluntary

compliance plans, methods, procedures, and proposed actions if such approval will result in compliance with the Act.

(3) Sanctions available to the Department. When an applicant for or a recipient of Federal financial assistance is found to be in noncompliance with the Act, and compliance cannot be achieved by voluntary means, the Act provides several enforcement alternatives. If discrimination based on race, color, national origin, or any other technical violation of the Act is found in an applicant's program, the Office for Equal Opportunity can recommend temporary deferral of federal funds to the agency awarding the grant until full compliance has been satisfactorily established. If the grant has been made, the Office for Equal Opportunity may initiate administrative proceedings for the termination of current and future funding. Alternatively, the OEO may enforce the Act, by "any other means authorized by law." Although not explicitly stated by the Act, such other means include referral to the U.S. Department of Justice for appropriate judicial enforcement. No order suspending, terminating, or refusing to grant assistance to a primary or subrecipient can become effective until the Office for Equal Opportunity has:

(a) Advised the primary or subrecipient of its failure to comply and determined that compliance cannot be secured by voluntary means.

(b) Made an express finding on the record after opportunity for hearing of a failure by the applicant or primary or subrecipient to comply with a Title VI requirement.

(c) Obtained approval of the action to be taken from the Secretary of the Interior (43 CFR 17.7 (c)).

(d) Ensured that the Secretary has filed with the committee of the House and the committee of the Senate having legislative jurisdiction over the program involved.

(e) Submitted a full written report of the circumstances and the grounds for such action to the Secretary.

G. If No Conditions of Non-Compliance Are Found • Where the Director or his designee determines that review and investigation findings do not support an allegation of discrimination, the complaint shall be administratively closed. Within 5 working days of the closing date, the compliant will be notified through certified mail of the decision and given the reason(s) for the decision reached.

H. Referrals to the U.S. Department of Justice. (28 CFR 42.408 &411) The Department shall report to the Assistant Attorney General of the Civil Rights Division on January 1 and July 1, or each year, the receipt, nature and disposition of all process Title VI complaints. Any conditions of noncompliance in a recipient program or activity which cannot be voluntarily resolved by OEO, shall also be reported to the Assistant Attorney General for appropriate judicial enforcement within 60 days.

Assurance of Compliance
Civil Rights Act of 1964, Title VI
Rehabilitation Act of 1973
Age Discrimination Act of 1975

The _____

(Name of park and recreation board, hereinafter referred to as "Applicant-Recipient")

HEREBY AGREES THAT IT will comply with the Title VI of the civil rights Act of 1964 (P.L. 88-352) and that all requirements imposed by or pursuant to the Department of the Interior Regulation (43 CFR 17) issued pursuant to that title, to the end that, in accordance with title VI of that Act and the Regulation, no person in the United State shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Applicant-recipient receives financial assistance from the National Park Service and hereby gives assurance that it will immediately take any measure to effectuate this agreement.

If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Applicant-Recipient by the National Park Service, this assurance obligates the Applicant-Recipient, or in the case of any transfer of such property, any transferee for the period during which the real property or structure is used for a purpose involving the provision of similar services or benefits. If any personal property is so provided, this assurance obligates the Applicant-Recipient for the period during which it retains ownership or possession of the property. In all other cases, this assurance obligates the Applicant-Recipient for the period during which the Federal financial assistance is extended to it by the National Park Service.

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-Recipient by the bureau or office, including installment payments after such date on account of arrangements for Federal financial assistance which were approved before such date. The Applicant-Recipient 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 States shall reserve the right to seek judicial enforcement of this Assurance. This assurance is binding on the Applicant-Recipient, its successor, transferees, and assignees, and the person or persons whose signature appears below are authorized to sign this assurance on behalf of the Applicant-Recipient.

THE APPLICANT-RECIPIENT ALSO AGREES to comply with the Rehabilitation Act of 1973 and the Age discrimination Act of 1975 and all requirements imposed by or pursuant to the Department of the Interior Regulation (43 CER 17) issued pursuant to these titles, to the end that, no person in the United States shall, on the grounds of age or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Applicant-Recipient receives financial assistance

from the national Park Service and hereby gives assurance that is will immediately take any measures to effectuate this agreement.

_____	Signed _____
Name of Park Board	Park Board President
_____	Attest_____
Park Board's Address	Park Board Secretary
_____	
Date	
_____	
City, State, Zip	

Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion

Lower Tier Covered Transactions

1. By signing this proposal, Applicant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the Applicant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department of Natural Resources (DNR) may pursue available remedies, including suspension and/or debarment.

3. The Applicant shall provide immediate written notice to its assigned IDNR grants coordinator if at any time the Applicant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," person," "primary covered transaction," "principal," " and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549.

5. The Applicant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the IDNR or National Park Service.

6. The Applicant further agrees by submitting this proposal that it will include this clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transaction," without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. The Applicant may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. An Applicant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to check the Nonprocurement List on file with the IDNR's; Division of Outdoor Recreation grants staff.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings. 9. Except for transactions authorized under paragraph 5 above, if an Applicant knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the IDNR may pursue available remedies, including suspension and/or debarment.

I. The _____ (Applicant) certifies, by submission of this proposal, 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.

II. If the Applicant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

_____

(Signature) (Date)

_____

(Typed Name and Title of Authorized Representative)

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 49 CFR Part 12, Section 12.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211). To obtain a copy of the regulations, contact:

U.S Dept. of the Interior
Acquisition and Assistance Division
Office of Acquisition and Property Management
18th and C Streets, N. W. Washington, D.C. 20240

GRANT BILLING
State Form 55081 (9-12)
DEPARTMENT OF NATURAL RESOURCES

Interactive version online at
https://forms.in.gov/Download.aspx?id=10784

NAME OF PROGRAM *(Check one)*

☐ Land and Water Conservation Fund (LWCF)
☐ Wabash River Heritage Corridor Fund (WRHCF)
☐ Hometown Indiana (HI)
☐ Shooting Range (SR)
☐ Recreational Trails Program (RTP)
☐ Other: _____

1. Name of project			2. Project number
3. Name of applicant		4. Telephone number ( )	5. Type of request *(check one)* ☐ Partial ☐ Final
6. Billing number	7. Period covered From: To:		8. Page number of

9. Name of vendor	10. Check number	11. Total claim paid or donated amount	12. Amount eligible	13. Specific explanation of purchase for reimbursement

14. Amount eligible for reimbursement	15. Amount requested
$ _____ x _____ % =	

I certify that, to the best of my knowledge and belief, the above costs are in compliance with the terms of the project and that the reimbursement request represents the Federal share due, which has not been previously reimbursed, and that all work meets the terms of the grant.

16. Signature of agency president or designee / grantee	17. Date *(month, day, year)*

Billing Form Instructions

One copy of the LWCF Billing Form must be completed in order to request reimbursement. Instructions for the completion of the form are as follows:

1–4. Self–explanatory.

5. Circle “partial” unless this is the final close–out billing.

6. Note if this is the first, second, third, etc. billing submittal for reimbursement.

7. Indicate the period that is covered by the work incurred for this billing. For example: From May 16, 1992 to August 4, 1992.

8. If more than one billing form is used, mark each consecutively and note the total number of pages. For example: Page 3 of 5

9. Indicate the name of the vendor, individual, or contractor to whom payment was made. In the case of donations, identify the donor.

10. Provide the number from the check that was used to pay the vendor in column #9. In case of donations, indicate by the word “donation.”

11. Fill in the total dollar amount as written on the check for which reimbursement is being claimed or the full value of the donation.

12. Indicate the amount of the figure in column #11 that is eligible for reimbursement. This amount is usually the same as that in column #11 except when several items, eligible and ineligible, have been included on the same check. For example: If twenty poles were purchased to light a ballfield, but only seven were used at the LWCF project site, then the price of seven lights should be indicated in column 12.

13. Describe exactly what was purchased for each reimbursable item. Identify the facility so that the grants coordinator can determine the eligibility of the item. For example: Seven poles for lighting the new ballfield.

14. Add all of the figures in column 12 and indicate the sum here.

15. Divide the figure in item #14 by 2 and indicate the amount here. This will be the amount of the reimbursement check for this billing.

16. The park board president or person responsible for project administration must certify to the accuracy of the reimbursement request.

17. Fill in the current date.

Employee's signature, Date

Supervisor's signature, Date

GRANT FORCE ACCOUNT LABOR

State Form 55084 (9-12)
DEPARTMENT OF NATURAL RESOURCES

Interactive version online at
https://forms.in.gov/Download.aspx?id=10789

NAME OF PROGRAM *(Check one)*

☐ Land and Water Conservation Fund (LWCF) ☐ Hometown Indiana (HI) ☐ Recreational Trails Program (RTP)
☐ Wabash River Heritage Corridor Fund (WRHCF) ☐ Shooting Range (SR) ☐ Other: _____

Grantee	Project number
Name of employee	Pay period

Date *(month, day, year)*	Location	Hours	Wage Rate	Eligible Wage Costs	Description of Work	Time in Hours	Overtime Wage Rate	Eligible Overtime Costs	Total Claimed Costs
	Totals				Totals				

I certify, under penalty of perjury, that the above time record is correct, fair, and based upon work performed and actual payment.

Signature of employee	Date *(month, day, year)*
Signature of supervisor	Date *(month, day, year)*

Force Account Labor Form Instructions

The Force Account Labor Form documents the labor costs of park employees who worked on a Land and Water Conservation Fund project. To justify these expenses, the Force Account Labor Form must be submitted along with copies of payroll.

Column headings are self–explanatory. The employee's entire day must be documented. If the employee spent half a day on the project site, an entry must be made for the remainder of the day.

Overtime pay is not normally eligible unless a written justification accompanies the force account sheet. The justification should explain the circumstances surrounding the additional time needed to complete the work. Overtime reimbursement will be considered only when an employee is working full–time for a period of several days or weeks at the project site. A rule to remember is that salaries and wages for persons working on LWCF–assisted projects shall not exceed wage rate for similar persons working on similar jobs.

GRANT DONATED LABOR

State Form 55083 (9-12)
DEPARTMENT OF NATURAL RESOURCES

Interactive version online at
https://forms.in.gov/Download.aspx?id=10788

INSTRUCTIONS:

1. *Use this form to document labor costs of volunteer workers who worked on the grant project; to justify their donated time, submit this completed form with the billing.*
2. *Complete one form for each person, listing the date(s), hour(s), wage rate, and type of work completed on the project.*
3. *Both the donor and their supervisor (usually the park superintendent or board president) must sign this form.*
4. *Include a statement certifying the wage rate from the local fiscal officer, if not previously submitted.*

NAME OF PROGRAM ***(Check one)***

- ☐ Land and Water Conservation Fund (LWCF)
- ☐ Wabash River Heritage Corridor Fund (WRHCF)
- ☐ Recreational Trails Program (RTP)
- ☐ Hometown Indiana (HI)
- ☐ Shooting Range (SR)
- ☐ Other: _____

Grantee	Project number
Name of donor	

Date *(month, day, year)*	Location	Hours	Wage Rate	Total Eligible Wage Cost	Description of Work
	TOTALS				

I certify, under penalty of perjury, that the above information is correct, fair, and accurate representation of the actual work performed.

Signature of donor	Date *(month, day, year)*
Signature of supervisor	Date *(month, day, year)*

Donated Labor Form Instructions

This form is used to document labor costs of volunteer workers who worked on the Land and Water Conservation Fund project. To justify their donated time, the completed form must be submitted with the billing.

One form must be completed for each person, listing the date(s), hour(s), wage rate, and type of work completed on the project. The form must be signed by the donor and their supervisor (usually the applying Agency's president). A statement from the local fiscal officer, which certifies the wage rate must be included, if it had not already been submitted.

If a Volunteer is employed in a skilled trade and they were providing that skill for the project, then their time may be valued at their normal rate. A statement of their hourly wage on company letterhead must be provided.

If a Volunteer is not employed in a skilled trade, the sponsor must provide a statement of the wage rate paid to the entry level municipal laborers. That is the rate that will be reimbursed.

Interactive version online at https://forms.in.gov/Download.aspx?id=10787

GRANT POST CONSTRUCTION CERTIFICATE

State Form 55082 (9-12)
DEPARTMENT OF NATURAL RESOURCES

INSTRUCTIONS:

This certificate must be submitted with the final billing. The form is signed by the applicant and the architect or engineer who supervised the construction. If the project did not involve a consulting architect or engineers, the town, city, or county engineer should inspect the project and sign the form.

AS-BUILT PLANS:

If deviations in design or site location were made from the plans previously submitted to the Division of Outdoor Recreation, "as-built" plans must accompany this form.

As-built plans must include:

a) site plan showing the location of the project area and facilities;

b) elevations and floor plans of structures.

Two copies of as-built plans are to be submitted. The project sponsor must record one set of plans which identifies the work done with federal funds at the site, at both the Town Hall and County Courthouse.

Check one:

☐ Attached are copies of as-built plans. ☐ Plans did not change from those previously submitted and approved.

I hereby certify that construction of Project Number _____ has been completed in accordance with the original and revised plans and specifications on file with the Indiana Department of Natural Resources, Division of Outdoor Recreation. The plans and specifications are consistent with the scope of the project approved by the National Park Service and the Indiana Department of Natural Resources. The project has been constructed in accord with all applicable State and local building rules and regulations and is acceptable for public use.

Signature of president or designee / grantee	Date *(month, day, year)*
Signature of project engineer / architect	Date *(month, day, year)*
Certification number of stamp	

Federal Protection for Outdoor Recreation

The property indicated on the project's as-built plan was acquired and/or developed with a grant from the Federal Land and Water Conservation Fund (LWCF). This grant program is administered at the federal level by the by the National Park Service (NPS) in the U.S. Department of the Interior and at the State level by the Divisions of Outdoor Recreation in the Indiana Department of Natural Resources. Grants are made to local units of government, usually the park and recreation board, to acquire or develop local parks. The recipient agency is identified on the site plan.

The Land and Water Conservation Fund Act of 1965 (Public Law 88-578; 78 Stat. 897) in Section 6(f)(3) states that property acquired or developed with LWCF assistance shall be retained and used for public outdoor recreation in perpetuity. Any property so acquired or developed shall not be wholly or partly converted to other than public outdoor recreation uses without the approval of the Indiana Department of Natural Resources and the U.S. Department of the Interior. The Department of the Interior has the ultimate authority to disapprove conversion requests and/or reject proposed property substitutions.

Conversions generally occur in the following situations:

1. Property interests are conveyed for non-public outdoor recreation uses.
2. Non-outdoor recreation uses (public or private) are made of the project area or a portion thereof.
3. Indoor recreation facilities, which are not support facilities for outdoor recreation, are developed within the park.
4. Public outdoor recreation use of the property is terminated.

Examples of typical conversions are: new public thoroughfares, utility lines, indoor recreation facilities (community centers, swimming pools, ice rinks, etc.), other civic structures (fire stations, schools, libraries, fairgrounds, town halls, etc.), and the introduction of exclusive (nonpublic) uses.

If a conversion cannot be avoided, the local unit of government will be held responsible to see that real property of equivalent value, usefulness and location is provided to replace that converted at the park site as indicated on the attached site plan. Repayment of the grant funds or the provision of replacement facilities is not an acceptable form of mitigation.

LWCF regulations also specify that all future utilities constructed or renovated on the site must be installed underground, and the local project sponsor signed an agreement providing this assurance in the grant documentation. Disposition of any existing overhead lines was agreed to during the project, and may be noted on the attached site plan. Future utility lines not serving

the park will need approval prior to their construction.

For property owned by the local unit of government (the park and recreation board or other governmental unit) the provisions of Section 6(f)(3) of the *LWCF Act* apply in perpetuity, and thus continue with the land even after any LWCF assisted facilities have served their useful lives and been discontinued.

Proposed conversions must receive advance approval from the Indiana Department of Natural Resources and the U.S. Department of the Interior. Replacement property must receive federal approval prior to its acquisition. Conversion requests involve specific detailed documentation. Please contact the Indiana Department of Natural Resources to obtain further information regarding a conversion. The agencies to contact are:

State and Community Outdoor Recreation Planning Section
Division of Outdoor Recreation
Indiana Department of Natural Resources
402 W. Washington Street, Room #271
Indianapolis, IN 46204
(317) 232-4075
FAX (317)233-4648

Midwest Region,
National Park Service
U.S. Department of the Interior 601 Riverfront Drive
Omaha, NE 68102
(402) 661-1736
FAX (402) 661-1565

Sample Cost Breakdown

	City Park	Costs
1.	Acquisition of 20 acres	100,000.00
2.	Architectural and engineering fees	
	Application preparation	1,000.00
	NEPA compliance	1,650.00
	SHPO Section 106 documentation	2,000.00
	Site design	15,000.00
3.	Construction of 1 mile X 10’ wide Trail	
	Grading	15,000.00
	Asphalt surfacing	80,000.00
	Sub-base (recycled concrete)	10,000.00
4.	Restroom building	
	Construction materials and labor	65,000.00
	Waterline installation and drinking fountain	7,000.00
	Bury electrical lines	4,000.00
	Solar lighting	5,000.00
5.	Basketball Court	
	Asphalt court	25,850.00
	Fencing and goals	15,000.00
	Benches	1,200.00
6.	Habitat Restoration, Native plantings, Wildlife plantings	19,500.00
7.	Interpretive Signage	5,000.00
8.	Group Shelter	
	grading	5,000.00
	shelter kit	12,000.00
	6 benches post consumer recycled materials	5,000.00
	4 picnic tables post consumer recycled materials	2,800.00
		3,000.00
	Total	$400,000.00

Information Needed to Conduct NEPA Coordination

National Environmental Policy Act of 1969 - 42 USC §4321 et seq.
Purpose: *To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.*

NEPA aims to foster excellent decision-making based on an understanding of potential environmental consequences, gather relevant information from a wide variety of sources, provide opportunities for public input, and allow public scrutiny of agency actions. The NEPA process is used to evaluate potential impacts of proposed actions specifically related to LWCF §6(f)(3) protected areas. NEPA is a required "process" to obtain the best information needed to make a good decision. NEPA is required for any project—federal, state, or local—that involves a **federal action**, including; federal funding, work performed by the federal government, or permits issued by a federal agency.

As soon as LWCF grantees receive State approval they should initiate the NEPA process. Most LWCF grant projects are considered small-scale and thus do not usually require the formal NEPA process that a complex, large-scale project would require. The information received from NEPA coordination must be incorporated into the Environmental Assessment by the grantee and provided to DNR Division of Outdoor Recreation for submittal to the NPS.

Several agencies must be coordinated with as part of the NEPA process. For LWCF projects these are typically:

-DNR (current/previous Early Coordination review or submit request to: environmentalreview@dnr.in.gov)
-U.S. Fish and Wildlife Service (coordinate with local office)
-NRCS (Farmland review; submit USDA Form AD-1006 to NRCS)
-IDEM (request environmental review letter by filling out form for submittal at: http://www.in.gov/idem/5284.htm)
-USACE (only coordinate if impacts to waterways/permitting are expected)

Information to provide when coordinating and not using a form includes: a formal letter containing information from the 106 Checklist below (pg. 147) Sections A-C, E and H, a location map with site boundaries, a site map (aerial with current features and planned features/development), and photos of the site (if available).

Each agency will coordinate with grantees on additional steps or items needed. Ultimately you will receive final correspondence regarding the project and will utilize this to update the Environmental Assessment (EA). The EA and the final coordination documentation from each agency must be submitted to the DNR Division of Outdoor Recreation for inclusion in the NPS application submittal.

Information Needed to Begin the Section 106 Review Process

A review process for actions proposed to taken by, funded, permitted, or licensed by a Federal agency is mandated by Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. § 470f) and is spelled out in regulations of the Advisory Council on Historic Preservation at 36 C.F.R. Part 800). To begin the Section 106 review process, an official of the Federal agency must establish whether there is an undertaking that has the potential to affect historic properties and, if so, identify properties (buildings, structures, objects, sites, or districts) that are either listed in the National Register of Historic Places or eligible for listing. Under many of the funding programs of the U.S. Department of Housing and Urban Development ("H.U.D."), by Federal law a state or local government (often referred to as the "Responsible Entity") has been delegated the environmental responsibilities that H.U.D. otherwise would have to fulfill. In such cases, the appropriate official of the Responsible Entity is the Federal agency official for Section 106 purposes. The Federal agency may authorize its applicant for funding or licensing or a consultant to begin the Section 106 process with the State Historic Preservation Officer (or "SHPO"), but formal findings and determinations must be made by the Federal agency.

The Section 106 process, as governed by 36 C.F.R. Part 800, typically has up to five steps:

Step 1: Initiate the Section 106 process
Step 2: Identify historic properties
Step 3: Assess adverse effects
Step 4: Resolve adverse effects
Step 5: Implement any agreement reached to resolve adverse effects

Because the process is designed to be followed systematically, it is generally not advisable to try to cover all of the steps in the initial submission. However, it is usually reasonable and productive to deal with Step 1 and much of Step 2 in the initial submission to the SHPO. The checklist below identifies the kinds of information and materials that we recommend the Federal agency or its authorized applicant or consultant mail or deliver to the SHPO at the following address:

State Historic Preservation Officer Indiana Department
of Natural Resources Division of Historic Preservation
and Archaeology
402 West Washington Street, Room W274
Indianapolis, Indiana 46204-2739 telephone
number 317-232-1646

website: http://www.in.gov/dnr/historic/2830.htm

The SHPO or staff at the DHPA will notify the Federal agency or its authorized applicant or consultant if basic elements needed in the submission for SHPO review are missing. The SHPO will attempt to send such notifications within 30 days after receipt of the submission.

Section 106 Review Checklist

Checklist

Step 1: Initiate the Section 106 process

The initial letter to the local historical groups and SHPO should include as much as possible of the following information about the undertaking:

___A) The formal name of the undertaking (if any) or a short-hand characterization of the undertaking (e.g., acquisition of 40 acres and development of a trail and playground).

___B) The name of the Federal agency and program that is being asked to provide funding or otherwise to approve the undertaking (National Park Service and the Land and Water Conservation Fund—indicate you are applying for a grant). And the name of the State agency administering the program (DNR Division of Outdoor Recreation).

___C) The name, mailing address, and other contact information for the applicant for Federal funding.

___D) Name any consulting parties (i.e., those local governments, local historical or historic preservation organizations, county historians, neighborhood associations, adjoining landowners, and the like, whom the Federal agency or its applicant have reason to believe might have an economic, legal, or historic preservation interest in the undertaking and whom the Federal agency or its applicant have invited or intend to invite to participate in the Section 106 process.

___E) A written description of the location of the undertaking (i.e., street or road; address, if any; city of town-or township, if in a rural area; and county.)

___H) If possible, a detailed scope of work for the undertaking, or if such detail is not yet available, then as complete a description as possible of all major elements of the undertaking (e.g., excavation, filling, grading, paving, partial or total demolition of a building or structure, or new construction. Include approximate dates of construction.)

Step 2: Identify historic properties

The initial letter also should include as much as possible of the following kinds of information:

Determine the scope of identification

___A) Propose the area or areas of potential effects (i.e., the geographic area or areas within which an undertaking may cause changes in the user or character of historic properties, if any such properties exist; this includes effects that are direct or indirect, cumulative, later in time, or at a distance); and provide a map or a good quality photocopy of a map containing the following:

i) The boundaries of the area of potential effects clearly outlined in dark ink (highlighter and pencil do not photocopy well) on a copy of the relevant portion of a town, city, county, or U.S. Geological Survey quadrangle map. Usually for LWCF projects this is

the park boundaries that will be encumbered under 6(f)3.

ii) The names of nearby landmarks clearly labeled (e.g., major streets, roads, highways, railroads, rivers, lakes).

Document historic properties

___B) If possible, using the same map, show the precise location of any known historic buildings, structures, objects, sites (other than archaeological sites), and districts or parts of districts within the area of potential effects (e.g., addresses and a site map with properties keyed to it) that may be affected by the project;

___C) Provide information on any known cultural resources, historical buildings, sites….

___D) Describe the existing condition of any vacant land within the project area; in particular, state whether or not the ground is known to have been disturbed by construction, excavation, grading, or filling, and, if so, indicate the part or parts of the project area that have been disturbed; agricultural tilling generally does not have a sufficiently severe impact on archaeological sites to constitute a disturbance of the ground for this purpose.

___E) Document the sources checked (e.g., correspondence, bibliographical citations [e.g., title, author, page number], or copies of relevant materials obtained from oral history interviews, sample field investigations, field surveys, background research, consultation with a county historian, a local historical or historic preservation organization, or reference materials such as the interim report of a local historic sites and structures inventory);

___F) Provide recent, clear photographs or good quality computer-generated images (not photocopies), keyed to a site plan, showing the exterior (and interior, if feasible) of any buildings, structures, objects, districts, or sites (excluding archaeological sites, whose location should not be disclosed to the public) that could be affected in any way (such as by demolition, rehabilitation, expansion, taking of right-of-way, or visual modification or obscuration) by the project;

Depending on the nature of the undertaking and the kinds of properties it could affect, the SHPO may request additional information, such as the report of an archaeological investigation of a parcel of land. However, it is advisable to wait until the SHPO has commented on the initial submission of information before expending additional time and funds on preparing such information.

If no historic properties are found within the area of potential effects, or if there clearly will be no effect on any historic properties that have been identified, then SHPO could issue a finding of "no historic properties affected" and will provide the federal agency with documentation of the basis of that finding.

Similarly, the SHPO might request additional information about the effect of the undertaking on an historic property or about the feasibility of avoiding or minimizing an adverse effect (e.g., a structural report on a building to be demolished or photographs of work areas and detailed plans and specifications of proposed rehabilitation work).

For more information on the Section 106 process, refer to the Federal regulations at 36 C.F.R. Part 800, which are available on the Internet at www.achp.gov.

Information for All Base Maps

1. Title Square including:
    a. Name of project
    b. Scale of Map
    c. Name of person/agency preparing map
    d. Date
    e. County, Township, Range, and Section number

2. North orientation arrow

3. Names of water bodies - lakes, rivers, streams, etc.

4. Acreage of any water impoundments

5. If applicable, show corporation limits

6. Identify all roads and highways including any rights-of-way on park property. Give proper name and road number.

7. Show total boundary of existing park. The project area should be shown in sufficient detail so as to be legally identifiable. Acceptable methods of identification include:
    a. Deed references
    b. Adjoining owners, easements, water bodies, or other natural land marks
    c. Metes and bounds, or Government surveys. Note: if the park is very large and the project includes only one segment of the park, include a general map that shows the total park and location of the project site. The base map can be an enlargement of the project site and its immediate surroundings.

8. Identify any unique or significant natural features on the site.

9. Locate all existing improvements including:
    a. Structures
    b. Park Roads
    c. Parking Lots
    d. Recreation activity areas (ball fields, picnic areas)

10. Locate all utility lines.
    a. Specify whether they are overhead or buried.
    b. Specify which overhead wires are proposed for burial as part of this project.
    c. Locate any high voltage transmission lines which cannot be buried.
    d. Locate any transformers or substations on the site.

11. Locate any other outstanding rights and interests such as:
    a. Gas lines

b. Water lines
c. Sewer lines
d. Dedicated drainage ways
e. Railroad tracks
f. Billboards
g. Deed/lease restrictions, reversionary interests

12. Identify any other improvements or features such as:
a. Wells
b. Septic systems
c. Water towers
d. Transmission towers

Base Map Information for Acquisition Projects

In addition to the general information, the following items should be included. Color coding is advisable to differentiate between land already acquired for park use, land to be acquired as part of this projects, or land proposed for future acquisition.

1. Identify all parcels proposed for acquisition in this application. Provide name of owner, acreage, and parcel number that corresponds to those listed on the Supplemental Acquisition Form.

2. As applicable, identify the location and acreage of existing park land and/or any parcels proposed or future acquisition.

3. Indicate present zoning/use of the site and surrounding area.

4. Locate any public roads on the site which are vacated or scheduled to be abandoned as part of this project.

Base Map Information for Development Projects

In addition to the general information, the following items should be included. Color coding is advisable to differentiate existing facilities, those proposed for development as part of this project and any future development on the park site (create a Legend for features if possible to avoid clutter on the map).

1. Locate all facilities proposed for development in this project such as:
a. Structures
b. Roads and parking lots
c. Bridges
d. Utility services (sewer, water, electrical)
e. Activity areas - ball fields, swimming pool, golf course, tennis courts. Each facility should be drawn to scale to fit into the project boundaries.

2. Locate any existing future facility development

3. Identify any site adaptations which accommodate the people with disabilities such as:

a. Curb cuts
b. Signed parking spaces for the disabled
c. Hard-surfaced walkways
d. Railings
e. Ramps

If the project includes both acquisition and development, include both types of base maps.

SUPPLEMENTAL ACQUISITION FORM

Project name:_____ Project number:_____ Date:_____

List each parcel that will be acquired in the project and complete all information as indicated.

If more space is needed, use copies of this form and number them sequentially.

code	tract #	landowner	acreage	acquisition date	land value	value of improvements	Total, land and improvements	purchase price	donated land value	relocation costs
		TOTAL			TOTALS					

Codes: 1 = negotiated purchase
2 = condemnation
3 = donation
4 = bargain sale

Note: Submit an appraisal or statement of value for each of the parcels.
All appraisals must meet requirements as outlined in the grant manual.

LWCF Sign

INDIANA DEPARTMENT
OF NATURAL RESOURCES

DIVISION OF OUTDOOR
RECREATION

DEPARTMENT OF THE
INTERIOR

NATIONAL PARK
SERVICE

LOCAL AGENCY NAME

Support conservation through the Natural Resources Foundation.
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Natural Resources Foundation 402 West Washington Street
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